**This is a pro forma letter that can be addressed to an employer by an attorney representing an employee whose employer has adopted a mandatory vaccination plan. It can be adapted as a letter from an employee or from a trade union to the employer.**

**[EMPLOYER'S ADDRESS]**

**(the "Company")**

**Dear [ ]**

**RE: MANDATORY VACCINES IN THE WORKPLACE**

We act on behalf of [ ] ("**our client**"), who we understand is one of your employees.

[ALTERNATIVELY: We are the designated trade union for employees of the Company. THIS FORMULATION WILL REQUIRE THE REPLACEMENT OF "OUR CLIENT" WITH ANOTHER REFERENCE.]

1. **Background**
	1. The Minister of Employment and Labour has issued a direction in terms of regulations made under the Disaster Management Act (the "**Direction**") which deals with measures designed to address, prevent and combat the spread of COVID-19 in certain workplaces. Amongst other things, the Direction requires that Employers develop a plan (the "**Plan**") outlining the measures that they intend to implement in respect of the vaccination of employees. The Direction requires Employers to consult in relation to the Plan. The Direction does **not** require Employers to adopt a plan for the vaccination of any employees and the Employer is entitled to conclude that it will not adopt any mandatory vaccination policy.
	2. The Direction also entitles any employee to refuse to be vaccinated on constitutional or medical grounds.
	3. We are instructed that the Company has elected to implement a mandatory vaccination programme (the "**Programme**").
	4. The Programme is defective in law including for the reasons set out in this letter. Notably, the Company has failed to comply with the Direction in that it has failed to conduct a proper risk assessment including by failing to supply employees with references to the science that the Company relied upon and failing to properly consult with the employees. Alternatively acted irrationally in implementing the Programme given the information set out in paragraph [ ] below.
	5. We are instructed to inform the Company that our client requires the Company to address the deficiencies in the Programme identified in this letter before it is enforced against our client. Until said deficiencies have been address, our client will not be participating in the Programme on legal, constitutional and medical grounds, including those set out below. Amongst other things, our client will not be disclosing their vaccination status in accordance with their rights under the common law, in terms of Section 9 and 12 of the Constitution and in terms of the Promotion of Equality and Prevention from Unfair Discrimination Act 4 of 2000.
	6. It is placed on record that our client is not against vaccines in principle. Nor has our client taken a permanent stance in relation to the COVID-19 vaccines ("**Vaccines**"). Our client’s position is based on the fact that: (a) the limitation on our client's rights that are implied by mandatory vaccination are not proportional to the risk that COVID-19 poses to other employees, clients or society in general; (b) the Vaccines do not prevent infection or transmission of the SARS-CoV-2 virus (the "**Virus**") and there is no scientific or practical evidence that they materially mitigate transmission; (c) the Vaccines carry known risks that are disproportional to those faced by the average employee from COVID-19; and (d) the Programme is illegal. These grounds are set out fully below.
	7. COVID-19 has been with us for a very short period of time in scientific terms. New discoveries are being made constantly. Scientific consensus does not yet exist in relation to the Virus or the disease. This places a burden on those who implement measures like mandatory vaccination. Doctors are guided by the ethical principle, "First do no harm," which obliges them to do nothing rather than to take steps whose outcomes they cannot predict. So it will be for the Company. By choosing to mandate the Vaccine in this environment, the Company takes on a responsibility to interrogate the science actively, to keep track of developments and to adapt its policies accordingly. The Company must be in a position to defend the science it relies on to argue that the workplace is unsafe, that the Vaccines render it safe and that the extent of the improvement in the risk profile of the workplace is proportional to the limitation of employees' rights.
2. **Lack of Proportionality**
	1. The workplace can never be perfectly safe and the Company is not required to make it perfectly safe but only to take reasonable steps. Many of the activities that employees are required to engage in by the Company are significantly more dangerous than the risks that COVID-19 poses. Crash helmets would, for example, make driving cars safer, but the Company does not mandate them. Mandatory vaccination, which has never before been implemented by the Company, constitutes a major infringement on employees' rights and it could only be justified by a significant threat to the health of employees and clients that will be mitigated by the Vaccines and cannot be reasonably mitigated by any other measures.
	2. If, indeed, you had done a proper risk assessment, you would have established that the Vaccines are unnecessary, including because the impact of COVID-19 poses no greater threat to the health of your employees than countless other risks that have traditionally not required the implementation of any measures, let alone invasive measures that infringe the Constitutional rights of employees.
	3. According to a study by Stanford University published by the World Health Organisation, the mean infection fatality rate ("**IFR**") for COVID-19 is 0.15%.[[1]](#footnote-1) IFR is a calculation of the percentage of people who are infected with a virus and die. The recovery rate of people who tested positive for the Virus is over 99%[[2]](#footnote-2) in most countries that have been materially affected by the Virus. The survival rate is set out in the table below which is again derived from the work of Stanford University and published in Medrxiv, a respected scientific journal.[[3]](#footnote-3)

|  |  |  |
| --- | --- | --- |
| **Age** | **Infection Fatality Rate** | **Infection Survival Rate** |
| 20-29 | 0.01% | 99.99% |
| 30-39 | 0.03% | 99.97% |
| 40-49 | 0.08% | 99.92% |
| 50-59 | 0.30% | 99.70 |

* 1. A recent large-scale study by Public Health England of 300,000 confirmed cases of the Delta variant (the most dominant in SA) of SARS-CoV-2 showed that the under 50 unvaccinated age group had a hospitalisation rate of 0.48% (1443 / 300,000) and a 0.016% chance of dying (48/300,000).[[4]](#footnote-4) 84% of the South African population is under 50 and this statistic will be even higher within the Company's workforce.
	2. The IFR for flu is generally stated as between 0.1% and 0.2%. The CDC puts the IFR for flu in the United States as slightly higher.[[5]](#footnote-5) As has been stated from the onset of the virus, the IFR for flu is therefore roughly the same as for COVID-19. The suggestion, therefore, that the workplace is less safe without a COVID-19 Vaccine mandate that it was without a flu vaccine mandate has no basis in logic or science.
	3. In the United States, only about 6% of the total recorded COVID deaths were deaths from COVID alone.[[6]](#footnote-6) The singular focus on the virus led to unprecedented testing at high thresholds which resulted in people testing positive who would ordinarily not have been diagnosed with COVID-19.
	4. Public health authorities purposefully overstated the virulence of SARS-COV2 in order to motivate certain behaviours through fear[[7]](#footnote-7). The following factors are amongst the many mitigating factors that have resulted in the overstatement of the risk:
		1. "Asymptomatic spread" (transmission by people who are not ill) is very rare.[[8]](#footnote-8)
		2. People who have recovered from COVID-19 have robust and long-lasting immunity[[9]](#footnote-9) that is better than vaccine-induced immunity and with a large percentage of our population being recovered, high vaccination levels are not required. The largest real-world analysis comparing natural immunity to the protection provided by the Pfizer-BioNTech vaccine showed that "natural immunity confers longer lasting and stronger protection against infection, symptomatic disease and hospitalization caused by the Delta variant of SARS-CoV-2 than vaccines". "People given both doses of the Pfizer-BioNTech vaccine were almost six-fold more likely to contract a delta infection and seven-fold more likely to have symptomatic disease than those who recovered." They were also "27 times more likely to have a symptomatic breakthrough infection" than those who have developed natural immunity.[[10]](#footnote-10)
	5. The reinfection rate for those who have previously contracted COVID-19 is extremely low[[11]](#footnote-11) at 0.7%.[[12]](#footnote-12) More importantly, most reinfections are asymptomatic or mild, with low death rates. In a recent study, out of 43,000 people naturally infected, only one case of reinfection was severe, and none resulted in death.[[13]](#footnote-13) All recent studies show that immunity in recovered individuals remains effective at the date of the study[[14]](#footnote-14) and will possibly last for a lifetime.[[15]](#footnote-15) [NOTE: IF THE CLIENT HAS RECOVERED FROM AN INFECTION, THIS SHOULD BE MENTIONED AS THERE IS NO JUSTIFICATION FOR VACCINATION IN THAT CONTEXT.]
	6. The belief that COVID-19 poses a serious risk has been driven by the use of an inappropriate testing regime that relies on the Reverse Transcription - Polymerase Chain Reaction (PCR) Test, which suffers from known issues.[[16]](#footnote-16) PCR Tests cannot distinguish between live virus and non-infective RNA. The PCR Test was not designed to be a diagnostic tool; its intended use being as a manufacturing technique to replicate DNA sequences.[[17]](#footnote-17) Laboratories, including in South Africa adopted magnification cycles far in excess of those recommended, resulting in significant inaccuracy of the results. Even after the WHO recommended[[18]](#footnote-18) lowering the cycle threshold, laboratories in South Africa failed to comply.[[19]](#footnote-19) According to the FDA, positive results via a PCR Test do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definitive cause of disease.[[20]](#footnote-20) On 21 July 2021, the CDC withdrew its request to the FDA for Emergency Use Approval for the PCR Diagnostic Panel.[[21]](#footnote-21)
	7. Since March 2020, there have been available several therapeutic treatments for SARS-COV2, which have been shown to be effective in treating COVID-19 including zinc, medical doses of vitamin C and D. In a Paper published in the American Journal of Medicine in January 2021, it was shown that a combination of therapeutics is extremely effective at combating COVID-19.[[22]](#footnote-22)
	8. Non-pharmaceutical interventions are patently not responsible for the IFR of COVID-19. Countries and regions that did not implement lockdowns or masks showed performed just as well as those that did.[[23]](#footnote-23) None of the non-pharmaceutical interventions that were implemented were recommended by any public health body prior to COVID-19.[[24]](#footnote-24) This is because they were known not to be effective. The IFR of COVID-19 set out above is therefore the true measure of the Virus unmitigated.
	9. Three different antibody studies conducted this year found an average of 47% and as high as 63% of people had been infected in South Africa, as of May 2021. [[25]](#footnote-25) In the Western Cape’s largest township (Khayelitsha), this rate was as high as 68% in March 2021.[[26]](#footnote-26) Since these studies, the third wave has resulted in even more people being infected and giving them protection that is universally recognised as equivalent to vaccination and probably better. Discovery now estimates that up to 80% of South African have already contracted COVID-19.[[27]](#footnote-27)
	10. Had the Company properly conducted a proper risk assessment, it would have determined that the Virus does not pose a significant risk to employees or clients. The hype regarding the Virus was purposefully created by public health authorities believing it to be the best way to generate a favourable response from the public, but the science shows that the risks are in line with the risks posed by other respiratory viruses. The measures the Company has always taken to combat respiratory viruses are sufficient and additional steps like sanitising already improve the situation. Many employees are already immune and there is no justification for vaccinating them. Certainly, there is no justification for an invasive mandatory vaccination scheme – this is simply not proportional to the risk posed.
1. **The Vaccines do not Prevent Infection or Transmission**
	1. The argument for mandatory vaccination relies on the myths that the COVID-19 Vaccines function like other vaccines to render the patient immune from the disease and that they thereby prevent transmission of the virus. It is no coincidence that the word "immunisation" is not used in reference to these Vaccines. They do not render the patient immune – unlike vaccines against other diseases like polio.
	2. The Vaccines do not protect against infection.
	3. The Vaccines do not prevent transmission. This is not only admitted by the manufacturers and public health authorities globally but there are many examples of outbreaks of the virus amongst fully vaccinated populations including an outbreak on a UK military ship amongst fully vaccinated troops.[[28]](#footnote-28) In the most vaccinated countries on the planet, massive numbers of cases have continued to be reported notwithstanding vaccination. This includes Israel, which currently has the largest number of active cases per million of any country in the world.
	4. These are reported as "breakthrough infections" notwithstanding the fact that there is no barrier for the Virus to break through. The Vaccines offer no protection whatsoever against infection with the Virus. They claim only to ameliorate the experience of the disease, COVID-19 after infection. In fact, it has been shown that the Vaccines heighten the risk of infection with COVID-19 through an immunosuppression effect.[[29]](#footnote-29)
	5. It has also been shown scientifically that there is no difference between the viral load of vaccinated people and unvaccinated people.[[30]](#footnote-30) The study by the University of Wisconsin found, "Furthermore, individuals with vaccine breakthrough infections frequently test positive with viral loads consistent with the ability to shed infectious viruses."
	6. It must also be noted that vaccinating employees is not a moral imperative. It is not practically possible to eliminate the Virus entirely given the impracticality of vaccinating all humans at the same time and given the animal reservoir, i.e. the fact that animals can contract the Virus and pass it on to humans at any time.
	7. The Vaccines claim to help the vaccinated person by reducing the impact of the virus and diminishing the risk of requiring hospital attention and of death. Since a vaccinated person carries the same viral load as an unvaccinated person and is capable of infecting others, it cannot be said that vaccinated employees pose less of a risk than unvaccinated employees. In practice, we see that the vaccines have had no impact on reducing cases. As such, the Programme is irrational in that it makes an assumption (that the Vaccines will prevent or materially reduce transmission) that is unsustainable scientifically or by observation.
2. **Vaccine safety**
	1. Incontestably, the Vaccines, like any drug have an associated risk of side effects and complications. They are not totally benign. The risk analysis is particularly heavily weighted against the Vaccines for younger people whose risks from COVID-19 are negligible.
	2. Clinical trials on the Vaccines are scheduled to complete in 2023. They have not been completed as at the date of this letter. Accordingly, the medium and long term side effects of the Vaccines are unknown. They are currently distributed in South Africa under a temporary, 6-month emergency use authorisation.
	3. The manufacturers of the Vaccines have no liability for any side effects. There continue to be new side effects being reported and/or listed by bodies such as the FDA. These side effects are only the short-term side effects. They include myocarditis, blood clots and facial nerve disorders, with new reports indicating a possible side effect related to a nerve/nervous system disease (Guillain-Barre syndrome).[[31]](#footnote-31) The long-term side effects are unknown.
	4. The three most widely known adverse event reporting systems all show significant adverse events from the Vaccines. Notably, data reported into the US system establishes clearly that the Vaccines are by far the most dangerous vaccines ever distributed, with more than half the deaths from all vaccines reported over the last 31 years being deaths after COVID-19 vaccines administered over the last 6 months.
3. **Legal Issues**
	1. **The Direction is Illegal**
		1. The Constitution provides[[32]](#footnote-32) that no legislation that authorises a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise any derogation from the non-derogable rights set out in the bill of rights. That is, the limitations clause does not apply during a state of emergency to the non-derogable rights.
		2. There is no definition in the Constitution of a state of emergency. The features of a state of emergency are that the life of the nation is threatened, including by a natural disaster or other public emergency, and the declaration of the emergency is necessary to restore peace and order. The "state of disaster" meets these requirements. It is a state of emergency by a different name. It was specifically[[33]](#footnote-33) called to respond to a natural disaster and amongst other things, its purpose is "preventing or combatting disruption." Under the state of disaster, the military has been deployed and curfews have been implemented. The state of disaster has prevailed for more than 550 days without any Parliamentary oversight.
		3. During a state of emergency, the right to equality is non-derogable in relation to discrimination, amongst other grounds on the basis of religion (including thought, conscience, belief and opinion). It is entirely non-derogable in relation to human dignity. It is also non-derogable in relation to the right not to be subjected to medical or scientific experiments without informed consent.
		4. The Direction amounts to legislation enacted in consequence of a declaration of a state of emergency that purports to limit the non-derogable rights. It is therefore illegal.
	2. **Occupational Health & Safety Act**
		1. We understand that the Programme has been justified on the basis that the Occupational Health and Safety Act 85 of 1993 ("**OHSA**") requires that the Company maintain a safe working environment. This is not an absolute obligation and again proportionately is required..
		2. Section 8(1) of the OHSA states: "Every employer shall provide and maintain, **as far as is reasonably practicable**, a working environment that is safe and without risk to the health of his employees."
		3. Section 8(2) states: "Without derogating from the generality of an employer's duties under 40 subsection (1), the matters to which those duties refer include in particular-

...

(d) establishing, **as far as is reasonably practicable**, what hazards to the health or safety of persons are attached to any work which is performed, any article or substance which is produced, processed, used, handled, stored or transported and any plant or machinery which is used in his 55 business, and he shall, **as far as is reasonably practicable**, further establish what precautionary measures should be taken with respect to such work, article, substance, plant or machinery in order to protect the health and safety of persons, and he **shall provide the necessary means to apply such precautionary measures**;"

* + 1. The obligations of the Company are not absolute and the imperative to render the workplace safe must be implemented proportionately to employee's rights.
	1. **The Employment Equity Act**
		1. Section 6 of the Employment Equity Act provides that: "No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground."[[34]](#footnote-34)
		2. Annexure C, to the Direction makes it clear, in sections 4 and 5 thereof that:

"4. The key principle of the[se] guidelines is that employers and employees should treat each other with mutual respect. A premium is placed on Public Health Imperatives, the constitutional rights of employees and the efficient operation of the employer’s business."

and

"5. Subject to any applicable collective agreement, a plan contemplated in Direction 3 that requires all employees identified in terms of that direction to be vaccinated in accordance with the National Covid-19 vaccination roll out plan, should provide the following:

(a) Every employee identified by the employer in terms of section 3(1)(a)(ii) should be notified of -

(i) the obligation to be vaccinated as and when a vaccine becomes available to that employee;(ii) the right of an employee to refuse to be vaccinated on constitutional or medical grounds;(iii) the opportunity for the employee, at the employee’s request, to consult a health and safety representative or a worker representative or a trade union official."

* 1. The Programme does not comply with the Employment Equity Act or the rules set out in the Direction to give effect to that Act and is therefore illegal. Furthermore, under the Direction, each employee has a right to refuse the Vaccine. The Direction does not set out any consequence that arises if an employee refuses to be vaccinated. Our client's refusal to take the Vaccine cannot therefore amount to misconduct or any other breach of the employment contract between the Company and our client. Our client cannot therefore be dismissed for refusing to take a Vaccine.
	2. **Definition of COVID-19 Vaccine**
		1. The definition of a COVID-19 vaccine is set out in the Direction as follows:



* + 1. There is currently no medication that qualifies as a "Covid-19 Vaccine" in terms of the Direction. Firstly, the vaccines patently do not prevent death and no such claim is made by any organisation let alone the WHO or the South African Health Products Regulatory Authority ("**SAHPRA**"). SAHPRA acknowledges that the vaccines do not prevent an individual from being infected with the virus or from transmitting the virus and they patently do not prevent severe disease or death. Secondly, the vaccines have not been scientifically evaluated and recommended by the WHO. The Vaccines have been "validated" by the WHO and they are listed for emergency use only. Thirdly, the Vaccines have not been approved by SAHPRA. The current registration is under s.21 of the Medicines and Related Substances Act which is for distribution of an unregistered medicine. The s.21 authorisations are only valid for 6 months.
		2. As a result, there is no vaccine that our client can be compelled to take since the only vaccines that the Company may be entitled to mandate under the Direction do not currently exist.
	1. **Constitutional Rights**
		1. No vaccine or medical intervention has ever been mandatory in South Africa. This stems from our Constitution and the nature of individual freedoms and the rights of individuals to make decisions concerning their health in a fully independent manner.
		2. The Constitution, including Sections 9 and 12 of the Constitution protect our client's right to bodily integrity and the right not to be discriminated against. These rights are given further colour by the Promotion of Equality and Prevention from Unfair Discrimination Act 4 of 2000. Coercion or forced vaccination is a direct infringement of human dignity. These rights can only be limited by a law of general application and only if no other, less restrictive means, are available. As has been demonstrated above there are several less restrictive measures available to achieve the goals of the Direction.
		3. It is accepted that certain Constitutional rights may be limited by a law of general application and then only insofar as no other less restrictive means are available.
		4. The Direction was merely gazetted in terms of regulations under the Disaster Management Act 57 of 2002. The Direction ceases to be valid when the state of disaster no longer exists. As such, the Direction is not a law of general application. Moreover, since the Direction does not require the Company to implement a mandatory vaccination scheme, the Programme has been implemented by the Company's choosing and not by any law, notably not a law of general application.
		5. Given the information set out above, the limitation of our client's rights, including the rights to, dignity, equality, to work and bodily integrity would not be reasonably and justifiably limited by a mandatory vaccination scheme even if it were competent at this time to limit the non-derogable rights.
		6. Our client's right to privacy is Constitutionally guaranteed. Our client's medical status is private, sensitive information and, as a matter of law, our client cannot be forced to reveal that status to the Company. This would, obviously, include our client's vaccination status, which must remain confidential between the employee and their doctor.
	2. Whether an employee is vaccinated or not has no impact on an employer’s ability to conduct its normal operations. It is not information that it needs to perform those operations. Therefore, no employer can demand that its employees reveal their vaccination status, whether it is for SARS-COV2 or any other infectious disease. Any such direction would be unlawful and a breach of the employee’s employment contract.
	3. Any disciplinary action premised on either our client’s failure to reveal vaccination status or any perceived failure to submit to the vaccine will therefore be unlawful and there is ample legal precedent in South Africa confirming that employees cannot be required to voluntarily reveal their medical status to their employer. The Courts have strongly condemned this behaviour in many cases.
	4. **International Law**
		1. South Africa is a member of UNESCO and a signatory to the Universal Declaration of Bioethical and Human Rights.
		2. Article 3 of the said declaration states:

“1. Human dignity, human rights and fundamental freedoms are to be fully respected.

2. The interests and welfare of the individual should have priority over the sole interest of science or society.”

* + 1. Article 4 of the declaration states:

“in applying and advancing scientific knowledge, medical practice and associated technologies, direct and indirect benefits to patients, research participants and other affected individuals should be maximised and any possible harm to such individuals should be minimised.”

* + 1. Article 5 of the declaration states:

“The autonomy of persons to make decisions, while taking responsibility for those decisions and respecting the autonomy of others, is to be respected. For persons who are not capable of exercising autonomy, special measures are to be taken to protect their rights and interests.”

And,

* + 1. Article 6 states:

“1. any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should where appropriate be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.”(my emphasis)

* + 1. The Programme is therefore both in breach of South African law as well as International law.
	1. **Employment Contract / Direction**
		1. In terms of ordinary contract law and employment law, the Company cannot seek to fundamentally vary the terms of our client’s employment contract without fully-informed consent. Any direction that employees be vaccinated amounts to a fundamental variation to our client’s employment contract. Our client does not consent to this variation and any such purported modification to the employment contract is void and unenforceable. Any attempt to force our client to be vaccinated will amount to a repudiation of the employment contract by the Company.
	2. **Company Liability**
		1. We wish to point out that should our client, notwithstanding this letter, be coerced or forced into taking a Vaccine, quite aside from any damages that our client might seek for breach of the employment contract, breach of labour laws, the Direction and the Constitution, our client will hold the Company liable in damages for any adverse events that our client may suffer now or at any time in the future.
		2. In this regard, it is noted that the Direction does not require the Company to introduce a mandatory vaccination programme. The Company's decision to implement such a programme renders the Company liable. It would be manifestly negligent for the Company to demand that its employees submit to a medical treatment, without, at the very least, having conducted investigations to determine:
			1. The efficacy of the proposed vaccines;
			2. The need for the proposed vaccines; and
			3. The safety of the proposed vaccines.

* + 1. The Company would need to have on record medical and scientific advice relating to these points since it has elected to implement the Programme. Such information would need to be maintained by the Company to ensure that it is current throughout the period during which the Programme is maintained. Given that the Vaccines' efficacy wanes after 6 months, the Programme represents a permanent programme.
		2. We trust that the Company has obtained this information and request copies of all relevant documents. Without these, the Company is exposed to a liability that is not covered by the Company's insurance policy and is not covered by a claim against the Vaccine manufacturer.
1. **Conclusion**
	1. Ethically and morally, employees in the strict sense and all persons in the broader sense should be allowed to decide for themselves whether or not to take the Vaccines.
	2. Similarly, the default position under the Constitution is that every person has the right to decide for themselves. Many of the relevant rights of employees cannot be limited in any manner whatsoever during the current emergency. Even if limitations were legal at this time, the mandating of Vaccines is not proportional to the harm.
	3. Moreover, the Vaccines are incapable of ameliorating the situation as they do not render the vaccinated immune, they do not prevent transmission of the virus by the vaccinated person and there is no evidence that they reduce transmission in society materially or at all. On the contrary, scientific and empirical evidence suggests that transmission has reached new highs despite high Vaccines penetration in other countries.
	4. The Direction is illegal for the reasons set out above.
	5. Government has not mandated the Vaccines and by choosing to mandate them, the Company is taking on liability for any vaccine adverse events.
	6. In light of the foregoing matters, any employment direction that employees be vaccinated against SARS-COV2 is not lawful, reasonable or proportionate. The Programme is therefore unlawful and any attempt to enforce it will be strenuously defended.
	7. We have referenced all of the points made in this letter copiously with published science. This establishes a weight of scientific evidence in our client's favour. We require that you supply us with a full record of all of the scientific papers and all medical advice that you have relied upon in implementing the Programme, failing which we will assume that you implemented the Programme in the absence of such data.
	8. Should our client be coerced or forced into taking the Vaccine, all of our client's rights to recover any damages that our client or our client's family may suffer as a result of an adverse event are strictly reserved.
	9. We trust that further action does not become necessary and we look forward to receiving your confirmation that our client need not comply with the Programme.

Yours sincerely,

1. https://www.who.int/bulletin/online\_first/BLT.20.265892.pdf [↑](#footnote-ref-1)
2. https://www.collective-evolution.com/2020/11/28/covid-19-has-a-99-95-survival-rate-for-people-under-70-stanford-professor-of-medicine/ [↑](#footnote-ref-2)
3. https://www.medrxiv.org/content/10.1101/2021.07.08.21260210v1 [↑](#footnote-ref-3)
4. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/1009243/Technical\_Briefing\_20.pdf [↑](#footnote-ref-4)
5. To calculate the IFR, divide deaths by symptomatic illnesses in Table 1 of the following paper - https://www.cdc.gov/flu/about/burden/past-seasons.html?web=1&wdLOR=c0E4693DF-08ED-4B39-B0B2-0439964D0DEF. [↑](#footnote-ref-5)
6. <https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm>, https://www.cdc.gov/nchs/nvss/vsrr/covid\_weekly/index.htm#Comorbiditieshttps://www.the-hospitalist.org/hospitalist/article/220457/coronavirus-updates/comorbidities-rule-new-yorks-covid-19-deaths [↑](#footnote-ref-6)
7. See Annexure NH7 to the following affidavit: https://www.pandata.org/dearsa-court-case-affidavit/ [↑](#footnote-ref-7)
8. <https://www.sciencedirect.com/science/article/pii/S0954611120301669>, <https://www.sciencedirect.com/science/article/pii/S0954611120301669>, <https://thenewamerican.com/study-of-almost-10-million-finds-no-symptomatic-covid-spread-media-silent/>, <https://www.aier.org/article/asymptomatic-spread-revisited/>, <https://www.nature.com/articles/s41467-020-19802-w>, <https://www.bmj.com/content/370/bmj.m3563>, https://www.sciencedirect.com/science/article/pii/S2352396421002036 [↑](#footnote-ref-8)
9. <https://medicine.wustl.edu/news/good-news-mild-covid-19-induces-lasting-antibody-protection/>, <https://www.bbc.com/future/article/20200716-the-people-with-hidden-protection-from-covid-19>, https://www.bmj.com/content/370/bmj.m3563 [↑](#footnote-ref-9)
10. https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1 [↑](#footnote-ref-10)
11. <https://www.medrxiv.org/content/10.1101/2021.01.15.21249731v2>, [↑](#footnote-ref-11)
12. https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciab345/6251701 [↑](#footnote-ref-12)
13. https://www.medrxiv.org/content/10.1101/2021.01.15.21249731v2 [↑](#footnote-ref-13)
14. <https://www.nature.com/articles/s41590-021-00902-8>, <https://www.nature.com/articles/s41586-021-03696-9>, https://www.nature.com/articles/d41586-021-01557-z [↑](#footnote-ref-14)
15. <https://www.nature.com/articles/s41586-021-03647-4>, <https://www.nytimes.com/2020/11/17/health/coronavirus-immunity.html>, <https://www.biznews.com/health/2021/06/28/covid-19-vaccine-immunity>, https://www.cell.com/cell-reports-medicine/fulltext/S2666-3791(21)00203-2 [↑](#footnote-ref-15)
16. <https://bpa-pathology.com/covid19-pcr-tests-are-scientifically-meaningless/>, <https://academic.oup.com/cid/article/72/11/e921/5912603>, https://off-guardian.org/2020/09/05/australian-govts-own-website-admits-covid-tests-are-totally-unreliable/ [↑](#footnote-ref-16)
17. <https://www.altona-diagnostics.com/files/public/Content%20Homepage/-%2002%20RealStar/INS%20-%20RUO%20-%20EN/RealStar%20SARS-CoV-2%20RT-PCR%20Kit%201.0_WEB_RUO_EN-S02.pdf>, http://www.creative-diagnostics.com/pdf/CD019RT.pdf [↑](#footnote-ref-17)
18. https://archive.fo/HMhni [↑](#footnote-ref-18)
19. <https://www.health.gov.au/sites/default/files/documents/2020/03/coronavirus-covid-19-information-for-clinicians.pdf>, <https://www.tga.gov.au/covid-19-testing-australia-information-health-professionals>, <https://www.researchgate.net/publication/353305221_THE_COMPARISON_OF_THREE_REAL-TIME_PCR_KITS_FOR_SARS-COV-2_DIAGNOSIS_1_REVEALS_DISCREPANCIES_ON_THE_IDENTIFICATION_OF_POSITIVE_COVID-19_CASES_2_AND_DISPERSION_ON_THE_VALUES_OBTAINED_FOR_THE_DETECTION_O>, [↑](#footnote-ref-19)
20. <https://www.fda.gov/media/134922/download>, https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.32.2001483 [↑](#footnote-ref-20)
21. https://www.cdc.gov/csels/dls/locs/2021/07-21-2021-lab-alert-Changes\_CDC\_RT-PCR\_SARS-CoV-2\_Testing\_1.html [↑](#footnote-ref-21)
22. https://www.sciencedirect.com/science/article/pii/S0002934320306732 [↑](#footnote-ref-22)
23. <https://www.pandata.org/lockdowns-dont-save-lives-sweden/>, <https://www.citizen.co.za/news/opinion/2440622/right-of-reply-lockdowns-contradict-a-century-of-pre-covid-science/>, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3782395>, <https://www.medrxiv.org/content/10.1101/2020.12.28.20248936v1>, [https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(20)30208-X/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370%2820%2930208-X/fulltext), <https://onlinelibrary.wiley.com/doi/10.1111/eci.13484>, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3665588>, <https://www.medrxiv.org/content/10.1101/2020.04.24.20078717v1>, <https://www.nber.org/system/files/working_papers/w28930/w28930.pdf>, https://www.aier.org/article/lockdowns-do-not-control-the-coronavirus-the-evidence/ [↑](#footnote-ref-23)
24. http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.552.1109&rep=rep1&type=pdf [↑](#footnote-ref-24)
25. <https://epicentre.org.za/2021/07/01/huts-findings/?mc_cid=93de27b059&mc_eid=6f9af5d20c>, <https://sanbs.org.za/wp-content/uploads/2016/09/UPDATED-ESTIMATES-OF-THE-PREVALENCE-OF-SARS-COV-2-ANTIBODIES-AMONG-BLOOD-DONORS-IN-SOUTH-AFRICA.pdf>, https://www.researchsquare.com/article/rs-233375/v1 [↑](#footnote-ref-25)
26. https://www.timeslive.co.za/news/south-africa/2021-03-25-covid-19-antibodies-as-high-as-68-in-latest-western-cape-study/ [↑](#footnote-ref-26)
27. https://www.news24.com/fin24/companies/health/80-of-south-africans-may-have-had-covid-discovery-says-20210818https://www.news24.com/fin24/companies/health/80-of-south-africans-may-have-had-covid-discovery-says-20210818 [↑](#footnote-ref-27)
28. https://www.bbc.com/news/uk-57830617 [↑](#footnote-ref-28)
29. https://www.medrxiv.org/content/10.1101/2021.03.08.21252200v1.full.pdf [↑](#footnote-ref-29)
30. https://www.medrxiv.org/content/10.1101/2021.07.31.21261387v1, https://www.medrxiv.org/content/10.1101/2021.08.29.21262798v1 [↑](#footnote-ref-30)
31. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html>

 <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/myocarditis.html> [↑](#footnote-ref-31)
32. Section 37(5). [↑](#footnote-ref-32)
33. <https://www.gov.za/documents/disaster-management-act-declaration-national-state-disaster-covid-19-coronavirus-16-mar> [↑](#footnote-ref-33)
34. Section 6(1). [↑](#footnote-ref-34)