

**Section 37(2) WRITTEN AGREEMENT ON
OCCUPATIONAL HEALTH AND SAFETY**

In accordance with the provisions of Section 37(2)
of the Occupational Health and Safety Act 85 of 1993

AS ENTERED INTO BY AND BETWEEN

**The Board of Trustees of the Seemeeu
Body Corporate**
(hereinafter refer to as "the Employer")

represented by Mr B du Toit
in the capacity as the Manager of the
Seemeeu Sectional Title Scheme,
156 Beach Road, Strand
and duly authorised thereto

and

.....
(hereinafter referred to as "the Mandatory")

Registration number.....
herein represented by.....
in the capacity as

and duly authorised thereto

for

.....
.....
Mandatory Compensation Fund number:

.....

1. REPORTING

The Mandatory and/or his designated person appointed in terms of Section 16(2) of the Occupational Health and Safety Act 85 of 1993 (“the OHS Act”) shall report to the Manager of the Seemeeu Body Corporate, or to the Employer, prior to commencing the work at the premises.

2. WARRANTY OF COMPLIANCE

- 2.1 In terms of this agreement the Mandatory warrants that he understands and agrees to the arrangements and procedures as prescribed by the Employer; as provided for in terms of Section 37(2) of the OHS Act for the purposes of compliance with the Act.
- 2.2 The Mandatory acknowledges that this agreement constitutes an agreement in terms of Section 37(2) of the OHS Act, whereby all responsibility for health and safety matters relating to the work that the Mandatory and his employees are to perform on the premises shall be the obligation of the Mandatory.
- 2.3 The Mandatory further warrants that he and/or his employees undertake to fully comply with the OHS Act. Without derogating from the generality of the above, or from the provisions of the said agreement, the Mandatory shall ensure that the provisions of this agreement and the OHS Act are always adhered to by himself and his employees.
- 2.4 The Mandatory shall ensure that the health and safety of any person on the premises is not endangered by the conduct and/or activities of any of his employees on the premises.

3. MANDATORY AND EMPLOYER

The Mandatory shall be deemed to be an employer in his own right while on the Employer’s premises. In terms of Section 16(1) of the OHS Act, the Mandatory shall accordingly ensure that the requirements of the OHS Act are complied with by himself and/or his nominated Chief Executive Officer.

Employer Signature:	
Mandatory Signature:	

4. APPOINTMENTS AND TRAINING

- 4.1 The Mandatory shall appoint competent persons for the work to be performed. Any such appointed person shall be trained on any occupational health and safety matters and the OHS Act provisions pertinent to the work that is to be performed under his responsibility. Copies of any appointment made by the Mandatory shall upon request be provided to the Employer.
- 4.2 The Mandatory shall further ensure that all his employees are trained on the health and safety aspects relating to the work and that they understand the hazards associated with such work being carried out on the premises. Without derogating from the foregoing, the Mandatory shall ensure that all his users or operators of any materials, machinery or equipment are properly trained in the use of such materials, machinery or equipment.
- 4.3 Notwithstanding the provisions of the above, the Mandatory shall ensure that he, his appointed competent persons and his employees are always familiar with the provisions of the OHS Act, and that they comply with the provisions.

5. SUPERVISION, DISCIPLINE AND REPORTING

- 5.1 The Mandatory shall ensure that all work performed on the Employer’s premises are done under strict supervision and that no unsafe or unhealthy work practices are permitted.
- 5.2 The Mandatory shall further ensure that his employees report to him all unsafe or unhealthy work situations after they become aware of the same and that he in turn immediately reports these to the Employer and/or his representative.

6. ACCESS TO THE OHS ACT

The Mandatory shall ensure that he always has an updated copy of the OHS Act and that this is accessible to his appointed competent persons and employees.

Employer Signature:	
Mandatory Signature:	

7. CO-OPERATION

7.1 The Mandatory and/or his competent persons and employees shall provide full co-operation and information when the Employer, the Seemeeu Body Corporate, enquires into occupational health and safety issues concerning the Mandatory. The Employer and his representative shall at all reasonable times be entitled to make such inquiry.

7.2 Without derogating from the generality of the above, the Mandatory and his competent persons shall make available to the Employer, the Seemeeu Body Corporate, on request, all and any checklists and inspection registers required to be kept by him, by law, in respect of any of his materials, machinery or equipment.

8. WORK PROCEDURES

8.1 The Mandatory shall perform risk assessments of work to be performed and ensure that safe work procedures are in place. The Mandatory shall ensure that his competent persons and employees are familiar with and adhere to these safe working procedures.

8.2 The Mandatory shall ensure that work for which a permit is required by law is not performed by his employees prior to the obtaining of such a permit.

9. COMPENSATION REGISTRATION

The Mandatory shall ensure that he has a valid registration with the Compensation Commissioner, as required in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993, and that all payments owing to the Commissioner are discharged. The Mandatory shall further ensure that the cover shall remain in force while any such employee is present on the premises. The Mandatory shall furnish the Employer with proof of registration and good standing, within seven (7) days of receipt of a request by the Employer.

Employer Signature:	
Mandatory Signature:	

10. MEDICAL EXAMINATIONS

The Mandatory shall ensure that all his employees undergo routine medical examinations as and where necessary, as prescribed by the OHS Act.

11. INCIDENT REPORTING AND INVESTIGATION

11.1 All incidents referred to in Section 24 of the OHS Act shall be reported by the Mandatory to the Department of Labour, to the Employer and the Seemeeu Body Corporate.

11.2 The Employer and the Seemeeu Body Corporate retains an interest in the reporting of any incident as described above as well as in any formal investigation and/or inquiry conducted in terms of Section 32 of the OHS- Act into such incident.

12. SUBCONTRACTORS

12.1 The Mandatory shall notify the Employer and the Seemeeu Body Corporate of any subcontractor he may wish to perform work on the Employer’s premises, together with a list of the names of all persons employed by him and each of his sub-contractors on the employer’s premises, for approval by the Seemeeu Body Corporate. It is hereby recorded that all the terms and provisions contained in this clause shall be equally binding upon the subcontractor prior to the subcontractor commencing with the work.

12.2 The Mandatory shall ensure that training as discussed under paragraph 4: Appointments and Training, is provided prior to a subcontractor commencing work on the Employer’s premises.

12.3 The Mandatory shall ensure that work performed by a subcontractor is done under strict supervision and discipline, as discussed under paragraph 5: Supervision, Discipline and Reporting.

Employer Signature:	
Mandatory Signature:	

13. SECURITY AND ACCESS

- 13.1 The Mandatory and his employees shall enter and leave the premises only through the gate(s) and/or checkpoint(s) designated by the Seemeeu Body Corporate. The Mandatory shall ensure that employees always observe the security rules of the Seemeeu Body Corporate and shall not permit any person who is not directly associated with the work from entering the premises.
- 13.2 The Mandatory shall ensure that all materials, machinery or equipment brought by him onto the premises are recorded at the gate(s) and/or checkpoints(s). A failure to do this may result in a refusal by the Seemeeu Body Corporate to allow the materials, machinery or equipment to be removed from the premises.

14. FIRE PRECAUTIONS AND FACILITIES

- 14.1 The Mandatory shall ensure that an adequate supply of fire-protection and first-aid equipment is provided for the work to be performed on the Employer’s premises.
- 14.2 The Mandatory shall ensure that the work site and surrounding area is always maintained to a high level of hygiene and cleanliness. In this regard no loose materials shall be left lying about and the work site shall be cleared of all waste material, dirt, rubble and dust on completion of every workday.

15. NO USAGE OF THE EMPLOYER’S EQUIPMENT

The Mandatory hereby acknowledges that his employees shall not be permitted to use any materials, machinery or equipment of the Employer or the Seemeeu Body Corporate.

Employer Signature:	
Mandatory Signature:	

16. TRANSPORT

16.1 If any hazardous substances are to be transported on the premises, the Mandatory shall ensure that the requirements of the Hazardous Chemical Substances Act 15 of 1973 are always complied with.

17. OPERATION OF AGREEMENT

This agreement shall remain in force for the duration of the work to be performed by the Mandatory and/or while any of the Mandatory’s workmen are present on the Employer’s premises.

18. HEADINGS

The headings as contained in this agreement are for reference purposes only and shall not be construed as having any interpretative value in them or as giving any indication as to the meaning of the contents of the paragraphs contained in this agreement.

19. NO NUISANCE

19.1 The Mandatory shall ensure that neither he nor his employees, or sub-contractors undertake any activity that may cause environmental impairment or constitute any form of nuisance to the Employer, the other owners, or occupants in Seemeeu and the Seemeeu Body Corporate and/or its surroundings.

19.2 The Mandatory shall ensure that no hindrance, hazard, annoyance or inconvenience is inflicted on the Employer, another owner, any tenants, or the Seemeeu Body Corporate. Where such situations are unavoidable, the Mandatory shall give prior notice to the Employer, the adjacent occupants of units and the Seemeeu Body Corporate.

Employer Signature:	
Mandatory Signature:	

20. INTOXICATION NOT ALLOWED

No intoxicating substance of any form shall be allowed on the premises of Seemeeu. When a person is taking medicine, such person shall only be allowed to work if the side effects of such medicine do not constitute a threat to the health of the person concerned or other persons at such workplace.

21. PERSONAL PROTECTIVE EQUIPMENT

The Mandatory shall ensure that his competent persons and employees are provided with adequate personal protective equipment (PPE) for the work they may perform, and which must be in accordance with the requirements of General Safety Regulation 2(1) of the OHS Act. The Mandatory shall further ensure that his competent persons and employees wear the PPE issued to them at all material times.

22. PLANT, MACHINERY AND EQUIPMENT

22.1 The Mandatory shall ensure that all the plant, machinery, equipment and/or vehicles he may wish to utilize on the Employer’s premises is/are always of sound order and fit for the purpose for which it/they is/are intended.

22.2 In accordance with the provisions of Section 10 of the OHS Act, the Mandatory shall ensure that any article, which is erected or installed for use at work, is safe and creates no risk to health when properly used.

23. NOTICES

Each PARTY hereby chooses as his domicilium citandi et executandi for all purposes under this AGREEMENT, the address set forth below and any party shall be entitled by notice to the other to change his domicilium aforesaid provided that the change shall only become effective 7 days after service of the notice in question:

THE EMPLOYER:

Seemeeu, c/o JPS Trust, 1 Niblick Way, Trident Park II, Somerset West.

The CONTRACTOR (physical address):

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Any notice to be sent to another PARTY may be sent by fax or delivered. In the event of delivery by hand or transmission by fax it shall be deemed to have been received by the addressee at noon on the day after the date of dispatch.

Employer Signature:	
Mandatory Signature:	

24. INDEMNITY

The CONTRACTOR indemnifies and holds the Employer and the Seemeeu Body Corporate harmless against any loss in respect of claims, proceedings (of civil and criminal nature), damages, costs and expenses, arising from:

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.
2. Claims from other parties, whether against the Seemeeu Body Corporate or the CONTRACTOR, consequent upon death, bodily injury or illness of any person 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.
3. Physical loss or damage to any plant, equipment or other property belonging to the CONTRACTOR or his subordinates or agents.

25. INSURANCE

The CONTRACTOR warrants that he is in possession of the following insurance cover which shall remain in force during the duration of the CONTACT WORK:

1. Public liability insurance cover;
2. Insurance covering his liabilities to any of his and/or his sub-contractors' employees;
3. Insurance covering any liabilities in respect of Environmental pollution, damage or other loss relating to inadequate Environmental management;
4. Any other insurance cover that will adequately make provision for any possible losses and/or claims arising from the indemnities provided for in this AGREEMENT.

In order to verify the above mentioned cover the Employer and the Seemeeu Body Corporate shall be entitled to request of the CONTRACTOR to furnish them with written proof of such cover, which proof shall be delivered within seven (7) days of such request.

26. BREACH

If any PARTY commits a breach of the terms of this AGREEMENT and fails to remedy such breach within ten (10) days after receipt by him of a written notice from the PARTY aggrieved by such breach requiring him to remedy such breach, then and in that event the aggrieved PARTY may, without prejudice to any other rights or remedies he may have in terms of this AGREEMENT:

1. Cancel the CONTRACT WORK and claim and recover such damages as he may have suffered as a result of such breach;
2. Claim specific performance of the terms of this AGREEMENT; or
3. Keep this AGREEMENT in force and claim and recover such damages as he may have suffered as a result of such breach.

The Employer and the Seemeeu Body Corporate reserves the right to expel any Contractor or Contractor's Employee failing to comply with the Occupational Health and Safety requirements.

Employer Signature:	
Mandatory Signature:	

27. GENERAL

- 30.1. This AGREEMENT constitutes the whole and exclusive memorial of the agreement between PARTIES in respect of the subject matter hereof and no warranties, representations or other terms and conditions of whatsoever nature not expressly recorded herein, shall be of any force or effect.
- 30.2. No variation of the terms and conditions of this AGREEMENT shall be of any force or effect unless reduced to writing and signed by the PARTIES or their duly authorised agents.
- 30.3. If any clause or term of this AGREEMENT should be invalid, unenforceable or illegal, then the remaining terms and provisions of this AGREEMENT shall be deemed to be severable there from and shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this AGREEMENT.
- 30.4. The PARTIES declare that they have disclosed to each other all material and circumstances affecting the contents and purpose of this AGREEMENT.
- 30.5. No indulgence, lenience or extension of time which either PARTY ("the grantor") may grant or show to another PARTY ("the grantee") shall in any way constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past, or which might arise in the future.

Thus done and signed aton.....

.....
for and on behalf of the Employer

WITNESSES:

- 1.
- 2.

.....
for and on behalf of the Mandatory

WITNESSES:

- 1.
- 2.

The above must be signed in the presence of the witnesses.