



GOTHIC CONSTRUCTION (PTY) LTD
1st Floor, 55 Kingfisher Drive
Cnr William Nicol & Kingfisher Drive • Fourways
PO Box 80, Northriding 2162
Tel: 011-467-2350 • Fax: 011-467-7805
Email: info@gothic.co.za • www.gothic.co.za

*OCCUPATIONAL HEALTH AND SAFETY ACT
Act 85 of 1993*

AGREEMENT WITH MANDATARY

In terms of Section 37(1) and (2)

WRITTEN AGREEMENT ENTERED INTO AND BETWEEN

GOTHIC CONSTRUCTION (PTY) LTD

(Hereinafter referred to as the Company)

AND

CONTRACTOR

(Hereinafter referred to as The Contractor)

Compensation Fund Number: _____

**AGREEMENT WITH MANDATARY TO BE COMPLETED IN BLACK INK AND EACH PAGE AND CHANGE TO BE
INITIALED.**

Level 3 BBBEE Contributor

Company Registration No: 2009/007204/07 • VAT Registration No: 4590113017

Directors: C Roberg MSc (Building)(Wits) • EC Laing BSc (QS)(Wits) Pr QS MAQS FA. Arb
• R Naidoo NTC 3 • PD Marais N.Dip Building (Honours)
Associates: O Roets N.Dip (BS QS) (TUT) • D Unterhorst N. Dip (Civ Eng) (Wits Tech)



Definition of Mandatary

Includes an agent, a contractor or sub-contractor for work, but without derogating from his status in his own right as an employer or user.

Occupational Health and Safety Act (No. 85 of 1993)

1. You are requested to, as far as you reasonably can, comply with the requirements of the OHS ACT and Regulations.
2. Your attention is drawn to “**General Duties of Employers to their Employees**” as required by Sect 8 of the Act. You are required to:
 - 1.1. Sign a written “**Agreement with Mandatary**” as required by Sect 37(1)(2) of the Act with us before you commence any work on my / our premises / site.
 - 1.2. Provide the **client / principal contractor** with a documented health and safety plan.
 - 1.3. Provide the **client / principal contractor** with written appointment of the person who is going to supervise the construction work as per Construction Regulation 6(1).
Note: Electrician to provide copy of certificate of registration as per Elect. Install Reg. 9(3).
 - 1.4. Provide the **client / principal contractor** with written designation of your nominated Health and Safety Representative as per Sect 17(1).
 - 1.5. If you employ more than five (5) persons, you are required to provide your own First Aid Box. (General Safety Regulation 3 (2).)
 - 1.6. If you employ more than ten (10) persons, you are required to provide your own qualified First Aider as per General Safety Regulation 3(4).
 - 1.7. When working with hazardous chemical substances, comply with Hazardous Chemical Substances Regulation 3. *Note: Asbestos and Lead regulations are separate.*
 - 1.8. When using a Materials Hoist , comply with Construction Regulation 17.
 - 1.9. When using Lifting Machines and Lifting Tackle, comply with Driven Machinery Regulation 18.
 - 1.10. When using Explosive Powered Tools, comply with Construction Regulation 19.
 - 1.11. When using Scaffolding, Formwork and support work, comply with Construction Regulation 10 and 14.
 - 1.12. When Excavating or Demolishing, comply with Construction Regulation 11 and 12.
 - 1.13. When Welding, Flame Cutting, Soldering, comply with General Safety Regulation 9.
 - 1.14. When working in confined spaces, comply with General Safety Regulation 5.
 - 1.15. Ensure all employees on site are in possession of a valid South African ID Book.
2. You are responsible for providing your own **legal safety documents and registers** to comply with the Act’s requirements. *A copy of the OHS Act of 1993 should be available in the main contractors office.*
3. You are required to comply with General Safety Regulation 2(1) to (7) and provide employees with: personal protective equipment which will allow them to carry out their work in a safe manner, e.g. hard hats, safety belts, gloves, safe footwear, eye protection, ear protection, waterproof clothing etc.

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4. Reporting of Incidents and Occupational Diseases shall be done as per General Admin. Regulation 6. (Also see Sect 24 of the Act.)

Compensation for Occupational Injuries and Diseases Act (No 130 of 1993)

You are required to provide the **client** proof of registration with the Compensation Commissioner/Federated Employer's Mutual within seven (7) days after signing this agreement. Failure to do so would result in the **client** notifying the agent of the Commissioner to investigate and make an assessment of your wage return and the applicable levy you have to pay, which will be liable for a deduction from your monthly progress payments and paid over to the Commissioner. (Copies of proof of payment will be provided to the contractor) **See Section 89(1) of the COID Act.**

AGREEMENT WITH MANDATARY

In terms of Section 37 (1) and (2)

Section 37 (1) Whenever an employee does or omits to do any act which it would be an offence in terms of this Act for the employer of such employee or a user to do or omit to do, then unless it is proved that -

- (a) in doing or omitting to do that act the employee was acting without the connivance or permission of the employer or any such user;
- (b) it was not under any condition or in any circumstance within the scope of the authority of the employee to do or omit to do an act, whether lawful or unlawful, of the character of the act or omission charged; and
- (c) all reasonable steps were taken by the employer or any such user to prevent any act or omission of the kind in question, the employer or any such user himself shall be presumed to have done or omitted to do that act, and shall be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

Section 37 (2) The provisions of subsection (1) shall "*mutatis mutandis*" apply in the case of a mandatary of

any employer or user, **except if the parties have agreed in writing to the arrangements and**

procedures between them to ensure compliance by the mandatary with the provisions of the Act.

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ACCEPTANCE BY MANDATARY

In terms of the provisions of section 37 (2) of the Occupational Health and Safety Act 1993,

I, _____ (Name) acting for and
on behalf of _____ (Company Name)
undertake to ensure that the requirements and provisions of the Act and Regulations are complied with.

Signature: _____

Date: _____

(Contractor)

Mandatory – Workmen’s Compensation / Federated Employers Mutual NO : _____

Signature : _____

Date: _____

(Principal Contractor)

Company : GOTHIC CONSTRUCTION

Project / Site: _____

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