

**WRITTEN AGREEMENT BETWEEN
(EMPLOYER) AND..... (MANDATARY) AS ENVISAGED BY
SECTION 37(2) OF THE OCCUPATIONAL HEALTH & SAFETY ACT NO. 85 OF 1993
AS AMENDED**

Irepresenting (mandatary) do hereby acknowledge that(Mandatary) is an employer in its own right with duties as prescribed in the Occupational Health and Safety Act No. 85 of 1993 as amended and agree to ensure that all work will be performed or machinery and plant used in accordance with the provisions of the said Act. I furthermore agree to comply with the requirements of(Employer) as contained in the documents attached hereto (if any) and to liaise (*detail of arrangement*) with the employer should I for, whatever reason, be unable to perform in terms of this Agreement.

Signed thisday of200____ at

Signature on behalf of (Mandatary).

Signature on behalf of (Employer).

GENERAL INFORMATION

The Occupational Health and Safety Act comprises 50 sections and all regulations promulgated in terms of the said Act.

"Mandatary" is defined as including an agent, a contractor or a sub-contractor for work but without derogating from his status as an employer in his own right or user of plant or machinery.

Section 37 of the Occupational Health & Safety Act potentially punishes employers (principals) for the unlawful acts or omissions of mandataries (contractors) except where a Written Agreement between the parties has been concluded containing arrangements and procedures to ensure compliance with the said Act by the mandatary.

All documents attached or referred to in the above Written Agreement form an integral part of the Agreement.

To perform in terms of this Written Agreement, mandataries must be familiar with the relevant provisions of the Act.

Mandataries who utilise the services of their own mandataries (sub-contractors) are advised to conclude a similar Written Agreement.

Be advised that this Agreement places the onus on the mandatary to contact the employer in the event of inability to perform as per this Agreement. The employer, however, reserves the right to unilaterally take any steps as may be necessary to enforce this Agreement.

Acceding to this Written Agreement will not influence a mandatary's potential criminal liability for contraventions of the Occupational Health & Safety Act and is also not a (criminal) indemnity which is invalid. The employer is thus not shifting liability onto the mandatary but merely promoting occupational health and safety through this Written Agreement. It is in every employer's interest to conclude such a Written Agreement.

Refusal by the Mandatary to sign the Written Agreement may have detrimental consequences for the mandatary as it may be construed as a sign of bad faith by the mandatary.