Dear Professor Ruggle

RE: Guiding Principles on Business and Human Rights – Implementing the "Protect, Respect and Remedy Framework"

Edward Nathan Sonnenbergs Inc welcomes and supports The Guiding Principles which seek to implement and put into practice, the Protect, Respect and Remedy Framework.

In South Africa, we are privileged to practice law in a constitutional democracy. The Constitution of the Republic of South Africa provides for the creation of a sovereign and democratic institutional state and a number of state institutions supporting constitutional democracy and includes the Bill of Rights, which enshrines fundamental rights for the benefit of everyone.

All our laws must align with the provisions of the Constitution and when interpreting any legislation, or developing the common law or customary law, a court must promote the spirit, purpose and objects of the Bill of Rights. We are privileged to have experienced, first hand, the developments that have followed the promulgation of the Constitution in South Africa, such as the entry into force of legislation specifically geared towards social, political and environmental transformation, including the Labour Relations Act 68 of 1995, the Basic Conditions of Employment Act 75 of 1997, the Employment Equity Act 55 of 1998, the National Environmental Management Act 107 of 1998, the Petroleum Resources and Development Act 28 of 2002 and the Broad-Based Black Economic Empowerment Act 53 of 2003.

With effect from 1 May 2011, our legislation governing companies and close corporations was substituted by the Companies Act 71 of 2008. Our new Companies Act includes within its stated purposes, reaffirming the concept of the company as a means of achieving economic and social benefits and continuing to provide for
the creation and use of companies in a manner that enhances the economic welfare of South Africa as a partner within the global economy. In addition, our new Companies Act empowers the Minister to prescribe that certain categories of companies, including public listed companies and private companies which pass turnover and other thresholds, must, if it is “desirable in the public interest”, appoint a social and ethics committee.

The purpose of the social and ethics committee includes monitoring the company’s social and economic development, including by having regard to any prevailing codes of best practice, “having regard to matters relating to social and economic development, including the company’s standing in terms of the goals and principles of [...] the United Nations Global Compact Principles”, monitoring the company as a good corporate citizen and monitoring the impact of the company’s activities (or its products and services) on the environment, health and public safety. The social and ethics committee is also required to draw matters within its mandate to the attention of the board of directors of the company and to report on matters within its mandate, to the company’s shareholders, at the company’s annual general meeting. Such monitoring ensures that the directors and shareholders are cognisant of social factors. In the case of directors, this is a positive development within the parameters of our enlightened shareholder value approach.

The Guiding Principles provide practical guidance on how to monitor and improve a company’s social and economic development and how a board can practically act on stakeholder interests. With the Guiding Principles, the recognition of the broader impact of corporations on society has developed into a crystallisation of standards of corporate responsibility and accountability from which practices and policy can evolve.

We congratulate you on your considerable efforts and achievements in merging social ideals and operational practicalities.

Yours sincerely

Michael Katz
Chairman

Piet Faber
GEO

Vanessa van Coppenhagen
Director, Corporate Commercial Department