

Document Owner:	Safety Manager	Version Number:	3.0
Document Number	T-JET-SHEQ 0603 CD	Version Date:	3 March 2018
Status:	Approved	Review Date:	March 2021
Document Title:	Sub Contractors Agreement 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 AND BETWEEN

**Fraser Alexander Tailings, a division of Fraser Alexander (Pty) Ltd
(Hereinafter referred to as "the Employer")**

AND

**(Contractors name – please fill in)
(Hereinafter referred to as "the Service Provider")**

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Service Providers Details:

Compensation Fund number:	
Address:	
Tel. No:	
Cell phone number:	
Fax No:	
E – mail:	

1. Reporting

- 1.1 The Service Provider 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 Health and Safety Specialist and/or representative designated by the Employer prior to commencing the work at the premises.
- 1.2 The Service Provider shall ensure that the following are in place before commencing with any work or activities on the employer's premises:
 - a. This agreement is signed by both parties;
 - b. All personnel have attended the SHE induction course;
 - c. A risk assessment was done on the work to be done and a copy handed to the Health and Safety Specialist or the employer's representative;
 - d. A permit to work is obtained where necessary from the employer's representative;
 - e. A tool list is handed to Fraser Alexander Representative for the site.

2. Warranty of compliance

- 2.1 In terms of this agreement the Service Provider warrants that he agrees to the arrangements and procedures, as prescribed by the Employer, and as provided for in terms of **Section 37(2) of the Occupational Health and Safety Act 85 of 1993 and Regulations (“the OHS-Act”)**, for the purposes of compliance with the OHS-Act.
- 2.2 The Service Provider 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 the Service Provider and his

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employees are to perform on the premises shall be the obligation of the Service Provider.

- 2.3 The Service Provider further warrants that he and/or his employees undertake to maintain such compliance with the OHS-Act. Without derogating from the generality of the above, nor from the provisions of the said agreement, the Service Provider shall ensure that the clauses as hereunder described are at all times adhered to by
- 2.4 himself and his employees.
- 2.5 The Service Provider hereby undertakes to ensure that the health and safety of any other person on the premises is not endangered by the conduct and/or activities of all his employees whilst they are on the Employer's premises.

3 Service Provider an employer

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

4. Appointments and training

- 4.1 The Service Provider shall appoint competent persons as per **Section 16 (2) of the OHS-Act**. Any such appointed person shall be trained on any occupational and safety matter, and the OHS-Act provisions pertinent to the work that is to be performed under their responsibility. Copies of any appointments made by the Service Provider shall immediately be provided to the Employer.
- 4.2 The Service Provider 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 a foregoing, the Service Provider shall, in particular, 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 Service Provider shall ensure that he, his appointed responsible persons and employees are at all times familiar with the provisions of the OHS-Act, and that they comply with the provisions.

5. Supervision, discipline and reporting

- 5.1 The Service Provider shall ensure that all work performed on the Employer's

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premises are done under strict supervision, and that no unsafe or unhealthy work practices are permitted. Discipline regarding health and safety matters shall be strictly enforced against any of his employees regarding non-compliance by his employee with any health and safety matters.

- 5.2 The Service Provider shall further ensure that his employees report to him all unsafe or unhealthy work situations immediately after they become aware of the same, and that he in turn immediately reports these to the Employer and/or his representative.
- 5.3 Service Providers shall exercise strict supervision over industrial relations and ensure a sound industrial relations climate. The control and management of misconduct and unacceptable behaviour shall include:
 - a. The use of abusive, derogatory and offensive language;
 - b. Racially abusive language;
 - c. Assault or threat of assault;
 - d. Sexual harassment.

6. Access to the OHS-Act

The Service Provider shall ensure that he has an updated copy of the OHS-Act on site at all times, and that this is accessible to his appointed responsible persons and employees. Save that the parties may make arrangements for the Service Provider and his responsible appointed persons to have access to the Employer's copies of the said Act.

7. Cooperation

- 7.1 The Service Provider and/or its responsible persons and employees shall provide full cooperation and information if and when the Employer or his representative inquires into occupational health and safety issues concerning the Service Provider. It is hereby recorded that the Employer and his representative shall at all times be entitled to make such inquiry.
- 7.2 Without derogating from the generality of the above, the Service Provider and his responsible persons shall make available to the Employer and his representative, on request, all and any checklists and inspection registers required to be kept by him in respect of any of his materials, machinery and equipment.

8. Work procedures

- 8.1 The Service provider shall be entitled to utilise, the procedures, guidelines and other documentation as used by the Employer for the purposes of ensuring a

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healthy and safe working environment. The Service Provider shall then ensure that his responsible persons and employees are familiar with, and utilise the documents.

8.2 The Service Provider shall implement and enforce safe work practices as prescribed by the Employer, and he shall ensure that his responsible persons and employees are made conversant with the contents of these practices and that they adhere to such procedures.

8.3 The Service Provider shall ensure that work for which a permit is required, by the Employer is not performed by his employees prior to the obtaining of such a permit.

9. Health and safety meetings

If required in terms of the OHS-Act, the Service provider shall establish his own health and safety committee(s), and ensure that his employees, being the committee members, hold health and safety meetings as often as may be required, and at least once every three (3) months. The Employer may elect to permit Service Provider's health and safety representatives to attend the Employer's health and safety committee meetings.

10. Compensation Registration

The Service Provider 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 Service provider shall further ensure that the cover shall remain in force whilst any such employee is present on the premises.

11. Medical examinations

The Service Provider shall ensure that all his employees undergo routine medical examinations, and that they are medically fit for the purpose of the work they are to perform. When work is performed on a mine the service provider will be required to adhere to the applicable requirements of sections 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the **Mine Health and Safety act, 29 of 1996**. The service provide will be required to comply to the requirements or interpretations as set by the owner of the mine in terms of sections 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the **Mine Health and Safety act, 29 of 1996**.

12. Incident reporting and investigation

12.1 All incidents, referred to in **Section 24 of the OHS-Act**, shall be reported, by the Service Provider to the Department of Labour. All incidents shall also immediately be reported to the Employer's official in charge of the contract or

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to the Health and Safety department. The Employer shall further be provided with copies of any written documentation relating to any incident.

- 12.2 The Employer retains an interest in the notification 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.

13. Sub-contractors

- 13.1 The Service Provider shall notify the Employer of any sub-contractor he may wish to perform work on the Employer's premises. It is hereby recorded that all the terms and provisions contained in this clause shall be equally binding upon the Sub-contractor prior to the Sub-contractor commencing with the work. Without derogating from the generality of this paragraph:

- The Service Provider shall ensure that training as discussed above, is provided, prior to the Sub-contractor commencing work on the Employer's premises.
- The Service Provider shall ensure that work performed by the Sub-Contractor is done under strict supervision and discipline, as described above.
- The Service Provider shall inform the Employer of any health and safety hazard and/or issue that the Sub-contractor may have brought to his attention.
- The Service provider shall inform the Employer of any difficulty encountered with regard to compliance by the Sub-contractor to any health and safety instruction, procedure and/or legal provision applicable to the work the Sub-contractor performs on the Employer's premises.

14. Security and access

- 14.1 The Service Provider and its employees shall only access and exit the premises through the main gate(s) and/or checkpoint(s) designated by the Employer. The Service Provider shall ensure that its employees observe the security rules of the Employer or owner of the premises at all times and shall not permit any person who is not directly associated with the work from entering the premises.
- 14.2 The Service Provider and its employee shall not enter into any area of the premises which is not directly associated with the work.
- 14.3 The Service Provider shall ensure that all materials, machinery or equipment brought by it onto the premises are registered at the main gate(s) and or checkpoint(s). A failure to do this may result in a refusal by the Employer to

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allow the materials, machinery or equipment to be removed from the premises.

15. Fire precautions and facilities

- 15.1 The Service Provider shall ensure that an adequate supply of fire protection and first aid facilities is provided for the work to be performed on the Employer's premises. Save that the parties may mutually make arrangements for the provision of such facilities.
- 15.2 The Service Provider shall further ensure that all his employees are familiar with fire precautions at the premises that include fire alarm signals and emergency exits and that such precautions are adhered to.

16. Hygiene and cleanliness

The Service Provider shall ensure that the area where the work is performed is at all times maintained to reasonably practicable levels of hygiene and that they maintain the surrounding area of the work site to a reasonably practicable level of cleanliness. In this regard, no loose materials shall be left lying unnecessarily, and the work site shall be cleared of waste material regularly and on completion of the work.

17. No nuisance

- 17.1 The Service Provider shall ensures that neither he nor his employees undertake any activity that may cause environmental impairment, nor constitute any form of nuisance to the Employer and/or his surroundings.
- 17.2 The Service Provider shall ensure that no hindrance, hazard, annoyance or inconvenience is inflicted on other Service Providers, the Employer or tenants. Where such situations are unavoidable, the Service Provider shall give prior notice to the Employer.

18. Intoxication not allowed

No intoxicating substance of any form shall be allowed on site. Any person suspected of being intoxicated shall not be allowed on the site. Save that any person required to take medication shall notify the relevant responsible person thereof, as well as the potential side effects of the medication.

19. Personal protective equipment

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

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20. Plant, machinery and equipment

20.1 The Service Provider shall ensure that all the plant, machinery, equipment and/or vehicles he may wish to utilise on the employer's premises is/are at all times of sound order and fit for the purpose for which it is intended, and that it complies with the requirements of **Section 10 of the OHS-Act**.

20.2 In accordance with the provisions of **Section 10 (4) of the OHS-Act**, the Service Provider hereby assumes the liability, for taking the necessary steps to ensure that any article or substance that it erects or installs at the premises, or manufacturers, sells or supplies to or for the health when properly used.

21. No usage of the Employer's equipment

The Service Provider hereby acknowledges that his employees shall not be permitted to use any materials, machinery or equipment of the Employer unless the prior written consent of the Employer has been obtained, in which case, the Service Provider shall ensure that only those persons authorised to make use of the same, have access thereto.

22. Transport

22.1 The Service Provider shall ensure that all road vehicles used on the premises are in a roadworthy condition, are licensed and insured. All drivers shall have relevant valid driving licences and no vehicle shall carry passengers unless it is specifically designed to do so. All drivers shall adhere to the speed limits and road signs on the premises.

22.2 In the event that any hazardous substances are to be transported on the premises, the Service Provider shall ensure that the requirements of the Hazardous Chemical Substances Act, 15 of 1973 are complied with at all times.

23. Clarification

In the event that the Service Provider requires clarification of any of the terms or provisions of this agreement, it should contact the Health and Safety Specialist at the Employer.

24. Duration of agreement

This agreement shall remain in force for the duration of the work to be performed by the Service Provider and/or whilst any of the Service Provider's workmen are present on the Employer's premises.

25. Headings

The headings as contained in this agreement are for reference purposes only, and shall not be construed as having any interpretative value in themselves,

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nor any indication as to the meaning of the contents of the paragraphs contained in this agreement.

26. Changes to this agreement

No amendment to this agreement or any terms of this agreement, including this clause, shall be binding unless it is recorded in a written document signed by both parties.

Thus done and signed as agreeing to the conditions set in this agreement.

on 20.....

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For and on behalf of Fraser Alexander Tailings, a division of Fraser Alexander (Pty) Ltd

Name:

Position:

.....

For and on behalf of the Service Provider (Contractor)

Name:

Position: