WRITTEN AGREEMENT

THIS IS IN TERMS OF SECTION 37(2) OF THE

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT 85 OF 1993)

BETWEEN:

…….
(Employer)

AND

…….
(Mandatary)

INTRODUCTION

The Occupational Health and Safety Act, 1993 (Act 85 of 1993) stipulates that the Chief Executive Officer is primarily responsible or liable for the health and safety of all his/her employees. This is embedded in Section 16(1) of the said Act. This responsibility or liability is also extended to include a mandatary that performs work on behalf of the employer on his/her premises.

A "mandatary" is defined in the said Act as: - *"Including an agent, contractor or subcontractor for work, but without derogating from his status in his own right as an employer or user"*

In terms of Section 37(2), read with Section 41, of the said Act, it is legally possible for an employer to indemnify himself from this responsibility or liability regarding the actions of the mandatary. Section 37(2) stipulates that there should be a written agreement in place between the employer and the mandatary regarding the arrangements and procedures between them to ensure compliance by the mandatary with the provisions of the Occupational Health and Safety Act, 1993.

By ensuring that there is a written agreement in place, the Management

of.……..……..……
is acting in a responsible manner, so as to ensure that this requirement is indeed being met.

In order to ensure that this written agreement is honoured at all times, regular inspections of work that is performed will be conducted and if found not complying with the said agreement, a notice of non-compliance will be issued. All work will be stopped and reasons for non-compliance must be given and what corrective action will be taken to rectify the situation must be stipulated.

Management: …….

WRITTEN AGREEMENT

This is a written agreement between the (employer):

Name of EMPLOYER…… ..... ……

and the (Mandatary):

Name of the MANDATARY……

in terms Section 37(2) of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended.

I……representing the MANDATARY do hereby

acknowledge that……(mandatary) is an employer in its own right with duties as prescribed in the Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended and agree to ensure that all work that will be performed, any article or substance that will be produced, processed, used, handled, stored or transported and plant and machinery that will be used, will be done in accordance with the provisions of the said Act.
I furthermore agree to comply with the Health and Safety requirements and to liase with the employer should I, for whatever reason, be unable to perform in terms of this Agreement.

Signed on this…… day of……2008 at ……

Signature……..

On behalf of MANDATARY…….

Signature……..

On behalf of the EMPLOYER……..

NOTICE OF NON-COMPLIANCE

NOTICE OF NON-COMPLIANCE WITH AGREED HEALTH AND SAFETY REQUIREMENTS BY THE MANDATARY

MANDATARY:

1. You are hereby notified that the health and safety requirements agreed upon in terms of the written agreement entered into between yourself and the company is not being complied with.

2. Details of non-compliance.

1.
2.
3.
4.
5.
6.
7.

3. You are to indicate in writing to the management of **……** of the reasons why you are in non-compliance and what will be done to rectify the matter.

Signature of company representative: ……..Date:…….

Signature of Mandatary:……Date:…….

Reasons for non-compliance:	**Corrective action:**

Signature of Mandatary:…….. Date:……..

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993
(ACT 130 OF 1993)

(Employer)…… has legal duty in terms of Section 89 of the said Act to ensure that all contractors with whom agreements are entered into for the execution of work are registered as employers in accordance with the provisions of this Act and that all the necessary assessments have been paid by the contractor.

In order to enter into this agreement, the following information is needed regarding the above-mentioned:

1. Contractor's registration number with the office of the Compensation Commissioner:

Registration No. _____ / _____ / _____

2. Proof that assessment has been paid: (A copy of a receipt must be handed in, in this regard.)

Attach copy of certificate of good standing from the Compensation Commissioner's Office

Signature of Contractor……

Date:……..