

**WRITTEN AGREEMENT**

THIS IS IN TERMS OF SECTION 37(2) OF THE  
OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT 85 OF 1993)

BETWEEN:

**Iziko Museums of South Africa**  
(Employer)

AND

(Mandatory/Contractor)

## **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.

**WRITTEN AGREEMENT**

This is a written agreement between the (employer):

Name of EMPLOYER.....

and the (Mandatory):

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.....(mandatory) 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 of ..... as contained in the documents attached hereto and to liase with the employer should I, for whatever reason, be unable to perform in terms of this Agreement.

**NOTICE OF NON-COMPLIANCE**

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

Dear .....(Name of 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:.....

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

**(Employer)**..... has A 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: \_\_\_\_\_

Registration No.	/	/
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- 1. Contractor’s registration number with the office of the Compensation Commissioner:
- 2. Proof that assessments have been paid: (A copy of a receipt must be handed in, in this regard.)

Attach copy of receipt
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