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**MANDATORY
VACCINATION:
IMPORTANT INFO**

Dear Employee

SEESA (PTY) LTD COVID-19 MANDATORY VACCINATION POLICY

The company wish to provide all employees who refuse to be vaccinated with a detailed explanation as why and how did we decided to make vaccination mandatory.

It is of utmost importance to take note that we as an employer bears the obligation to ensure a safe working environment to our employees and to guarantee a sustainable business where our employees can work and earn an income to provide for themselves and their families.

The first point we wish to stress is that we as an employer has the right to make vaccination mandatory in the workplace.

The right is established by legislation published by the Minister of Employment and Labour in a Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces in Government notice 499 in GG 44700 dated 11 June 2021 in terms section 27(2) Disaster Management Act.

The Directive explicitly provides for mandatory vaccination in certain workplaces. The decision to make vaccination of staff mandatory must be based on assessments of risks identified on occupational health and safety as well as operational needs.

The company conducted risk assessments in order to determine whether it would be appropriate for employees or certain categories of employees, to be mandatory vaccinated. It had to identify those employees who by virtue of the risk of transmission through their work or their risk for severe COVID-19 disease or death due to their age or comorbidities that must be vaccinated.

The objective of conducting the assessments was to lead us in making a decision from a business perspective and an occupational health risk perspective. The two main considerations of importance, were the health and safety of our employees and the interests of the company.

The occupational health and safety risk assessment focused on:



- (i) the specific circumstances of the workplace and the requirements of the OHS Regulations for Hazardous Biological Agents;
- (ii) the risk of transmission due to the occupations/job requirements of employees, identifying exposure levels of “high contact” activities;
- (iii) individual risk factors like the age and comorbidities of employees and identifying vulnerable workers and special measures for their protection;

The Operational Requirements Assessment focused on:

- (i) The operational requirements of the business;
- (ii) The nature of the business;
- (iii) The risk of infections and the impact it may have on the normal business activities of the employer;
- (iv) The necessity for mandatory vaccination versus the effectiveness of mitigating measures already in place or stricter measures;
- (v) The implications if clients or vendors who may require mandatory vaccination;
- (vi) The effect of employees falling severely ill or die and of the absence of staff caused to render the company unable to provide services to clients due to lack of capacity.

In making this decision we also took into account the following:

- (i) the right of employees to bodily integrity in terms of section 12(2) of the Constitution;
- (ii) the right of employees to freedom of religion, belief and opinion in terms of section 13 of the Constitution;
- (iii) the right to refuse to be vaccinated on medical or constitutional grounds;
- (iv) the nature of vaccines used in the country and the benefits associated with COVID-19 vaccines;
- (v) the contra-indications for vaccination and the nature and risk of any serious side effects;
- (vi) the imperative of public health;
- (vii) the efficient operation of the employer’s business.

While employees have Constitutional rights, those rights are not absolute. Section 36 of the Constitution provides for the limitation of certain rights in terms of law of general application to the extent that it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account factors like:

- (a) The nature of the right;
- (b) the importance and purpose of the limitation;



- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and the purpose; and
- (e) less restrictive means to achieve the purpose.

The overall result and conclusion after considering all the above were as follow:

We know that this decision might infringe on the constitutional rights of employees but we have to protect our business and our employees from severe illness or perhaps, death. This can only be avoided by vaccination made mandatory.

- (i) SEESA has never been a company which operates remotely/from home.
 - (a) our way of work is mainly office orientated. Although we worked remotely in the past, it was because we were forced to do so due to restrictions during the hard lockdown and not because we changed our way of work;
 - (b) this is the most effective way in which we prefer to control operations and evaluate performance;
 - (c) absence from office, negatively affects direct and effective communication;
 - (d) working from home impacts on utilization of fixed assets(office space) – buildings from where we work) owned and not rented – we can't just give up rent like other companies may do;
 - (e) working remotely also affects the efficiency and adequate training of staff;
 - (f) working remotely deprives our staff of exposure to our valued corporate culture;
 - (g) many of our staff started suffering from social deprivation because of the seclusion.
- (ii) Operationally, we render service of such a nature which demands unavoidable contact with clients:
 - (a) legal advisors and marketing consultants will have intensive contact with persons outside the company and will always be exposed to infection;
 - (b) legal advisors and marketing consultants will have always have to perform unavoidable duties from the office and have intensive contact with employees inside the company, which in turn expose those office bound employees to exposure;
 - (c) measures to avoid contact would be impracticable.
- (iii) Operationally, financially and structurally, the company cannot afford the interruption or limitation of its service rendering capability:
 - (a) We know that vaccination will not prevent employees from contracting the virus, but if they do, they will not become so severely ill or die;



- (b) If clients to whom we render services, requires all operational staff to be vaccinated, the capacity to provide efficient and expeditious service will be severely affected by reduced staff with vaccination as an inherent requirement;
 - (b) absenteeism caused by severe illness or death of employees, may cause a lack of capacity to provide efficient and expeditious service to clients.
- (iv) The health and safety risks involved, dictated that it would be in the best interest of employees and the business to make vaccination mandatory.
- (a) the prevailing COVID-19 variant remains a severe contagious disease. Despite the infection and death figures being reasonably low at this stage, it remains a risk for persons not being vaccinated. The low figures is a clear indication of the effectiveness of vaccination;
 - (b) the risk of transmission due to the occupations/job requirements of employees, have been identified as high exposure activities;
 - (c) high individual risk factors like the age and comorbidities of employees have been identified, and justify extreme special measures for their protection.
- (v) The interests of the business and the rights of co-employees weigh heavier than that of individual employees:
- (a) The imperative on health and safety of employees dictates justification for limiting the rights of employees to refuse to be vaccinated;
 - (b) The right of the company to remain viable and operational justifies the limitation of the rights of employees to refuse to be vaccinated;
 - (c) the importance and purpose of the limitation outweighs the rights of individuals;
 - (d) less restrictive measures to avoid the limitation of rights, by way of accommodating employees, would impose an unjustifiable hardship on the business. It will cause significant and considerable difficulty or expense and the effectiveness of the accommodation will seriously disrupt the operation of the business.

What will happen if you refuse to be vaccinated

- (i) When and if you become eligible for vaccination, you will be required to register for vaccination and be vaccinated as soon as possible;
- (ii) If you decide not to be vaccinated, you will be required to inform your manager and provide the reason for the refusal;
- (iii) If you raise “medical grounds” as reason for the refusal, you must provide your manager with acceptable medical proof and documentation, substantiating the reason for refusal;
- (iv) You will be allowed to seek guidance on request to consult a health and safety representative;



- (v) You may be referred for further medical evaluation in case of a medical contraindication for vaccination;
- (vi) If you raise any “constitutional ground” for refusal, you will have to substantiate the existence and imperativeness of the right;
- (vii) The manager will conduct a counselling session with you in order to obtain all the information and attempt to convince you to be vaccinated;
- (viii) If you persist in your refusal, the manager will conduct an in-depth counselling session with you in order to resolve the dispute;
- (ix) Termination of employment may result in the refusal to be vaccinated if you can not be reasonably accommodated and the refusal renders you to be incapacitated or operationally redundant.

Employees who have not been fully vaccinated and temporarily exempted, will not be allowed to enter the workplace on 1 January 2022 when we all return to work from the office. You will remain at home, you will not be required to work and therefor not be entitled to be paid.

We urge you to reconsider your position and agree to be vaccinated. Please do not risk losing your job and your health. You must also take note that in the event of you being retrenched, you may also forfeit severance pay due to the provisions of Section 41 of the Labour Relations Act in that you unreasonably refuse to accept the alternative you have to remain employed.

Please find attached the following information:

1. SEESA (Pty) Ltd Revised OHS Risk Assessment.
2. Vaccination information Sheet.
3. SEESA Q and A Covid-19 Vaccines.
4. Covid-19 OHS Directive June 2021.

If you need any further information, please do not hesitate to request this from your manager.



OTTO BRONKHORST
NATIONAL MANAGER: LABOUR

