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**OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993**

**AGREEMENT IN TERMS OF SECTION 37(2)**

**MANDATORY**

OBJECTIVE

To assist the employer in order to comply with the requirements of:

1. The Occupational Health & Safety Act 85 of 1993 also known as the (OHSACT)

 and

1. The Compensation for Occupational Injuries and Diseases Act 130 0f 1993 also known as (COIDACT).

To this end an agreement must be concluded before any sub-contracted work may commence.

The parties to this agreement are:

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| Name of Organisation:  |
| Street Address:  |
|  |

Hereinafter referred to as “the employer”

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| --- |
| Name of Organisation:  |
| Street Address:  |

Hereinafter referred to as “the mandatory”

**GENERAL INFORMATION FORMING PART OF THIS AGREEMENT**

1. Occupational Health and Safety Act comprises of Section 1 to 50 and all unrepealed regulations promulgated in terms of the former Machinery and Occupational Safety Act No. 6 of 1983 as amended as well as other regulations which may be promulgated in terms of the Act and other relevant Acts pertaining to the job in hand.

2. “Mandatory” is defined as and including an agent, a contractor or a subcontractor for work, but without derogating from his status in his own right as an employer or user of plant and / or machinery.

3. Section 37 of Occupational Health and Safety Act potentially punishes employer (main contractor) for unlawful acts or omissions of mandatory (subcontractors) save where a written agreement between the parties has been concluded containing arrangements and procedures to ensure compliance with the said Act by mandatory.

4. All documents attached or referred to in the above agreement from an integral of the Agreement.

5. To perform in terms of agreement mandatories must be familiar with the relevant provisions of the Act.

6. Mandatories who utilize the services of their own mandatory (subcontractors) must conclude a similar written agreement with them.

7. Be advised this mandatory places the onus on the mandatory to contact the employer in the event of inability to perform as per agreement.

8. This agreement shall be binding for all work that the mandatory undertakes for the employer.

9. A copy of written supervisor assignment in terms of General Safety Regulation 11.1 must be forwarded to the employer before any work commences.

**THE UNDERTAKING**

The mandatory undertakes to comply with:

*INSURANCE*

1. The mandatory warrants that all their employees and / or subcontractor’s employees if any are covered in terms of the COIDACT, which cover shall remain in force whilst any such employees are present in employer’s premises.

2. The mandatory warrants that they are in possession of the following insurance cover, which cover shall remain in force while they and / or their employees are present on the employer’s premises, or which shall remain in force for the duration of the contractual relationship with the employer, whichever period is the longest:

1. Public liability Insurance Cover is required by subcontractor agreement.
2. Any other insurance cover that will adequately make provision for any possible losses and / or claims arising from their and / or their subcontractors and / or their respective employees’ acts and omissions on the employer’s premises.

**COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993**

The mandatory undertakes to ensure that they and / or their subcontractors if any and / or their respective employees will at all times comply with the following conditions:

1. All work performed by mandatory on the employer’s premises must be performed

under close supervision of the mandatory’s employees who are to trained to understand the hazard associated with any work that mandatory performs on the employer’s premises.

1. The mandatory shall be assigned the responsibilities in terms of section 16(1) of the OHSACT 85 of 1993. If the mandatory assigns any duty in terms of Section 16(2), a copy of such written assignment shall immediately be forwarded to the employer.
2. The mandatory shall ensure that he familiarizes himself with the requirements of the OHSACT 85 of 1993 and that he and his employees and any of his subcontractors comply with the requirements.
3. The mandatory shall appoint competent persons who shall be trained on any occupational health and safety aspect pertaining to them or to work that is to be performed.
4. The mandatory shall ensure that discipline regarding occupational health and safety shall be strictly enforced.
5. Any personal protective equipment required shall be issued by mandatory to his employees and shall be worn at all times.
6. No unsafe equipment / machinery and / or articles shall be used by the mandatory on employer’s premises.
7. Written safe working practices / procedures and precautionary measures shall be made available and enforced and all employees shall be made conversant with the contents of these practices.
8. All incidents / accidents referred to in the OHSACT shall be reported by the mandatory to the department of Labour as well as to the employer.
9. No use shall be made by the mandatory and / or their employees and or their subcontractors of any of the employer’s machinery / articles / substance / plant / personal protective equipment without prior written approval.
10. The mandatory shall ensure that work for which the issuing of a permit is required shall not be performed prior to the obtaining of duly completed and approved permit.
11. The mandatory shall ensure that no alcohol or any intoxicating substances shall be allowed on the employer’s premises. Anyone suspected to be under the influence of alcohol or any intoxicating substances shall not be allowed on the premises. Anyone suspected to be under influence of alcohol or any intoxicating substances shall not be allowed in the premises. Anyone found on the premises suspected to be under influence of alcohol or any other intoxicating substances shall be escorted off the said premises immediately.
12. Full participation by the mandatory shall be given to the employees of the employer if and when they inquire into occupational health and safety issues.

**FURTHER UNDERTAKING**

1. Only a duly authorized representative is eligible to sign this agreement on behalf of mandatory. The signing power of this representative must be designed in writing by the chief executive officer of the mandatory. A copy of this letter must be made available to the employer.
2. The mandatory confirms that he has been informed that he must report to the employer’s management, in writing anything he deems to be unhealthy and / or unsafe. He has versed his employees in this regard.
3. The mandatory warrants that he shall not endanger the health and safety of the employer’s employees in any way whilst performing work on the employer’s premises.
4. The mandatory understands that no work may commence on the employer’s premises until this procedure is duly completed, signed and received by the employer.
5. Non-compliance of any of the above may lead to immediate cancellation on the contract.

**ACCEPTANCE BY MANDATORY**

In terms of the provision of Section 37(2) of the Occupational Health and Safety Act 85 of 1993,

I, ………………………………………… a duly authorized representative acting for and on behalf of

………………………………………………………………………

**……………………………………………………………………..** undertake to ensure that the requirements and provision of the OSHACT No: 85 of 1993 and regulations are complied with.

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Mandatory – WCA No:

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