

SECTION 37.2 CONTRACTOR AGREEMENT

Entered into by and between

(Hereinafter referred to as the "PRINCIPAL")

And

(Hereinafter referred to as the "CONTRACTOR")

for the regulation of Occupational Health and Safety and Environmental Responsibilities.

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this AGREEMENT, unless inconsistent with, or otherwise indicated by the context, the following terms shall have the meanings assigned to them hereunder, namely:-

"AGREEMENT"	The contents of this document and its annexure(s), if any;
"CONTRACT WORK"	The work, which the CONTRACTOR will perform for the purposes of this AGREEMENT and all related activities
"OHS"	Occupational Health and Safety.

2. PREAMBLE

- 2.1. The purpose of the AGREEMENT is to regulate the legal responsibilities and liabilities arising from the CONTRACT WORK regarding occupational safety, health and environmental management.
- 2.2. It is the intention of the PARTIES that, subject to the express provisions of this AGREEMENT, the CONTRACTOR shall be the main risk carrier for OHS regarding the CONTRACT WORK.
- 2.3. This AGREEMENT does not purport to regulate all the contractual relations between the PARTIES, but only those relating to OHS risks, responsibilities and liabilities.
- 2.4. This AGREEMENT does not regulate, or replace, any existing agreements between the PARTIES relating to any other aspect of the arrangement between the PARTIES that does not relate to OHS risks, responsibilities and liabilities.
- 2.5. This AGREEMENT takes preference over any other contract or clause in any contract between the PARTIES that relates to any aspect covered in this AGREEMENT.

3. **LEGAL COMPLIANCE**

3.1. The CONTRACTOR undertakes to comply with all legal requirements for OHS during the execution of the CONTRACT WORK, including both legislative and Common Law provisions.

3.3 Apart from complying with all applicable legislation the CONTRACTOR shall strive to utilize the best practicable means to ensure that risks relating to OHS are minimized and satisfactorily managed.

Without derogating from any legal requirements or any other aspect of this AGREEMENT, the CONTRACTOR undertakes to ensure that her and/or his subcontractors and/or their respective employees will at all times comply with the following conditions:-

4.1 All work performed on the PRINCIPAL'S premises must be performed under the close supervision of people who are trained to understand all the OHS hazards associated with any work that the CONTRACTOR performs on the stated premises.

4.2 The CONTRACTOR assumes the responsibilities in terms of Section 16(1) of OHSACT.

4.3 The CONTRACTOR shall appoint competent employees who shall be trained on any OHS aspect pertinent to them or the work that is to be performed.

4.4 Discipline regarding OHS shall be strictly enforced by the CONTRACTOR.

4.5 The CONTRACTOR shall issue Personal Protective Equipment as required and ensure that is worn at all relevant times.

4.6 The CONTRACTOR shall enforce safe work practices and make employees conversant with the contents of these practices.

4.7 No unsafe equipment/machinery and/or articles shall be used on the PRINCIPAL'S premises.

4.8 The CONTRACTOR shall as soon as reasonably possible report all relevant incidents as required by law, including but not limited to those referred to in the Occupational Health and Safety Act to the relevant authorities as well as to the PRINCIPAL.

4.9 Work for which the issuing of a permit is required shall not be performed prior to the obtaining of a duly completed and approved permit.

4.10 No Alcohol or other intoxicating substance shall be allowed on the PRINCIPAL'S premises. Anyone suspected to be under the influence of alcohol or other intoxicating substance shall not be allowed on the premises on the PRINCIPAL.

4.11 Full participation shall be given if and when the PRINCIPAL'S employees or agents inquire into OHS issues.

4.12 For construction work, the following requirements are also applicable, not withstanding any of the above requirements:

4.12.1 Provide the principal contractor with a documented health and safety plan

4.12.2 Provide the principal contractor with copies of the necessary required appointments such as construction supervisor, health and safety representatives, first aiders and competent persons for scaffolding, excavation, demolition, formwork, construction vehicle inspections, electrical installations, etc. as may be relevant.

- 4.12.3 Ensure that a health and safety file; which shall include all documentation required in terms of the provisions of the Act and the Construction Regulations, is opened and kept on site and made available to an inspector, client, client's agent or principal contractor upon request.
- 4.12.4 Provide the principal contractor with proof of registration and in good standing with the compensation fund or with a licensed compensation insurer prior to work commencing on site
- 4.12.5 The contractor shall not appoint another contractor to perform construction work unless he or OHS is reasonably satisfied that the contractor he or OHS intends to appoint has the necessary competencies and resources to perform the construction work safely.

5. INDEMNITIES

- 5.1. The CONTRACTOR indemnifies and holds the PRINCIPAL harmless against any loss in respect of claims, proceedings (of civil and criminal nature), damages, costs and expenses arising from:
 - 5.1.1. A non-compliance by the CONTRACTOR with any provision of common law, Act of Parliament, regulation and bylaw of any local authority arising out of or due to the execution of the CONTRACT WORK or occupation of the site by the CONTRACTOR.
 - 5.1.2. Claims from other parties, whether against the PRINCIPAL or the CONTRACTOR, consequent upon death, bodily injury or illness of any person or physical loss or damage to any property arising out of or due to the execution of the CONTRACT WORK or occupation of the site by the CONTRACTOR.
 - 5.1.3. Physical loss or damage to any plant, equipment or other property belonging to the CONTRACTOR or his subordinates or agents.
 - 5.1.4. Any loss of whatsoever nature suffered by the CONTRACTOR or his employees during the execution of the CONTRACT WORK.

15. DOMICILIA AND NOTICES

- 15.1. For all purposes under this AGREEMENT or any amendment thereof, or with regard to any matter arising there from or in connection therewith,

The PRINCIPAL chooses its *domicilium citandi et executandi* at:

Physical Address: _____

Telefax Number: _____

For Attention: _____

And CONTRACTOR chooses its *domicilium citandi et executandi* at:

Physical Address: _____

Telefax Number: _____

For Attention: _____

16. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the PARTIES who acknowledge that there are no other oral or written understandings or agreements between them relating to the subject matter thereof.

17. EXECUTION

SIGNED for and on behalf of PRINCIPAL at

On this _____ day of _____ 200_____ in the presence of the undersigned witnesses:

PRINCIPAL

SIGNATURE: _____

NAME: _____

TITLE: _____

(Who warrants his/her authority hereto)

WITNESSES

1. _____

2. _____

SIGNED for and on behalf of CONTRACTOR at

On this _____ day of _____ 20_____ in the presence of the undersigned witnesses:

CONTRACTOR

SIGNATURE: _____

NAME: _____

TITLE: _____

(Who warrants his/her authority hereto)

WITNESSES

1. _____

2. _____