INSERT COMPANY / BUSINESS HEADER

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**LETTER OF DEMAND**

14 July 2021

**TO THE MINISTER OF POLICE**

**REPUBLIC OF SOUTH AFRICA**

**BY FAX: 012 393 2812**

**BY E-MAIL: GaehlerSMK@saps.gov.za; and**

**PhokaneN@saps.gov.za**

**THE PRESIDENT**

**THE REPUBLIC OF SOUTH AFRICA**

**BY E-MAIL: malebo@presidency.gov.za; and**

**presidentrsa@presidency.gov.za**

Dear Sirs,

**NOTICE OF CLAIM FOR DAMAGES IN TERMS OF SECTION 3 OF THE INSTITUTION OF LEGAL PROCEEDINGS AGAINST CERTAIN ORGANS OF STATE, ACT 40 OF 2002 – SHUTDOWN**

1. This letter is addressed to your respective offices by virtue of the fact that your respective offices/departments:
	1. Jointly and severally held a duty towards citizens of the Republic of South Africa to uphold the Supremacy of the Law as one of the constitutional values upon which the Republic of South Africa was/is founded in terms of section 1(c) of the Constitution of the Republic of South Africa, Act 108 of 1996.
	2. In order to uphold the Supremacy of the Law, of relevance to the contents of this letter, your respective offices jointly and severally, and as part of the Executive Arm of the State of the Republic of South Africa were required to ensure that your functions, pertaining to ensuring the safety and security of citizens and the protection of property, are executed to a standard that complies with the basic values and principles governing the public administration in terms of section 195 of the Constitution.
	3. Were, in accordance with the principles of co-operative governance as prescribed in section 41 of the Constitution and any subsequent enabling legislation, obliged to work together in a manner that would give effect to the said principles in relation to the duties above and the specific duties that will be referred to below.
	4. Were duty bound to uphold the oath office that both the President and the Minister have deposed to when they resumed their respective official positions.
2. This letter is addressed to the Minister of Police by virtue of the constitutional mandate of the South African Police Services as prescribed in terms of section 205 of the Constitution to, *inter alia*:
	1. **Prevent** crime;
	2. **Combat** crime; and
	3. **Investigate** crime
3. This letter is addressed to the President of the Republic of South Africa as the Head of State and the Head of the Executive Arm of Government together with the specific powers that vests in him by virtue of his position as the Commander-in-Chief of the South African Defence Force. By virtue of his said position this letter is also addressed to him specifically addressed to him by virtue of his *ex officio* authority to invoke 201(2)(a) of the Constitution to the extent that the Minister of Police may, in his defense, claim that the South African Police Services (SAPS) was unable to fulfil its abovementioned Constitutional duty before and when the events and circumstances, as will be referred to below, manifested.
4. Commencing on the 9th of July 2021 a number of unknown persons and/or organisations initiated a national shutdown of the Republic of South Africa (hereinafter referred to as “the shutdown”). This was allegedly in an action in protest of the imprisonment of a former president of the Republic of South Africa. Besides the public announcement and marketing of the intended protest action *via* social media platforms and several public announcements by supporters of the former president, the intended action that was aimed at bringing the country to standstill, ought to have been known and to have been anticipated through a functional and operational crime intelligence system.
5. The anticipation of the intended protest and its potential treats to the public order and to the safety and security and personal belongings or property of civilians ought to have triggered all reasonable steps in order to enable the police to, in accordance with the standards fulfil the pro-active and reactive duties that are imposed on the South African Police Services in accordance with the standards imposed by section 195 of the Constitution, to prevent and combat crime.
6. Insofar has the South African Police Services (SAPS) may claim that, in anticipation of the shutdown, it was unable to fulfil its Constitutional obligations, the State President, as the head of the state, was Constitutionally obligated to supplement such shortcomings as head of the state and by virtue of his ability to invoke section 201(2)(a) of the Constitution.
7. After the commencement of the shutdown, it became known that the organisers of the protest action had embarked on criminal conduct and/or have allowed criminals to embark on criminal conduct that resulted into a large-scale theft and/or looting of the stock of businesses, destruction of property and arson. The criminal conduct also resulted and escalated to the extent that several persons were murdered in the process.
8. On or about \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(date) our business was attacked in the onslaught of the shutdown and despite the following attempts to secure the assistance of the South African Police Services (SAPS), no support or protection was provided by the South African Police Services (supported by the South African National Defence Force) to prevent the crime before same was committed or to combat and apprehend the perpetrators when the crime was committed:

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(Provide a brief chronological sequence of events and unsuccessful attempts to secure a response from the South African Police Services before or during the attack on your business) – (alternatively I confirm that while members of the SAPS were present on the scene at the time of the damages being suffered they failed to take the necessary steps to prevent the events that caused the damages and/or failed to prevent the further damages being caused after their arrival on the scene.)

1. As result of the abovementioned events and as a result thereof and as a result of the failure of the South African Police Services (supported by the South African National Defence Force) to prevent the crime(s) from being perpetrated against our business, and as result of the failure to apprehend the perpetrators when the crime(s) was committed, I have suffered the following losses:
	1. The reasonable costs for the repairs to my buildings and or infrastructure: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (see the attached quotations)
	2. The reasonable costs for the replacement of stock and equipment that got destroyed stolen or destroyed:
		1. Stock\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
		2. Equipment\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	3. The loss of average income or profit for the duration of the shutdown and up until business can resume \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ per day.

1. We hereby demand payment and/or indemnification of the amounts above within 30 (thirty) days from date hereof.

**COMPANY / BUSINESS**