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BY COURIER

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4 November 2020

Joint Communication from Special Procedures of 7 September 2020 **Reference: AL OTH 64/2020**

Dear Mesdames,
Dear Sirs,

Further to our letter of 1 October 2020, we have the honour to submit the Korindo Group's response to the joint communication AL OTH 64/2020 dated 7 September 2020 (the "**Joint Communication**").

The Korindo Group ("**Korindo**") acknowledges the concerns expressed in the Joint Communication. The protection and promotion of human rights is of utmost priority for Korindo. Korindo therefore appreciates the opportunity to contribute to the fact-finding and clarification of the circumstances addressed in the Joint Communication. With this letter, Korindo provides further information and additional materials in relation to the specific questions raised in the Joint Communication.

Regarding question 1

Mr Marius Betera used to work for PT. Tunas Sawa Erma ("**PT TSE**"), a subsidiary company of Korindo, as a security guard. He resigned from that position in August 2019.

Mr Betera had planted banana trees along the edge of roads inside Korindo's oil palm plantation. The land was neither Mr Betera's nor his wife's plot and had not been officially allocated to him or his wife in any manner. Mr Betera as a former employee was given a courtesy to live in the TSE compound residence with his family, for his home is three hours away from the farm. He was not a member of the clan that holds ceremonial, cultural and customary rights to the land. Mr Betera's planting of banana trees is unrelated to the exercise of any indigenous land rights.

PT TSE tolerates irregular plantings by residents and employees as long as they do not interfere with agricultural operations. However, the bananas planted by Mr Betera blocked a sewage drain and prevented access to a plot of palm trees. Therefore, they needed to be removed. PT TSE notified

Mr Betera of this necessity with due prior notice and set up a sign with a notice in the area (see notification and photograph in **Annex 1**).

The events of 16 May 2020 have been captured on security camera recordings. Pursuant to instructions from the competent police authority, PT TSE is currently not permitted to publish these recordings. PT TSE is, however, willing and able to share these recordings with the Office of the High Commissioner for Human Rights, if you request so and if appropriate measures are undertaken.

The security camera recordings and medical reports evidence the following facts:

On 16 May 2020 at 11:19 a.m., Mr Betera arrived at PT TSE's office, presumably to complain about the clearing of the banana trees. Mr Betera was armed with a rifle, a bow, a quiver of arrows, and a machete. Bystanders therefore called a police officer, Mr [REDACTED]. Naturally, the police officer is not under the control of PT TSE and PT TSE is not responsible for his actions. The recordings show that the police officer's actions were justified and that he did not cause any harm or injury to Mr Betera.

The police officer was unarmed. Given that Mr Betera was upset and carrying weapons, the police officer apparently identified the situation as a threat. The police officer ordered Mr Betera to surrender the weapons. Mr Betera refused to comply. The police officer attempted to disarm Mr Betera. Mr Betera resisted with force. A brief brawl commenced. Neither Mr Betera nor the police officer suffered any notable injuries. The police officer eventually managed to confiscate the weapons from Mr Betera. After the police officer had locked away the weapons, he and Mr Betera resumed talking peacefully. Mr Betera had the opportunity to freely express any complaints.

Mr Betera visited a clinic later that day. The medical examination undertaken at the clinic confirmed that his body showed no bruises or other indications of physical violence (see medical report of Dr Hisayani of 16 and 18 May 2020 with accompanying English translations in **Annex 2**). Instead, at the clinic Mr Betera displayed signs of dyspnoea and chest pain (see **Annex 2**). However, Mr Betera refused treatment and further examinations offered to him. He passed away soon thereafter, presumably from sudden cardiac arrest. Since Mr Betera's family refused an autopsy, the exact cause of death could not be determined (see **Annex 2**).

The security camera recordings and the medical report show that the incident between the police officer and Mr Betera was unrelated to Mr Betera's death. Mr Betera also was not hindered to freely express his opinions. His indigenous land rights were not affected.

Regarding question 2

Please see the response to question 1.

Korindo is committed to protecting and strengthening local indigenous communities by providing relief in tragic and difficult situations such as the sudden loss of a member of the community.

Korindo therefore provided Mr Betera's family and community with donations of food and provided other immediate and long-term relief. Korindo established a 200 million Indonesian Rupiah assistance fund for his family, provided housing and will provide scholarships for his children until their graduation from university.

Regarding question 3

Korindo abides by and voluntarily exceeds all relevant rules and regulations established by the Indonesian government. Korindo reaches out to and consults with indigenous communities whenever adopting decisions which could possibly affect traditional and cultural rights.

Korindo strives for an integrative process to minimise the likelihood of disputes. To this end, Korindo has adopted a process to address grievances and settle disputes. As part of its economic, social and governance commitment for 2020, Korindo signed a consultancy agreement with the Indonesian Palm Oil Farmers Association and thus created an official grievance mechanism. Korindo's grievance mechanism is easily accessible and open to, *inter alia*, indigenous people and non-governmental organisations. With this mechanism, Korindo promptly responds to and comprehensively addresses complaints. All complaints and all measures taken are documented and made available to the public in a transparent manner.

For further information on Korindo's grievance mechanism, please refer to Section 5 ("Grievance Mechanism and Procedure") of Korindo's Indigenous Report of 30 June 2020 enclosed in **Annex 3-1**.

Regarding question 4

Please see the response to question 3.

Korindo is committed to the development of Indonesia and its people, including the indigenous people of Papua and other regions of Indonesia. Korindo abides by and voluntarily exceeds all rules and regulations of the Indonesian government to reach out to, communicate, work and live with community members, indigenous farmers and land right defenders. For further information please refer to Section 4 ("Stakeholder Engagement and Dispute Resolution") of Korindo's Indigenous Report of 30 June 2020 enclosed in **Annex 3-2**.

While Korindo is constantly improving its procedures with regard to respecting the customary and cultural land rights of communities, it is important to note that the legal ownership of land lies with the Indonesian government and not with indigenous people who hold traditional and cultural entitlements to the land. Accordingly, the Indonesian government grants cultivation rights to Korindo for a period of 35 years. After the acquisition of such cultivation rights, Korindo pays different forms of compensation to residents for land and trees. Korindo also invests in various collective social programmes, including, *inter alia*, hospitals, clinics, schools, school buses, playgrounds, mosques and churches, roads, bridges, residential units, and community farms.

We trust that this letter will be of assistance to you and clarifies and dispenses the concerns raised in the Joint Communication. In closing, on behalf of Korindo, we would like to reiterate Korindo's long-standing and sincere commitment to the protection and promotion of human rights in the course of its enterprises and to once again express Korindo's gratitude for being granted opportunity to participate in the fact finding and assessment of this matter.

A copy of this letter is sent to the Permanent Mission of the Republic of Indonesia in Geneva.

Please accept, Mesdames and Sirs, the assurances of our highest consideration.

Yours sincerely,


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Enclosures

COPY BY EMAIL ONLY

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