

GENERAL NOTICES

NOTICE 1577 OF 2008

DEPARTMENT OF TRADE AND INDUSTRY

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

I, **Mandisi Mpahlwa**, Minister of Trade and Industry, hereby :

- (a) Issue for public comment, the DRAFT TRANSPORT SECTOR Code (The Draft Code) as provided for in Code 000 Statement 003 of the Codes of Good Practice under **Section 9(5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003); and
- (b) Invite interested persons and the public to submit comments on the draft code within **60 days** from the date of this publication.

Interested parties are requested to forward their comments to the following address(es)

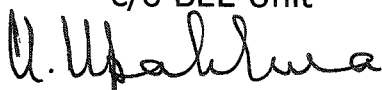
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MINISTER OF TRADE AND INDUSTRY

DATE: 11-12-2008

**DRAFT B-BBEE CHARTER - BUS COMMUTER AND COACH SERVICES
SUB-SECTOR**



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT

**BUS COMMUTER AND COACH SERVICES INDUSTRY BROAD-BASED BLACK
ECONOMIC EMPOWERMENT CHARTER**

DRAFT B-BBEE CHARTER - BUS COMMUTER AD COACH SERVICES SUB-SECTOR

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ABBREVIATIONS

	DEFINITION
B-BBEE	Broad-Based Black Economic Empowerment
C-BRTA	Cross Border Road Transport Agency
DOT	Department of Transport
DTI	Department of Trade and Industry
EAP	Economically Active Population
EE	Employment Equity
EEA	Employment Equity Act
EMEs	Exempted Micro Enterprises
GDS	Growth and Development Summit
NPAT	Net Profit After Tax
PPPFA	Preferential Procurement Policy Framework Act
QSEs	Qualifying Small Enterprises
SANAS	South African National Accreditation System
SMMEs	Small Micro Medium Enterprises
TETA	Transport Education and Training Authority

1. **INTRODUCTION AND BACKGROUND**

1.1 **Scope of the Charter**

- 1.1.1 The Bus Sector Broad-Based Black Economic Empowerment (B-BBEE) Charter applies to all road passenger transport services rendered by means of minibuses and buses (as defined in the National Land Transport Transition Act, 2000 and its subsequent amendments).
- 1.1.2 The Bus B-BBEE Charter excludes road passenger transport services rendered by means of minibuses (as defined in the National Land Transport Transition Act, 2000 and its subsequent amendments) as such will be covered by the Minibus Taxi Industry B-BBEE Charter.
- 1.1.3 Further to clause 1.1.1 above, the scope of this Bus Sector B-BBEE Charter extends to all sub-sectors of the industry and includes inter alia:
 - 1.1.3.1 Commuter bus services
 - 1.1.3.2 Long distance bus services
 - 1.1.3.3 Tour and charter bus services
 - 1.1.3.4 Cross border bus services
 - 1.1.3.5 Intercity bus services
 - 1.1.3.6 School/learner bus services
 - 1.1.3.7 Commercial contract bus services
 - 1.1.3.8 Special hire or private hire bus services
 - 1.1.3.9 Subsidised and non-subsidised bus services
 - 1.1.3.10 Scheduled and unscheduled bus services
- 1.1.4 The Bus Sector B-BBEE Charter covers the following entities involved in rendering passenger bus services:
 - 1.1.4.1 Privately owned bus operations
 - 1.1.4.2 Listed bus operations

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- 1.1.4.3 State owned bus operations
- 1.1.4.4 Municipal bus services or bus operations owned by and/or metropolitan authorities
- 1.1.4.5 Parastatals and bus operations owned by provincial authorities
- 1.1.5 The Bus Sector B-BBEE Charter makes provision for Exempted Micro Enterprises (EMEs) and will cover Qualifying Small Enterprises (QSEs) as well as medium and big bus operators.
- 1.1.6 The Bus Sector B-BBEE Charter also cross-references to the Codes of Good Practice on BEE in terms of key measurement principles and definitions and as amended.
- 1.2 Challenges facing the Bus Commuter and Coach Services Industry**
 - 1.2.1 The Bus Sector faces many challenges, among others are:
 - 1.2.1.1 Restructuring and transforming the current public transport system into a fully integrated, multi-modal network of public transport aimed at meeting the economic and social development needs of South Africa;
 - 1.2.1.2 Making bus transport more accessible and affordable to users of public transport;
 - 1.2.1.3 Improving the quality, safety, punctuality and reliability of bus services and providing the relevant information to users of public transport;
 - 1.2.1.4 Recapitalisation of operator vehicles outside the contract system; and
 - 1.2.1.5 Improving the infrastructure supporting bus services and public transport, e.g. dedicated public transport lanes, bus stops transfer stations, ticketing systems, passenger information systems, etc.
- 1.3 The role of the Bus Commuter and Coach Services Sub-Sector B-BBEE Charter**
 - 1.3.1 The Bus Sector B-BBEE Charter has an important role to play in transforming the bus sector to support the realization of the below vision:
 - 1.3.1.1 Ensure more equitable participation of all groups in the ownership and control of enterprises in the Bus Sector;
 - 1.3.1.2 Promote equal opportunity and fair treatment in employment in the sector through the elimination of unfair discrimination;
 - 1.3.1.3 Promote the development of skills of the workforce and the increase in the levels of investments in education and training to meet the changing demands of the future public transport system in South Africa;
 - 1.3.1.4 Enhance the restructuring of procurement policies and practices in the sector to ensure that B-BBEE suppliers and providers will participate meaningfully in the procurement spend of the sector;
 - 1.3.1.5 Promote the investment in and the establishment and support of enterprise development beneficiaries; and

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1.3.1.6 Promote the contributions to socio-economic development initiatives.

2. A WORLD CLASS BUS COMMUTER AND COACH SERVICES INDUSTRY

2.1 The Vision of the Bus Sector in South Africa is to transform the current system of public transport into a world class public transport system where different modes are fully integrated and coordinated in a network of public transport services aimed at meeting all the passenger transport needs of the country.

2.2 The signatories to this agreement believe that every company in the bus and coach sector should voluntarily commit to this charter in support of constitutional, legislative, social and economic imperatives to secure a prosperous future for all our citizens and the well-being of our customers. In agreeing to commit to this balanced scorecard charter, all signatories commit themselves to be monitored, verified and rated by an independent B-BBEE rating company/Verification Agency that is accredited by the appropriate Accreditation Agency on behalf of the Department of Trade and Industry (DTI).

2.3 The signatories further commit to communicate this broad-based charter to every company in our industry's value chain to ensure maximum participation by all stakeholders.

2.4 Undertakings from bus and coach operators to achieve this vision

2.4.1 Both the operator groups above are committed to develop world class bus and coach businesses in South Africa. ¹ We believe that this is possible through committed training and development, consistent investments, an acceptable return on such investments, and the offering of superior services to our customers.

2.4.2 Operators are committed to safe operations and will continuously strive to improve safety standards – both in technical design as well as operations. Our industry will also achieve significant B-BBEE participation in ownership, management and employment amongst all role players in the industry. The "transformed" industry will also embrace the development of SMME operators as well as other SMME role players. This will be done through retaining existing jobs where feasible, whilst striving to expand the scope of bus and coach operations in South Africa.

2.5 Government undertakings to achieve this vision

2.5.1 Government demonstrates its commitment to the bus industry by:

2.5.1.1 Actively supporting the bus industry as a core component of the transport industry in South Africa;

¹ For the purpose of this bus sector charter the dominant business activities (where most revenue is generated) of the respective businesses will dictate the group within which operators reside, and for that matter the respective charters that apply to such companies

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- 2.5.1.2 Actively supporting the intercity and tour charter coach and tour bus industry as a core component of the national, regional and international tourism industry;
 - 2.5.1.3 Continuously clarifying the public transport policy direction in order to provide stability and direction to the industry;
 - 2.5.1.4 To actively engage in discussions with the bus industry in view of the expansion of desperately needed services;
 - 2.5.1.5 Resolve legislative and fiscal restrictions that have a negative impact on the further development of the industry as well as policy implementation;
 - 2.5.1.6 To engage in discussions regarding issues of learner transport services;
 - 2.5.1.7 Assist B-BBEE companies in accessing funds for training and skills development through the Transport Sector Education and Training Authority (TETA);
 - 2.5.1.8 Assist industry and B-BBEE companies in training and development initiatives;
 - 2.5.1.9 To apply this Bus Sector B-BBEE Charter in the tender and negotiated contract processes;
 - 2.5.1.10 Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment Equity, Skills Development and Competition Acts; and
 - 2.5.1.11 Stakeholders should use the annual B-BBEE report published by the Transport Sector B-BBEE Council to annually review progress on transformation.
- 2.6 Labour undertakings to achieve this vision**
- 2.6.1 Encourage employers to first look towards their own employees when considering options for achieving black equity participation;
 - 2.6.2 Ensure that workers are empowered through skills development and training and create opportunities to deploy them into management positions;
 - 2.6.3 Mobilise members to ensure compliance with existing legislation e.g. the BEE, Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts;
 - 2.6.4 Encourage members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign;
 - 2.6.5 To work constructively with employers in the industry to grow and develop the bus industry to a world class industry; and
 - 2.6.6 Monitor the impact of tendering/negotiated contracts and procurement/outsourcing on job retention and creation.
- 2.7 TETA undertakings to achieve this vision**
- 2.7.1 To lead in facilitating the accurate determination of the real training needs in the Bus Industry and setting appropriate training priorities in the Bus Chamber;

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- 2.7.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender;
- 2.7.3 Continuously analyse and update statistics about the future demand and supply of critical skills sets;
- 2.7.4 Continuously conduct an analysis of the quantity, quality and nature of training that companies are doing;
- 2.7.5 Commit to this B-BBEE Strategy and strive to achieve the targets set (where applicable) with specific reference to service providers;
- 2.7.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE strategy; and
- 2.7.7 The signatories of this charter are of the view that the sector should endeavour to facilitate the realisation of these commitments by monitoring contributions to B-BBEE. The evaluation of these contributions should be conducted through an Evaluation Matrix provided in Appendix B.

3. THE BUS COMMUTER AND COACH SERVICES SUB-SECTOR B-BBEE SCORECARD

3.1 GUIDING PRINCIPLES

- 3.1.1 The detailed Bus Sub-sector B-BBEE Scorecard is included under section 5 of the document. The B-BBEE Scorecard, as agreed between the stakeholders, contains indicators with detailed notes to guide role players. The bus sector scorecard stretches over a 5 year period, and points will be scored using the 5 year targets.
- 3.1.2 The Coach Sub-sector B-BBEE Scorecard indicators and time frames are the same as for the bus commuter industry although there are differences in terms of some of the targets. As is the case with the bus commuter sub-sector scorecard, a scorecard is employed in the measurement of contributions to B-BBEE. Differences to the bus commuter industry scorecard are indicated in the text of this document.
- 3.1.3 The BEE compliance of bus operators with this scorecard will be measured against a total score achieved across all indicators (i.e. the sum of the individual scores on the B-BBEE indicator scorecard).

3.2 INDICATORS OF EMPOWERMENT

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

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3.2.1 OWNERSHIP

3.2.1.1 Guiding Principle

- 3.2.1.1.1 Our guiding principle is to increase black ownership across the spectrum of the bus and coach industry. We also aim to increase the economic sustainability of black ownership.

3.2.1.2 Stakeholder Undertakings

3.2.1.2.1 Government aims to:

- 3.2.1.2.1.1 Clarify public transport policy with specific reference to the funding model; targeting of subsidies, growth of the industry, future of the negotiated/tendering system and so forth.
- 3.2.1.2.1.2 In the design of tenders/negotiated contracts make provision for small operators, women enterprises and other designated groups.
- 3.2.1.2.1.3 Engage public and private sector funding agencies to develop innovative funding mechanisms for B-BBEE companies seeking to invest in the sector.
- 3.2.1.2.1.4 Ensure that policies are in place to facilitate the entry of new players into the entire industry, including subsidized buses, cross border transport and domestic long distance. This will require co-ordination of initiatives between the DOT, the C-BRTA and the provincial operating license boards to review legal impediments that may prevent small operators from entering the industry.

3.2.1.2.2 Industry ownership measures include the following:

3.2.1.2.2.1 Economic Interest

- 3.2.1.2.2.1.1 Measured entities within the bus commuter industry, will achieve maximum points when the percentage of the total issued shares held by black persons exceeds 35% - the applicable direct shareholding is 25% for the coach services industry;
- 3.2.1.2.2.1.2 Measured entities will achieve maximum points when the portion of the total shareholding (i.e. the number of black women shareholders expressed as a percentage of the total shareholding) is or exceeds 10% of the total shareholding held by black women shareholders – The applicable percentage for the coach industry is equal to or greater than 10%; and
- 3.2.1.2.2.1.3 Black natural people - A measured entity, will achieve maximum points when the portion of the total shareholding held by black natural persons exceeds 2.5%.

3.2.1.2.2.2 Voting Rights

- 3.2.1.2.2.2.1 A measured entity will achieve maximum points if more than 35% vote of the total voting rights are held by black shareholders. The applicable percentage for the coach industry is greater than 25% + 1 vote;
- 3.2.1.2.2.2.2 A measured entity in the bus commuter industry will achieve maximum points if 10% or more of the total voting rights are held by

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black women shareholders. The applicable percentage for the coach industry is greater than 10%;

3.2.1.2.2.2.3 For Qualifying Small Enterprises (**QSEs**) as defined in this charter, the following criteria and targets shall apply:

- Economic interest in the hands of Black people, for which the target will be 35% for the commuter industry and 25% for the coach industry;
- Voting rights in the hands of Black people, for which the target will be 35% for the commuter industry and 25% + 1 vote for the coach industry; and

3.2.1.2.2.2.4 In order to assist in ownership transformation, the industry is committed to developing creative funding mechanisms, e.g. vendor finance and earn-in models, to facilitate funding for companies.

3.2.1.3 Measurement Principles and Application of the Charter

3.2.1.3.1 Measurement principles associated with the ownership element are contained in Statement 100 of Code 100 of the Generic Codes of Good Practice.

3.2.1.3.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Codes of Good Practice.

3.2.1.3.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Codes of Good Practice. The target contained in the ownership element of this Charter will apply.

3.2.1.3.4 The recognition of the equity equivalent programmes for multinationals has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Codes of Good Practice.

3.2.1.3.5. The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Codes of Good Practice.

3.2.1.3.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

3.2.2 MANAGEMENT CONTROL

3.2.2.1 Guiding Principle

3.2.2.1.1 Industry commits to increase black participation on company boards and similar governance structures across the sector to become more representative of the overall country demographics and gender diversity.

3.2.2.1.2 We aim to increase black participation on company boards and similar governing structures across the sector to create decision-making structures that truly represent the racial, ethnic and gender diversity of our country. The industry will be transparent, eliminate

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unscrupulous business practices including fronting and fraud, and adopt best-practice corporate governance policies.

3.2.2.2 Management measures include the following:

3.2.2.2.1 Board of Directors

3.2.2.2.1.1 A measured entity will achieve maximum points if 50% or more of the seats on the Board of Directors are held by black persons. The applicable percentage for the coach industry is equal to or greater than 50%; and

3.2.2.2.1.2 In addition, a measured entity, will achieve maximum points if 25% or more of the total seats on the Board of Directors are held by black women. The applicable percentage for the coach industry is equal to or greater than 25%.

3.2.2.2.2 Executive Directors

3.2.2.2.2.1 A measured entity will achieve maximum points if 50% or more of all executive positions are held by black persons. The applicable percentage for the coach industry is equal to or greater than 50%;

3.2.2.2.2.2 Also, a measured entity will achieve maximum points if 25% or more of all executive positions are held by black women.

3.2.2.2.3 Senior Top Management

3.2.2.2.3.1 A measured entity will achieve maximum points if 40% or more of all senior top management positions are held by black persons. The applicable percentage for the coach industry is equal to or greater than 40%; and

3.2.2.2.3.2 In addition, a measured entity will achieve maximum points if more than 20% of all senior top management positions are held by black women in bus and coach services.

3.2.2.2.4 Other Top Management

3.2.2.2.4.1 A measured entity will achieve maximum points if 40% or more of all other top management positions are held by black persons. The applicable percentage for the coach industry is equal to or greater than 40%;

3.2.2.2.4.2 Also, a measured entity, will achieve maximum points if 20% or more of all other top management positions are held by black women in bus commuter and coach services;

3.2.2.2.4.3 For **QSEs** as defined in this charter, the following criteria and targets shall apply:

- Total Black top management representation, for which the target will be 50.1% of all top management positions.

3.2.2.2.4.4 Evaluation guidelines:

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- Senior Top Management - have individual responsibility for overall management of the enterprises;
- Other Top Management - have responsibility for their area of responsibility only; and
- If a measured entity does not distinguish between Senior Top Management and Other Top Management-This may justify a single grouping under "Senior Management", but individuals included here cannot be counted under the Employment Equity scorecard as well.

3.2.2.3 Measurement Principles and Application of the Charter

- 3.2.2.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.2.2.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender found in Annexure 200 (A)-A will not apply.
- 3.2.2.3.3 Measurement principles needed for the application of the charter with regards to the management control element for QSEs are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.

3.2.3 EMPLOYMENT EQUITY

3.2.3.1 Guiding Principle

- 3.2.3.1.1 Our guiding principle is to increase the representation of black people in senior management, professional, technical and supervisory occupations in the bus industry. This will require that all stakeholders create a supportive culture within their organizations to attract new talent, facilitate the development of existing employees, and accelerate their progress into key positions within the industry.

3.2.3.2 Employment equity measures include the following:

- 3.2.3.2.1 Senior management - A measured entity will obtain maximum points when 43% of all senior managers are black.
- 3.2.3.2.2 Black Women Representation at senior management - A measured entity will obtain maximum points when 22% of all senior managers are black women.
- 3.2.3.2.3 Middle and junior management - A measured entity will obtain maximum points when 63% and 68% of all middle and junior managers are black, respectively.
- 3.2.3.2.4 Black Women representation at middle and junior management - A measured entity will obtain maximum points when 32% and 34% of all middle and junior managers are black women, respectively.
- 3.2.3.2.5 Semi-skilled and unskilled Women representation - A measured entity will obtain maximum points when more than 20% of all semi-skilled and unskilled positions are composed of black women.
- 3.2.3.2.6 Black People living with disability - A measured entity will obtain maximum points when more than 1% of the total workforces are black

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employees with disabilities. The corresponding target for Bus Commuter and Coach Services is 0.5% black women employees with disabilities.

3.2.3.2.7 For QSEs as defined in this charter, the following criteria and targets shall apply:

- Total Black management representation, for which the target will be 40% of all management positions;
- Total Black women management representation, for which the target will be 20% of all management positions;
- Total Black representation, for which the target will be 60% of all employees; and
- Total Black women representation, for which the target will be 30% of all employees.

3.2.3.3 Measurement Principles and Application of the Charter

3.2.3.3.1 Measurement principles on the employment equity element are contained in Statement 300 of Code 300 of the Generic Codes of Good Practice.

3.2.3.3.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Codes of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 300 (A)-A, will not apply.

3.2.3.3.3 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

3.2.4 SKILLS DEVELOPMENT

3.2.4.1 Guiding Principle

3.2.4.1.1 Our guiding principle is to substantially increase the economic value added (or productivity) of every employee in the Bus sub-sector through skills development and employment equity as well as increase the scale of initiatives aimed at developing black professionals and technical experts.

3.2.4.1.2 Stakeholders will identify within and outside their businesses, a talent pool of black people for accelerated development through mentorship programmes, learnerships, intra-industry exchange and internship programmes, and higher education and training.

3.2.4.2 Skills development measures include the following:

3.2.4.2.1 A measured entity will obtain maximum points when more than 3% of the total leviable amount is dedicated to skills development, training and education related expenditure on Black employees.

3.2.4.2.2 A measured entity will obtain maximum points when more than 1.5% of the total leviable amount is dedicated to skills development, training and education related expenditure on Black women employees.

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- 3.2.4.2.3 A company will obtain maximum points when black employees participating in learnerships, represent more than 5% of the total work force.
- 3.2.4.2.4 A measured company will obtain maximum points when black women employees participating in learnerships, represent more than 2.5% of the total work force.
- 3.2.4.2.5 For QSEs as defined in this charter, the following criteria and targets shall apply:
- Black skills development expenditure on learning programmes as a percentage of payroll or leviavle amount (whichever is applicable), for which the target will be 3%; and
 - Black women skills development expenditure on learning programmes as a percentage of payroll or leviavle amount (whichever is applicable), for which the target will be 1.5%.
- 3.2.4.3 Measurement Principles and Application of the Charter**
- 3.2.4.3.1 Measurement principles associated with the skills development element are contained in Statement 400 of Code 400 of the Generic Codes of Good Practice.
- 3.2.4.3.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Codes of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 400 (A)-A will not apply.
- 3.2.4.3.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.
- 3.2.4.3.4 Learning Programme Matrix – This matrix is used to ensure that the skills spend is truly beneficial and can also be categorized. The Learning Programme Matrix may be found in Annexure 400(A) of the B-BBEE Codes of Good Practice.
- 3.2.5 PREFERENTIAL PROCUREMENT**
- 3.2.5.1 Guiding Principle**
- 3.2.5.1.1 Our guiding principle is to use the purchasing power of the public and private sector bus operators to create new B-BBEE companies, and develop existing ones. Stakeholders will make deliberate attempts to identify new entrants, particularly in areas such as specialist maintenance, equipment manufacturing and suppliers to the industry, which have traditionally excluded black people. We commit to increase procurement from black-owned and empowered enterprises and implement best-practice supplier development policies.
- 3.2.5.1.2 Stakeholders undertake to determine the current levels of procurement from B-BBEE companies and identify areas where they can achieve significant results over the short term.

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3.2.5.2 Preferential procurement measures include the following:

- 3.2.5.2.1 B-BBEE Procurement Spend from all Suppliers – A measured entity will obtain maximum points when the B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels is equal to or greater than 50% of the total measured procurement spend.
- 3.2.5.2.2 B-BBEE Procurement Spend from QSEs and Exempted EMEs - A measured entity will obtain maximum points when B-BBEE procurement spend from QSEs and EMEs based on the B-BBEE procurement recognition levels represents 10% or more of the total measured procurement.
- 3.2.5.2.3 B-BBEE Procurement Spend from Black-owned enterprises: This measures the percentage of the total measured procurement spend with suppliers who are 50% Black owned. A measured entity will achieve maximum points when 9% or more of total measured procurement is spent with Black-owned suppliers.
- 3.2.5.2.4 B-BBEE Procurement Spend from Black women-owned enterprises: This measure the percentage of the total measured procurement spent with suppliers who are 30% Black women-owned. A company will earn maximum points when 6% or more of total measured procurement is spent with Black women-owned suppliers
- 3.2.5.2.5 QSEs within this sub-sector commit to procuring a minimum of 50% of total procurement from B-BBEE compliant suppliers.

3.2.5.3 Measurement Principles and Application of the Charter

- 3.2.5.3.1 Measurement principles associated with the preferential procurement element are contained in Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.2.5.3.2 The formulae required in the determination of the preferential procurement score are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.2.5.3.3 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sub-sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.2.5.3.4 Monopolistic procurement – This type of procurement can only be excluded from total measured procurement if it is from entities that are listed as schedule 1 (constitutional institutions) or are regulated monopolies.
- 3.2.5.3.5 Imports - Imports may be excluded from total measured procurement if the relevant goods and/or services are not being produced in South Africa.
- 3.2.5.3.6 Subcontracting from black owned; black women owned; EMEs; QSEs; and, B-BBEEE compliant suppliers is recognised as preferential procurement contributions and forms part of B-B BEE procurement.
- 3.2.5.3.7 If a subcontracting entity is also involved in enterprise developing one or more of its subcontractors, the procurement spend from such subcontractors will be enhanced by a factor of 1.2.

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3.2.6 ENTERPRISE DEVELOPMENT

3.2.6.1 Guiding Principle

3.2.6.1.1 The stakeholder guiding principle is to create and nurture new B-BBEE enterprises within the industry and develop existing ones. This will require all stakeholders to develop strategies to enter into joint ventures and other forms of alliances with B-BBEE enterprises. In order to avoid potential problems (especially in sub-contracting), stakeholders agree to develop a Code of Good Practice to address concerns about the practical application of sub-contracting and include it in the Model Tender and Negotiated Tender Documents.

3.2.6.2 Enterprise development measures include the following:

3.2.6.2.1 Enterprise Development Contributions - Measure B-BBEE enterprise development contributions as a percentage of Net Profit After Tax (NPAT).

3.2.6.2.2 A measured entity will achieve maximum points when more than 3% of NPAT is dedicated to enterprise development contributions.

3.2.6.2.3 A measured entity will earn maximum points when more than 2% of its bus fleet is used for enterprise development within the operation of different B-BBEE enterprise development partners as a percentage of the total operator bus fleet.

3.2.6.2.4 QSEs within this sub-sector aspire to make contributions to enterprise development, which will amount to 3% of NPAT evaluated annually over the next 5 years.

3.2.6.3 Measurement Principles and Application of the Charter

3.2.6.3.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Codes of Good Practice.

3.2.6.3.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of Statement 600 of Code 600 of the Generic Codes of Good Practice.

3.2.6.3.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Codes of Good Practice.

3.2.6.3.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sub-sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.

3.2.7 SOCIO-OECONOMIC DEVELOPMENT

3.2.7.1 Guiding Principle

3.2.7.1.1 Stakeholders agree to support community development and social projects. These projects include, study bursaries, job creation programmes and internships.

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3.2.7.2 Socio-economic development measures include the following

- 3.2.7.2.1 A measured entity will achieve maximum points if a minimum of 1% of NPAT is on social and community projects.
- 3.2.7.2.2 QSEs within this sub-sector contributing a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years will achieve maximum points.

3.2.7.3 Measurement Principles and Application of the Charter

- 3.2.7.3.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.2.7.3.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.2.7.3.3 The formulae required in the determination of the socio-economic development score are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.2.7.3.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice.

4. DURATION OF THE BUS COMMUTER AND COACH SERVICES SUB-SECTOR B-BBEE CHARTER

4.1 All stakeholders commit to:

- 4.1.1 review the Bus Sector B-BBEE Charter following the end of the fifth (5) year after the commence date; and
- 4.1.2 conduct annual reviews to monitor the implementation of B-BBEE throughout the sector.

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5. THE BUS BROAD-BASED BALANCED SCORECARD

B-BBEE Element	Indicators of Empowerment	Bus Commuter Services 5 year Targets	Coach Services 5 year Targets	Weightings
Foreign Ownership: Provide evidence of a global practice against selling equity to locals in investee countries	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation; OR	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR	20
	4% of Total Revenue from its South African operations annually over the period of continued measurement Equity Equivalence	4% of Total Revenue from its South African operations annually over the period of continued measurement 20	4% of Total Revenue from its South African operations annually over the period of continued measurement 20	
Ownership	Exercisable voting rights in the hands of black people	35%	25%+1 vote	3
	Exercisable voting rights in the hands of black women	10%	10%	2
	Economic Interest in the hands of black people	35%	25%	4
	Economic Interest in the hands of black women	10%	10%	2

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B-BBEE Element	Indicators of Empowerment	Bus Commuter Services 5 year Targets	Coach Services 5 year Targets	Weightings
	Economic Interest of the following black natural people in the enterprise: -black designated groups; -black participants in Employee Ownership Schemes; -black beneficiaries of broad based Ownership schemes or -black participants in co-operatives	2.5%	2.5%	1
	Ownership fulfilment	Same as codes	Same as codes	1
	Net Economic Interest/Net Value	25% graduated over 10 years as per the Codes (year 5 at 60%)	25% graduated over 10 years as per the Codes (year 5 at 60%)	7
	Bonus points:			
	Involvement in the ownership of the Enterprises of black new entrants:	10%	10%	2
	Involvement in the ownership of the Enterprises of black Participants: ESOPS, Broad-Based Ownership; Co-operatives	10%	10%	1
Management	% of total exercisable voting rights in the hands of black board members	50%	50%	1.5
	% of total exercisable voting rights in the hands of black-women board members	25%	25%	1.5

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B-BBEE Element	Indicators of Empowerment	Bus Commuter Services 5 year Targets	Coach Services 5 year Targets	Weightings
	% Black executive directors	50%	50%	1
	% Black Women executive directors	25%	25%	1
	% of black senior top management	40%	40%	1.5
	% of black women senior top management	20%	20%	1.5
	% of black other top management	40%	40%	1
	% of black women other top management	20%	20%	1
	Bonus points: Black Independent Non-Executive Board Members	40%	40%	1
Employment Equity	% Black People in Senior Management	43%	43%	2.5
	% Black Women in Senior Management	22%	22%	2.5
	% Black People in Middle Management	63%	63%	1.5
	% Black Women in Middle Management	32%	32%	1.5
	% Black People in Junior Management	68%	68%	1.5
	% Black Women in Junior Management	34%	34%	1.5
	Black People living with disabilities as a % of all employees ²	1%	1%	1
	Black Women living with disabilities as a % of all employees ³	0.5%	0.5%	1
	% of Black Women in semi-skilled and unskilled positions (i.e. staff below junior management)	20%	20%	2

² Target subject to Disabled definition review.

³ Target subject to Disabled definition review

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B-BBEE Element	Indicators of Empowerment	Bus Commuter Services 5 year Targets	Coach Services 5 year Targets	Weightings
	Bonus Point for meeting or exceeding the EAP targets			3
Skills Development	Skills development expenditure on learning programmes specified in the learning programmes matrix for black employees as a % of leviable amount	3%	3%	3
	Skills development expenditure on black Women learning programmes specified in the learning programmes matrix for black employees as a % of leviable amount	1.5%	1.5%	3
	Skills development expenditure on learning programmes specified in the learning programmes matrix for black disabled employees as a % of leviable amount	0.3%	0.3%	1.5
	Skills development expenditure on black Women learning programmes specified in the learning programmes matrix for black disabled employees as a % of leviable amount	0.15%	0.15	1.5
	Number of black employees participating in learnerships or category B, C and D programmes as a % of total employees	5%	5	3

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B-BBEE Element	Indicators of Empowerment	Bus Commuter Services 5 year Targets	Coach Services 5 year Targets	Weightings
	Number of black Women employees participating in learnerships or category B, C and D programmes as a % of total employees	2.5%	2.5	3
Preferential Procurement	B-BBEE procurement spend from all suppliers based on the B-BBEE procurement	50%	50%	12
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a % of Total Measurable Spend	10%	10%	3
	Procurement from 50% Black-Owned as a % of Total Measured Procurement Spend	9%	9%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	6%	6%	2
Enterprise Development	Expenditure on supplier development initiatives as a % of NPAT	3% NPAT	3% NPAT	10
	Number of different B-BBEE enterprise development partners expressed as a percentage of the total operator bus fleet (Sector Specific)	2%	2%	5
Socio-Economic Development	social development programmes as a % of NPAT	1% of NPAT	1% NPAT	5
TOTAL				100

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6. QUALIFYING SMALL ENTERPRISES SCORECARD

B-BBEE Element	Indicators of Empowerment	Bus Commuters Sector 5 year target	Bus Coach Sector 5 year target	Weightings
Ownership	Exercisable voting rights in hands of black people	35% Vote	25% +1 vote	6
	Economic Interest of black people in the Enterprise	35%	25%	9
	Realisation Points:			
	Ownership fulfilment			1
	Net Value	25% graduated over 10 years as per the Codes (year 5 at 60%)	25% graduated over 10 years as per the Codes (year 5 at 60%)	9
	Bonus Points:			
	Involvement in the ownership of the Enterprise by black women	20%	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	10%	1
Management Control	Black Representation at Top Management level	50.1%	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management	40%	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	20%	7.5

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B-BBEE Element	Indicators of Empowerment	Bus Commuters Sector 5 year target	Bus Coach Sector 5 year target	Weightings
	Black employees of the Measured Entity as a percentage of total employees	60%	60%	5
	Black Women employees of the Measured Entity as a percentage of total employees	30%	30%	5
	Bonus points for meeting or exceeding the EAP targets in each category			2
Skills Development	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	3%	3%	12.5
	Skills Development spend on learning programmes for black female employees as a percentage of the leviable/payroll	1.5%	1.5%	12.5
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	50%	50%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	3% of NPAT	3% of NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	1% of NPAT	25
TOTAL				175

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A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

7. APPENDIX A: DEFINITIONS

	DEFINITION
Broad-Based Black Empowerment	Government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. So, the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black-Owned Enterprise	Is an enterprise where a minimum of 50,1% of the enterprise is owned by black persons. Ownership refers to economic interest and exercisable voting rights.
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers
Control	Of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50%+1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders' agreement
Co-Operative Or Collective Enterprise	Is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly - owned enterprise and democratically controlled enterprise.
Development	Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives. It also includes but not limited to the facilitation provided by established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models.
Direct Empowerment	Is the process of B-BBEE must result in an increase in the ownership rights and management control of the economy by black persons. This means that a significant portion of black people's ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and operational levels, and the assumption of real risk. In this scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments.
Disabled Employees	For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or

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	DEFINITION
	mental impairment, which substantially historically limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation
Exempted Micro Enterprises	These are enterprises with a turnover of R5 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of spend.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual/entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process
Growth	Relates to the National Economic Growth, Industry Growth as well as Enterprise Development growth
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive B-BBEE. A second element of indirect empowerment is enterprise development. This can take two forms: Investment in black-owned and black-empowered enterprises. Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers
Job Creation	Refers to the creation of opportunities for ongoing permanent employment.
Learners	Refers to the people participating in the learnership and other similar programmes
Leviable Amount	Has the same meaning as contained in the Skills Development Act.
Midibus	Midibus means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver.
Minibus	Minibus taxi-type service means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor-car, minibus or minibus, subject to section 31.
Net Asset Value	Within the context of this Charter this term refers to Total Asset less Liabilities.
Net Economic Interest	Is the percentage of the shareholding by black shareholders that is unencumbered by any financial obligations to third parties or to the principle company in which the stake is held.
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the

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	DEFINITION
	aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Qualifying Small Enterprises (QSEs)	Are enterprises with an annual turnover of between R35 million and R5 million for the purposes of this Charter. Their B-BBEE status is referenced by their contributor level on the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice.
Stakeholders	Refers to a range of interest groups within the Bus Commuter and Coach Services Industry who directly and indirectly participated in this process. These groups included Government, Private Industry, Parastatals, Agencies, Financial Institutions (Private and Public), Organised Labour, Civil Society Associations, B-BBEE operators, suppliers, SMME's as well as individuals.
TETA	Refers to the Road Passenger Chamber

Definitions of terms and concepts not captured in this Charter are contained in the Codes of Good Practice gazetted on 9 February 2007 and as amended.

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8. APPENDIX B: COMMITMENT EVALUATION MATRICES

Ownership

Action Undertaken	Input measurement	Output measurement	Quality Control
Clarify public transport policy as a matter of urgency.	Money spent on research as a % of total discretionary funds	Report handed to Steering Committee/Charter Council clarifying the different issues in public trade policy (specifically funding models, subsidies and tendering models).	Steering Committee/Charter Council
Work closely with private and public sector entities to develop funding opportunities for B-BBEE enterprises.	Money spent on research as a % of total discretionary funds	Progress Report on research into the Ownership Levels within the Bus Sector, this may form part of the Annual B-BBEE Report	Steering Committee/Charter Council

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Facilitate high quality training of black people through learnership and mentorship programmes.	Money spent on skills development as a % of total discretionary funds	Assessment Report on skills of black people within the industry.	TETA & Steering Committee/Charter Council

Enterprise Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Improve percentage of buses involved in enterprise development initiatives	Number of buses involved in new enterprise development initiatives	Report to Steering Committee/Charter Council on improvement (percentage change) in number of buses involved in enterprise development initiatives.	Steering Committee/Charter Council

DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT 3

**TAXI INDUSTRY BROAD BASED BLACK ECONOMIC EMPOWERMENT
CHARTER**

DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR

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DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR

ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
EE	Employment Equity
EMEs	Exempted Micro Enterprises
NPAT	Net Profit After Tax
PBO	Public Benefit Organisation
QSEs	The Qualifying Small Enterprises
SOEs	State Owned Enterprises
TRP	Taxi Recapitalisation Programme
TETA	Transport Education and Training Authority

1. **SCOPE**

- 1.1 The scope of this Charter extends to the entire taxi industry, which may influence the value chain, including and not limited to:
- 1.1.1 Commuter service providers (i.e. Minibus, Midibus Taxi-Type Service and Metered Taxi Service)
 - 1.1.2 Vehicle warehousing, distribution, sales and maintenance
 - 1.1.3 Manufacturers
 - 1.1.4 Electronic management systems players
 - 1.1.5 Scrapping Administration Agents
 - 1.1.6 Taxi Retail Installations

2. **VISION**

- 2.1 The taxi industry adopts and supports the overall transport sector Broad-Based Black Economic Empowerment (B-BBEE) vision, as our industry stands on the threshold of implementing an historic taxi recapitalisation programme. We also embrace the following guiding principles that take into account the unique nature of our industry. That is, we commit ourselves to:

2.2 **Guiding Principles**

- 2.2.1 Develop a world-class industry that will be sustainable, profitable and dynamic, grow in size, diversify into related industries and stimulate economic growth and development in South Africa.
- 2.2.2 Implement taxi recapitalisation in a transparent and all-inclusive manner with effective communication between all stakeholders through all mediums to eliminate uncertainty during the adjustment period. This will require a deliberate strategy to co-ordinate efforts of all stakeholders.
- 2.2.3 Pursue a growth strategy that prioritises the retention and creation of quality jobs and fair labour practices throughout the industry. We will ensure that all workers in the taxi industry are afforded the same rights as other workers in South Africa.
- 2.2.4 Develop a national register of taxis to inform decision-making and co-ordinate planning.

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- 2.2.5 Create an industry with an excellent public and safety image that is recognised as an integral part of the public transport system and operates in an equitably funded environment with regulations that are enforced.
- 2.2.6 Strive to make our industry part of the public transport system for all South Africans by providing commuters with reliable, safe, affordable, efficient and quality services.
- 2.3 Government Undertakings (to achieve this vision):**
 - 2.3.1 Make decisive and direct interventions to enhance the competitiveness of the taxi industry as a mode of transport for commuters.
 - 2.3.2 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport and Taxi Industry B-BBEE processes. Examples of cross-cutting issues that require interventions across government departments and agencies include, and are not limited to:
 - 2.3.2.1 Increasing awareness within the transport sector of available government investment incentives and grants;
 - 2.3.2.2 Through the Charter Council monitor stakeholder achievements in terms of the indicators in the Taxi Industry Balanced B-BBEE Scorecard;
 - 2.3.2.3 Convene an annual multi-stakeholder forum through the Charter Council to investigate the scale of B-BBEE opportunities within the value chain;
 - 2.3.2.4 Ensure that the Public Sector/ State Owned Enterprises (SOE's) maximise employment opportunities in the taxi industry through the use of labour-intensive methods, in so far as it is economically viable, in the maintenance and expansion of infrastructure;
 - 2.3.2.5 Ensure that the restructuring and formalisation of the taxi industry to effect new institutional arrangements in a manner that results in an increase in black participation at all levels, particularly black women, black youth and black people living with disabilities—in employment and the procurement of services and goods;
 - 2.3.2.6 Enforce and monitor compliance with existing legislation that may impact B-BBEE such as the Employment Equity, Skills Development, Competition Act, etc.; and
 - 2.3.2.7 Publish an annual report on B-BBEE and job creation within the taxi industry that consolidates reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry B-BBEE Forum.
- 2.4 Labour Undertakings (to achieve this vision):**
 - 2.4.1 Encourage employers to first look towards their own employees when considering options for achieving black equity participation through the creation of Employee Share Ownership Schemes.

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- 2.4.2 Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage organisations in the industry.
- 2.4.3 Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
- 2.4.4 Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts. Non-compliant taxi operators and/or associations must be reported to the Transport Sector B-BBEE Council and other reporting structures of Government so that further action may be taken after inspecting the causes for non-compliance and reviewing performance targets as necessary.
- 2.4.5 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.
- 2.4.6 Monitor the impact of procurement/outourcing on job creation and report findings to the Transport Sector B-BBEE Council.
- 2.5 TETA Undertakings (to achieve this vision):**
 - 2.5.1 Play a more interventionist role in influencing training priorities in the Taxi Chamber.
 - 2.5.2 Assist stakeholders with the analysis of people in particular skill sets (or job categories), which are broken down by race and gender.
 - 2.5.3 Continuously analyse and update statistics on the future demand and supply of critical skills sets.
 - 2.5.4 Continuously analyse the quantity, quality and nature of training carried out by organisations and companies.
 - 2.5.5 Commit to this B-BBEE Charter and strive to achieve the targets set for the various criteria across all seven elements contained in the balanced scorecard.
 - 2.5.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Charter.
- 3. CURRENT GOVERNMENT INITIATIVES IN THE TAXI INDUSTRY**
 - 3.1 Government through the Taxi Operations Directorate of the Department of Transport, also support and embrace the

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empowerment vision outlined in this charter. The following ongoing initiatives are part of the Directorate's programmes:

- 3.1.1 Development of a Business Model for the taxi industry.
- 3.1.2 In line with the National Land Transport Transitional Act, the Department is facilitating the registration of taxi operators with the South African Revenue Service, This is aimed at assisting taxi operators to formalise and access other passenger transport services such as bus contracts, etc.
- 3.1.3 Training of taxi drivers with a view to obtaining appropriate driver's licences required for the prescribed vehicles.
- 3.1.4 Training of taxi operators in various transport related legislation such as the National Land Transport Transitional Act and the Road Traffic Act in order to improve passenger safety and customer service.
- 3.1.5 Communication campaign regarding the taxi recapitalisation project. This campaign will also promote the usage of taxis and disseminate information related to taxi operations.

4. INDICATORS OF EMPOWERMENT

- 4.1 The Taxi Industry should make significant strides in addressing the issue of Broad-Based Black Economic Empowerment through the Taxi Recapitalisation Project as well as by using the industry's Buying Power in the areas of maintenance, insurance, communication, fuel, spares, mining, etc. to benefit its stakeholders and members.
- 4.2 In light of the above statement all stakeholders are supportive of the indicators of empowerment as stated in the B-BBEE Generic Codes of Good Practice. Thus the industry decided to develop a balanced B-BBEE Scorecard (Annexure A) that exhibit BEE framework compliance by Taxi Owners and/or Operators (Section 5) as well as Taxi Associations (Section 6). These are two sub-sectors of this industry. That is, in this document sub-sector refers to either the Taxi Owners and Operators or the Taxi Associations.
- 4.3 However, since the industry is almost entirely black-owned, the indicators will have to be amended to be in line with the industry's unique circumstances.
- 4.4 This "Broad-Based BEE Charter" for the Taxi Industry has the following key components:
 - 4.4.1 The extent to which the industry is transformed in terms of representation by **gender, youth and black people living with disabilities**, needs to be addressed. This charter therefore seeks to address the empowerment of black women, black youth and black people living with disabilities in terms of ownership, management control and employment equity in the sub-sector.

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4.4.2 B-BBEE may also be used to address the key challenges of skills development and training, preferential procurement, enterprise development and social development.

4.4.3 Lastly, addressing the issue of subsidies and participation in other passenger transport services such as buses and tour operations, would go a long way in addressing the long-term sustainability of the industry.

4.5 This B-BBEE Charter for the Taxi Industry therefore seeks to address the above-mentioned challenges.

4.6 DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

5. TAXI OWNERS AND/OR OPERATORS

5.1 Taxi operators and owners have an option of choosing 4 of the 7 elements of the Balanced B-BBEE Scorecard to be evaluated on. That is, they will be assessed out of the total of hundred points as each indicator has total weightings of 25 points.

5.2 OWNERSHIP

5.2.1 The narrow definition of equity ownership refers to the percentage share of economic interest accruing to black shareholders within a company. Our challenge is to increase the percentage share of economic interest accruing to black women, black youth and black people living with disabilities. In addition, the aim is to increase their economic benefits and participation in the taxi industry as well as in related industries. This indicator is linked to the long-term sustainability of the taxi industry.

5.2.2 Industry commits to:

5.2.2.1 Increase the participation of black women, black youth and black people living with disabilities across the entire spectrum of the Taxi Industry's value chain in ownership and management control and as far as possible in the operational involvement of the industry. At some point, Taxi Owners and/or Operators should graduate to become Bus Owners and Operators.

5.2.2.2 The Qualifying Small Enterprises (QSEs) scorecard will apply when measuring the ownership contributions of taxi owners and operators. In instances where the taxi owner and/or operator has sold equity to black women and youth, they will receive enhanced recognition by being elevated to a recognition level higher than the one they have.

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5.2.2.3 The ownership of Taxi owners and/or operators will be evaluated using the following criteria:

5.2.2.3.1 Voting Rights

5.2.2.3.1.1 Black Women: 25%+1 of voting rights in Measured Entities in the hands of black women.

5.2.2.3.2 Economic Interest

5.2.2.3.2.1 Black Women: 25% of economic interest in Measured Entities in the hands of black women.

5.2.2.3.3 Measuring Principles and the Application of the Charter

5.2.2.3.3.1 Measurement principles associated with the ownership element, is contained in Statement 801 of Code 800 of the Generic Code of Good Practice.

5.3 MANAGEMENT CONTROL

5.3.1 Industry commits to:

5.3.1.1 The QSEs scorecard will apply when evaluating the management control element. The key indicators for this element will be:

5.3.1.1.1 Representation of black women at top management, the minimum compliance levels being 50% of all people at top management level; and

5.3.1.1.2 Representation of black youth at top management, the minimum compliance level being 40% of all people at top management level.

5.3.2 Measurement Principles and the Application of the Charter

5.3.2.1 Measurement principles required in evaluating the management control contributions made by QSEs within this sector are contained in Statement 802 of Code 800 of the Generic Codes of Good Practice.

5.4 EMPLOYMENT EQUITY

5.4.1 Industry commits to:

5.4.1 The following criteria will be used in evaluating taxi owners and operators compliance to employment equity:

5.4.1.1 Total number of black women employees as a percentage of total staff, with the minimum compliance level set at 50% of all employees;

5.4.1.2 Total number of black youth as a percentage of total staff, with the minimum compliance level set at 40% of all employees; and

5.4.1.3 Total number of black people with disability as a percentage of total staff, with the minimum compliance level set at 1% of all employees.

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5.4.2 Measurement Principles and the Application of the Charter

5.4.2.1 The measurement principles required in the determination of the employment equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Code of Good Practice.

5.5 SKILLS DEVELOPMENT

5.5.1 Industry commits to:

5.5.1.1 The following criteria will be used in evaluating skills development:

5.5.1.1.1 Skills development expenditure on black employees as a percentage of the leviable amount/total payroll (whichever amount is applicable), with the target set at 1% of the leviable amount/total payroll.

5.5.1.1.2 Skills development expenditure on black women employees as a percentage of the leviable amount/total payroll (whichever amount is applicable), with the target set at 1% of the leviable amount/total payroll.

5.5.1.1.3 Skills development expenditure on black youth as a percentage of the leviable amount/total payroll (whichever amount is applicable), with the target set at 1% of the leviable amount/total payroll.

5.5.2 Measurement Principles and the Application of the Charter

5.5.2.1 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.

5.6 PREFERENTIAL PROCUREMENT

5.6.1 Industry commits to:

5.6.1.1 The following criteria will be used in the evaluation of preferential procurement:

5.6.1.1.1 Percentage of Total Measured Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels; with the target set at 50% of Total Measured Procurement Spend.

5.6.2 Measurement Principles and Application of the Charter

5.6.2.1 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.

5.7 ENTERPRISE DEVELOPMENT

5.7.1 Industry commits to:

5.7.1.1 The following criteria will be used in the evaluation of enterprise development:

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- 5.7.1.1.1 Average annual value of all qualifying contributions made by the measured entity as a percentage of Net Profit after Tax (NPAT)/total payroll (whichever amount is applicable); with the target set at 2% if NPAT is used, or 0.6% if payroll is used.

5.7.2 Measurement Principles and the Application of the Charter

- 5.7.2.1 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sub-sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.

5.8 SOCIO-ECONOMIC DEVELOPMENT

5.8.1 Industry commits to:

- 5.8.1 The following criteria will be used in the evaluation of socio-economic development:

- 5.8.1.1 Average annual value of all socio-economic development contributions made by the measured entity as a percentage of NPAT/total payroll (whichever amount is applicable); with the target set at 1% if NPAT is used, or 0.3% if total payroll is used.

5.8.2 Measurement Principles and the Application of the Charter

- 5.8.2.1 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this sub-sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice.

6. TAXI ASSOCIATIONS

6.1 Ownership

- 6.1.1 The industry commits to pursuing alternative ownership models (such as collective forms of ownership) as the current individualistic approach to taxi operations prevent economies of scale and pooling of resources. These models may include collective and employee ownership vehicles, co-operatives and other corporate structures that separate ownership and management control. At some point, taxi owners should graduate to bus owners.

6.1.3 Section 21 Companies

- 6.1.3.1 Section 21 companies will be **excluded** from evaluation on the ownership element of the scorecard.
- 6.1.3.2 Associations registered, as Section 21 companies will be evaluated using the adjusted scorecard developed for this sub-sector using principles contained in statement 004 of the Generic Codes of Good

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Practice. The scorecard is contained in Annexure A of this document.

- 6.1.3.3 Contributions to the other elements of the scorecard will be measured using the same measurement principles and indicators as for other enterprises within the sub-sector, but the weightings will be adjusted as per the scorecard.

6.1.4 Public Benefit Organisations

- 6.1.4.1 An association registered as a Public Benefit Organisation (PBO) will receive the **same** treatment as Section 21 companies, regarding ownership requirements.

6.1.5 Private and Public Limited Companies

6.1.5.1 Industry Associations commits to:

- 6.1.5.1.1 The ownership of Associations registered, as private companies, limited companies, close corporations and partnerships will be evaluated using the following criteria:

6.1.5.1.1.1 Voting Rights

- 6.1.5.1.1.1.1 **Black Women:** 25%+1 of voting rights in Measured Entities in the hands of black women.

- 6.1.5.1.1.1.2 **Black Youth:** 5% of voting rights in Measured Entities in the hands of black youth.

- 6.1.5.1.1.1.3 Black Designated Groups (including black people living with disabilities): 5% of voting rights in Measured Entities in the hands of black designated groups which excludes black youth.

6.1.5.1.1.2 Economic Interest

- 6.1.5.1.1.2.1 Black Women: 25% of economic interest in Measured Entities in the hands of black women.

- 6.1.5.1.1.2.2 Black Youth: 5% of economic interest in Measured Entities in the hands of black youth.

- 6.1.5.1.1.2.3 Black Designated Groups excluding Black Youth: 3% of economic interest in Measured Entities in the hands of black natural people excluding black youth.

6.1.5.1.1.3 Measurement Principles and the Application of the Charter

- 6.1.5.1.1.3.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.

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- 6.1.5.1.1.3.2 The formulae required in the determination of the ownership score are contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 6.1.5.1.1.3.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Charter will apply.
- 6.1.5.1.1.3.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 6.1.5.1.1.3.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 6.1.5.1.1.3.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

6.2 Management Control

- 6.2.1 In this regard, the challenge is to develop the skills of owner-managers and to increase the participation of black women, black youth and black people living with disabilities as well as to inculcate a culture of good corporate governance and transparency.
- 6.2.2 The principle is therefore to increase the participation of black women, black youth and black people living with disabilities on Taxi Association boards and similar governing structures at Local, Provincial and National levels, and where applicable, to company boards to create decision-making structures that truly represent the gender diversity and marginalized groups of our country. The industry will be transparent to eliminate unscrupulous business practices by adopting best-practice governance policies. In addition, the industry will work towards promoting safety, customer care activities etc.

6.2.3 Industry commits to:

- 6.2.3.1 Top Management: 50% of Top Management in Measured Entities being black women.
- 6.2.3.2 Top Management: 25% of Top Management in Measured Entities being black youth.
- 6.2.3.3 Board Representation: 50% of voting rights in the hands of black women board members in all national, regional and local boards.
- 6.2.3.4 Black Youth: 25% of voting rights in the hands of black youth in all national, regional and local boards.
- 6.2.3.5 Black Disabled People: 2% of voting rights in the hands of black disabled board members in all national, regional and local boards.

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- 6.2.3.6 Develop a national code of ethics, which will guide the industry at the provincial and local levels.

6.2.4 Measurement Principles and the Application of the Charter

- 6.2.4.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.

- 6.2.4.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.

- 6.2.4.3 Measurement principles needed for the application of the charter with regards to the management control element for QSEs are contained in statement 802, of Code 100, of the Generic Codes of Good Practice.

6.3 Employment Equity

- 6.3.1 This indicator refers to the weighted employment equity analysis within a traditional company as required by the Employment Equity Act. Our challenge is to increase the representation of black women, black youth and black people living with disabilities in our industry. Through the various initiatives with other private sector companies and industries, opportunities have been created within the taxi industry to increase the participation of black women, black youth and people living with disabilities in areas of supervision, administration, training etc.

6.3.2 TETA commits to:

- 6.3.2.1 Ensure that it plays a significant role in monitoring and supporting stakeholders to meet their EE targets.

6.3.3 Industry Commits to:

- 6.3.3.1 Black Women Representation: 50% of all employees should be Black women.
- 6.3.3.2 Black Youth Representation: 30% of all employees should be Black Youth.
- 6.3.3.3 Black Disabled: 2% of all employees should be Black People Living with Disabilities.
- 6.3.3.4 Adhere to existing legislation, which includes the Basic Conditions of Employment Act, Skills Development Act, Employment Equity Act, etc. and conclude as soon as possible, the discussions on a Sectoral Determination.

6.3.4 Measurement Principles and the Application of the Charter

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- 6.3.4.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.
- 6.3.4.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.
- 6.3.4.3 Measurement principles for the determination of the Employment Equity score for QSE are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.
- 6.4 Skills Development**
 - 6.4.1 This indicator refers to expenditure on skills development and training as a proportion of total payroll. Our challenge is to exponentially increase the skills base of all stakeholders in the areas of communications, customer care, driving training, safety and other training needs as identified by stakeholders in the Taxi industry. Our vision is to substantially increase the economic value added (or productivity) of every employee in the Taxi Industry through best practice Human Resource and Skills Development and increase the scale of initiatives aimed at developing stakeholders in the Taxi industry.
 - 6.4.2 Government Commits to:**
 - 6.4.2.1 Design and fund a co-ordinated framework and programme for career awareness and training that leverages off and adds value to existing initiatives. The awareness programme will publicise and co-ordinate information regarding scholarships, training resources and careers in the industry. Other stakeholders will be encouraged to contribute towards the cost of this initiative.
 - 6.4.3 Industry Commits to:**
 - 6.4.3.1 Black Skills Development Expenditure: Invest a minimum of 2% of the leviable amount on skills development initiatives contained in the Learning Programme Matrix in Code 400 of the Codes of Good Practice aimed at black employees.
 - 6.4.3.2 Black Disabled Skills Development Expenditure: Invest a minimum of 0.5% of the leviable amount on skills development initiatives contained in the Learning Programme Matrix in Code 400 of the Codes of Good Practice aimed at black disabled employees.
 - 6.4.3.3 The number of Black employees on accredited training programmes being 5% of the total work force.
 - 6.4.3.4 To promote the effective utilisation of existing training opportunities and allow employees to participate in self-improvement initiatives.
 - 6.4.3.5 Develop a campaign to encourage operators to register as tax payers and design an appropriate training programme to educate

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them about government policies, tendering for government contracts, corporate and business management, tax-related matters, etc.

6.4.4 TETA Commits to:

6.4.4.1 Conduct research to identify the management, professional and technical skills that the industry will require over the next decade and map out future demand/supply scenarios in a detailed skills audit that will guide and inform stakeholders in implementing their EE targets.

6.4.4.2 Develop training programmes specifically designed for entrepreneurs in the Taxi Industry.

6.4.4.3 Conduct research on the supply side of skills development – i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the taxi industry.

6.4.4.4 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships - in management, technical and professional occupational categories - to help public and private sector organisations achieve their employment equity targets.

6.4.4.5 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category. Also, to monitor the industry's progress in meeting its targets and to publish an annual report on the EE Profile of the industry according to occupational level and category.

6.4.5 Measurement Principles and Applications of the Charter

6.4.5.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.

6.4.5.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.

6.4.5.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.

6.4.5.4 The Learning Programme Matrix is contained under Code 400, Annexure 400 (A) of the Generic Code of Good Practice.

6.5 Preferential Procurement

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6.5.1 This indicator refers to procurement from black-owned and empowered enterprises as a proportion of total procurement. Our challenge is to maximise procurement from such enterprises. Accordingly, all stakeholders commit as far as possible to identify and promote the use of black empowered suppliers. This process should help in the establishment of business structures/trading co-operatives, which will facilitate cheaper fuel, spares, tyres, vehicles, etc.

6.5.2 Industry Commits to:

6.5.2.1 B-BBEE Procurement: Total B-BBEE spend as a percentage of Total Measured Procurement based on the B-BBEE recognition levels of suppliers with a compliance target set at 50% over 5 years.

6.5.2.2 QSE and EME: Procurement from QSEs and Exempted Micro Enterprises as a percentage of total Measured Procurement with a compliance target set at 15% over 5 years.

6.5.2.3 Black Women Owned and Black Youth Owned: Procurement from Black Women Owned and Black Youth Owned Enterprises as a percentage of total Measured Procurement with a minimum compliance target set at 12% from Black Youth owned companies and 8% from Black women owned companies over 5 years.

6.5.3 Measurement Principles and Application of Charter

6.5.3.1 Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.

6.5.3.2 Pass through third party procurement for a third party or a client that is recorded as an expense in the third party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements will be excluded. In this regard, only the commission portion paid to agents will be recorded as under procurement.

6.5.3.3 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.

6.5.3.4 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.

6.6 Enterprise Development

6.6.1 This indicator refers to contributions of the industry towards the development of enterprises within the sub-sector. Our aim is to increase the impact of the industry within the value chain of local communities.

6.6.2 Industry Commits to:

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- 6.6.2.1 Enterprise Development Contributions: The industry commits to a minimum contribution, which is 1% of total payroll or 3% of NPAT (whichever is applicable).

6.6.3 Measurement Principles and Application of the Charter

- 6.6.3.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.

- 6.6.3.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.

- 6.6.3.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.

- 6.6.3.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sub-sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.

6.7 Socio-economic Development

- 6.7.1 This indicator refers to contributions of the industry towards the development of local communities. Our aim is to increase the impact of the industry within the value chain of local communities.

6.7.2 Industry Commits to:

- 6.7.2.1 The industry commits to a minimum socio-economic contribution which is 0.3% of total payroll or 1% of NPAT (whichever is applicable).

- 6.7.2.2 Job Creation: Socio-economic development contributions that lead to job creation in beneficiary entities will be enhanced by a factor of 1.25.

6.7.3 Measurement Principles and Application of the Charter

- 6.7.3.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.

- 6.7.3.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.

- 6.7.3.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.

- 6.7.3.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this sub-sector are

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contained in Statement 807 of Code 800 of the Generic Codes of
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ANNEXURE A: TAXI INDUSTRY B-BBEE SCORECARD: ASSOCIATIONS/SECTION 21/PBO AND OWNERS/OPERATORS

NB: Section 21/Public Benefit Organisation (PBO) are sharing same targets as Associations

Taxi Associations/Section 21/PBO 5 Years					Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings
Ownership	Voting rights in the hands of black women	25% + 1 vote	3	N/A	Exercisable voting rights in the hands of black women	25%+1 vote	6
	Voting Rights in the Hands of black youth	5%	1		Economic interest in the hands of black women	25%	9
	Voting Rights in the hands of black designated groups excluding youth	5%	1		Net Economic Interest	25%	9
	Economic Interest in the hands of black women	25%	4		Realisation points		1
	Economic Interest in the hands of black youth	5%	2				

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Taxi Associations/Section 21/PBO 5 Years					Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings
	Economic Interest in the hands of black natural people in the enterprise excluding youth in the following: -Black designated groups; -Black participants in employee ownership scheme; -Black participants of broad-based ownership schemes or -Black participants in cooperatives.	3%	1				
	Net Economic Interest/ Net value	25% graduated over 10 years as per the Codes (year five at 60%)	7		Bonus Point Involvement in the ownership by black youth/designated Groups	10%	2

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Taxi Associations/Section 21/PBO 5 Years						Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings	
	Ownership Fulfilment	-	1					
	Bonus Point							
	Involvement in the ownership by black new entrants	10%	2		Involvement in the ownership by black participants in ESOPS or Broad Based Schemes	10%	1	
	Involvement in the ownership by black participants in ESOPS or Broad Based Schemes	10%	1		Black Women representation at Top Management level	50%	15	
Management	Exercisable Voting Rights of black women Board members	50%	2	2	Black youth representation at Top Management	40%	10	
	Exercisable Voting Rights of black youth Board members	25%	2	2				
	Black Women Top Managers as a percentage of all such employees	50%	4	4				

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Taxi Associations/Section 21/PBO 5 Years						Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings	
Employment Equity	Black Youth Top Managers as a percentage of all such employees	25%	4	4	Bonus Point: Black People Living with disability representation at Top Management	1%	3	
	Black people with disability at Top Management as a percentage of all such employees	2%	3	3				
	Black women as a percentage of total number of employees	50%	6	6	Black women employees as a percentage of all employees	50%	15	
	Black Youth as a percentage of total number of employees	30%	6	6	Black youth who are employees as a percentage of all employees	40%	10	
	Black People with disability as a percentage of total employees	2%	3	3	Bonus Point: Black people with disability as a percentage of all employees	1%	2	

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Taxi Associations/Section 21/PBO 5 Years					Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings
Skills Development	Skills Spend on black employees as a % of the leviable amount/payroll	2%	6	8	Skills Development expenditure on learning programmes for black people as a percentage of leviable amount/payroll	1%	9
	Number of employees in Accredited Learning Programmes as a % of total workforce	5%	6	8	Skills Development expenditure on learning programmes for black women as a percentage of leviable amount/payroll	1%	9
	Skills Spend on black employees living with disabilities as a % of total payroll	0.5%	3	4	Skills Development expenditure on learning programmes for black youth as a percentage of leviable amount/payroll	1%	7

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Taxi Associations/Section 21/PBO 5 Years						Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings		Indicators of Empowerment	Private Sector Targets	Private Sector Weightings
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B- BBEE Recognition Levels as a % of discretionary spend	50%	10	12		BEE procurement spend from all Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement	50%	25
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B- BBEE Recognition Levels as a % of Total Measured Procurement	15%	5	3				
	Procurement from 50% Black- Owned as a % of total Measured Procurement	12%	5	3				

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Taxi Associations/Section 21/PBO 5 Years						Taxi Owners and/or Operators (QSEs) 5 Years		
B-BBEE Element	Indicators of Empowerment	Private Sector (Associations) Targets	Private Sector (Associations) Weightings	Section 21/PBO Weightings	Indicators of Empowerment	Private Sector Targets	Private Sector Weightings	Private Sector Weightings
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	8%	5	2				
Enterprise Development	Enterprise development contributions as a percentage of NPAT/payroll	1% of Payroll/3% of NPAT	5	15	Enterprise Development contributions as a percentage of NPAT/payroll	2% of NPAT/0.6% Payroll	25	
Social-economic development	SED contributions as a percentage of NPAT/payroll	0.3% of Payroll/1% of NPAT	5	15	SED contributions as a percentage of NPAT/payroll	1% NPAT or 0.3% Payroll	25	
TOTAL			100	100				175

The ownership element will only apply to association registered as private, public companies, close corporations and partnerships.

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ANNEXURE B: TAXI RECAPITALISATION PROJECT – POTENTIAL BEE OPPORTUNITIES

Taxi Recapitalisation project Element	Sector where activity is generated	Opportunities for BEE	Equity
NTV Operator	<ul style="list-style-type: none"> Tourism Current business operation Improved business operation Vehicle warehousing 	<ul style="list-style-type: none"> Pre-booked tours Curio sales Catering Deliveries JV with NTV manufacturers 	<ul style="list-style-type: none"> JV with NTV manufacturers
NTV Manufacturer	<ul style="list-style-type: none"> Deliveries Automotive manufacturing NTV manufacture Component supply Raw material supply Vehicle distribution Vehicle warehousing Vehicle sales Vehicle maintenance 	<ul style="list-style-type: none"> Supplier development (especially SMME) Logistics management Vehicle maintenance 	
Bank (Financing)	<ul style="list-style-type: none"> Commercial (financing institutes) 	<ul style="list-style-type: none"> New business in the form of franchises 	
DOT (Licensing/registration)	<ul style="list-style-type: none"> Administration - License issue 	<ul style="list-style-type: none"> Printing 	
EMS	<ul style="list-style-type: none"> Information technology 	<ul style="list-style-type: none"> JV with EMS provider Hardware/software supply Sub component supply Installation businesses – fitment/retrofitment New business in the form 	

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Taxi Recapitalisation project Element	Sector where activity is generated	Opportunities for BEE	Equity
		<ul style="list-style-type: none"> of franchises Maintenance and support structures 	
Consulting Agents (verify payment)	<ul style="list-style-type: none"> Consultancy services 	<ul style="list-style-type: none"> Consultants Taxi industry planning JV with scrapping agent 	
Scrapping Administration Agents	<ul style="list-style-type: none"> Recycling 	<ul style="list-style-type: none"> Scrap metal sales New businesses in the form of franchises Logistics support Infrastructure development 	
Facilities	<ul style="list-style-type: none"> Building and roads construction 	<ul style="list-style-type: none"> Construction services Materials supply Consultancy 	
Communication	<ul style="list-style-type: none"> Advertising and marketing 	<ul style="list-style-type: none"> Printing Photography Communications 	
Refurbishment	<ul style="list-style-type: none"> Engine remanufacturing 		

DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR

ANNEXURE C: DEFINITIONS

	DEFINITION
Beneficiaries Of Broad-Based Black Economic Empowerment Framework	The economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies.
Black Economic Empowerment	Integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities.
Black People	As used in this statement, bears the same meaning as defined in the Act, provided that it is limited to natural persons who are citizens of the Republic of South Africa by birth or by descent as well as natural persons who acquired citizenship by naturalisation prior to the commence date of interim constitution.
Enterprise Development	Aims at assisting and accelerating the development of the operational and financial capacity of entrepreneurial enterprises. The primary beneficiaries of enterprise development are the small and medium enterprises owned and controlled by black people.
Employment Equity	Is a mechanism used to achieve equity in the workplace by: Promoting equal opportunity through the elimination of unfair discrimination, Implementing affirmative action measures to redress the disadvantages in employment experience by black people, in order to ensure their equitable representation in all occupational categories and levels in the workplace.
Indicator	The indicator represent the key measurement yardstick included to determine the BEE contribution made by taxi enterprises within each broad-based BEE factor of Ownership, Strategic Representation (Management), Employment Equity, Skills Development, Preferential Procurement, Enterprise Development, Social Development and Industry Specific.
Industry	A basic category of business activity. The term industry is sometimes used to describe a very precise business activity (e.g. semiconductors) or a more generic business activity (e.g. consumer durables). If a company participates in multiple business activities, it is usually considered to be in the industry in which most of its revenues are derived.
Management	Refers to the effective control of economic activities and resources. This involves the power to determine policies as well as the direction of economic activities and resources. Management control measures black representation at board of directors' level and executive management level.
Midibus	Midibus means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver.
Minibus Taxi-Type Service	Minibus taxi-type service means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor-car, minibus or minibus, subject to section 31.

DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR

	DEFINITION
Ownership	Recognises and measures the entitlement of black people to voting rights and economic interests associated with equity holding. Voting rights afford the rights to determine strategic and operational policies of an enterprise while economic interest results in the rebuilding and accumulation of wealth by black people.
People Living With Disabilities	Disabled employees. For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation. Types of disabilities include: Spinal injuries-quadriplegic, paraplegic; Physical disabilities and deformities-post polio, amputations, arthritis, cerebral palsy; Epilepsy; Traumatic brain injuries & neurological disorders, strokes; Visual impairments - blind, degrees of blindness, retinitis pigment, albinism; Hearing impairments- deaf, degrees of deafness; Psychiatric conditions- depression, bi-polar, personality disorders, mood disorders; Learning disabilities - dyslexia, downs syndrome; and Communication/speech problems
Preferential Procurement	Is a measure designed to widen market access for entities, in order to integrate them into mainstream of the economy. Preferential Procurement will create economic empowerment benefits indirectly but meaningfully as it multiplies the effects of private and public sector intervention to promote broad-based BEE.
Skills Development	Refers to the development of core competencies of black people to facilitate their interaction in the mainstream of the economy. Skills Development is achieved through training (formal classroom based or on the job) and any other learning intervention implemented that results in the growth of human capital.
Social Responsibility/Sector Specific Factor	Allows other factors that may accelerate broad-based empowerment to be taken into account and included at the discretion of specific sector or enterprise and often includes social development initiatives.
Sub-sector	In this document sub-sector refers to either the Taxi Owners and Operators or the Taxi Associations.

DRAFT B-BBEE CHARTER - TAXI SUB-SECTOR

	DEFINITION
Target	The target represents the ideal scenario at which the taxi enterprise will score full points for the respective indicator. Taxi enterprise under measurement may score proportional points on each indicator, according to the proportion of the relevant target achieved for particular indicator.
Taxi Recapitalisation	The overall goal of the Taxi Recapitalisation (TRP) initiated by Government in 1999 is the replacement of the current ageing fleet that constitute the bulk of the taxi industry with new vehicles that are safe and reliable. The programme also sought to ensure the sustainability of the industry as a business, as well as ensure its formalisation and effective regulation.
Weighting	The weighting of each factor reflects the relative importance that Sector places thereon. The seven core factors of BEE are weighted to bring the scorecard to a maximum of 100 percent.

ANNEXURE D: EVALUATION MATRICES

An example of the matrix to be used to measure stakeholder commitments. This example indicates the matrix that will be used to measure commitments by TETA to the skills development.

Action Undertaken	Input measurement	Output measurement	Quality Control
Conduct research to identify scarce skills	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Charter Council	Steering Committee/Charter Council
Conduct research on the supply side of the skills development equation	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Charter Council	Steering Committee/Charter Council
Introduce new categories of learnerships	Money spent on research as a % of total discretionary funds	Report to Steering Committee/Charter Council on the number of new learnership categories introduced and accredited as a % of the number of new categories identified	TETA & Steering Committee/Charter Council
Collect and publish detailed and aggregated statistics on the EE profile of the industry	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Charter Council	Steering Committee/Charter Council
Assist in unlocking the funds from the National Skills Fund	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee on value of funding unlocked as a % of total funds required to address learnership needs in the Taxi Sector	Steering Committee/Charter Council
Continuously benchmark training programmes against international best	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Charter Council	Steering Committee/Charter Council

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practice			
Expand the number of learnerships available based on the sector's skills requirements	Number of new learnership categories introduced and accredited as a % of the number of new categories identified	Number of learners in initiated learnerships as a % of total skills required in each category	TETA & Steering Committee/Charter Council
Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Charter Council on value of funding available as a % of total funds required to address learnership needs in the Taxi Sector	TETA & Steering Committee/Charter Council

**DRAFT B-BBEE CHARTER – ROAD FREIGHT TRANSPORT, LOGISTICS
AND ALLIED SERVICES FOR REWARD INDUSTRY**



**REPUBLIC OF SOUTH AFRICA
REPUBLIC VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT

**ROAD FREIGHT SUB-SECTOR BROAD-BASED BLACK ECONOMIC
EMPOWERMENT CHARTER**

DRAFT B-BBEE CHARTER – ROAD FREIGHT TRANSPORT, LOGISTICS AND ALLIED SERVICES FOR REWARD INDUSTRY

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DRAFT B-BBEE CHARTER – ROAD FREIGHT TRANSPORT, LOGISTICS AND ALLIED SERVICES FOR REWARD INDUSTRY

ABBREVIATIONS

	ABBREVIATIONS
B-BBEE	Broad-Based Black Economic Empowerment
ASGISA	Accelerated and Shared Growth initiative for South Africa
BCEA	Basic Conditions of Employment Act
DoT	Department of Transport
DTI	Department of Trade and Industry
EE	Employment Equity
EEA	Employment Equity Act
EMEs	Exempted Micro Enterprises
GDS	Growth and Development Summit
HRD	Human Resource Development
NBC	National Bargaining Council
NRA	National Roads Agency
NSF	National Skills Fund
NPAT	Net Profit After Tax
PPPFA	Preferential Procurement Policy Framework Act
PSA	Proudly South African
QSEs	Qualifying Small Enterprises
RTQS	Road Transport Quality System
SARS	South African Revenue Services
SATAWU	South African Transport and Allied Workers Union
SMMEs	Small Micro and Medium Enterprises
TETA	Transport Education and Training Authority
WSP	Workplace Skills Plan

1. **SCOPE**

1.1 The scope of this Broad-Based Black Economic Empowerment (B-BBEE) Charter is limited to the Road Freight Transport for Logistics and Allied Services for Reward Industry and includes inter alia:

- 1.1.1 Supply Chain Management Companies
- 1.1.2 Logistics companies
- 1.1.3 Trucking companies
- 1.1.4 Transport Management companies
- 1.1.5 Transport Brokers
- 1.1.6 Associated Labour Brokers
- 1.1.7 BEE Operators
- 1.1.8 Management Companies for Owner Drivers
- 1.1.9 South African registered Cross Border Operators
- 1.1.10 Parcel Delivery Services
- 1.1.11 Motor ferry Companies
- 1.1.12 Cash In transit Companies

2. **VISION**

2.1 Our overarching vision is to develop a world-class industry, based on seamless integration of all modes and multiple networks, that will grow in size, stimulate economic growth and development, facilitate trade, comply with international safety standards, and deliver efficient and quality services to customers. Our industry will also achieve a significant increase in black participation in

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ownership, management and employment in companies throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs.

- 2.2 To make this vision a reality will require a deliberate strategy to increase access to skills, capital and opportunities and, therefore, raise the economic value added (or productivity) of every employee and enterprise in the industry. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require stakeholders to facilitate the creation of new black entrepreneurs (and the development of existing ones) who can participate in economic opportunities throughout the industry value chain.
- 2.3 The signatories to this document believe that every company in South Africa must embrace B-BBEE voluntarily, recognising that it is an economic imperative to secure a prosperous future for all our country's citizens and, therefore, a larger market in which to trade. We commit ourselves to embark on a major communications and marketing campaign that will take this "Broad-Based BEE Charter for the Road Freight Industry" to every organisation within our industry to ensure maximum participation by all stakeholders.
- 2.4 Accordingly, all private sector stakeholders who commit themselves to this Charter agree to have their B-BBEE achievements (in terms of the indicators in the Balanced B-BBEE Scorecard for the Road Freight Industry) rated by an independent B-BBEE verification agency or company that is accredited by the Department of Trade and Industry (DTI). This is in line with the Accelerated and Shared Growth initiative for South Africa (ASGISA) which aims to improve the level of procurement from black enterprises by supporting the use of the B-BBEE Codes of Good Practice. The independent B-BBEE verification of entities involved in the road freight industry will go a long way towards eliminating misrepresentation or fraudulent practices in the industry.
- 2.5 Government undertakings (to achieve the vision)**
 - 2.5.1 Develop and implement a programme to substantially increase investments in road infrastructure to eliminate current backlogs over the next decade with funds from the fiscus, parastatals, road users and the financial Industry.
 - 2.5.2 Set up a dedicated road infrastructure fund to finance the road component of these investments and ensure that the National Roads Agency (NRA) and provincial government departments maximise employment opportunities through the use of labour-intensive methods in the maintenance and expansion of road infrastructure. This is reflective of the labour-absorbing projects promoted in ASGISA.
 - 2.5.3 Commit to facilitate growth by ensuring that the industry is attractive to investors and free of unnecessary regulation and ensure that over-regulation does not impede B-BBEE initiatives in the industry.
 - 2.5.4 Collaborate with all stakeholders to develop a strategy to grow the

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industry and create quality jobs by promoting the outsourcing of non-core transport and logistics operations of businesses. Businesses should give preferences to their own employees in the event of such activities/transactions.

- 2.5.5 Engage relevant governmental departments such as the DTI and South African Revenue Services (SARS) and review the current tax laws (Fiscal policy), which make it difficult for small Black operators to enter the industry.
- 2.5.6 Effectively implement and monitor the Road Transport Quality System (RTQS) and ensure compliance.
- 2.5.7 Enforce and monitor compliance with existing legislation that may impact on BEE such as the Employment Equity (EE), Skills Development and Competition Acts.
- 2.5.8 Ensure that all parastatals and public sector agencies submit an annual B-BBEE report (within their annual reports) that covers achievements in meeting B-BBEE targets. The report should also include information on jobs created/lost.
- 2.5.9 Publish an annual report on B-BBEE and job creation within the road freight industry that consolidates reports, B-BBEE verification and other information from all stakeholders.
- 2.5.10 Publish an annual report on the jobs created through the labour-intensive road construction programme.

2.6 Labour Undertakings (to achieve this vision)

- 2.6.1 Investigate opportunities to establish collective investment vehicles that will make investments in the sector.
- 2.6.2 Educate members to ensure compliance with existing legislation e.g. the Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts, and to understand the relevant channels to deal with instances of non-compliance.
- 2.6.3 Educate members with regard to the agreements contained in the Growth and Development Summit (GDS) in order for them to participate in the promotion of local content and/or procurement and support the Proudly South African campaign.

2.7 Industry Undertakings (to achieve this vision)

- 2.7.1 To form collaborative relationships with organisations such as Proudly South African, Department of Trade and Industry (DTI) and other stakeholders as well as to promote the economic benefits of utilising and growing Black Economic Empowerment (BEE) compliant by the Road Freight Industry companies. The signatories of this charter are of the view that the sector should endeavour to facilitate the realisation of these commitments by monitoring contributions to B-BBEE. The evaluation of these contributions should be conducted through Commitment Evaluation Matrix provided in Appendix C.

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3 INDICATORS OF EMPOWERMENT

- 3.1 This "Broad-Based BEE Charter for the Road Freight Industry" seeks to encourage all stakeholders to pursue an aggressive transformation agenda according to the broad guidelines spelt out in Government's National B-BBEE Strategy, B-BBEE Act of 2003 and Codes of Good Practice on B-BBEE.

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.2 OWNERSHIP

- 3.2.1 Our vision is to increase black ownership, management control and operational involvement throughout the road freight industry value chain and design appropriate funding mechanisms to facilitate the process. We recognise that ownership is a complex matter due to the large number of different ownership structures prevalent in the Road Freight Industry. Businesses in this industry range from large corporate organisations to small family businesses and even owner-driver operations. However, we, the stakeholders, will collectively strive to address these challenges and develop innovative mechanisms to increase black ownership.

3.2.2 Stakeholder undertakings

3.2.2.1 Government Commits to:

- 3.2.2.1.1 Engage public and private sector funding agencies to facilitate innovative funding mechanisms for BEE companies seeking to invest in the sector. This will require a high-level workshop with these agencies to inform them about opportunities available in the transport industry, including road freight.

3.2.2.2 The Private Industry Commits to:

- 3.2.2.2.1 Voting Rights-Black People: The Private Sector commits to a minimum of 25%+1 voting rights in hands of Black People
- 3.2.2.2.2 Voting Rights-Black Women: The Private Sector commits to ensure a minimum of 10% of voting rights in the hands of Black Women
- 3.2.2.2.3 Economic Interest: The Private Sector commits to a minimum of 25% of equity interest in the hands of Black People
- 3.2.2.2.4 Economic Interest-Black Women: The Private Sector commits a minimum of 10% of equity interest in the hands of Black Women.
- 3.2.2.2.5 Ensure that 2.5% is earmarked for black natural people in the

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- enterprise: Employee Ownership Schemes, Broad based Ownership Schemes and Co-operatives within five years
- 3.2.2.2.6 Qualifying small enterprises as defined in this charter also commit to:
- 3.2.2.2.6.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is the hands of black people;
- 3.2.2.2.6.2 25% +1 vote voting rights, or equivalent thereof, are in black hands; and,
- 3.2.2.2.6.3 Ensure that the net economic interest of the black equity participants is 60% of the 25% within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved
- 3.2.2.3 Stakeholders will consider a variety of ownership models, including:**
- 3.2.2.3.1 Joint Ventures
- 3.2.2.3.2 Sale of Assets
- 3.2.2.3.3 Employee Share Ownership Participation Schemes
- 3.2.2.3.4 Collective ownership schemes
- 3.2.2.3.5 The measurement of ownership contributions from the above ownership models are the same as the one contained in the Codes.
- 3.2.2.3.6 Develop creative financing mechanisms for BEE companies to achieve equity ownership.
- 3.2.3 Measuring Principles and Application of the Charter**
- 3.2.3.1 Measurement principles associated with the ownership element, are contained in Statement 100 of Code 100 of the Generic Codes of Good Practice.
- 3.2.3.2 The formulae required in the determination of the ownership score are contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Codes of Good Practice.
- 3.2.3.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Codes of Good Practice. The target contained in the ownership element of this Charter will apply.
- 3.2.3.4 The recognition of the equity equivalent programmes for multinationals has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Codes of Good Practice.
- 3.2.3.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Codes of Good Practice.
- 3.2.3.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

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3.3 MANAGEMENT CONTROL

3.3.1 The Private sector commits to:

- 3.3.1.1 Board Representation: The private sector commits itself to a minimum of 50% exercisable voting rights of black board members. Points will only be scored if enterprises achieve a target of 10% in year one, 20% in year two, 30% in year three and 40% in year four.
- 3.3.1.2 Board Representation-Black Women: The private sector commits to a minimum of 25% voting rights of black women board members. Points will only be scored if enterprises achieve a target of 5% in year one, 10% in year two, 15% in year three and 20% in year four.
- 3.3.1.3 Senior Top Management-Black People: The private sector commits to a minimum of 40% of the total employees in Senior Top Management.
- 3.3.1.4 Senior Top Management-Black Women: The private sector commits to a minimum of 20% of the total employees in Senior Top Management.
- 3.3.1.5 Other Top Management-Black People: The private sector commits to a minimum of 40% of the total employees in Other Top Management.
- 3.3.1.6 Other Top Management-Black Women: The private sector commits to a minimum of 20% of the total employees in Other Top Management.
- 3.3.1.7 If the measured entity is unable to distinguish between Senior Top Management and Other Top Management, both criteria may be combined into "Top Management" which is measurable as a single indicator with a target of 40% and a weighting of 2.5%, and "Woman Top Management" which is measurable as a single indicator with a target of 20% and a weighting of 2.5%.
- 3.3.1.8 QSE within the sector commit to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management
- 3.3.1.9 Conclude discussions with stakeholders to develop a Code of Good Practice for Owner-Driver Schemes (See Appendix B).

3.3.2 Measurement Principles and Application of the Charter

- 3.3.2.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Codes of Good Practice.
- 3.3.2.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Codes of Good Practice. The Adjustment Recognition for Gender found in Annexure 200 (A)-A will not apply.
- 3.3.2.3 Measurement principles needed for the application of the charter with regards to the management control element for QSE are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.

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3.4 **EMPLOYMENT EQUITY**

3.4.1 Our vision is to increase the participation of black people in senior management, middle management; professional and technical occupations in the Road Freight Industry to create a workforce that truly represents the racial, ethnic and gender diversity of our country. This will require that all stakeholders create a supportive culture within their organisations to attract new talent, facilitate the development of existing employees, and accelerate their progress into key positions within the industry.

3.4.2 **Stakeholder undertakings**

3.4.2.1 **Government commits to:**

3.4.2.1.1 The Department of Transport is to engage the Department of Labour to ensure that it plays a significant role in monitoring stakeholder progress in meeting EE targets.

3.4.2.2 **Private Sector Commits to :**

3.4.2.2.1 **Senior Management-Black People:** Having a minimum of **43% of Black employees** as a percentage of all such employees. Points for senior management will only be scored after enterprises achieve a target of 9%.

3.4.2.2.2 **Senior Management-Black Women:** Having a minimum of **22%** of Black women as a percentage of all such employees. Points for black women at senior management will only be scored after enterprises achieve a target of 5%.

3.4.2.2.3 **Middle Management-Black People:** Having a minimum of **63%** of Black employees as a percentage of all such employees. Points for black employees at middle management will only be scored after enterprises achieve a target of 13%.

3.4.2.2.4 **Middle Management-Black Women:** Having a minimum of 32% of Black women as a percentage of all such employees. Points for black women at middle management will only be scored after enterprises achieve a target of 8%.

3.4.2.2.5 **Junior Management-Black People:** The private sector commits itself to having a minimum of **68%** of Black employees as a percentage of all such employees. Points for black people at junior management will only be scored after enterprises achieve a target of 14%.

3.4.2.2.6 **Junior Management-Black Women:** Having a minimum of **34%** of Black women as a percentage of all such employees. Points for black women at junior management will only be scored after enterprises achieve a target of 7%. Black Women unskilled and semi skilled (below junior management) with a target of 15%.

3.4.2.2.7 **Black People living with disability:** Having a minimum of 2% of Black disabled employees as a percentage of all employees. Points for employees living with disability will only be scored after enterprises achieve a target of 0.8%.

3.4.2.2.8 **Black Women living with disability:** Having a minimum of 1% of Black disabled women as a percentage of all employees. Points for black women living with disability will only be scored if enterprises achieve a target of 0.4%.

3.4.2.2.9 Inability to distinguish between Middle Management and Junior

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Management: If the measured entity is unable to distinguish between Junior Management and Middle Management, both criteria may be combined into Junior Management which is measurable as a single indicator with a target of 68% and a weighting of 1.75%, and "Women Junior Management", which is measurable as a single indicator with a target of 34% and a weighting of 1.75%. In this case, the weighting for "Senior Management" will change to 4% and the weighting for "Women Senior Management" will change to 2.5%.

- 3.4.2.2.10 Measured entities falling within the QSE threshold commit to 40% of all management staff being black within 5 years. 50% of these positions should be earmarked for black women
- 3.4.2.2.11 QSE within this sector commit to all 60% of all staff should be black within the 5 years. 30% of all positions should be occupied by black women within 5 years

3.4.3 Measurement Principles and Application of the Charter

- 3.4.3.1 Measurement principles on the employment equity element, are contained in Statement 300 of Code 300 of the Generic Codes of Good Practice.
- 3.4.3.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Codes of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 300 (A)-A, will not apply.
- 3.4.3.3 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice

3.4.4 Labour Standards

- 3.4.4.1 The Road Freight Industry will be characterised by fair labour practices across the board.
- 3.4.4.2 **All stakeholders commit to:**
 - 3.4.4.2.1 Implement interventions to ensure fair labour practices in line with the legislative matters of the National Bargaining Council (NBC) as well as the Basic Condition of Employment Act (BCEA), the Employment Equity Act (EEA) and Skills Development Act.
 - 3.4.4.2.2 Ensure non-discrimination against employees living with HIV/AIDS. Whilst the industry has made strides in this area more can still be done by all stakeholders in a partnership approach aimed at setting up a fund to address initiatives relating to HIV/AIDS education, counselling and treatment of all employees.

3.5 SKILLS DEVELOPMENT

- 3.5.1 Our vision is to increase the economic value added of every employee in the Road Freight Industry through best-practice Human Resource Development (HRD), skills development, EE and Gender policies. A key element will be to identify the critical skills,

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retain and create quality employment in the sector.

3.5.2 Private Sector Commit to:

- 3.5.2.1 Invest a minimum of 3% of the leviable amount on skills development expenditure on Learning programmes as per the Learning Matrix contained in the Codes for black people. The target is inclusive of all associated costs and the current 1% skills development levy.
- 3.5.2.2 Invest a minimum of 1.5% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black women. The target is inclusive of all associated costs and the current 1% skills development levy.
- 3.5.2.3 Invest a minimum of 0.3% of the leviable amount on skills development expenditure on Learning programmes as per the Learning Matrix contained in the Codes for black disabled people. The target is inclusive of all associated costs and the current 1% skills development levy.
- 3.5.2.4 Invest a minimum of 0.15% of the leviable amount on skills development expenditure on Learning programmes as per the Learning Matrix contained in the Codes for black disabled women. The target is inclusive of all associated costs and the current 1% skills development levy.
- 3.5.2.5 Black employees having participated in Learnerships or Category B, C or D programmes being 5% of the total employees.
- 3.5.2.6 Black women employees having participated in Learnerships or Category B, C or D programmes being 2.5% of the total employees.
- 3.5.2.7 QSEs within this subsector investing a minimum of 2% of the leviable amount or payroll whichever is applicable on skills development spend on learning programmes for black people 1% on black Woman.

3.5.3 TETA Commits to:

- 3.5.3.1 Conduct research to identify the management, professional and technical skills that the industry will require over the next decade and map out future demand/supply scenarios in a detailed skills audit that will guide and inform stakeholders in implementing their EE targets. The report will make proposals on how to eliminate the identified skills deficits in the medium term. The proposal will quantify the financial resources that may be required to eliminate the skills deficit.
- 3.5.3.2 Conduct research on the supply side of skills development – i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the industry.
- 3.5.3.3 Introduce, after consulting stakeholders and completing the skills

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audit, new categories of learnerships - in management, technical and professional occupational categories - to help organisations to achieve their employment equity targets.

3.5.3.4 Develop a training programme to improve the business management skills of owner-drivers. The training programme will also have a component that provides advice on the contracts given to owner-drivers and ensure that employers comply with the Codes of Good Practice for Owner Drivers.

3.5.3.5 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category. Also, to monitor the industry's progress in meeting its targets and publish an annual report on the EE Profile of the industry according to occupational level and category.

3.5.4 Measurement Principles and the Application of the Charter

3.5.4.1 Measurement principles associated with the skills development element, are contained in Statement 400 of Code 400 of the Generic Codes of Good Practice.

3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 400 (A)-A, will not apply.

3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.

3.6 PREFERENTIAL PROCUREMENT

3.6.1 Our vision is to grow South Africa's Road Freight Industry in order to stimulate and facilitate economic growth. We commit to increase procurement from black-owned and empowered enterprises and implement best-practice supplier development policies.

3.6.2 Stakeholder undertakings

3.6.2.1 Government commits to:

3.6.2.1.1 Ensure that parastatals and public sector agencies develop uniform policies on Accounting for Affirmative Procurement and adopt the guidelines that will be set by the Transport Sector BEE Council.

3.6.2.1.2 Ensure that parastatals and public sector agencies constantly explore possibilities to increase the amount of total measurable procurement – for example by supporting local procurement and/or content in line with the agreements reached by stakeholders at the Growth and Development Summit. (GDS).

3.6.2.1.3 This will require that parastatals and public sector agencies state in their annual BEE reports the reasons for classifying an item of expenditure as an excluded item. This information should be disclosed in a detailed statement that reconciles total measurable procurement and allowable exclusions.

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- 3.6.2.1.4 Parastatals and public sector agencies should support the Proudly South African (PSA) campaign and note the agreement at the GDS that PSA is “an important means of taking the message of local content, fair labour standards, environmental sustainability and quality products and services to the nation.”

3.6.2.2 Private Sector Commits to:

- 3.6.2.2.1 Commission, together with other stakeholders, a study to establish current levels of procurement from BEE companies and identify areas where they can achieve “quick wins” to accelerate BEE.
- 3.6.2.2.2 Advance BB-Black Economic Empowerment through the procurement of ancillary services and equipment.
- 3.6.2.2.3 B-BBEE Procurement: 50% of total measured procurement on B-BBEE Procurement from B-BBEE complaint suppliers based on the B-BBEE Recognition Levels.
- 3.6.2.2.4 Procurement from QSE & EMEs: 10% of total measured procurement on B-BBEE procurement from Qualifying Small Enterprises and Exempted Micro-Enterprises.
- 3.6.2.2.5 Procurement from enterprises that are 50% black owned: 9% of total measurable procurement on B-BBEE procurement from enterprises that are 50% black owned.
- 3.6.2.2.6 Procurement from enterprises that are 30% black women owned: 6% of total measurable procurement on B-BBEE procurement from enterprises that are 30% black women owned.
- 3.6.2.2.7 QSEs within this subsector commit to procuring a minimum of 40% over the next 5 years.
- 3.6.2.2.8 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector BEE Council.

3.6.3 Measurement Principles and Application of the Charter

- 3.6.3.1 Measurement principles associated with the preferential procurement element, are contained in Statement 500 of Code 500 of the Generic Codes of Good Practice.
- 3.6.3.2 The formulae required in the determination of the preferential procurement score are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Codes of Good Practice.
- 3.6.3.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 805 of Code 800 of the Generic Code of Good Practice

3.7 ENTREPRISE DEVELOPMENT

- 3.7.1 Our vision is to create, nurture and grow viable BEE enterprises within the industry while increasing opportunities available to existing companies.

3.7.2 Government Commits to:

- 3.7.2.1 Investigate opportunities to enter into creative joint ventures with BEE companies.

3.7.3 The Private Industry Commits to:

- 3.7.3.1 Pro-actively seek opportunities to enter into joint ventures (and other forms of alliances) and make direct investments in BEE

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companies.

- 3.7.3.2 Investigate opportunities to outsource non-core activities such as workshops, certain maintenance functions, security services and subcontract certain transport activities to BEE companies.
- 3.7.3.3 Enterprise Development Contributions: Ensure a minimum of 3% of Net Profit After Tax (NPAT) is directed towards enterprise development initiatives.
- 3.7.3.4 QSEs within this sector aspire to make contributions to enterprise development which will amount to 2% of NPAT evaluated annually over the next 5 years.
- 3.7.3.5 Enterprise Development Contributions: Endeavour to pay suppliers within 15 days of the date of invoice. The amount of the invoices will be recognisable as enterprise development contributions.

3.7.4 Measurement Principles and Application of the Charter

- 3.7.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice

3.8 SOCIO-ECONOMIC DEVELOPMENT

3.8.1 All Stakeholders commit to:

- 3.8.1.1 Invest at least 1% of NPAT on social development projects;
- 3.8.1.2 Social development contributions leading to the following will be enhanced by a factor 1.25:
 - 3.8.1.2.1. Poverty alleviation;
 - 3.8.1.2.2 Community development;
 - 3.8.1.2.3 HIV/AIDS; and
 - 3.8.1.2.4 the provision of housing and transport.

3.8.2 Measurement Principles and Application of the Charter

- 3.8.2.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.2.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.8.2.3 The formulae required in the determination of the socio-economic development score are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.

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3.8.2.4 Measurement principles required in evaluating socio economic development contributions made by QSEs within this sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

4. ROAD FREIGHT SUB-SECTOR BROAD-BASED BEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
Ownership	Exercisable voting rights in the hands of black people	25% + 1 vote	3
	Exercisable voting rights in the hands of black women	10%	2
	Economic Interest in the hands of black people	25%	4
	Economic Interest in the hands of black women	10%	2
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	2.5%	1
	Net Economic Interest/Net Value	25% graduated over 10 years as per the Codes (year 5 at 60%)	7
	Ownership Fulfilment	-	1
	Bonus points: Involvement in the ownership of the Enterprise of Black new entrants	10%	2

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Bonus Points: Involvement in the ownership of the Enterprise of Black participants in: Employee Ownership Schemes, Broad-Based Ownership Schemes or Co-operatives	10%	2
Management (Refer to management sub-minimum target matrix)	% of total exercisable voting rights in the hands of black board members	50%	1.5
	% of total exercisable voting rights in the hands of black-women board members	25%	1.5
	% Black persons who are executive directors	50%	1
	% Black women who are executive directors	25%	1
	¹ % of black people who hold senior top management positions	40%	1.5
	% of black women who hold senior top management positions	20%	1.5
	% of black people who hold other top management positions	40%	1
	% of black women who hold other top management positions	20%	1

¹ If the measured entity is unable to distinguish between Senior Top Management and Other Top Management, both criteria may be combined into "Top Management" which is measurable as a single indicator with a target of 40% and a weighting of 2.5%, and "Women Top Management", which is measurable as a single indicator with a target of 20% and a weighting of 2.5%

Owner-driver schemes will only be considered under Enterprise Development.
Net Value under Ownership at year five should be at 60%.

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Bonus Points: Black Independent Non-Executive Board Members	40%	1
Employment Equity	% Black People in Senior Management	43%	2.5
	% Black Women in Senior Management	22%	2.5
	² % Black People in Middle Management	63%	1.5
	% Black Women in Middle Management	32%	1.5
	% Black People in Junior Management	68%	1.5
	% Black Women in Junior Management	34%	1.5
	% of Black Women who are semi and unskilled (i.e employees below junior management)	15%	2
	Black People living with disabilities as a % of all employees	2%	1
	Black Women living with disabilities as a % of all employees	1%	1
	Bonus Points: Meeting or exceeding the EAP targets in each category of employment equity		3
Skills Development	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black employees as percentage of leviable amount	3%	3

² If the measured entity is unable to distinguish between Black Junior Management and Black Middle Management, both criteria may be combined into Black Junior Management which is measurable as a single indicator with a target of 68% and a weighting of 1.75%, and “Black Women Junior Management”, which is measurable as a single indicator with a target of 34% and a weighting of 1.75%. In this case, the weighting for “Senior Management” will change to 4% and the weighting for “Black Women Senior Management” will change to 2.5%. No Measured Entity shall receive any points under the Employment Equity Scorecard unless they have achieved a subminimum of 40% of each of the targets.

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for Black Women employees as percentage of leviable amount	1.5%	3
	Skills Development Expenditure on learning programmes matrix for black employees with disabilities as a percentage of leviable amount	0.3%	1.5
	Skills Development Expenditure on learning programmes matrix for Black Women employees with disabilities as a percentage of leviable amount	0.15%	1.5
	Number of black employees participating in learnerships or category B, C & D programmes as percentage of total employees	5%	3
	Number of Black Women employees participating in learnerships or category B, C & D programmes as percentage of total employees	2.5%	3
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a % of Total Measured Procurement Spend	50%	12

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a % of Total Measured Procurement Spend	10%	3
	Procurement from 50% Black-Owned as a % of Total Measured Procurement Spend	9%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	6%	2
Enterprise Development	Expenditure on supplier development initiatives as a proportion of NPAT	3% of NPAT	15
Socio-economic Development	Expenditure on social development programmes as a % of NPAT. N.B: Expenditure on programmes that address HIV/AIDS, poverty alleviation, community development will be enhanced by a factor of 1.25	1% of NPAT	5
TOTAL			100

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5. QUALIFYING SMALL ENTERPRISES SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of black people	25% + 1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points:		
	Ownership fulfilment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points: Involvement in the ownership of the Enterprise by black women	10%	2
	Bonus Points: Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management as a % of all Management	40%	7.5
	Black Women Employees of the Measured Entity who are management as a % of all Management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black Women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points: meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for Black employees as a percentage of the leviable/payroll	2%	12.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
	Skills Development spend on learning programmes for Black Women employees as a percentage of the leviable/payroll	1%	12.5
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	2% of NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	25
TOTAL			175

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

MANAGEMENT CONTROL: SUB-MINIMUM TARGET MATRIX

	Voting rights on Board		Executive Directors		Senior Top Management		Other Top Management	
Year	Black people	Black Women	Black people	Black Women	Black people	Black Women	Black people	Black Women
1	10%	5%	10%	5%	8%	4%	8%	4%
2	20%	10%	20%	10%	16%	8%	16%	8%
3	30%	15%	30%	15%	24%	12%	24%	12%
4	40%	20%	40%	20%	32%	16%	32%	16%
5	50%	25%	50%	25%	40%	20%	40%	20%

6. APPENDIX A: DEFINITIONS

	DEFINITION
Associated Enterprise	Means any black Enterprise other than the Measured Enterprise with which the Measured Enterprise has concluded a Qualifying Transaction.
Aged Persons Act	Means the Aged Persons Act 81 of 1967, as amended.
Acceptable Valuation Standard	Means a valuation of an asset, an Economic Interest, an Enterprise or another instrument or right relevant to measurement under the ownership indicator undertaken in accordance with normal valuation methodologies which represent standard market practice in the context of the nature as well as the stage of development of the asset, Equity Interest or Enterprise being valued.
Black Aged People	Means black people who are also aged people as defined in the Aged Persons Act.

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	DEFINITION
Broad-Based Black Empowerment	Accordingly, government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black Designated Groups	Means black workers, black unemployed people, black youth, black aged people, black disabled people and black people living in rural areas.
Black Disabled People	Means black people who also satisfy all of the criteria in the definition of "persons with disabilities" set forth in paragraph 5.1 of the "code of good practice on the employment of people with disabilities" (as amended or substituted from time to time) issued in terms of section 54(1)(a) of the Employment Equity Act.
Black Owned Enterprise	Is one that is 50,1% owned by black persons and where there is substantial management control.
Black New Entrants	Means a black Partnership(s) (which includes without limitation, black Participants in Broad-Based Ownership Schemes) holding in aggregate in excess of 5% of the total Voting Rights and Economic Interest in a Measured Enterprise who has not, prior to their acquisition of their Equity Interest in the Measured Enterprise, concluded similar transactions in respect of any other Enterprise, which in aggregate have a cumulative value of R20,000,000.00 measured in accordance with an Acceptable Valuation.
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation: (a) Occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or (b) Occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
Black Unemployed People	Means black people, who are unemployed, are not attending or required by law to attend an educational institution and who are not awaiting admission to an educational institution.
Black Women-Owned Enterprise	Is one with a minimum of 30% representation of black women within the ownership structure, including economic interest and exercisable voting rights.
Black Workers	Means black people who are also employees as defined in the Employment Equity Act.
Black Youth	Means black persons who are also youth as defined in the National Youth Commission Act.
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers.

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	DEFINITION
Control	Of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders agreement.
Co-Operative Or Collective Enterprise	Is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly – owned enterprise and democratically controlled enterprise.
Direct Empowerment	The process of BEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of black persons ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and operational levels, and the assumption of real risk. In this Road Freight Sector scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic interests such as dividends or interest payments.
Discretionary Spend	Refers to the portion of total procurement where a company has the option to determine whether goods and services can be procured from a supplier. This figure is arrived at after deducting non-discretionary procurement e.g. imports and other items provided by monopoly suppliers e.g., water, electricity, telephone. A process will start after the signing of the Transport Sector B-BBEE Charter to arrive at uniform definitions of what constitutes discretionary and non-discretionary spending.
Effective Date	Means the date on which the Road Freight Sector BEE Charter will become operational and binding on all sector stakeholders.
Exempted Micro Enterprise [EME]	Is defined as any entity with an annual turnover below R 5 million and are treated in this sub sector as per the guidelines contained in the Codes of Good Practice.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual / entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process.
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive B-BBEE. A second element of indirect empowerment is enterprise development. This can take two forms: Investment in black-owned and black-empowered enterprises. Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.
Learners	Refers to the people participating in the learnership and other similar programmes.
Learnerships	As per the Skills Development Act.
Leviable Amount	Refers to the payroll of an entity including employee benefits and excluding directors fees.
Non-Discretionary Spend	Refers to all commodities and services were organisations have no option but to procure from companies (exports, water and electricity, rates and taxes, telephone etc).

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	DEFINITION
Net Economic Interest	Refers to the effective economic interest possessed by black shareholders that is not encumbered by financial obligations to a 3 rd party or the vendor of the shares. The target for this indicator is determined by a graduation factor, which requires the full debt for the acquisition of shares in the enterprise to be paid up within 10 years.
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Ownership Fulfilment	Refers to the meeting of the targets for both economic interest and net economic interest simultaneously.
Procurement	Means all expenditure to acquire goods and/or services including capital expenditure, but excluding procurement spending where there is a natural monopoly e.g., water, electricity, telephone, etc. where there is no local supplier or procurement of items of procurement where the supplier is imposed in terms of a global policy for technical (but specifically not commercial) reasons, or inter-entity charges for services rendered by other members of the group, or expenditure classes covered elsewhere in the charter e.g. salaries and wages.
Qualifying Small Enterprises (QSEs)	Are defined as any entity with an annual turnover between R 5 million and R 35 million and are treated as per the guidelines contained in the Code 800 of the Codes of Good Practice.
SMMEs	Means small, medium or micro enterprises, which employs fewer than 20 employees but has a total annual turnover of up to R20 million.
State Owned Enterprise [SOE]	Is an enterprise, often a corporation, owned by government.
Stakeholders	The term stakeholders refer to a range of interest groups within the Road Freight Sector who directly and indirectly participated in this process. These groups included Government, Industry, Parastatals Agencies, Organised Labour, Civil Organisations, Associations, BEE operators, suppliers, SMME's as well individuals.

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7. APPENDIX B: ROAD FREIGHT SECTOR OWNER DRIVER SCHEME POLICY

Introduction

There are five available options for Empowerment:

Existing Status – employed drivers assisted through accelerated training inclusive of training related to Business Management, which should, in turn, open up opportunities for promotions and progression.

Group Incentives – collective sharing of benefits between the company and the employees.

- **Collective Ownership** – drivers belong to a group that owns the vehicles.
- **Share Ownership** – the group owns vehicles and has shares in the company.
- **Individual Owner-Drivers.**

1. Key Elements of an Owner-Driver Scheme

There are certain elements typically required for a successful Owner-Driver Scheme:

- **Sponsoring Corporate** – provides the business.
- **Owner-Drivers** – supply service.
- **Owner-Driver responsibility** in respect of the retention and development of the business.
- **Finance House.**
- **Business Advisor** (incorporating bookkeeper).

A Business Advisor should be an independent party and must be paid a fee, agreed by all parties, which is part of the fixed cost of an Owner-Driver's structure. While the accounting function is essential, Business Advisor's must have specific transportation and vehicle management skills.

2. Critical Success Factors

There are critical success factors that ensure sustainability of the Owner-Driver Scheme:

Business Training

Management Training (and business skills transfer).

Change of Mindset – empower individual and invest in asset ownership (and the promotion of independency).

Benchmark – the provisions of the relevant labour and taxation legislation must be taken into account and inform such benchmarking.

Preferential Contract, sustainable tariff and genuine independent contractor status according to the tax laws.

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Transparency

- The identification of a person who will coordinate Owner-Driver Schemes and liaise between Owner-Drivers and the principle company or management company.
- The availability of a dedicated contract and guaranteed volumes.
- Accreditation of management companies.
- Full ownership of the vehicle at the end of the period.
- The identification of responsibilities of Owner-Drivers regarding administrative functions.

Key Objectives

- Empowerment of the individual *and his/hers heirs*.
- Variability in cost for the company.

3. Criteria

The Owner-Driver Scheme can work to the benefit of both company and owner-driver, if the following issues are identified and addressed, with the aim of achieving better productivity and the inclusion of back-up arrangements:

- **Training** (an example of training elements for Owner-Drivers is appended)
 - Constant review of training and training requirements.
 - Selection criteria.
 - Accredited training courses and service providers.
 - Basic business skills.
- **Entrepreneur**
 - Mindset change of the owner-driver.
 - Mindset change of management.
- **Benchmarking**
- **Routes**
- **Sustainability**
- **Pricing**
- **Contract payment cycles payment made within 14 days of date of invoice**
- **Uniformity of Cross Border charges**
- **Identification of the elements of benchmarking**

4. Go Live

- Pilot in an area;
- Resign as an employee;
- Go back as an employee, if not successful as an owner-driver and;
- Time frames and guarantees;

5. Owner-Driver Contract

- Should be protective to the owner-driver.
- Should also include penalties to encourage excellent performance.
- Transparency.

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- Share in risks and rewards.
- Should have payment, which is output, and results based.
- The development of standard guidelines/contract.
- Conditions pertaining to rate increases.

In order to protect transport operators from unscrupulous transport brokers the Cross Border Agency can also develop some model contracts to be signed by the parties concerned.

6. New Legislation

- R90 000 per annum.
- Branding on vehicles. (Specifics should be included in contract)
- Uniform to be worn to identify owner-driver.
- Communication. (Needs some clarification)
- Requirements of the Dangerous Goods Legislation
- Statutory levies.

7. Benefits

- Improved efficiencies for the company.
- Increased revenue.
- Client relationship developed by the owner-driver, who would like to get the business.

8. Problems Faced by the Owner-Driver

- Taxation at the same rate as employees as if:
 - Owner-driver works more than 80% for one company; or
 - Owner-driver has less than 4 employees
- Funding
- Freight rates
- Payment of invoices
- Vehicle replacement has to be budgeted for. (need some clarification)
- The Cross Border Costs
- Input and effort of the owner-driver is required, especially in the first year.
- Timorously payment of Owner-Drivers

9. Conclusion

An Owner-Driver Scheme can work very well, if it is a joint effort between management and labour and not meant as a means of shifting the burden of cost by the employer. If the objective of an Owner-Driver Scheme is primarily aimed at empowerment, that would yield investment, efficiency and facilitation of asset ownership, from which both parties.

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8. APPENDIX C: COMMITMENT EVALUATION MATRICES

Ownership

Action Undertaken	Input measurement	Output measurement	Quality Control
Develop financing mechanisms for B-BBEE companies to achieve equity ownership	Money spent on research and implementation of mechanisms as a % of total discretionary funds	Report to Steering Committee/Charter Council on improvement (percentage change) in black shareholding.	Committee/Charter Council and Industry

Employment Equity

Action Undertaken	Input measurement	Output measurement	Quality Control
Department of Labor to ensure that employment equity targets are met.	Money spent on research survey as a % of total discretionary funds	Assessment Report on employment equity targets for black people within the industry to be handed to Committee/Charter Council.	TETA & Committee/Charter Council

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Implement skills audit to identify management, professional and technical skills that will be required over the next decade.	Money spent on research as a % of total discretionary funds	Analysis and forecasts to be presented to Steering Committee and TETA.	TETA & Committee/Charter Council
Develop training programmes to improve the business management skills of owner-drivers.	Money spent on skills development as a % of total discretionary funds	Assessment Report on management skills of owner-drivers within the industry to be handed to Committee/Charter Council.	TETA & Committee/Charter Council

Preferential Procurement

Action Undertaken	Input measurement	Output measurement	Quality Control
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Ensure that uniform accounting practices regarding preferential procurement are adopted by public sector agencies.	Money spent on research as a % of total discretionary funds	Assessment Report on accounting practices regarding preferential procurement submitted to Committee/Charter Council.	Committee/Charter Council
Identify opportunities in which quick results can be achieved through procurement from B-BBEE companies.	Money spent on research as a % of total discretionary funds	Research Report, together with suggestions handed to Committee/Charter Council.	Committee/Charter Council
Adopt the guidelines set out by the Transport Sector BEE Council on Accounting for Affirmative Procurement.	Money spent on training and administrative costs in adopting guidelines.	Assessment Report on adherence to guidelines within the industry.	Committee/Charter Council

Enterprise Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Create joint ventures with and invest directly in black owned enterprises.	Annex 600A (Benefit Factor Matrix) of the Codes shall apply	Report to Steering Committee on improvement (percentage change) in new entities created.	Committee/Charter Council
Research ways in which non-core activities such as workshops, certain maintenance functions and security services can be subcontracted to B-BBEE enterprises.	Money spent on research as a % of total discretionary funds	Research Report, together with suggestions handed to Committee/Charter Council.	TETA & Committee/Charter Council

Socio-economic Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Improve socio-development contributions on poverty alleviation and community development	Percentage Net profit after tax on relevant contributions.	Report to Steering Committee on contributions made	Committee/Charter Council
Implement labour practices in line with labour legislation.	Money spent on awareness campaigns and legal and administrative fees as a % of total discretionary funds	Report to Committee/Charter Council on adherence to labour legislation.	Committee/Charter Council

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Ensure non – discrimination against employees living with HIV/AIDS.	Percentage Net profit after tax spent on HIV/AIDS education and surveys on attitude towards people living with HIV/AIDS.	Report to Committee/Charter Council on attitudes toward people living with HIV/AIDS.	Committee/Charter Council
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**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

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PUBLIC SECTOR BROAD-BASED BLACK ECONOMIC EMPOWERMENT CHARTER

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ABBREVIATIONS

	DEFINITION
B-BBEE	Broad-Based Black Economic Empowerment
CPI	Consumer Price Index
DO	Developing Organisation
DOT	Department of Transport
DTI	Department of Trade and Industry
ED	Enterprise Development
EEA	Employment Equity Act
EO	Established Organisation
GDS	Growth and Development Summit
HRD	Human Resource Development
KPIs	Key Performance Indicators
MM	Measurement Matrix
NFA	National Framework Agreement
NSDS	National Skills Development Strategy
PEPs	Personal Empowerment Plans
PFMA	Public Finance Management Act
PLWD	People Living with Disabilities
PPPFA	Preferential Procurement Policy Framework Act
PPPs	Public Private Partnerships
PSA	Proudly South African
SMMEs	Small Medium and Micro Enterprises
SOES	State Owned Enterprises

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1. SCOPE

The Broad-Based Black Economic Empowerment Charter is specifically aimed at accelerating transformation within the Transport Sector. The key stakeholders in this process are:

- 1.1.1. Department of Transport ("The Department")
- 1.1.2. Transport Agencies;
- 1.1.3. State-Owned Enterprises (SOEs);
- 1.1.4. Provincial Departments of Transport;
- 1.1.5. Local authorities (including metropolitan councils);
- 1.1.6. Labour; and
- 1.1.7. Transport Education and Training Authority.

1.2. Guiding Principle

We will maximize our leverage within the sector with the aim of increasing black participation at all levels of the industry value chain and work together with stakeholders to drive implementation of the Transport Sector B-BBEE Charter. Accordingly, we will invest new financial and human resources and capacity to participate meaningfully in the process.

1.3. Undertakings

1.3.1. The sector commits to:

- 1.3.1.1. Embrace and lead the implementation of the Transport Sector B-BBEE Charter and participating in all stakeholder forums and initiatives to drive the process, for example access to finance, marketing and communication, monitoring and evaluation and coordinating the publication of an annual report on B-BBEE in the sector.
- 1.3.1.2. Monitor actual progress made in meeting B-BBEE targets, together with stakeholders.
- 1.3.1.3. Play an advocacy role for B-BBEE in the Sector and increase awareness about investment and funding opportunities in the Industry, especially for B-BBEE operators.
- 1.3.1.4. Co-ordinate the Transport B-BBEE Steering Committee and participate in establishing the Transport Sector B-BBEE Council that will drive the overall B-BBEE Strategy for the Transport Sector.
- 1.3.1.5. Ensure inter-departmental co-ordination of B-BBEE initiatives across government.

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2. DEPARTMENT OF TRANSPORT

2.1. GUIDING PRINCIPLES

2.1.1. A World Class Industry

2.1.1.1 The employees of the Department of Transport (DOT) commit to working with all stakeholders in our industry to develop a world-class transport industry that will grow in size, create jobs, stimulate economic growth and development and provide accessible and affordable transport services to our people. We will strive towards achieving the empowerment of black people, especially black women, youth and people living with disabilities.

2.1.2. Accelerating B-BBEE in the Transport Sector

2.1.2.1 We further commit ourselves to develop good, effective policies, in consultation with stakeholders, that will result in a significant increase in black participation at all levels of the Transport Sector and throughout the industry value chain. We will develop the capacity to monitor implementation of these policies together with stakeholders in the transport industry.

2.1.3. A world class Department of Transport

2.1.3.1 To achieve this vision for the sector, we will develop a world class transport department, that is adequately staffed with highly skilled, motivated and visible officials with a passion to make the transport sector a vital engine for economic growth, development and job creation in South Africa in line with government's Vision 2014, which aims to half the country's unemployment rate. We will improve efficiency within the department with the aim of effectively and efficiently delivering services to all South Africans.

2.2 THREE PILLARS OF THE SCORECARD

2.2.1 Firstly, it has an internal focus that seeks to encourage the DOT (which includes Provincial Departments of Transport) to pursue a transformation agenda according to the broad guidelines set out in the National B-BBEE Strategy and the **Transport Public Sector B-BBEE Scorecard**. The DOT will use its procurement spending to accelerate B-BBEE objectives amongst suppliers and recipients of subsidies, permits and licenses. It will also make significant investments in human resource development, delivering a cadre of highly-skilled public servants who can make a contribution to the SA economy at large.

2.2.2 Secondly, the Charter seeks to encourage transport SOEs and agencies that report to the Department to implement aggressive transformation policies in line with the National B-BBEE Strategy and **Transport Public Sector B-BBEE Scorecard**. The DOT will also develop technology-based tools and procedures to systematically monitor the

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progress of these entities in implementing their B-BBEE targets. This will require the DOT to invest additional financial and human resources.

- 2.2.3 Thirdly, the Charter has an external focus because the DOT is the facilitator and the custodian of the Transport Sector B-BBEE Charter. Stakeholders expect the Department to play a critical role in the Implementation of the Charter. This will require that the Department invests new resources (financial and human) and develops the capacity to meaningfully participate in the new activities and initiatives that the charter process will spawn.

To achieve these objectives will require the establishment of an inter-departmental B-BBEE task team, chaired by the Director of B-BBEE, to drive implementation. It will also require all units within the Department to integrate B-BBEE objectives into their policies, programmes and key performance indicators (KPIs) used to evaluate managers.

2.3 INDICATORS OF EMPOWERMENT

- 2.3.1 The Department of Transport B-BBEE Scorecard has 5 indicators of empowerment, which are: Management, Employment Equity, Skills Development, Preferential Procurement and Enterprise Development. Other indicators within the Generic B-BBEE Scorecard, namely ownership and socio-economic development, will not apply as a result of the DOT being a public entity that operates within the constraints of the Public Finance Management Act (PFMA).

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

2.3.2 MANAGEMENT CONTROL

2.3.2.1 Guiding Principle

- 2.3.2.1.1 The Public Sector will attract and retain highly-skilled and motivated black staff in senior management, middle management and junior management positions in the Department and become an "Employer of Choice" for skilled professionals throughout the country. This will require the Department to create a supportive culture and facilitate the development of all employees, especially black women, youth and people living with disabilities. The emphasis on supporting black women and youth is cited in the Accelerated and Shared Growth initiative for South Africa (ASGISA) as a prerequisite for halving poverty and unemployment by 2014.

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- 2.3.2.1.1 The public sector does not have a say over who is appointed as a minister or a member of the executive council, hence the exclusion of the board of directors for the department of transport. "Executive directors" shall comprise of Director-General and Deputy Directors-General and "Top management" (senior top management and other top management) shall be constituted by Chief Directors and Directors.

2.3.2.2 Criteria and targets:

The management control element will comprise the following criteria and targets:

- 2.3.2.2.1 Black Representation at the Executive Director level, for which the target will be 70%.
- 2.3.2.2.2 Black Women Representation at the Executive Director level, for which the target will be 35%.
- 2.3.2.2.3 Black Representation at the Senior Top Management level, for which the target will be 70%.
- 2.3.2.2.4 Black Women Representation at the Senior Top Management level, for which the target will be 35%.
- 2.3.2.2.5 Black Representation at the Other Top Management level, for which the target will be 70%.
- 2.3.2.2.6 Black Women Representation at the Other Top Management level, for which the target will be 35%.
- 2.3.2.2.7 Black Disabled Representation, for which the target will be 1%.

2.3.2.3 Measurement Principles and Application of the Charter

- 2.3.2.3.1 Measurement principles associated with the management control element, are contained in Statement 200 of Code 200 of the B-BBEE Generic Codes of Good Practice.
- 2.3.2.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the B-BBEE Generic Codes of Good Practice. The Adjustment for Gender Recognition, found in Annexure 200 (A)-A will not apply.

2.3.3 EMPLOYMENT EQUITY

2.3.3.1 Undertakings By Public Sector:

- 2.3.3.1.1 Embark on an aggressive campaign to market career opportunities within the DOT to position it as an "employer of choice" within the South African economy. The campaign will start at school level and include universities, technikons and other organisations in the public and private sector.
- 2.3.3.1.2 Develop creative programmes to retain staff at all levels – for example, personal empowerment plans (PEPs), flexible work arrangements and incentive schemes.
- 2.3.3.1.3 The "senior management" criteria under the Employment Equity element will be collapsed into the Top Management category. The

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target for senior management will apply when determining the DoT's EE contributions. The total weighting will be the sum of the individual weightings.

2.3.3.1.4 The Middle management categories will be constituted by professionals as defined in the EE Act and EEA2 form.

2.3.3.1.5 Junior management will be constituted by technical, academically qualified, and skilled individuals as per the EEA2 and the EE Act.

2.3.3.2 Criteria and targets:

The employment equity element will comprise the following criteria and targets:

2.3.3.2.1 Black Representation at the Senior Management level, for which the target will be 70%.

2.3.3.2.2 Black Women Representation at the Senior Management level, for which the target will be 35%.

2.3.3.2.3 Black Representation at the Middle Management level, for which the target will be 70%.

2.3.3.2.4 Black Women Representation at the Middle Management level, for which the target will be 35%.

2.3.3.2.5 Black Representation at the Junior Management level, for which the target will be 70%.

2.3.3.2.6 Black Women Representation at the Junior Management level, for which the target will be 35%.

2.3.3.2.7 Black Disabled Representation, for which the target will be 3%.

2.3.3.2.8 Black Women Disabled Representation, for which the target will be 1%.

2.3.3.2.9 Black Women Representation at semi-skilled and unskilled levels, for which the target will be 35%.

2.3.3.2.10 Black Youth Representation, for which the target will be 10%.

2.3.3.3 Measurement Principles and Application of the Charter

2.3.3.3.1 Measurement principles on the employment equity element are contained in Statement 300 of Code 300 of the B-BBEE Generic Codes of Good Practice.

2.3.3.3.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the B-BBEE Generic Codes of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 300 (A)-A, will not apply.

2.3.4 SKILLS DEVELOPMENT

2.3.4.1 Guiding Principle

2.3.4.1.1 Our objective is to increase the economic value added (or productivity) of every employee in the Department through best-practice Human Resource Development (HRD), Employment Equity and Gender policies. A key element will be to identify the critical skills required to

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fulfil the Department's vision and mission and create a conducive environment for all employees to develop their talent to the fullest. This is congruent with ASGISA which seeks to raise the skill level in areas needed by the economy.

2.3.4.2 The Public Sector commits to:

- 2.3.4.2.1** Increase our intake of unemployed people to at least 10% of our staff complement and develop PEPs to provide them with the skills required to become productive employees within the economy as a whole. This will require the development of effective mentoring programmes to ensure that the new intakes obtain meaningful work experience and exposure.
- 2.3.4.2.2** Within 3 years, invest at least 5% of the total leviable amount or payroll cost (whichever is applicable) on learning programmes identified in the Learning Programme Matrix contained in Code 400 of the B-BBEE Generic Codes of Good Practice. This includes the current 1% skills development levy as well as all associated training costs, but excludes the department's expenditure on Centres of Excellence.
- 2.3.4.2.3** Invest a minimum of 0.50% of the leviable amount or payroll cost (whichever is applicable) on the training of black people with disabilities on Learning Programmes Contained in Code 400 of the B-BBEE Generic Codes of Good Practice.
- 2.3.4.2.4** The training budget will be spent equitably to develop staff at all levels and strike a balance between specific job-related training and training for personal development. Training programmes will align PEPs with the strategic imperatives of the department. Efforts will be made to improve the quality of skills development expenditure to ensure that it adds real value to employees.

2.3.4.3 Criteria and targets:

The skills development element will comprise the following criteria and targets:

- 2.3.4.3.1** Expenditure on skills development for Black people as a percentage of total payroll, for which the target will be 3%.
- 2.3.4.3.2** Skills Spend on Black Women employees as a percentage of total payroll, for which the target will be 3%.
- 2.3.4.3.3** Skills Spend on Black disabled employees as a percentage of total payroll, for which the target will be 0.5%.
- 2.3.4.3.4** Skills Spend on Black Women disabled employees as a percentage of total payroll, for which the target will be 0.25%.
- 2.3.4.3.5** Black employees participating in category B, C & D Learning Programmes as a percentage of the total work force, for which the target will be 5%.
- 2.3.4.3.6** Black Women employees participating in category B, C & D Learning Programmes as a percentage of the total work force, for which the target will be 3%.

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2.3.4.4 Measurement Principles and Application of the Charter

2.3.4.4.1 Measurement principles associated with the skills development element, are contained in Statement 400 of Code 400 of the B-BBEE Generic Codes of Good Practice.

2.3.4.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the B-BBEE Generic Codes of Good Practice. The formula for the determination of the Adjusted Recognition for Gender found in Annexure 400 (A)-A, will not apply.

2.3.5 PREFERENTIAL PROCUREMENT

2.3.5.1 Guiding Principle

2.3.5.1.1 We will increase procurement from black-owned enterprises, implement transparent and ethical policies and practices, and develop best-practice supplier development policies. This will require the investment of additional resources to monitor and evaluate performance and eliminate practices such as fronting. The Department will also monitor the B-BBEE performance of SOEs and agencies that report to the DOT.

2.3.5.2 Undertakings

2.3.5.2.1 All stakeholders commits to:

2.3.5.2.1.1 Develop a new B-BBEE procurement policy for the Department that is aligned to the new B-BBEE Act and B-BBEE Strategy; and train all procurement officials about the mechanics of the Generic B-BBEE Scorecard.

2.3.5.2.1.2 Co-ordinate procurement policies and reporting procedures across national and provincial departments and transport sector SOEs and agencies to maximise leverage in the transport industry.

2.3.5.2.1.3 Introduce pre-qualifying criteria for all suppliers that stipulate a minimum B-BBEE compliance level for every supplier and stipulates a commitment to increase the B-BBEE score on the Generic B-BBEE Scorecard during the duration of the contract (when a contract exceeds a period of six months).

2.3.5.2.1.4 Constantly evaluate opportunities to increase the value of total procurement that can be procured from B-BBEE companies and create opportunities for black Qualifying Small Enterprises (QSEs) and Exempted Micro Enterprises (EMEs) by unbundling large contracts where possible.

2.3.5.2.1.5 Develop best-practice technology-based monitoring, evaluation and reporting mechanisms for the DOT to enable real-time reporting of B-BBEE procurement and make verification of the B-BBEE credentials of all suppliers according to the Generic B-BBEE Scorecard, a prerequisite for all tenders, in order to eliminate fronting and blacklist offenders.

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- 2.3.5.2.1.6 Develop within the DOT the capacity to monitor and evaluate the performance of the SOEs and agencies that report to the department in meeting the targets in the SOEs B-BBEE Scorecard.
- 2.3.5.2.1.7 Produce regular reports that record the largest categories of expenditure and a ranking of suppliers by the value of contracts awarded. The reports will evaluate the tenders awarded and compliance in terms of commitments undertaken by B-BBEE compliant enterprises by value to identify the extent to which such enterprises participate in high value-added contracts.
- 2.3.5.2.1.8 Introduce an e-Procurement system in a manner that will not create new barriers to entry for black entrepreneurs. The system will be introduced with a training programme for B-BBEE suppliers, where necessary.
- 2.3.5.2.1.9 Implement creative mechanisms to overcome the constraints imposed by the Preferential Procurement Policy Framework Act (PPPFA) and its subsequent amendments. This could be achieved by: reducing barriers to entry by introducing best-practice affirmative procurement policies e.g. price preferences, price matching, and reducing the payment cycle to a maximum of 30 days. Such policies will be developed in conjunction with other government departments.
- 2.3.5.2.1.10 Renegotiate all long-term contracts to add B-BBEE requirements.
- 2.3.5.2.1.11 Convene a task team of internal and external specialists to identify areas where the DOT has leverage (for example, permit and license issuing boards) to ensure that the department maximises its leverage across the transport sector value chain to accelerate B-BBEE.
- 2.3.5.2.1.12 Develop, together with stakeholders, Public Finance Management Principles for Affirmative Procurement and ensure that SOE's and agencies that report to the department adopt them.
- 2.3.5.2.1.13 The measurement of preferential procurement as portrayed in Appendix A will provide a transparent and consistent manner in which enterprises within the public sector are scored. The targets and required recognition levels for suppliers are lenient initially, becoming stricter in later years as the enterprise gains market experience and starts to grow in stature.
- 2.3.5.2.1.14 It is envisaged that the gradual lifting of preferential procurement targets will decrease the probability that enterprises will attempt to circumvent the preferential procurement process and thereby render it ineffective.

2.3.5.3 Criteria and targets:

The preferential procurement element will comprise the following criteria and targets:

- 2.3.5.3.1 Percentage of Total Measured Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels, for which the target will be 60%.
- 2.3.5.3.2 Procurement from B-BBEE Compliant QSEs and EMEs as defined by B-BBEE recognition levels, for which the target will be 15%.

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- 2.3.5.3.3 Percentage of Total Measured Procurement Spend from enterprises that are 50% Black owned based on the B-BBEE Procurement Recognition Levels, for which the target will be 9%.
- 2.3.5.3.4 Percentage of Total Measured Procurement Spend from enterprises that are 30% Black Women-owned based on the B-BBEE Procurement Recognition Levels, for which the target will be 6%.
- 2.3.5.3.5 Bonus Points: Percentage of Total Measured Procurement Spend from enterprises that are owned by Black disabled people based on the B-BBEE Procurement Recognition Levels, for which the target will be 1%.

- 2.3.5.4 Measurement Principles and Application of the Charter**
 - 2.3.5.4.1 Measurement principles associated with the preferential procurement element are contained in Statement 500 of Code 500 of the B-BBEE Generic Codes of Good Practice.
 - 2.3.5.4.2 The formulae required in the determination of the preferential procurement score are contained in Annexure 500 (A) of Statement 500 of Code 500 of the B-BBEE Generic Codes of Good Practice.

- 2.3.6 ENTERPRISE DEVELOPMENT**
 - 2.3.6.1 Guiding Principle**
 - 2.3.6.1.1 The DOT will ensure that best-practice enterprise development programmes are implemented, aimed at uplifting communities by providing them with the tools to become economically active.

 - 2.3.6.2 Criteria and targets:**
 - 2.3.6.2.1 The only criterion applicable here is the average annual value of all qualifying contributions made by the measured entity as discretionary spend with the target set at 1% of discretionary spend is used.

 - 2.3.6.3 Measurement Principles and Application of the Charter**
 - 2.3.6.3.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the B-BBEE Generic Codes of Good Practice.
 - 2.3.6.3.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the B-BBEE Generic Codes of Good Practice.
 - 2.3.6.3.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the B-BBEE Generic Codes of Good Practice.

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3 STATE OWNED ENTERPRISES

3.1 GUIDING PRINCIPLES

Our vision is to maximise the impact on the economy of the SOEs and agencies that report to the DOT and ensure that they continue to implement aggressive transformation policies. The SOEs and agencies will contribute towards economic growth by significantly increasing levels of investment and implementing best practice human resource development (HRD) strategies on a large scale to create a cadre of highly-skilled employees who can raise the productivity of investment in the transport sector and the economy. The restructuring of state assets will proceed in a manner that does not reverse the gains made by SOEs and agencies in areas such as ownership, employment equity, procurement and job creation.

3.2 INDICATORS OF EMPOWERMENT

The SOEs B-BBEE Scorecard has 7 indicators.

3.2.1 Ownership

3.2.1.1 The ownership element comprises of the following criteria and targets:

- 3.2.1.1.1 Exercisable voting rights in the hands of black people, for which the target is 25%+ 1 vote.
- 3.2.1.1.2 Exercisable voting rights in the hands of black women, for which the target will be 10%.
- 3.2.1.1.3 Economic interest in the hands of black people, for which the target is 25% of the economic interest accruing to black people.
- 3.2.1.1.4 Economic interest in the hands of black women, for which the target is 10% of the economic interest accruing to black women.
- 3.2.1.1.5 Economic interest in the hands of black designated groups, for which the target is 3%.

3.2.1.2 Guidelines for selection in the case of a sale of an SOE or a Productive State Asset

- 3.2.1.2.1 According to the Broad-Based Black Economic Empowerment Act (2003), the B-BBEE Codes of Good Practice must be applied when determining qualification criteria for the sale of state-owned enterprises. In line with this stipulation, SOEs will be allocated according to the acquiring company's B-BBEE status as determined by the acquiring company's sector charter. In the absence of a sector charter, the B-BBEE Generic Codes of Good Practice shall be applied.
- 3.2.1.2.2 The ownership requirements stipulated above and contained in the scorecard below will be used in the evaluation of the bidders' ownership status and the appropriate sector Charter where applicable.

3.2.1.3 The Ownership B-BBEE Scorecard of public sector agencies and regulators that report to the DOT will have the following indicators:

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- 3.2.1.3.1 The percentage of economic interest and exercisable voting rights in the hands of black people.
- 3.2.1.3.2 The percentage of economic interest and exercisable voting rights in the hands of black women.
- 3.2.1.3.3 The percentage of economic interest and exercisable voting rights in the hands of black designated groups.
- 3.2.1.3.4 Net Economic Interest held by black shareholders. This is the portion of equity in the hands of black shareholders that is fully paid up. Essentially it is the value of the shareholding, less the outstanding amounts owed by that shareholder to third party funders or the principle entity in which the stake was acquired.
- 3.2.1.3.5 **Ownership fulfilment** (This occurs when black shareholders are free from all financial obligations relating to their share acquisition and own 100% of their stake in the enterprise.)
- 3.2.1.4 Measurement Principles and Application of the Charter**
 - 3.2.1.4.1 Measurement principles associated with the ownership element are contained in Statement 100 of Code 100 of the B-BBEE Generic Codes of Good Practice.
 - 3.2.1.4.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the B-BBEE Generic Codes of Good Practice.
 - 3.2.1.4.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the B-BBEE Generic Codes of Good Practice. The target contained in the ownership element of this Charter will apply.
 - 3.2.1.4.4 The recognition of the equity equivalent programmes for multinationals has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the B-BBEE Generic Codes of Good Practice.
 - 3.2.1.4.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the B-BBEE Generic Codes of Good Practice.
- 3.2.2 MANAGEMENT CONTROL**
 - 3.2.2.1 The measurement principles and the application of the charter are the same as those that are discussed within the Department of Transport guidelines (Section 2.3.2.3), page 6). The management control element will comprise the following criteria and targets:
 - 3.2.2.1.1 The management control element will comprise the following criteria and targets:
 - 3.2.2.1.2 Exercisable voting rights of black board members, for which the target will be 70%.
 - 3.2.2.1.3 Exercisable voting rights of black woman board members, for which the target will be 35%.

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- 3.2.2.1.4 Black Representation at the Executive Director level, for which the target will be 70%.
- 3.2.2.1.5 Black Women Representation at the Executive Director level, for which the target will be 35%.
- 3.2.2.1.6 Black Representation at the Senior Top Management level, for which the target will be 70%.
- 3.2.2.1.7 Black Women Representation at the Senior Top Management level, for which the target will be 35%.
- 3.2.2.1.8 Black Representation at the Other Top Management level, for which the target will be 70%.
- 3.2.2.1.9 Black Women Representation at the Other Top Management level, for which the target will be 35%.
- 3.2.2.1.10 Black Disabled Representation, for which the target will be 1%.

3.2.3 EMPLOYMENT EQUITY

- 3.2.3.1 The measurement principles and the application of the charter are the same as those that are discussed within the Department of Transport guidelines (Section 2.3.3.3, page 8). The employment equity element will comprise the following criteria and targets:
 - 3.2.3.1.1 Black Representation at the Senior Management level, for which the target will be 70%.
 - 3.2.3.1.2 Black Women Representation at the Senior Management level, for which the target will be 35%.
 - 3.2.3.1.3 Black Representation at the Middle Management level, for which the target will be 70%.
 - 3.2.3.1.4 Black Women Representation at the Middle Management level, for which the target will be 35%.
 - 3.2.3.1.5 Black Representation at the Junior Management level, for which the target will be 70%.
 - 3.2.3.1.6 Black Women Representation at the Junior Management level, for which the target will be 35%.
 - 3.2.3.1.7 Black Disabled Representation, for which the target will be 3%.
 - 3.2.3.1.8 Black Women Disabled Representation, for which the target will be 1%.
 - 3.2.3.1.9 Black Women Representation at semi-skilled and unskilled levels, for which the target will be 35%.
 - 3.2.3.1.10 Black Youth Representation, for which the target will be 10%.

3.2.4 SKILLS DEVELOPMENT

- 3.2.4.1 The measurement principles and the application of the charter are the same as those that are discussed within the Department of Transport guidelines (Section 2.3.4.4, page 9). The skills development element will comprise the following criteria and targets:
 - 3.2.4.1.1 Skills Spend on Black employees as a percentage of total payroll, for which the target will be 3%.
 - 3.2.4.1.2 Skills Spend on Black Women employees as a percentage of total payroll, for which the target will be 3%.

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- 3.2.4.1.3 Skills Spend on Black disabled employees as a percentage of total payroll, for which the target will be 0.5%.
- 3.2.4.1.4 Skills Spend on Black Women disabled employees as a percentage of total payroll, for which the target will be 0.25%.
- 3.2.4.1.5 Black employees participating in category B, C & D Learning Programmes as a percentage of the total work force, for which the target will be 5%.
- 3.2.4.1.6 Black Women employees participating in category B, C & D Learning Programmes as a percentage of the total work force, for which the target will be 3%.

3.2.5 PREFERENTIAL PROCUREMENT

- 3.2.5.1 The preferential procurement element will comprise the following criteria and targets:
 - 3.2.5.1.1 The measurement principles are the same as those that are discussed within the department of transport guidelines. The preferential procurement element will comprise the following criteria and targets:
 - 3.2.5.1.2 Percentage of Total Measured Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels, for which the target will be 60%. In addition, procurement from B-BBEE compliant QSEs and EMEs as defined by B-BBEE recognition levels, for which will be 15%.
 - 3.2.5.1.3 Percentage of Total Measured Procurement Spend from enterprises that are 50% Black owned based on the B-BBEE Procurement Recognition Levels, for which the target will be 9%.
 - 3.2.5.1.4 Percentage of Total Measured Procurement Spend from enterprises that are 30% Black Women-owned based on the B-BBEE Procurement Recognition Levels, for which the target will be 6%.
 - 3.2.5.1.5 **Bonus Points:** Percentage of Total Measured Procurement Spend from enterprises that are owned by Black disabled people based on the B-BBEE Procurement Recognition Levels, for which the target will be 1%.

3.2.6 ENTERPRISE DEVELOPMENT

- 3.2.6.1 The measurement principles and the application of the charter are the same as those that are discussed within the Department of Transport guidelines (Section 2.3.6.3, page 12).
- 3.2.6.2 The only criterion applicable here is the average annual value of all qualifying contributions made by the measured entity as a percentage of Net Profit after Tax (NPAT)/discretionary spend (whichever amount is applicable); with the target set at 3% if NPAT is used, or 1% if discretionary spend is used.

3.2.7 SOCIO-ECONOMIC DEVELOPMENT

- 3.2.7.1 The only criterion applicable here is the average annual value of all socio-economic development contributions made by the measured entity as a percentage NPAT/discretionary spend (whichever amount is applicable); with the target set at 1% if NPAT is used, or 3% if discretionary spend is used.

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- 3.2.7.2 Contributions focused on HIV/AIDS, Poverty Alleviations and Social Development will receive enhanced recognition by being multiplied by a factor of 1.25.

3.2.7.3 Measurement Principles and Application of the Charter

- 3.2.7.3.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the B-BBEE Generic Codes of Good Practice.
- 3.2.7.3.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the B-BBEE Generic Codes of Good Practice.
- 3.2.7.3.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the B-BBEE Generic Codes of Good Practice.

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4. PUBLIC SECTOR B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s_1	Public Entities Including SOEs and Agencies Weighting s_2
Ownership	Exercisable voting rights in the hands of black people	N/A	N/A	25% + 1 vote	3	N/A
	Exercisable voting rights in the hands of black women	N/A	N/A	10%	2	N/A
	Economic interest in the hands of black people	N/A	N/A	25%	4	N/A
	Economic interest in the hands of black women	N/A	N/A	10%	2	N/A
	Economic Interest of the following black natural people in the enterprise: -Black designated groups; -Black participants in employee ownership schemes; -Black beneficiaries of broad-based ownership schemes or -Black participants in cooperatives.	N/A	N/A	3%	1	N/A

¹ These are points/weightings allocation in the event of an asset disposal and/or upon restructuring.

² These are points/weightings allocation prior to disposal of assets and/or restructuring

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting S^1	Public Entities Including SOEs and Agencies Weighting S^2
	Net Economic Interest/Net value	N/A	N/A	25%	7	N/A
	Ownership Fulfilment	N/A	N/A	-	1	N/A
	Bonus Points:					
	Involvement in the ownership of the enterprise of Black new entrants	N/A	N/A	10%	2	N/A
	Involvement of Broad Based Schemes, ESOPS, Co-ops	N/A	N/A	10%	1	N/A
	Percentage of total exercisable voting rights in the hands of black board members	N/A	N/A	70%	1.5	1.5
	Percentage of total exercisable voting rights in the hands of black women board members	N/A	N/A	35%	1.5	1.5
	Percentage of black persons who are executive directors	70%	1.5	70%	1	1
	Percentage of black women who are executive directors	35%	1.5	35%	1	1

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s_1	Public Entities Including SOEs and Agencies Weighting s_2
	Percentage of black persons who are Senior Top Management	70%	2	70%	1	1
	Percentage of black women who are Senior Top Management	35%	2	35%	1	1
	Percentage of black persons who are Other Top Management	70%	1	70%	1	1
	Percentage of black women who are Other Top Management	35%	1	35%	1	1
	Percentage of black disabled representation in management	1%	1	1%	1	1
	Bonus Point: Black Independent Non-Executive Board Members	-	-	20%	1	1
Employment Equity	Percentage of Black People in Senior Management	70%	3	70%	2	2
	Percentage of Black Women in Senior Management	35%	2	35%	1	1
	Percentage of Black People in Middle Management	70%	2	70%	2	2

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s_1	Public Entities Including SOEs and Agencies Weighting s_2
	Percentage of Black Women in Middle Management	35%	2	35%	2	2
	Percentage of Black People in Junior Management	70%	2	70%	2	2
	Percentage of Black Women in Junior Management	35%	2	35%	2	2
	Black People living with disabilities as a percentage of all employees	3%	2	3%	1	1
	Black Women living with disabilities as a percentage of all employees	1%	1	1%	1	1
	Black women as percentage of staff below junior management levels	35%	1	35%	1	1
	Black youth as a percentage of all employees	10%	1	10%	1	1
	Bonus point for meeting or exceeding the EAP targets in each category	-	3	-	3	3

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s_1	Public Entities Including SOEs and Agencies Weighting s_2
Skills Development	Skills Spend on black employees as a percentage of total payroll	3%	5	3%	4	5
	Skills Spend on black women employees as a percentage of total payroll					
	Number of black employees in Learnerships, Category B, C, & D Learning Programmes as a percentage of total workforce	3%	5	3%	4	5
	Number of black women employees in Learnerships, Category B, C, & D Learning Programmes as a percentage of total workforce	5%	6	5%	5	6
	Skills Spend on black employees living with disabilities as a percentage of total payroll	3%	6	3%	4	6
	Skills Development on	0.5%	1.5	0.5%	1.5	1.5
		0.25%	1.5	0.25%	1.5	1.5

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s_1	Public Entities Including SOEs and Agencies Weighting s_2
	black women employees with disability as a percentage of total payroll					
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a percentage of Total Procurement spend	60%	12	60%	12	12
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a percentage of Total Procurement spend	15%	10	15%	3	10
	Procurement from 50% Black-Owned as a % of Total Procurement spend	9%	5	9%	3	4
	Procurement from 30% Black Women-Owned Enterprises as a percentage of Total Procurement spend	6%	5	6%	2	4

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B-BBEE Element	Indicators of Empowerment	National & Provincial DOT 3 Year Targets	National & Provincial DOT Weightings	Public Entities including SOEs & Agencies 3 Year Targets	Public Entities Including SOEs and Agencies Weighting s^1	Public Entities Including SOEs and Agencies Weighting s^2
	Bonus Points: Procurement from black people living with disability.	1%	3	1%	3	3
Enterprise Development t	Expenditure on supplier development initiatives as a proportion of total discretionary spend/NPAT	1% of discretionary spend	15	3% of NPAT or 1% of discretionary spend	10	15
Socio-Economic Development t	Expenditure on social development programmes as a percentage of NPAT or discretionary spend	N/A	N/A	1% of NPAT or 1% of discretionary spend	5	5
TOTAL			100		100	

A. Provincial targets are set in consultation with provinces after conducting a status quo assessment of B-BBEE in the Provincial Departments of Transport, Transport being defined as Road Construction, Rail and Road Transport (Infrastructure and Operations, Safety and Traffic).

B. All percentages displayed in the scorecard are minimum targets

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5. APPENDIX A: B-BBEE STATUS FOR ACCREDITATION ON PREFERENTIAL PROCUREMENT

PERIOD	START – 1 YEARS	2-4 YEARS	5 YEARS PLUS
% OF TOTAL PROCUREMENT	Minimum 50%	Minimum 50%	Minimum 70%
COMPULSORY SUB-TARGET FOR THE DIRECT EMPOWERMENT (OWNERSHIP AND MANAGEMENT CONTROL) ELEMENT	34%	40%	44%

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**6. APPENDIX B: ENTERPRISE DEVELOPMENT ENHANCED RECOGNITION
FACTOR MECHANISM**

A. PREAMBLE

In order for the country to realize its full economic potential it has to draw its entire population into the mainstream economy. This encompasses amongst other issues the reduction of unemployment and the eradication of poverty. It has been proven internationally that the development of new enterprises especially in the SMME sector is the best initiative.

B. DEFINITIONS

1. Contributing Enterprise (CE):
This is the organization that is doing the developing and will be claiming the benefit in its charter scorecard in its' economic sector/sub-sector.
2. Beneficiary Enterprise (BE):
This is the relatively new organization that is receiving the mentorship, direction and assistance from the CE
3. Enterprise Development Programme:
This is the internal programme that the CE designs to develop new/existing organizations against which its scorecard points will be measured in terms of its progress against the plan.

C. CATEGORIES

Enterprise development can be separated into four categories viz:

- Category 1: Suppliers – suppliers of equipment, material and the like e.g. stationary, cleaning materials, electronic equipment etc.
- Category 2: Professional service providers – auditing and financial service providers, legal services, services in the built environment (architects, engineering consultants, quality surveyors), etc.
- Category 3: Other service providers – contractors, (building, interior decorators, painting, civil, mechanical), cleaning services and security services.
- Category 4: A special category is necessary for SOEs, provincial and local government for the PPP's. Outsourcing and possible privatisation of certain functions that are still being done within the organization such as: internal bus transport services, internal construction and maintenance units. This category has a short-term duration.

D. FORMULATION OF ENTERPRISES

The beneficiary enterprise must:

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- be a legally registered entity compliant with all the necessary regulations etc.
- the owner/s, shareholders must be employers of at least three other permanently employed personnel and not merely a one person operation.
- it must be a genuine emerging entity with employees and shareholders that lack skills and experience and have a genuine need to be empowered (there should be no window dressing or fronting).

E. ENHANCED RECOGNITION DETERMINATION

This is to be broken up into two components:

1. Determination of enterprise development compliance; and
2. Measurement of development and computing this measure of progress and determining the enhanced recognition factor.

1. Development Compliance

1. Auditors* or an accredited verification agency will measure progress against the plan of development.
2. Auditors* or an accredited verification agency will review the enterprise development documentation
3. Auditors* or an accredited verification agency will interview the DO owner and selected staff to gauge benefits provided and actual development attained by the DO.

*These can be auditors with an accounting/financial background but are not limited to this category of people.

2. Measurement

- 2.1.1 When the above 3 steps are achieved, the auditor can deem that the enterprise development has been attained and that the development programme is compliant.
- 2.1.2 The equation/formula used to convert this achievement into an enhanced recognition is as follows:

2.2 Prerequisites

- 2.2.1 A CE should have a minimum of 2 BEs' that being developed at a time, in order to qualify to receive the enhanced recognition for ED within the scorecard.
 - I. The phase-in period for the CE to develop its development programme and identify its BEs' is 12 months from the date of signature of the Transport Sector Charter.
 - II. BEs should be factored in over 24 months from date of signature to be catering for a minimum of 30% of a CE's discretionary spend increasing to 60% at the end of year 5 from the date of signature of the Transport Sector Charter.

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a) Scoring

- i) The scores derived from the MM for each enterprise in the
- ii) programme are added together and an average is computed.
- iii) If the average is growth rate is less than real GDP growth for the period in question then the CEs will receive a penalty point (i.e. a reduced score with zero as a minimum).
- iv) If the average growth rate is equal to real GDP growth, the CE will be neither penalized nor rewarded.
- v) If the average growth rate exceeds real GDP growth the CE will be rewarded on a sliding scale up to a maximum of multiplier of 1.5.

TABLE 1: MULTIPLICATION OF FACTORS

Average Growth Rate of BE	Multiplication Factor
25% less than real GDP growth annualised	0.75
20% less than real GDP growth annualised	0.80
15% less than real GDP growth annualised	0.85
10% less than real GDP growth annualised	0.90
5% less than real GDP growth annualised	0.95
Equal to real GDP growth annualised	1.0
5% greater than real GDP growth annualised	1.025
10% greater than real GDP growth annualised	1.05
15% greater than real GDP growth annualised	1.075
20% greater than real GDP growth annualised	1.10
25% greater than real GDP growth annualised	1.125

F. CRITERIA FOR COMPLIANCE

For the enterprise development programme to be compliant, it must include the following components:

- 1. Management skills transfer
- 2. Establishment of Administrative systems
- 3. Establishment of cost control systems
- 4. Planning skills transfer
- 5. Business skills transfer
- 6. Technical skills transfer
- 7. Legal compliance skills transfer
- 8. Procurement skills transfer

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9. Establish credit rating/history
10. Establish financial loan capacity/history

G. MEASUREMENT MATRIX (MM)

Item	Criteria	Previous Year	Current Year	% Growth	Weighting	Score
A	FINANCIAL					
1	Annual turnover				20	
2	No. of permanent employees				20	
3	Total value of assets				20	
B	REGULATORY					
4	Total credit facilities available for suppliers				10	
5	Tax & other regulatory compliance				10	
C	OTHER					
6	Operating & costing systems capacity				10	
7.	Skills Transfer				10	

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EXAMPLE

DO I				DO II			DO III	
	% GROWTH	WIEGHTING	SCORE	% GROWTH	WIEGHTING	SCORE	% GROWTH	WI
1	+ 10%	X 20	= 2.0	+ 8%	X 20	= 1.6	+ 12%	X 2
2	+ 33%	X 20	= 6.6	+ 0%	X 20	= 0	+ 66%	X 2
3	+ 6%	X 20	= 1.2	+ 4%	X 20	= 0.8	+ 15%	X 2
4	+ 0%	X 10	= 0	+ 0%	X 10	= 0	+ 0%	X 1
5	+ 15%	X 10	= 1.5	+ 8%	X 10	= 0.8	+ 3%	X 1
6	+ 12%	X 10	= 1.2	+ 4%	X 10	= 0.4	+ 0%	X 1
7	+ 20%	X 10	= 2	+ 5%	X 10	= 0.5	+ 5%	X 1
TOTAL SCORE			14.5				4.1	

$$\text{Average Growth Rate} = \frac{14.5 + 4.1 + 18.9}{3}$$

Assume real GDP growth rate to be 10
= 12.5

12.5 > 10 i.e. Growth Rate Exceeds real GDP growth annualised by 25% ∴ multiplier factor is 1.125

Therefore if these 3 developing organizations together accounted for 15% of the CE discretionary spend in the year in question, out of a total 30% allocated by the CE for charter requirements then the multiplier effect will be $1.125 \times 15 = 16.875$ x [the monetary value of discretionary spend from the entities]
i.e Discretionary spend = R20 million
30% = R6m
16.875% = R1.0125m
15% = R0.9m

$$\text{CEs Scorecard Score} = \frac{\text{R1.0125m}}{\text{R 6m}} = 16.875 \times \text{weighting}$$

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7. APPENDIX C: DEFINITIONS

	DEFINITION
Allowable Exclusions From Total Procurement	Refers to procurement by a measured entity as defined in Code 500 of the Generic Codes of Good Practice gazetted on February 2007 and subsequent amendments.
Broad-Based Black Empowerment	Accordingly, government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black Designated Groups	Means black workers, black unemployed people, black youth, black aged people, black disabled people and black people living in rural areas.
Black-Owned Enterprises	Are those suppliers who are more than 50.1% owned and managed by black people. Ownership refers to economic interest and exercisable voting rights.
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation: (a) Occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or (b) Occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
Black Women-Owned Enterprise	Is one with at least 30% representation of black women within the ownership and management portion. Ownership refers to economic interest and exercisable voting rights.
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers.
Control	Of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders agreement.
Co-Operative Or Collective Enterprise	An autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly – owned enterprise and democratically controlled enterprise.
Direct Empowerment	The process of B-BBEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of black persons ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and

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	DEFINITION
	operational levels, and the assumption of real risk. In this Charter, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments.
Disabled Employees	For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation.
Enterprise Development Ventures	Mean business ventures such as sub-contracting, joint ventures, driver owner schemes, twinning, etc, which involves the development or setting up of business ventures which involves black-owned or black women-owned operators, suppliers and especially black QSEs and EMes.
Executive Management	Means the most senior position in the organisation as well as the overall heads of major divisions or functions (e.g. finance, engineering, operations, human resources etc.) responsible for planning, policymaking and directing of such functions.
Exempted Micro Enterprises (EMEs)	Are enterprises with a turnover of R2 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of the spend.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual / entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process.
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive B-BBEE. A second element of indirect empowerment is enterprise development. This can take two forms: Investment in black-owned and black-empowered enterprises. Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.
Indirect Ownership	Occurs where a company or any other institution owns equity in a company on behalf of beneficiaries and there is no direct participation by the beneficiaries in the voting rights.
Job Creation Target	This is not a payroll tax but refers to a stakeholder commitment to create opportunities for unemployed learners for which there is a tax rebate from government. These employees must account for 5% of the workforce.
Learners	Refers to the people participating in the learnership and other similar programmes.

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Management	Refers to the effective control of economic activities and resources. This involves the power to determine policies as well as the direction of economic activities and resources. Management control measures black representation at board of directors' level and executive management level.
Managerial Or Supervisory Employees	Means employees who are working in supervisory or managerial positions i.e. those who have other employees reporting to them and who are responsible to oversee and supervise subordinates.
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Procurement	Means all expenditure to acquire goods and/or services including capital expenditure, but excluding procurement spending where there is a natural monopoly e.g., water, electricity, telephone, etc. where there is no local supplier or procurement of items of procurement where the supplier is imposed in terms of a global policy for technical (but specifically not commercial) reasons, or inter-entity charges for services rendered by other members of the group, or expenditure classes covered elsewhere in the charter e.g. salaries and wages.
Qualifying Small Enterprises (QSEs)	Are enterprises with an annual turnover of between R20 million and R2 million for the purposes of this Charter. Their B-BBEE status is referenced by their contributor level on the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice.
Scorecard	Means the standard scorecard used by the transport sector.
Skills Development	Refers to all expenditure on skills development; education and training (including the Skills Development Levy) are considered. The actual expenditure on skills development, education and training that has been conducted during the last completed financial year to be used as a basis for the calculation. The total expenditure on skills development, education and training is expressed as a percentage of the total payroll costs. Total payroll costs include all remuneration related expenditure such as basic wages/salaries, overtime, and employment related company contributions.
Social And Community Development Projects	The 1% of NPAT target set is specifically aimed at targeted social development projects or initiatives. Organisations are encouraged to support, develop and invest in targeted community projects such as job creation programmes, HIV/ Aids programmes, study bursaries, programmes or projects for the disabled, occupational health programmes, youth camps, crime prevention programmes, alcohol and drug awareness, and internships are also included. The total expenditure of the organisation on targeted social and community development projects during the last completed financial year are

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	taken into account for this calculation.
Stakeholders	The term stakeholders refer to a range of interest groups within the Transport Sector who directly and indirectly participated in this process. These groups included Government, Industry, Parastatals Agencies, Financial Institutions, Organised Labour, Civil Organisations, Associations, B-BBEE operators, suppliers, SMME's as well individuals.
Total Procurement Spend	Refers to procurement by a measured entity as defined in Code 500 of the Generic Codes of Good Practice gazetted on February 2007 and subsequent amendments.

Definitions of terms and concepts not captured in this Charter are contained in the Codes of Good Practice gazetted on 9 February 2007.

8. APPENDIX D: LEARNING PROGRAMME MATRIX

Category	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
A	Institution-based theoretical instruction alone – formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
B	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
C	Recognised or registered structured experiential learning in the workplace that is required after the	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing

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Category	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
	achievement of a qualification – formally assessed by a statutory occupational or professional body			
D	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning
E	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace and some institutional as well as ABET providers	Credits awarded for registered unit standards
F	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)

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Category	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
		and short courses		
G	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills

9. APPENDIX E: COMMITMENT EVALUATION MATRICES

Employment Equity

Action Undertaken	Input measurement	Output measurement	Quality Control
Embark on an aggressive campaign to market career opportunities within the DOT	Current level of new job applications at the DOT	Report to Steering Committee/Charter Council on the number of new applications to the DOT and statistical information to prove any movement in the number of career seekers	DOT & Steering Committee/Charter Council
Develop creative programmes to retain staff at all levels	Current level of job retention at the DOT	Statistical report on staff retention to Steering Committee/Charter Council	Steering Committee/Charter Council

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Increase our intake of unemployed school-leavers to at least 10% of our staff complement	Current level of in-take of unemployed school-leavers	Progress Report to the Steering Committee/Charter Council on the level of intake of unemployed school-leavers	DOT & Steering Committee/Charter Council
Identify sources of donor funds for skills development	% of training spend that is comprised of donor funds	Annual update to Steering Committee/Charter Council on % of training spend sourced from donor funds	Steering Committee/Charter Council

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Implement effective mentorship and succession planning programmes	Hours spent mentoring employees	Annual updates to Steering Committee/Charter Council on employment progress of mentored employees and new mentoring initiatives	Steering Committee/Charter Council
Constantly evaluate skills gaps within the department and take action to recruit competent staff	Analysis of current skills shortage	Annual updates to Steering Committee/Charter Council, Charter Council on skills shortages	Steering Committee/Charter Council

Preferential Procurement

Action Undertaken	Input measurement	Output measurement	Quality Control
Develop a new B-BBEE procurement policy	Analysis of gaps in current procurement policy	New procurement policy	DOT
Co-ordinate procurement policies and reporting procedures across national and provincial departments and transport sector SOEs and agencies	Report on current co-ordination mechanisms	Report to Steering Committee/Charter Council regarding new and updated co-ordination mechanisms	DOT & Steering Committee/Charter Council
Introduce pre-qualifying criteria B-BBEE for suppliers	Analysis of current pre-qualifying criteria	New procurement pre-qualifying criteria aligned with the requirements of the charter	DOT
Develop best-practice supplier development programmes	Current compliance with targets set out in the charter	Annual Progress Report to Steering Committee/Charter Council on BEE Procurement	DOT & Steering Committee/Charter Council
Constantly evaluate possibility of procurement from black SMMEs	Current level of black SMME procurement	Annual Report on black SMME procurement submitted to Steering Committee/Charter Council	Steering Committee/Charter Council
Develop best-practice technology-based monitoring, evaluation and reporting mechanisms	Evaluation of current procurement management systems	BEE Procurement management system integrated into procurement reporting	DOT

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Overcome constraints to overcome restrictions of PPPFA	Evaluation of constraints imposed by PPPFA	Report on measures taken to overcome PPPFA constraints	DOT
Negotiate B-BBEE Requirements into all new and existing long-term contracts	Current level of supplier B-BBEE Compliance	Annual update on B-BBEE compliance of suppliers	DOT
Maximise leverage and policy influence in the transport sector to drive B-BBEE	Current level of B-BBEE compliance within the sector (baseline study)	Annual update of B-BBEE compliance within the sector submitted to Steering Committee Charter Council	Steering Committee/Charter Council

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DRAFT 3
ALIGNED DRAFT B-BBEE CHARTER – MARITIME TRANSPORT &
SERVICES INDUSTRY SUB SECTOR**



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT 3

**MARITIME TRANSPORT & SERVICES INDUSTRY BROAD-BASED BLACK
ECONOMIC EMPOWERMENT CHARTER**

DRAFT 3 DRAFT B-BBEE CHARTER MARITIME TRANSPORT & SERVICES SUB- SECTOR

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ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
ABET	Adult Basic Education and Training
ABMOSA	Association of Black Maritime Organisation of South Africa
ASGISA	The Accelerated and Shared Growth Initiative of South Africa
BCEA	Basic Conditions of Employment Act
CIPRO	Company Intellectual Property and Registration Organisation
DBSA	Development Bank of South Africa
DOL	Department of Labour
DPE	Department of Public Enterprises
DTI	Department of Trade and Industry
EAP	Economically Active Population
EE	Employment Equity
EEA	Employment Equity Act
EMEs	Exempted Micro Enterprises
GDP	Gross Domestic Product
GDS	Growth and Development Summit
HDSA	Historically Disadvantaged South Africans
IDC	Industrial Development Corporation
JSE	Johannesburg Securities Exchange
JIPSA	The Joint Initiative for Priority Skills
KPI	Key Performance Indicators
MSA	Moving South Africa
MT & SI	Maritime Transport & Services Industry
NDOT	National Department of Transport
NEF	National Empowerment Fund
NEPAD	New Partnership for Africa's Development
NSDS	The National Skills Development Strategy
NSF	National Skills Fund
NPAT	Net Profit After Tax
PIC	Public Investment Commissioners
PIPO	Public Industry Port Operations
PPPFA	Preferential Procurement Policy Framework Act
PSA	Proudly South African
QSEs	Qualifying Small Enterprises
RDP	Reconstruction and Development Programmes
SAMSA	South African Maritime Authority
SATAWU	South African Transport and Allied Workers Union
SETAs	Sector Education and Training Authorities
SMMEs	Small Micro and Medium Enterprises
TEO	The Enterprise Organisation
TETA	Transport Education and Training Authority
TNPA	Transnet National Ports Authority
TPT	Transnet Port Terminals
WSP	Workplace Skills Plan

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1. SCOPE

- 1.1 The Maritime Transport & Services Industry (MT & SI) is often associated with shipping lines involved in the carriage of cargo and associated service providers. More specifically, economic activities in South Africa which share a relationship with the sea include the following:
 - 1.1.1 Enterprises concerned with the marine transport of cargo and services ancillary to such transport;
 - 1.1.2 Enterprises concerned with the manufacture, provision, maintenance and repair of marine equipment, including marine craft;
 - 1.1.3 The commercial ports system and authorities responsible for the provision and operation of navigational aids, including lighthouses;
 - 1.1.4 Institutions concerned with rescue, salvage and anti-pollution operations;
 - 1.1.5 Government departments and agencies concerned with international maritime relations, administration of maritime safety, the protection and conservation of the marine environment and law enforcement within South Africa's offshore jurisdiction; and
 - 1.1.6 Institutions concerned with marine and maritime education, training and resources.
- 1.2 The following activities, which constitute part of the Maritime Transport & Services Industry, broadly defined, **are excluded** for the purposes of developing a Broad-Based Black Economic Empowerment (B-BBEE) Charter, as appropriate policies are formalised for these entities by other Government Departments:
 - 1.2.1 Enterprises concerned with the exploitation of renewable and non-renewable marine resources (Departments of Minerals and Energy and Environment and Tourism, for fishing);
 - 1.2.2 The Marine Tourism Industry (Department of Environment and Tourism); and;
 - 1.2.3 Naval defence (Department of Defence).

2. LONG TERM VISION

2.1 **Overarching long-term vision**

- 2.1.1 Our overarching long-term vision is to develop South Africa to become one of the world's top 35 maritime nations by the year 2014. South Africa's sea-borne trade during this period amounted to approximately 135 million tonnes. This level of trade closely matches some of the countries featuring in the top 35 merchant fleet owners.
- 2.1.2 Our vision is to substantially increase the number of SA flagged vessels and develop new South African shipping companies that are globally competitive, not only in trade between South Africa and the rest of the world. These companies must eventually be able to compete with other merchant navies operating on other lucrative international trade routes, e.g. the Far East and Europe and America.

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2.2 Developing a World Class Industry

- 2.2.1 Our vision is to develop a world-class industry, based on seamless integration of all modes and multiple networks that will grow in size stimulate economic growth and development, facilitate trade, comply with international safety standards and deliver efficient and quality services to customers. Our industry seeks to achieve a significant increase in black participation in ownership, management and employment in companies throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs, most of which are on landside operations.
- 2.2.2 To make this vision become a reality will require a deliberate strategy to increase access to skills, capital and economic opportunities and, therefore, raise the economic value added (or productivity) of every employee and enterprise in the industry. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black entrepreneurs (and the development of existing ones) who can participate in economic opportunities throughout the MT & SI value chain.
- 2.2.3 The signatories to this document believe that every company in South Africa must embrace Broad-Based Black Economic Empowerment (B-BBEE), recognising that it is a constitutional, legislative and economic imperative to secure a prosperous future for all our country's citizens and, therefore, a larger market in which to trade. We commit ourselves to embark on a major communications and marketing campaign that will take this B-BBEE Charter for the Maritime Industry to every company within our industry to ensure maximum participation by all stakeholders.
- 2.2.4 Accordingly, all private sector stakeholders, who commit themselves to this Charter, will agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) verified by an independent B-BBEE verification agency that is accredited by an appropriate verification body.

2.3 Undertakings by all Stakeholders (to achieve this vision):

- 2.3.1 To promote a collaborative relationship with organisations such as Proudly South Africa (PSA) and stakeholders in the mining and liquid fuels industries through the Ship South African Campaign to persuade local cargo owners to increase the cargo carried on South African ships¹ to 25% of the total within the next five years. South African companies, with particular focus on B-BBEE compliant companies, should broker 25% of all cargo handled by brokers within the next five years, subject to review.
- 2.3.2 The new mining and liquid fuels industry leadership should place shipping on the agenda as part of their strategic level discussions on export and import programmes. These industries are well positioned to facilitate the utilisation of black shipping service providers in joint ventures with established companies. What we are calling for is a clear

¹ As defined and amended in the Ships Registration Act. Please refer to Appendix (A) Definitions

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strategy or plan that will result in the bulk of cargo going through South African ports to be carried on South African ships.

- 2.4 National Government Undertakings (to achieve the vision):**
- 2.4.1 Over and above the above, Government is committed towards developing South Africa into a leading maritime nation by adopting a more active stance and increasing its advocacy around maritime matters and the proposed Ship South African Campaign.
 - 2.4.2 Continue to create an environment that is conducive for the country to substantially increase its trade (exports and imports) with the rest of the world. Recognising that the level of trade is the main driver of growth and, therefore, job creation in our industry. Key elements of an enabling environment for trade include: trade promotion; enhancing feeder and inland transport connections; improving the quality of available maritime infrastructure & superstructure and restructuring to ensure reliability and cost effectiveness of port operations.
 - 2.4.3 Resolve legislative and fiscal restrictions, which have a negative impact on the competitiveness of the South African Maritime Industry.
 - 2.4.4 Use its leverage in the industry to incentivise all stakeholders to achieve the objectives of this charter.
 - 2.4.5 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport sector wide and MT & SI B-BBEE Charter processes. Examples of cross-cutting issues that require interventions across government departments and agencies include:
 - 2.4.5.1 The Department of Trade & Industry's (DTI) Maritime Industry Strategy;
 - 2.4.5.2 Discussions with the National Treasury to address fiscal issues e.g. tonnage tax;
 - 2.4.5.3 Department of Foreign Affairs – Free Trade Agreements.
 - 2.4.5.4 The Department of Labour and the Transport Education and Training Authority to monitor compliance with the Employment Equity and Skills Development Act;
 - 2.4.5.5 The countrywide shortage of engineers and artisans across all disciplines; and
 - 2.4.5.6 Increasing awareness within the transport sector about available government investment incentives and grants.
 - 2.4.5.7 Monitoring of stakeholder achievements in terms of the indicators in the MT & SI Scorecard.
 - 2.4.6 Convene a stakeholder forum to investigate the scale of B-BBEE opportunities in the MT & SI. The stakeholder forum will also:
 - 2.4.6.1 Engage public and private funding institutions to highlight opportunities in the sector;
 - 2.4.6.2 Make proposals on financing mechanisms; and
 - 2.4.6.3 Investigate, together with stakeholders in other Transport sub-sectors, the feasibility of setting up a Transport Sector Bank.
 - 2.4.7 Engage public and private sector funding agencies to develop innovative funding mechanisms for B-BBEE compliant or black-owned enterprises seeking to invest in the sector. This will require a high-level workshop with these agencies and major black-owned and B-BBEE

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- compliant companies to inform them about opportunities that will emerge in the MT & SI following the adoption of this charter.
- 2.4.8 Increase awareness among B-BBEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the DTI and The Enterprise Organisation (TEO) and investigate the possibility of motivating for new products that take into account the unique nature of the maritime industry.
- 2.4.9 Ensure that the restructuring of Ports to effect new institutional arrangements and to increase the international competitiveness of ports, port operations and services must proceed in a manner that results in an increase in black participation at all levels – in ownership, management, employment and the procurement of services and goods and to increase the international competitiveness of the ports, port operations and services. The restructuring of port operations must not result in a reversal of B-BBEE gains made by the Transnet National Ports Authority (TNPA) and Transnet Port Terminals (TPT). Public sector contributions to B-BBEE will be measured against the Public Sector Charter and Scorecard contained in the integrated Transport Charter.
- 2.4.10 Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment Equity, Skills Development and Competition Acts.
- 2.4.11 Publish an annual report on B-BBEE within the MT & SI that consolidates various reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry B-BBEE Forum.
- 2.5 Labour Undertakings (to achieve this vision):**
- 2.5.1 Encourage employers to first look towards their own employees when considering options for achieving black equity participation.
- 2.5.2 Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage companies in the industry.
- 2.5.3 Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
- 2.5.4 Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts. Non-complying companies must be reported to the Transport Sector B-BBEE Council to take further action by inspecting the causes for non-compliance and reviewing performance targets as necessary.
- 2.5.5 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.
- 2.5.6 Monitor the impact of procurement/outsourcing on job creation and report findings to the Transport Sector B-BBEE Forum and MT & SI Steering Committee.

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2.6 TETA undertakings (to achieve this vision):

- 2.6.1 Play a more interventionist role to influence training priorities in the Maritime Chamber.
- 2.6.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender.
- 2.6.3 Continuously conduct analysis and update statistics about the future demand of critical skills sets and the supply side of the equation.
- 2.6.4 Continuously conduct an analysis of the quantity, quality and nature of MT & SI training that companies are doing.
- 2.6.5 Commit to this B-BBEE Charter and strive to achieve the targets set (where applicable) as per the indicators (Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development) in the B-BBEE Scorecard both internally and with specific reference to service providers.
- 2.6.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Charter.

3. INDICATORS OF EMPOWERMENT

- 3.1 This "Broad-Based BEE Charter for the Maritime Transport & Services Industry seeks to encourage all stakeholders to pursue transformation agenda according to the broad guidelines set out in the BEE National Strategy and B-BBEE Act 53 of 2003. It is also necessary to set different targets and timeframes for the public and private industry because the two are at different stages of the transformation process.

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.2 Ownership

3.2.1 **Guiding Principle**

- 3.2.1.1 We commit to increase black participation across the entire spectrum of the domestic MT & SI value chain in ownership, management control and operational involvement and design appropriate funding mechanisms to facilitate the process. The ownership component will be measured against the exercisable voting rights and the economic interest that the black equity participants are entitled to.
- 3.2.1.2 This principle is linked to the long-term strategy of growing the domestic Maritime Transport & Services Industry so as to ensure that B-BBEE does not become a zero-sum game.
- 3.2.1.3 The ownership contribution by enterprises in the MT & SI refers to direct ownership and is specifically aimed at any enterprise that has a MT & SI domestic asset base. There is also a need to measure the level of net economic interest that is possessed by the black equity

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participants. Net economic interest is the unencumbered equity stake that the black shareholders hold.

3.2.2 Foreign Ownership

- 3.2.2.1 Foreign companies, which have an asset base in South Africa, will implement B-BBEE strategies in accordance with the guidelines provided by this Charter. They will be encouraged to sell equity in their local operations.
- 3.2.2.2 The standard ownership target and measurement methods outlined below will apply as long as there is non-existence of the global practice that disallows the sale of equity to local investors. If such a global policy can be evidenced, the company that holds the asset will be encouraged to contribute to ownership by making an application to the DTI for the implementation of an Equity Equivalent Programme.
- 3.2.2.3 Multinationals should give the necessary attention to the creation and development of black owned and controlled enterprises within the MT&SI. The beneficiary enterprises of such programmes should have black people having more than 50% of economic interest and voting rights and/or black women having more than 30% of the economic interest and voting rights.
- 3.2.2.4 Other programmes that can be supported through the Equity Equivalent programmes are such that they are supportive of the following programmes:
 - 3.2.2.4.1 The Accelerated and Shared Growth Initiative of South Africa (ASGISA);
 - 3.2.2.4.2 The Joint Initiative for Priority Skills (JIPSA); and
 - 3.2.2.4.3 The National Skills Development Strategy (NSDS).
- 3.2.2.5 Equity Equivalent Programmes may also take the form of socio-economic development initiatives, particularly with reference to companies that have ownership structures where more than 50% of the economic interest and exercisable voting rights in the hands of black people, and/or more than 30% of the economic interest and exercisable voting rights are in the hands of black black-women. Or black people who are rural-dwellers, youth, unemployed or disabled own more than 50% of the economic interest and exercisable voting rights.
- 3.2.2.6 Companies that choose to include enterprise development or socio-economic development initiatives as Equity Equivalent Programmes will not be able to earn points for those initiatives under any other element on the B-BBEE Scorecard of the Charter.
- 3.2.2.7 The value of the contributions, measured against the value of the domestic asset or South African operations, using a standard valuation method, will be used to calculate the equivalency percentage and this will be applied to the stated targets for ownership in order to score points for ownership.
- 3.2.2.8 Ownership fulfilment will occur once the black equity participants are free from any third party financial obligations relating to the share acquisition as well as any financial obligations to the principle entity.

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3.2.3 The Private Industry commits to:

- 3.2.3.1 Broaden the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people and 10% is earmarked for black women;
- 3.2.3.2 25% +1 vote voting rights, or equivalent thereof, are in black hands, with a minimum of 10% earmarked for black women;
- 3.2.3.3 A minimum of 3% for black people who are rural-dwellers, youth, unemployed or living with disabilities, within the next 5 years. The first option will be extended towards employees when considering options for achieving this ownership target; and
- 3.2.3.4 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
- 3.2.3.5 For Qualifying Small Enterprises (QSEs) as defined in this charter will also commit to:
 - 3.2.3.5.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people
 - 3.2.3.5.2 25% +1 vote voting rights, or equivalent thereof, are in black hands,
 - 3.2.3.5.3 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.

3.2.4 Funding Mechanisms

- 3.2.4.1 Facilitate through creative financing mechanisms the acquisition of equity in their operations by B-BBEE companies so as to ensure the sustainability of the investment by black shareholders and to maximise their net economic interest.
- 3.2.4.2 Increase awareness about the industry amongst the traditional banking institutions as well as Public Financing Institutions.

3.2.5 Measuring Principles and the Application of the Charter

- 3.2.5.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Charter will apply.
- 3.2.5.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.

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3.2.5.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

3.3 Management Control

3.3.1 Guiding Principle

3.3.1.1 Our guiding principle is to increase the participation of black people on MT & SI company boards and similar governing structures to create decision-making structures that truly represent the racial, ethnic and gender diversity of our country. This involves the promotion of the appointment of black people to board of directors, executive positions, and top management positions. The appointment of black women to these positions is an integral part of this guiding principle. The industry will be transparent, endeavour to eliminate unscrupulous business practices including misrepresentation and fraud, and adopt best-practice corporate governance policies as outlined in the King II report.

3.3.2 The Private Industry commits to:

3.3.2.1 Recruit onto their boards and similar governing structures black directors (who do not necessarily own equity) to reach a target of at least 50% within 5 years.

50% of these targets, which is equal to 25% of the total for both number of black women directors with exercisable voting rights.

3.3.2.2 Recruit onto their boards black directors to constitute 50% of executive directors.

25% of the number of black executive directors should be earmarked for black women.

3.3.2.3 Recruit into senior top management structures in enterprises black people such that a target of 40% of the total number of senior top management positions, such as a Chief Executive Officer, Chief Financial Officer or Chief Investment Officer, will be occupied by black people.

3.3.2.4 20% of senior top management positions should be earmarked for black women.

3.3.2.5 Recruit into other top management structures in enterprises black people such that a target of 40% of the total number of other senior top management positions, such as a Marketing Director/Manager, Human Resources Director/Manager, IT Director/Manager.

3.3.2.6 20% of other top management positions (e.g. Divisional managers) should be earmarked for black women.

3.3.2.7 Endeavour to recruit black people living with disability at management levels, where they should constitute 3% of total executive management.

3.3.2.8 If the measured entity does not differentiate between senior top management and other top management; senior top management and the other top management can be collapsed into one indicator-top management. The target remains 40%, and the weighting will be the sum of the senior top management and other top management weighting.

3.3.2.9 QSEs within the sector commits to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.

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- 3.3.2.10 Recruiting black women at Top Management level; where they should constitute 25% of all such positions.
- 3.3.3 Measurement Principles and the Application of the Charter**
- 3.3.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.3.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
- 3.3.3.3 Measurement principles needed for the application of the charter with regards to the management control element for QSEs are contained in statement 802, Code 800, of the Generic Codes of Good Practice.
- 3.4 Employment Equity**
- 3.4.1 Guiding Principle**
- 3.4.1.1 Our principle is to increase the participation of black people in senior management, middle management and junior management in the Maritime Transport & Services Industry to create a workforce that truly represents the racial, ethnic and gender diversity of our country.
- 3.4.1.2 This will require that all stakeholders create a supportive culture within their organisations to be an 'Employer of Choice', attract new talent, facilitate the development of existing employees, and accelerate their progress into key positions within the industry.
- 3.4.2 Private Industry commits to:**
- 3.4.2.1 Increase the representation of black people in senior management positions so that a minimum of 60% of people at this level are black within 5 years. 50% of the 60% should be black women.
- 3.4.2.2. Increase the representation of black people in middle management positions so that a minimum of 75% of people at this level are black within 5 years. 50% of the 75% should be black women.
- 3.4.2.3 Increase the representation of black people in junior management positions so that a minimum of 80% of people at this level are black within 5 years. 50% of the 80% should be black women.
- 3.4.2.4 Increase the representation of black people living with disabilities in the workforce of the enterprise so that a minimum of 3% of people at this level are black living with disabilities within 5 years. 50% of the of the 3% should be black women.
- 3.4.2.5 If the measured entity does not differentiate between top management and senior management, the top management indicator can be collapsed into the senior management. The senior management target – 60% will apply and the target will be the weighting will be the sum of the top management target and senior management weighting.
- 3.4.2.6 Measured entities falling within the QSE threshold commit 40% of all management staff is black within 5 years. 50% of the 40% should be earmarked for black women.
- 3.4.2.7 QSE within this sector commit to all 60% of all staff should be black within the 5 years. 30% of all positions should be occupied by black women within 5 years.

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- 3.4.2.8 Ensure total compliance with the Employment Equity Act (EE Act), presenting accurate figures and statistics on EE to the Department of Labour (DoL). These targets will set in the EE Plans within the set period. Due regard should be paid to the composition of the Economically Active Population (EAP) figures published by Stats SA from time to time. These figures serve as targets for the composition of the workforce of enterprises. Any enterprise which does not evidence compliance with the EE Act will be deemed not to comply with the EE element of the MT &SI B-BBEE Charter
- 3.4.3 TETA commits to:**
- 3.4.3.1 Play a significant role in monitoring and supporting stakeholders to meet their EE targets. This role will be reported on by the Charter Steering Committee on an annual basis.
- 3.4.4 Labour Standards**
- 3.4.4.1 Guiding Principle**
- 3.4.4.1.1 Our guiding principle is to develop an industry that is characterised by fair labour practices.
- 3.4.5 All Stakeholders commit to:**
- 3.4.5.1 Implement fair labour practices across the board in line with the requirements of the Basic Conditions of Employment Act, the Employment Equity Act and the Skills Development Act. Seafarers employed by South African owners and operators will be afforded the same rights as other workers.
- 3.4.5.1 Ensure non-discrimination against employees living with HIV/AIDS and allocate funds and resources towards initiatives aimed at HIV/AIDS education, counselling and treatment in maritime communities in conjunction with international best practices.
- 3.4.6 Measurement Principles and the Application of the Charter**
- 3.4.6.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.
- 3.4.6.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.
- 3.4.6.3 Measurement principles for the determination of the Employment Equity score for QSE are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.
- 3.5 Skills Development**
- 3.5.1 Guiding Principle**
- 3.5.1.1 Our vision is to substantially increase the economic value added (or productivity) of every employee in the Maritime Transport & Services

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Industry through best practice human resource and skills development policies and to increase the scale of initiatives aimed at developing black professionals and technical experts. This will be facilitated by training black people, including black women and black people living with disabilities.

3.5.2 Private Industry undertakes to:

- 3.5.2.1 Invest at least 5% of payroll or the leviable amount (whichever is applicable) on skills development initiatives within the next 5 years. The target is inclusive of all associated costs and the current 1% skills development levy. Fifty percent - 50% of the beneficiaries of these initiatives should be black women.
- 3.5.2.2 Invest at least 0.5% of payroll on skills development initiatives for black people living with disabilities, over and above the 1% skills levy within the next 5 years. 50% of the beneficiaries of these initiatives should be black women living with disabilities. Black employees having participated in Learnerships or Category B, C or D programmes being 5% of the total employees - 50% of the beneficiaries of these initiatives should be black women.
- 3.5.2.3 Identify within and outside their companies a talent pool of black people for accelerated development through:
 - 3.5.2.3.1 International assignments that provide high-quality operational and managerial exposure, where appropriate;
 - 3.5.2.3.2 Mentorship programmes;
 - 3.5.2.3.3 Learnerships;
 - 3.5.2.3.4 Intra-industry exchange and internship programmes; and
 - 3.5.2.3.5 Higher education and training.
- 3.5.2.4 Measured entities qualifying as QSEs to invest 2% of the leviable or payroll whichever is applicable on skills development expenditure on learning programmes for black employees. 50% of this amount to be spend on learning programmes for black women employees.

3.5.3 TETA commits to:

- 3.5.3.1 Conduct research to identify scarce management (generic) and professional (maritime-specific) skills that the industry will require over the next decade and map out future demand-supply scenarios in the detailed skills audit.
- 3.5.3.2 Conduct research on the supply side of the skills development equation i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the Maritime Transport & Services Industry.
- 3.5.3.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships, in management, technical and professional occupational categories, to help public and private sector organisations to achieve their employment equity targets.

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- 3.5.3.4 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category. Also, to monitor the industry's progress in meeting its targets and publish an annual report on the EE Profile of the industry according to occupational level and category.
- 3.5.3.5 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in the identified areas.
- 3.5.3.6 Together with the South African Maritime and Safety Authority (SAMSA), continuously benchmark training programmes against international best practice.
- 3.5.3.7 Expand the number of learnerships available based on the sector's skills requirements identified in the sector skills plan and the demands of the industry.
- 3.5.3.8 Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants. This would entail streamlining processes and developing user-friendly procedures that encourage companies to participate in learnership programmes.

- 3.5.4 Measurement Principles and the Application of the Charter**
- 3.5.4.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.
- 3.5.4.4 The Learning Programme Matrix: Annexure 400 (A) of statement Code 400 the Generic Codes of Good Practice will apply.

- 3.6 Preferential Procurement**
- 3.6.1 Guiding Principle**
- 3.6.1.1 Our guiding principle is to accelerate procurement from black-owned and B-BBEE compliant enterprises, thus creating opportunities for the establishment of new enterprises and the development of existing ones that will grow the industry and create jobs.

- 3.6.2 The Private Industry commits to:**
- 3.6.2.1 Commission, together with other stakeholders, a study to establish current levels of procurement from B-BBEE companies and identify areas where they can achieve "quick wins" to accelerate B-BBEE. The research report will be discussed by the Charter Council and communicated to relevant stakeholders.
- 3.6.2.2 Procure a minimum 70% of total procurement spend from B-BBEE compliant suppliers, as defined by the B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice, within the next 5 years.

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- 3.6.2.3 Procure at least 15% of total procurement spend from B-BBEE Compliant QSEs and EMEs within the next 5 years. The B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice will define the level of recognition of each Rand spent.
- 3.6.2.4 Procure a minimum of 12% of total procurement spend from 50% black owned suppliers.
- 3.6.2.5 Procure a minimum of 8% of total procurement spend from 30% black women-owned enterprises within the next 5 years.
- 3.6.2.6 QSEs within this subsector commit to procuring a minimum of 40% of total procurement from B-BBEE compliant suppliers.
- 3.6.2.7 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector B-BBEE Council.

3.6.3 Measurement Principles and the Application of the Charter

- 3.6.3.1 Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.2 Pass through third party procurement for a third party or a client that is recorded as an expense in the third party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements will be excluded. In this regard, only the commission portion paid to agents will be recorded as under procurement.
- 3.6.3.3 Maritime related services however will be included within total procurement spend. These include, but are not limited to:
 - 3.6.3.3.1 Chandelling; and
 - 3.6.3.3.2 Tallying.
- 3.6.3.4 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.5 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.

3.7 Enterprise Development

3.7.1 Guiding Principle

- 3.7.1.1 Our principal objective is to help set up, nurture and grow viable B-BBEE enterprises in the Maritime Transport & Services Industry that are majority-owned by black operators while developing existing companies. We aspire to increase investment in black-owned and empowered enterprises as a proportion of net asset value.

3.7.2 Private Industry commits to:

- 3.7.2.1 Pro-actively seek opportunities to enter into creative joint ventures, provide discounts, give preferential credit terms and other forms of support, with B-BBEE compliant and black-owned enterprises

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- 3.7.2.2 Facilitate the development of new enterprises by the sharing of knowledge and expertise with beneficiary entities, which will be B-BBEE compliant or black owned enterprises.
- 3.7.2.3 Aspire to contribute to enterprise development which amount to 3% of net profit after tax (NPAT) evaluated annually over the next 5 years.
- 3.7.2.4 QSEs within this subsector aspire to make contributions to enterprise development, which will amount to 2% of NPAT evaluated annually over the next 5 years.

- 3.7.3 TETA commits to:**
- 3.7.3.1 Develop training programmes specifically designed for entrepreneurs in the Maritime Transport & Services Industry. The Charter Council will monitor the progress of this commitment. The number of successful entrepreneurs that have undergone training under the TETA accredited programmes will measure the success, over time.

- 3.7.4 Measurement Principles and the Application of the Charter**
- 3.7.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this subsector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.

- 3.7.5 Sector Specific Targets**
- 3.7.5.1 Job Creation - Guiding Principle**
- 3.7.5.1.1 There has been significant growth in the container and bulk industry over the past decade with huge increases in volumes of imports and exports, but the growth in these areas of trade has not been accompanied by a similar increase in employment. Our vision is to ensure the retention and creation of quality jobs.
- 3.7.5.1.2 The guiding principle for job creation shall be related to growth in the overall South African economy, industrial production and enterprise development. To this end a certain percentage in economic growth should at least create a significant number of jobs in our Industry.

- 3.7.5.2 All Stakeholders therefore commit to:**
- 3.7.5.2.1 Supporting any ED initiatives that will lead to job creation. Any enterprise development contributions leading to the creation of jobs will be enhanced by a factor of 1.25

- 3.8 Socio-Economic Development**

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3.8.1 Guiding Principle

- 3.8.1.1 The maritime industry is well placed to make a contribution towards the development of local communities. Our aim is to increase the impact of companies within the MT& SI value chain on local communities. The beneficiaries of such projects must be 75% black people.

3.8.2 All Stakeholders commit to:

- 3.8.2.1 Participate in social development projects as identified by historically disadvantaged employees, which can include HIV/AIDS treatment and prevention, education, community development and maritime awareness.
- 3.8.2.2 Spending 1% of NPAT for the private sector on the social development projects articulated in the above guiding principle.
- 3.8.2.3 QSEs within this sector contributing a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.
- 3.8.2.4 Social development contributions leading in the following key focus areas will be enhanced by a factor of 1.25. The key focus areas are:
- 3.8.2.4.1 HIV Aids Programmes;
- 3.8.2.4.2 Education;
- 3.8.2.4.3 Community Development; and
- 3.8.2.4.4 Maritime Awareness.

3.8.3 Maritime Awareness - Guiding Principle

- 3.8.3.1 Given the lack of awareness about the impact and contribution of the Maritime Transport & Services Industry in our economy, it becomes an imperative to embark on a comprehensive Maritime awareness campaign.

3.8.3.2 All Stakeholders commit to:

- 3.8.3.2.1 Develop an industry-wide awareness campaign to showcase the MT & SI and its interrelated activities and demonstrate its impact on the economy through facilitating trade, economic growth and development, B-BBEE and job creation.
- 3.8.3.2.2 The awareness campaign should target all South Africans, the African region as well as the international community. Targeted campaigns to be spearheaded at government departments (Department of Trade and Industry, Department of Transport and National Treasury), schools, tertiary institutions and financial Institutions.
- 3.8.3.2.3 SAMSA's mandate is to promote South Africa's maritime interests.

3.8.4 Measurement Principles and the Application of the Charter

- 3.8.4.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.4.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.

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- 3.8.4.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.4.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this subsector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

4. MARITIME TRANSPORT & SERVICES INDUSTRY B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
Foreign Ownership: <u>Provide evidence of a global practice against selling equity to locals in investee countries</u>	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation; OR	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR	20
	4% of Total Revenue from its South African operations annually over the period of continued measurement Equity Equivalence	4% of Total Revenue from its South African operations annually over the period of continued measurement 20	
Ownership	Exercisable voting rights in the hands of black people	25% + 1 vote	3
	Exercisable voting rights in the hands of black women	10%	2
	Economic Interest in the hands of black people	25%	4
	Economic Interest in the hands of black women	10%	2
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	3%	1
	Net Economic Interest/Net value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	7
	Ownership Fulfillment		1

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Bonus points:		
	Involvement in the ownership of the Enterprises of black new entrants:	10%	2
	Involvement in the ownership of the Enterprises of black Participants: ESOPS, Broad-Based Ownership schemes; Co-operatives	10%	1
Management	% of total exercisable voting rights in the hands of black board members	50%	1.5
	% of total exercisable voting rights in the hands of black-women board members	25%	1.5
	% Black persons who are executive directors	50%	1
	% Black women who are executive directors	25%	1
	% of black people who hold senior top management positions	40%	1.5
	% of black women who hold senior top management positions	20%	1.5
	% of black people who hold other top management positions	40%	1
	% of black women who hold other top management positions	20%	1
	Bonus Point: Black Independent Non-Executive Board Members	40%	1
	Bonus points: Percentage of black people living with disability as a percentage of total management	3%	1
Employment Equity	% Black People in Senior Management	60%	3
	% Black Women in Senior Management	30%	2
	% Black People in Middle Management	75%	2

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	% Black Women in Middle Management	38%	2
	% Black People in Junior Management	80%	2
	% Black Women in Junior Management	40%	2
	Black People living with disabilities as a % of all employees	3%	1
	Black Women living with disabilities as a % of all employees	1.5%	1
	Bonus Points: Meeting or exceeding EAP Targets in each category of employment equity	-	3
Skills Development	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Employees as a percentage of leviable amount	5%	3.5
	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Women Employees as a percentage of leviable amount	2.5%	3.5
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black employees with disabilities	0.5%	1.5
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black women employees with disabilities	0.25%	1.5
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	5%	2.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	2.5%	2.5
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a % of discretionary spend	70%	12
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a % of Total Measurable Spend	15%	3
	Procurement from 50% Black-Owned as a % of Total Measured Procurement Spend	12%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	8%	2
Enterprise Development	Expenditure on supplier development initiatives as a % of NPAT	3% NPAT	15
Socio-Economic Development	Expenditure on social development programmes as a % of NPAT	1% of NPAT	5
Total			100

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5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of black people	25% + 1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points:		
	Ownership fulfilment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points:		
	Involvement in the ownership of the Enterprise by black women	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black Women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points for meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	2%	12.5
	Skills Development spend on learning programmes for black women employees as a percentage of the leviable/payroll	1%	12.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	2% of NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	25
TOTAL			175

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

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APPENDIX A: DEFINITIONS

	DEFINITION
Broad-Based Black Empowerment	Accordingly, government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation
Black-Owned Enterprise	Is an enterprise where a minimum of 50,1% of the enterprise is owned by black persons. Ownership refers to economic interest and exercisable voting rights
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers
Control	Of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders' agreement
Co-Operative Or Collective Enterprise	Is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly - owned enterprise and democratically controlled enterprise.
Development	Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives. It also includes but not limited to the facilitation provided by established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models.
Direct Empowerment	Is the process of B-BBEE must result in an increase in the ownership rights and management control of the economy by black persons. This means that a significant portion of black people's ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and operational levels, and the assumption of real risk. In this MT & SI scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments
Disabled Employees	For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental impairment, which substantially historically limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation
Exempted	These are enterprises with a turnover of R5 million or less for the

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SECTOR**

	DEFINITION
Micro Enterprises	purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of the spend.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual / entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process
Growth	Relates to the National Economic Growth, Industry Growth as well as Enterprise Development growth
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive B-BBEE. A second element of indirect empowerment is enterprise development. This can take two forms: Investment in black-owned and black-empowered enterprises. Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers
Job Creation	Refers to the creation of opportunities for ongoing permanent employment.
Learners	Refers to the people participating in the learnership and other similar programmes
Leviable Amount	Has the same meaning as contained in the Skills Development Act.
Net Asset Value	Within the context of this Charter this term refers to Total Asset less Liabilities.
Net Economic Interest	Is the percentage of the shareholding by black shareholders that is unencumbered by any financial obligations to third parties or to the principle company in which the stake is held.
Non-Discretionary Spend	Refers to all commodities and services were organisations have no option but to procure from companies (exports, water and electricity, rates and taxes, telephone etc).
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Qualifying Small Enterprises (QSEs)	These re enterprises with an annual turnover of between R35 million and R5 million for the purposes of this Charter. Their B-BBEE status is referenced by their contributor level on the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice.
Stakeholders	Refers to a range of interest groups within the Maritime Transport & Services Industry who directly and indirectly participated in this process. These groups included Government, Private Industry, Parastatals, Agencies, Financial Institutions (Private and Public),

DRAFT 3 DRAFT B-BBEE CHARTER MARITIME TRANSPORT & SERVICES SUB- SECTOR

	DEFINITION
	Organised Labour, Civil Society Associations, B-BBEE operators, suppliers, SMME's as well as individuals.
South African Ship	A South African ship refers to a South African owned ship - small vessels, other than fishing vessels that are: Wholly owned by South African residents or South African nationals; or operated solely by South African residents or South African nationals or both such residents and nationals; and, ships on bareboat charter to South African nationals. Therefore South African ships does not and should not necessarily refer only to South African registered ships only, nor ships flying the SA flag.
TETA	Refers to the Maritime Chamber, Forwarding and Clearing as well as the Freight Handling Chamber.

Definitions of terms and concepts not captured in this Charter are contained in the Codes of Good Practice gazetted on 9 February 2007.

APPENDIX B: COMMITMENT EVALUATION MATRIX

This is an example of a matrix that will be used by this Charter to measure the commitments by stakeholders to the Charter. This matrix represents commitments to Skills Development made by TETA.

Action Undertaken	Input measurement	Output measurement	Quality Control
Conduct research to identify scarce skills	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Charter Council
Conduct research on the supply side of the skills development equation	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Charter Council
Introduce new categories of learnerships	Money spent on research as a % of total discretionary funds	Report to Steering Committee/Council on the number of new learnership categories introduced and accredited as a % of the number of new categories identified	TETA & Charter Council
Collect and publish detailed and aggregated statistics on the EE profile of the industry	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Charter Council
Assist in unlocking the funds from the National Skills Fund	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding unlocked as a % of total funds required to address learnership needs in the Maritime Sector	Charter Council

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Continuously benchmark training programmes against international best practice	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	SAMSA & Charter Council
Expand the number of learnerships available based on the sector's skills requirements	Number of new learnership categories introduced and accredited as a % of the number of new categories identified	Number of learners in initiated learnerships as a % of total skills required in each category	TETA & Charter Council
Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding available as a % of total funds required to address learnership needs in the Maritime Sector	TETA & Charter Council

ALIGNED B-BBEE CHARTER – FORWARDING & CLEARING SUB-SECTOR



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT 3

**FORWARDING AND CLEARING SUB-SECTOR BROAD-BASED BLACK ECONOMIC
EMPOWERMENT CHARTER**

ALIGNED B-BBEE CHARTER – FORWARDING & CLEARING SUB-SECTOR

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ALIGNED B-BBEE CHARTER – FORWARDING & CLEARING SUB-SECTOR

ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
ABET	Adult Basic Education and Training
DOL	Department of Labour
DOT	Department of Transport
DTI	Department of Trade and Industry
EE	Employment Equity
EMEs	Exempted Micro Enterprises
FET	Further Education and Training
F&C	Forwarding and Clearing
FIATA	Federation Internationale des Associations de Transitaires et Assimiles
GDS	Growth and Development Summit
NEPAD	New Partnership for Africa's Development
NSF	National Skills Fund
PSA	Proudly South African
QSEs	Qualifying Small Enterprises
SARS	South African Revenue Services
TEO	The Enterprise Organisation
TETA	Transport Education and Training Authority
TNPA	Transnet National Ports Authority
TPT	Transnet Port Terminals

1. **SCOPE**

- 1.1 The Forwarding & Clearing (F&C) Industry comprises of economic activities that relate to all imports and exports conducted in respect of goods entering or leaving South Africa as well as those transiting this country. It excludes importers and exporters whose core activity is not clearing and forwarding.
- 1.2 Thus, the F&C Industry serves as an input to every other industry in the National economy as well as many of those across South African borders. In addition cognisance is taken of the fact that the F&C Industry is a complex one, which involves various activities including freight management and supply chain logistics.
- 1.3 The F&C Industry is associated with all modes of transport that might be involved in the carriage of cargo as well as, service providers such as warehouses and transit sheds and the associated management of data.
- 1.4 The F&C Industry works closely with Governmental and parastatal Institutions such as SARS, the Department of Trade & Industry (DTI), the Department of Transport (DOT) and Port Authorities.

2. **LONG TERM VISION**

2.1. **Overarching long-term vision**

- 2.1.1 The long-term vision is, through encouraging education and training and the promotion of life-long learning, develop the Industry so that all participants are able to compete, nationally and internationally, with the best in the world.

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- 2.1.2 Part of the vision is to develop South African owned forwarding and clearing multi-national companies wherever possible.
- 2.1.3 The South African F&C Industry is well positioned to make this vision a reality and craft a broader contribution towards regional development in line with the ideals of the New Partnership for Africa's Development (NEPAD).
- 2.2. Developing a World Class Industry**
 - 2.2.1 Our vision is to develop a world-class industry based on seamless integration of all transport modes and multiple transport networks, which will grow in size, stimulate South Africa's economic growth and development, and facilitate trade whilst complying with international safety standards and delivering efficient, quality services to customers. Our industry will achieve a significant increase in black participation throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs.
 - 2.2.2 To make this vision a reality, will require a deliberate strategy to increase access to skills, capital and economic opportunities and, therefore raise the economic value added (or productivity) of every employee and enterprise in the industry. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black entrepreneurs (and the development of existing ones) who can participate in economic opportunities throughout the logistics value chain.
 - 2.2.3 We, the signatories to this document, believe that every company in South Africa should embrace Broad-Based Black Economic Empowerment (B-BBEE) voluntarily, recognising that it is a social and economic imperative to secure a prosperous future for all our country's citizens and, therefore, a larger market in which to trade. We commit ourselves to embark on a major communications and marketing campaign that will take this "Broad-Based BEE Charter for the F&C Industry" to every company to ensure maximum participation by all stakeholders.
 - 2.2.4 Accordingly, all stakeholders commit themselves to this Charter agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) rated by an independent B-BBEE rating/verification company that is accredited by the relevant recognised body.
 - 2.2.5 We commit ourselves to good corporate governance principles and the elimination of fronting in our industry. Accordingly, we will play an active role in instituting measures for monitoring, identifying and eradicating fronting.
- 2.3. Undertakings by all Stakeholders (to achieve this vision)**
 - 2.3.1 To form collaborative relationships with organisations such as Proudly South Africa (PSA), Department of Trade and Industry (DTI) and other stakeholders and promote the economic benefits of utilising and growing Broad-Based Black Economic Empowerment compliant freight forwarding companies.

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2.4. National Government undertakings (to achieve the vision)

- 2.4.1 To continue to create an environment that is conducive for the country to substantially increase trade with the rest of the world, since the level of trade is the main driver of growth and, therefore, job creation in our industry. Key elements of an enabling environment for trade include: trade promotion; enhancing feeder and inland transport connections; reducing costs of data transfer; improving the quality of available maritime infrastructure & superstructure and restructuring to ensure reliability and cost effectiveness of railway and port operations.
- 2.4.2 Resolve legislative and fiscal restrictions, which have a negative impact on the competitiveness of South Africa and ensure a level playing field for all companies¹.
- 2.4.3 Use its leverage in the industry to incentivise all stakeholders to achieve the objectives of this charter.
- 2.4.4 Demonstrate its commitment towards developing South Africa into a leading trading nation by adopting a more harmonised approach between its various departments and parastatal institutions. This will require the setting up of structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport sector wide, and supply chain processes. Examples of crosscutting issues that require interventions across government departments and agencies include:
 - 2.4.4.1 The DTI's Export incentives;
 - 2.4.4.2 National Treasury, and South African Revenue Services (SARS);
 - 2.4.4.3 Department of Foreign Affairs – Free Trade Agreements;
 - 2.4.4.4 Increasing awareness within the transport sector about available government investment incentives and grants;
 - 2.4.4.5 Engage public and private funding institutions to highlight opportunities in the sector;
 - 2.4.4.6 Make proposals on financing mechanisms; and
 - 2.4.4.7 Investigate, together with other stakeholders in other Transport sub-sectors, the feasibility of setting up a Transport Sector Bank.
- 2.4.5 Engage public and private sector funding agencies to develop innovative funding mechanisms for B-BBEE companies seeking to invest in the sector. This will require a high-level workshop with these agencies and major B-BBEE companies to inform them about opportunities that will emerge in the transport industry, including the F&C industry, following the adoption of this charter.
- 2.4.6 Increase awareness among B-BBEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the DTI's The Enterprise Organisation (TEO) and investigate the possibility of motivating for new products that take into account the unique nature of the F & C industry.
- 2.4.7 Enforce and monitor compliance with existing legislation that may impact B-BBEE such as the Employment Equity, Skills Development and Competition Acts.

¹ An example include the issue of small suppliers who are deemed as employees for personal tax purposes

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- 2.4.8 Ensure that government departments are focused and sensitised on the importance of customer care and relations. This will require enhanced training and education for officials in relevant government departments.
- 2.4.9 Assist stakeholders with analysis of the number of people in particular skills set (or job category) broken down by race, gender and people living with disability.
- 2.4.10 Publish an annual report on B-BBEE and job creation within the F&C industry that consolidates various reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry B-BBEE Forum.

2.5. Labour Undertakings (to achieve this vision)

- 2.5.1 Investigate opportunities to establish collective investment vehicles that will make investments in the sector. These investment vehicles will ensure empowerment of the workers both directly and in partnerships with other stakeholders in relation to skills for ownership and management of companies.
- 2.5.2 Ensure that workers are empowered by upgrading their skills base and creating opportunities to deploy them into management positions as well as participating in creative employee share ownership schemes.
- 2.5.3 Labour should mobilise members to ensure compliance and understanding of existing legislation e.g. the employment equity, skills development, labour relations and basic conditions of employment acts. Companies that do not comply must be reported to the Transport Sector B-BBEE Council to take further action.
- 2.5.4 Labour will mobilise members to identify companies who fail to implement this agreed F&C industry B-BBEE charter and report them to Transport Sector B-BBEE Council to take further action.
- 2.5.5 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.

2.6 TETA undertakings (to achieve this vision)

- 2.6.1 Play a more interventionist role to influence training priorities in the F&C Chamber. Assist stakeholders with analysis of the number of people in a particular skills set (or job category) broken down by race, gender and people living with disability.
- 2.6.2 Continuously conduct analysis and update statistics about the future demand and supply of critical skills sets.
- 2.6.3 Continuously analyse the quantity, quality and nature of F&C training that companies are doing.
- 2.6.4 Commit to this B-BBEE Charter and strive to achieve the targets set (where applicable) as per the indicators in the balanced scorecard both internally and with specific reference to service providers.

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- 2.6.5 Align its mission and vision with the imperatives of B-BBEE and assist with the provisioning of relevant B-BBEE data that will be key for the implementation and monitoring of this strategy.
- 2.6.6 Enable the achievement of the education and training objectives of this charter, without unnecessary bureaucratic impediments.
- 2.6.7 The signatories of this charter are of the view that the sector should endeavour to facilitate the realisation of these commitments by monitoring contributions to B-BBEE. The evaluation of these contributions should be conducted through an Evaluation Matrix provided in Appendix B.

3. INDICATORS OF EMPOWERMENT

This Broad-Based B-BBEE Charter for the F&C Industry seeks to encourage all stakeholders to pursue a transformation agenda according to the broad guidelines set out in the BEE National Strategy and B-BBEE Act 53 Of 2003. It is necessary to set different targets and timeframes for the public and private industry as well, because the two are at different stages of the transformation process.

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.1 Ownership

3.1.1 **Vision**

- 3.1.1.1 Our vision is to achieve significant black ownership, management control and operational involvement throughout the F&C industry. We recognise the high degree of knowledge in both local and international legislation as well as conditions that will be required in order to achieve this and commit ourselves to identifying opportunities for promoting the necessary skills development.

3.1.2 **Guiding Principles**

- 3.1.2.1 This principle is linked to the long-term strategy of growing the domestic F&C Industry so as to ensure that B-BBEE does not become a zero-sum game. Ownership is broken down into foreign ownership and South African ownership.
- 3.1.2.2 The ownership target set is specifically aimed at the South African F&C Industry.
- 3.1.2.3 With regard to foreign ownership, foreign companies, with local representation, will implement B-BBEE strategies, according to the guidelines provided by the F&C Charter. They will be encouraged to sell

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equity in their local operations. However, foreign companies that are unable to sell equity in their local operations should consider using the Equity Equivalent guidelines provided in the Code 100 of the B-BBEE Codes of Good Practice and set off increased achievements in this regard against the ownership requirement.

3.1.3 Stakeholder Undertakings

3.1.3.1 Foreign Ownership Market Commits to:

3.1.3.1.1 Seek opportunities to sell equity to Black shareholders or participate in Equity Equivalent programmes approved by the Minister.

3.1.3.2 The Local Based Market Commits to:

3.1.3.2.1 Seek opportunities to broaden the ownership base of their companies and ensure that within the next 5 years at least black shareholders hold 25+1% of voting rights, with 10% of the voting rights held by black women.

3.1.3.2.2 25% of the economic interest accrues to black shareholders in the form of both voting rights and economic interest, with a minimum of 10% earmarked for black women.

3.1.3.2.3 3% is for black designated groups, which includes black people living with disabilities.

3.1.3.2.4 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years.

3.1.3.2.5 Qualifying Small Enterprises (QSEs) as defined in this charter also commit to:

3.1.3.2.5.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people;

3.1.3.2.5.2 25% +1 vote voting rights, or equivalent thereof, are in black hands; and

3.1.3.2.5.3 Ensure that the net economic interest of the black equity participants is 60% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.

3.1.4 Government Commits to:

3.1.4.1 Facilitate means of funding the various B-BBEE initiatives that will enable Blacks, Black women and Black disabled persons to purchase the ownership stake proposed in this Charter.

3.1.5 Funding Mechanisms

3.1.5.1 All stakeholders commit to:

3.1.5.1.1 Facilitate through creative financing mechanisms, the acquisition of equity in their operations by Black shareholders.

3.1.5.1.2 Creating awareness about F & C Industry amongst the traditional banking institutions as well as Public Financing Institutions.

3.1.6 Measurement Principles and the Application of the Charter

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- 3.1.6.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.2 The formulae required in the determination of the ownership score are contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Charter will apply.
- 3.1.6.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

3.2 Management Control

3.2.1 Guiding Principle

- 3.2.1.1 Our guiding principle is to increase the participation of black people on F&C Industry company boards and similar governing structures to create decision-making structures that truly represent the racial and gender diversity of our country. The industry will be transparent, eliminate unscrupulous business practices including fronting, and adopt best-practice corporate governance policies as outlined in the King II report.

3.2.2 Stakeholder undertakings

- 3.2.2.1 Private Industry Commits to:
 - 3.2.2.1.1 Under normal circumstances, black ownership will be accompanied with an equal level of management control. Private industry, however, commits to a total black representation of 50% at the board level and a black women representation of 25% at the board level.
 - 3.2.2.1.2 Black people will occupy 50% of executive directors, while black women will occupy 25% of executive directors.
 - 3.2.2.1.3 Black people will also occupy 40% of senior top management, while black women will occupy 20% of senior top management.
 - 3.2.2.1.4 Private industry further commits to a black representation of 40% at other top management and black women representation of 20% at other top management.
 - 3.2.2.1.5 QSEs within the sector commit to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.

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- 3.2.2.1.6 QSEs within this sector commit to recruiting black women at Top Management level; where they should constitute 25% of total Top Management, which is a bonus point sub-element.

3.2.3 Measurement Principles and the application of the Charter

- 3.2.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.

- 3.2.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.

- 3.2.3.3 Measurement principles needed for the application of the charter with regards to the management control element for QSEs are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.

3.3 Employment Equity

3.3.1. Guiding Principle

- 3.3.1.1 Our principle is to increase the participation of black people in management, professional and technical occupations in the F&C Industry to create a workforce that truly represents the racial and gender diversity of our country.

- 3.3.1.2 Compliance with the Employment Equity (EE) Act, and presentation of accurate figures and statistics on EE to the Department of Labour (DoL) within the spirit of this Charter.

3.3.2. Private Industry commits to:

3.3.2.1 Private industry undertakes to achieve within FIVE years:

- 3.3.2.1.1 45% representation of black people in senior management and a 23% representation of black women in senior management.

- 3.3.2.1.2 63% representation of black people in middle management and a 32% representation of black women in middle management.

- 3.3.2.1.3 68% representation of black people in junior management and a 34% representation of black women in junior management.

- 3.3.2.1.4 2% representation of black disabled people throughout the measured entity and 50% of this will be black women.

- 3.3.2.1.5 Measured entities falling within the QSEs threshold commit that 40% of all management staff is black within 5 years. 50% of these positions should be earmarked for black women.

- 3.3.2.5.1 QSEs within this sector commit that 60% of all staff should be black within the 5 years. Black women should occupy 30% of all positions within 5 years.

3.3.2.2 Private industry undertakes to achieve within TEN years:

- 3.3.2.2.1 60% representation of black people in senior management and a 30% representation of black women in senior management.

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- 3.3.2.2.2 75% representation of black people in middle management and a 38% representation of black women in middle management.
- 3.3.2.2.3 80% representation of black people in junior management and a 40% representation of black women in junior management.
- 3.3.2.2.4 3% representation of black disabled people throughout the measured entity.
- 3.3.2.2.5 Points will only be awarded for employment equity once a minimum of 40% of the specific target has been achieved.
- 3.3.2.2.6 Measured entities falling within the QSEs threshold commit to 60% of all management staff is black within 5 years; 50% of these positions should be earmarked for black women.
- 3.3.2.2.6.1 QSEs within this sector commit to all 70% of all staff should be black within the 5 years. 35% of all positions should be occupied by black women within 5 years
- 3.3.2.2.7 An understanding that the 10 year targets stated above may be subject to change as a result of a revision of the Charter in 5 years from its inception.

3.3.3 Measurement Principles and the Application of the Charter

- 3.3.3.2 Measurement principles on the employment equity element is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.
- 3.3.3.3 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.
- 3.3.3.4 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

3.3.4 Government commits to:

- 3.3.4.1 Ensuring that the Department of Labour plays a significant role in monitoring and supporting stakeholders in meeting their EE targets.
- 3.3.4.2 Ensure that through the DOL will, in compliance with the EE Act, collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category by race. The department will also monitor the industry's progress in meeting its targets and publish an annual report on the EE Profile of the industry according to occupational level and category.

3.4 Skills Development

3.4.1 Guiding Principle

- 3.4.1.1 Our vision is to substantially increase the economic value added (or productivity) of every employee in the F&C Industry through best practice Human Resource and Skills Development policies and increase the scale of initiatives aimed at developing black professionals and technical experts.

3.4.2 Stakeholder Undertakings

3.4.2.1 Government Commits to:

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- 3.4.2.1.1 Design and fund a co-ordinated framework and programme for career awareness and training that leverages off and adds value to existing initiatives. The awareness programme will publicise and co-ordinate information regarding scholarships, training resources and careers in the industry. Other stakeholders will be encouraged to contribute towards the cost of this initiative.
- 3.4.2.2 Private Industry Commits to:**
- 3.4.2.2.1 Invest at least 3% of the leviable amount on skills development initiatives, which are directed at black employees. The Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The B-BBEE Codes of Good Practice should guide these initiatives.
- 3.4.2.2.2 Invest at least 1.5% of the leviable amount on skills development initiatives (Over and above the current 1% skills development levy and associated costs) directed at black women employees. The Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The B-BBEE Codes of Good Practice should guide these initiatives.
- 3.4.2.2.3 Ensure that black employees participating in learnerships or category B, C and D programmes as a percentage of total employees: who have been enrolled in Accredited Training Programmes as identified in the Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of the Codes of Good Practice, comprise 5% of the total work force.
- 3.4.2.2.4 Ensure that black women participating in learnerships or category B, C and D programmes as a percentage of total employees: who have been enrolled in Accredited Training Programmes as identified in the Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The Codes of Good Practice, comprise 2.5% of the total number of employees.
- 3.4.2.2.5 Ensure that 0.3% of skills development expenditure is on learning programmes specified in the learning programme matrix for black people with disabilities. 0.15% of skills development should be directed to black women with disabilities.
- 3.4.2.2.6 QSEs within this sub-sector commit to invest a minimum of 3% of the leviable amount or payroll (whichever is applicable) on skills development spend on learning programmes for black people.
- 3.4.3 In addition, the Private Industry Commits to:**
- 3.4.3.1 Identify within and outside their companies a talent pool of black people for accelerated development through the following options:
- 3.4.3.2 International, regional or local assignments that provide high-quality operational and managerial exposure;
- 3.4.3.3 Job rotation and multi-skilling programmes;
- 3.4.3.4 Coaching and mentorship programmes;
- 3.4.3.5 Learnership and internship programmes;
- 3.4.3.6 Further Education and Training (FET);
- 3.4.3.7 Skills programmes;
- 3.4.3.8 Temporary placement of unemployed learners;

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- 3.4.3.9 Provision of Adult Basic Education and Training and other lifeskill training; and
- 3.4.3.10 Intra-industry exchange programmes, where feasible.
- 3.4.3.11 The costs associated with the implementation of the above Skills Development interventions include both direct and associated indirect costs.

3.4.4 TETA Commits to:

- 3.4.4.1 Conduct research to Identify scarce management (generic) and professional (F&C specific) skills that the industry will require over the next decade and map out future demand and supply scenarios in the detailed skills audit.
- 3.4.4.2 Conduct research on the supply side of the skills development equation—i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the Forwarding and Clearing Industry.
- 3.4.4.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships - in management, technical and professional occupational categories - to help stakeholders achieve their employment equity targets.
- 3.4.4.4 Assist in unlocking funds from the National Skills Fund (NSF) for Management and Learnership Programmes in identified areas.
- 3.4.4.5 Together with the Federation Internationale des Associations de Transitaires et Assimiles (FIATA), continuously benchmark training programmes against international best practice.

3.4.5 Measurement Principles and the Application of the Charter

- 3.4.5.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.4.5.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.4.5.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 805 of Code 800 of the Generic Code of Good Practice.

3.5 PREFERENTIAL PROCUREMENT

3.5.1 Guiding Principle

Our principle is to accelerate procurement from black-owned and/or, empowered enterprises and/or good contributors to B-BBEE with the main objective of growing existing or emerging entrepreneurs to produce value-

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added goods and services for the industry and increase employment as well as allowing for the creation of new businesses

3.5.2 Stakeholder undertakings

3.5.2.1 Government Commits to:

3.5.2.1.1 Government departments, state-owned enterprises, and other public agencies will align their own procurement practices to this Charter when procuring goods and services from the F&C sub-sector. In particular, government will apply B-BBEE criteria, as set out in this Charter whenever it:

- 3.5.2.1.1.1 Grants a licence to engage in a specific regulated economic activity;
- 3.5.2.1.1.2 Grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state;
- 3.5.2.1.1.3 Enters into a public-private partnership; and
- 3.5.2.1.1.4 Engages in any economic activity.

3.5.2.2 Private Industry Commits to:

- 3.5.2.2.1 Procure at least 50% of total measurable procurement spend from B-BBEE suppliers based on their recognition levels within the next 5 years and 70% of total measurable procurement from B-BBEE suppliers based on their recognition levels within the next 10 years.
- 3.5.2.2.2 Procure at least 10% of total measurable procurement from QSEs and EMEs in the next 5 years and 15% over 10 years.
- 3.5.2.2.3 Procure at least 9% of total measurable procurement from 50% black-owned and 6% of the total measurable procurement should be from the 30% black women-owned enterprises over the next 5 years. Procure at least 20% of total measurable procurement from 50% black-owned and 30% black women-owned enterprises over the next 10 years.
- 3.5.2.2.4 QSEs within this sub-sector commit to procuring a minimum of 40% of total procurement from B-BBEE compliant suppliers over the next 5 years and 50% over the next 10 years.
- 3.5.2.2.5 Adopt and customise the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector B-BBEE Council, as specifically agreed by the F&C sub-sector stakeholders and signatories to this Charter.
- 3.5.2.2.6 An understanding that the 10 year targets stated above may be subject to change as a result of a revision of the Charter 5 years from its inception.
- 3.5.2.2.7 Recognising that a consolidation of invoices may be recognised as a single "invoice" in terms of the measurement principles of Statement 500 of the B-BBEE Codes of Good Practice.

3.5.3 Measurement Principles and the Application of the Charter

- 3.5.3.1 Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.

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- 3.5.3.2 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.5.3.3 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.6 ENTEPRISE DEVELOPMENT**
- 3.6.1 Guiding Principle**
- 3.6.1.1 Our principle objective is to help set up, and/or nurture and grow viable enterprises that are black-owned or black empowered, to service the F&C Industry. We aspire to increase investment in black-owned and empowered enterprises as a proportion of net profit after tax (NPAT).
- 3.6.1.2 In achievement of the principle objective above, the signatories to this Charter declare that they are opposed to the concept of fronting, as defined in this Charter.
- 3.6.2 Stakeholder undertakings**
- 3.6.2.1 Private Industry Commits to:**
- 3.6.2.1.1 Pro-actively seek opportunities to enter into joint ventures (and other forms of alliances) and make direct investments in black owned or black empowered enterprises as defined in Enterprise Development below. To be valid, such initiatives and ventures must pass the “dominant impression” test indicated in Appendix C.
- 3.6.2.1.2 Progress will be measured by calculating the value of such investments as a percentage of the NPAT of the investing enterprise. The target is to achieve at least 3% for black owned companies and at least 1.5% for black women-owned companies.
- 3.6.2.1.3 QSEs within this subsector aspire to make contributions to enterprise development which will amount to 3% of NPAT evaluated annually over the next 5 years.
- 3.6.3 TETA Commits to:**
- 3.6.3.1 Develop training programmes specifically designed for entrepreneurs in the F&C Industry.
- 3.6.4 Measurement Principles and the Application of the Charter**
- 3.6.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.6.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.6.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.6.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice

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3.7 SOCIO-ECONOMIC DEVELOPMENT

3.7.1 Guiding Principle

3.7.1.1 Individual companies will implement socio-economic development programmes in line with their corporate values.

3.7.2 All Stakeholders commit to:

3.7.2.1 Invest at least 1% of NPAT in social development programmes. Expenditure on programmes that address the following socio-economic interventions that will be sector designed which will be enhanced by a factor of 1.25:

- 3.7.2.1.1 HIV/AIDS,
- 3.7.2.1.2 Busarries,
- 3.7.2.1.3 Poverty alleviation; and
- 3.7.2.1.4 F&C industry awareness.

3.7.2.2 QSEs within this sub-sector will contribute a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.

3.7.3 Awareness Campaign

3.7.3.1 Guiding Principle

3.7.3.1.1 Given the lack of awareness about the impact and contribution of the Forwarding and Clearing Industry in our economy, it becomes imperative to embark on an awareness campaign.

3.7.3.2 Stakeholder undertakings

3.7.3.2.1 Develop an industry specific awareness campaign to showcase the F&C Industry and its interrelated activities and demonstrate its impact on the economy through facilitating trade, economic growth and development, B-BBEE and job creation.

3.7.3.2.2 The awareness campaign should target all South Africans, the African region as well as the international community. Targeted campaigns are to be spearheaded at Government Departments – Department of Finance, Department of Trade and Industry, Department of Transport, National Treasury and at schools, tertiary Institutions and financial Institutions.

3.7.4 Labour Standards

3.7.4.1 Guiding Principle

Our guiding principle is to develop an industry that is characterised by stability and fair labour practices.

3.7.4.2 All Stakeholders Commit to:

Implement fair labour practices across the board in line with the requirements of labour legislation.

3.7.5 Measurement Principles and the Application of the Charter

3.7.5.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.

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- 3.7.5.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.7.5.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.7.5.4 Measurement principles required in evaluating socio economic development contributions made by QSEs within this sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

4. FORWARDING & CLEARING B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
Foreign Ownership Provide evidence of a global practice against selling equity to locals in investee countries	Equity equivalent programmes approved by the line minister of the transport sector. N.B: Contributions toward these programmes are measured as actual contributions made using the general principles outlined in statement 600 and statement 700 of the Codes of Good Practice.	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR 4% of Total Revenue from its South African operations annually over the period of continued measurement	20
Local Based Operations	Economic interest in the hands of Black people	25%	4
	Economic interest in the hands of Black Women	10%	2
	Exercisable voting rights in the hands of Black people	25%+1 vote	3
	Exercisable voting rights in the hands of Black Women	10%	2
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	3%	1
	Net Economic Interest/Net value	25% graduated over 10 years as per the Codes (year 5 at 60%)	7
	Ownership fulfilment		1

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B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
	Bonus points: Economic interest in the hands of black disabled people	2%	2
	Bonus points: Involvement in the ownership of the Enterprise of Black new entrants.	10%	1
	Bonus points: Involvement in the ownership of the Enterprise of Black participants in:	10%	1
	Employee Ownership Schemes		
	Broad-Based Ownership Schemes		
	Co-operatives		
Management	Exercisable voting rights of Black board members.	50%	1.5
	Exercisable voting rights of Black Women board members.	25%	1.5
	Black persons who are executive directors	50%	1
	Black women who are executive directors	25%	1
	Black senior top management	40%	1.5
	Black Women senior top management	20%	1.5
	Black other top management	40%	1
	Black Women other top management	20%	1
	Bonus point: Black Independent non-Executive Board Members	40%	1
Employment Equity	Black employees in senior management	45%	2
	Black Women employees in senior management	23%	1
	Black employees in middle management	63%	2
	Black Women employees in middle management	32%	1
	Black employees junior management	68%	2
	Black Women employees in junior management	34%	1
	Black people living with disabilities	2%	0.5
	Black Women living with disabilities	1%	0.5

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B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
	Bonus Points: Meeting or exceeding the EAP Targets in each category of employment equity	-	3
Skills Development	Black skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount.	3%	5
	Black Women skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount.	1.5%	5
	Number of Black employees participating in Learnerships or category B, C, D programmes as percentage of total employees.	5%	4
	Number of Black Women employees participating in Learnerships or category B, C, D programmes as percentage of total employees.	2.5%	2
	Black People with Disability skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount	0.3%	2
	Black Women with Disability skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount	0.15%	2
Preferential Procurement	Procurement spend from all suppliers based on recognition levels as percentage of total measured procurement spend.	50%	12
	Procurement spend from QSE's and EME's based on recognition levels as percentage of total measured procurement spend.	10%	3

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B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
	Procurement from 50% Black-Owned as a % of Total Procurement spend	9%	3
	Procurement from 30% Black Women-Owned Enterprises as a percentage of Total Procurement spend	6%	2
Enterprise Development	Investment in the Black-owned enterprises	3% of NPAT	10
	Investment in the Black Women-owned enterprises	1.5% of NPAT (i.e half of the target for contributions to black-owned enterprises)	5
Socio-economic Development	Expenditure on social development programmes as a % of NPAT. N.B: Enhanced recognition shall be awarded for contributions towards the following causes: <ul style="list-style-type: none"> ○ HIV/AIDS ○ Bursaries ○ Poverty alleviation ○ F&C industry awareness 	1% NPAT	5

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5. Forwarding and Clearing Qualifying Small Enterprises Scorecard

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of of black people	25%+1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points		
	Ownership fulfillment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points		
	Involvement in the ownership of the Enterprise by black women	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points: meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	3%	12.5
	Skills Development spend on learning programmes for black women employees as a percentage of the leviable/payroll	1.5%	12.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	3% NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% NPAT	25
TOTAL			175

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

6. APPENDIX A: DEFINITIONS

	DEFINITION
Broad-Based Black Empowerment	As per the Broad Based Black Economic Empowerment Act, 2003. Accordingly, government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black Empowered Enterprise	Is one that is at least 25.1% owned by black persons and where there is substantial management control
Black Enterprise	Is one that is 50,1% owned by black persons and where there is substantial management control.
Black-Owned Enterprise	Is an enterprise where a minimum of 50,1% of the enterprise is owned by black persons. Ownership refers to economic interest and exercisable voting rights
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation: (a) Occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or (b) Occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers.
Control	Of a business entity can be achieved in a number of ways a) a

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	DEFINITION
	majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders agreement.
Co-Operative Or Collective Enterprise'	Is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly – owned enterprise and democratically controlled enterprise.
Direct Empowerment	The process of B-BBEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of black persons ownership of assets and enterprises must be a direct interest, reflecting genuine participation in decision making at board level and the [H1] assumption of real risk. In this F&C scorecard, direct empowerment focuses on ownership in enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments.
Direct Ownership	Where a flow of economic benefits and voting rights can be traced back – via intermediate holding structures if necessary – to black persons, and/or black enterprises and/or community/broad based enterprises and/or black trade union investments.
Enterprise Development	Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives, transfer of management skills, guidance, advice and consultancy services. It also includes but not limited to the facilitation provided by an established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models. Also refer to Appendix B 'Enterprise Development Definition' for a comprehensive description. (Subject to the "Dominant Impression test").
Exempted Micro Enterprises	These are enterprises with a turnover of R5 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of the spend
Foreign-owned Enterprise	A commercial undertaking or business where the majority (greater than 50%) of shareholding is held beyond the borders of the Republic of South Africa.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual / entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication.
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, Preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive BEE. A second element of indirect empowerment is enterprise development. This can take two forms: -Investment in black owned and black empowered enterprises. -Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers
Learnership	As per the Skills Development Act
Leviable Amount	Has the same meaning as that contained in the Skills Development Act.

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	DEFINITION
Locally-owned Enterprise	A commercial undertaking or business where 50% or more of shareholding is held within the borders of the Republic of South Africa.
Management	Refers to the effective control of economic activities and resources. This involves the power to determine policies as well as the direction of economic activities and resources. Management control measures black representation at board of directors' level and executive management level.
Net Asset Value	Within the context of this Charter this term refers to Total Assets less liability excluding inter-company loans and shareholder funding.
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Qualifying Small Enterprises	These re enterprises with an annual turnover of between R35 million and R5 million for the purposes of this Charter. Their B-BBEE status is referenced by their contributor level on the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice.
Skills Development	Refers to all expenditure on Black skills development; education and training (including the Skills Development Levy) are considered. The actual expenditure on Black skills development, education and training that has been conducted during the last completed financial year to be used as a basis for the calculation. The total expenditure on Black skills development, education and training is expressed as a percentage of the total payroll costs. Total payroll costs include all remuneration related expenditure such as basic wages/salaries, overtime, and employment related company contributions.
TETA	Refers to the F & C Chamber of the Transport SETA.
Total Measured Procurement	It has the same meaning as that contained in section 5 of statement 500 as reflected in the Codes of Good Practice (gazetted on 9 February 2007). Exclusions from this amount are noted in section 6 of statement 500.
Turnover	In the context of this Charter, turnover means total billings less all VAT, customs payments and other disbursements.

Definitions of terms and concepts not captured in this Charter are contained in the Codes of Good Practice gazetted on 9 February 2007.

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7. APPENDIX B: COMMITMENT EVALUATION MATRICES

Ownership

Action Undertaken	Input measurement	Output measurement	Quality Control
Establish funding mechanisms for the purchasing of shares by black people.	Money spent on research as a % of total discretionary funds	Research report submitted to Steering Committee/Charter Council on details and feasibility of funding mechanisms.	Steering Committee/Charter Council
Creating awareness of the F&C industry amongst the traditional banking institutions as well as Public Financing Institutions.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee/Charter Council on attendance at awareness campaigns.	Steering Committee/Charter Council

Employment Equity

Action Undertaken	Input measurement	Output measurement	Quality Control
Department of Labor to ensure that employment equity targets are met.	Money spent on research survey as a % of total discretionary funds	Assessment Report on employment equity targets for black people within the industry.	TETA & Steering Committee/Charter Council

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Increasing awareness regarding scholarships, training resources and careers in the industry.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee/Charter Council on attendance at awareness campaigns.	TETA & Steering Committee/Charter Council
Facilitate high quality training of black people through learnership, internship and mentorship programmes.	Money spent on skills development as a % of total discretionary funds	Assessment Report on skills of black people within the industry.	TETA & Steering Committee/Charter Council
Implement skills audit to identify management, professional and technical skills that will be required over	Money spent on research as a % of total discretionary funds	Analysis and forecasts to be presented to Steering Committee/Charter Council and TETA.	TETA & Steering Committee/Charter Council

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the next decade.			
Continuously benchmark training programmes against international best practice.	Money spent on gap analysis as a % of total discretionary funds	Research report submitted to Steering Committee/Charter Council on details of gap analysis and suggestions on how the problem can be alleviated.	TETA & Steering Committee/Charter Council

Preferential Procurement

Action Undertaken	Input measurement	Output measurement	Quality Control
Ensure that uniform accounting practices regarding preferential procurement are adopted by public sector agencies.	Money spent on research as a % of total discretionary funds	Assessment Report on accounting practices regarding preferential procurement submitted to Steering Committee/Charter Council.	Steering Committee/Charter Council

Enterprise Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Create joint ventures with and invest directly in black owned enterprises.	Annex 600A (Benefit Factor Matrix) of the Codes shall apply	Report to Steering Committee on improvement (percentage change) in new entities created.	Steering Committee/Charter Council

Socio-economic Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Facilitate access to finance and grants to improve participation in skills programmes.	Money spent on developing appropriate financial mechanisms as a % of total discretionary funds	Report to Steering Committee/Charter Council on the percentage and type of financial mechanisms used to finance skills programmes.	TETA & Steering Committee/Charter Council

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Develop awareness campaign to demonstrate the economic growth and development, B-BBEE and job creation aspects within the industry.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee on attendance at awareness campaigns.	TETA & Steering Committee/Charter Council
Implement labour practices in line with labour legislation.	Money spent on awareness campaigns and legal and administrative fees as a % of total discretionary funds	Report to Steering Committee/Charter Council on adherence to labour legislation.	Steering Committee/Charter Council

8. APPENDIX C: DOMINANT IMPRESSION TEST FOR F&C OPERATOR

1. **Step 1:** Establish the claimed functionality and approximate claimed volumes of the enterprise, which claims to be an F&C operator.
2. **Step 2:** Determine whether the claimed functionality is sufficient to qualify the enterprise as an F&C operator rather than being a sales or marketing agent for another operator. If the answer is no, the enterprise is a front.
3. **Step 3:** Determine whether the staffing structure, numbers and skills profile is roughly in accordance via industry norms with the claimed functionality and volumes. If the answer is no, the enterprise is a front.
4. **Step 4:** If steps 2 and 3 are successfully passed the enterprise is not a front.
5. **Step 5:** As an exception to the above; if the enterprise is the result of an enterprise development initiative undertaken by an F&C operator and if additionally, that enterprise is within the first 24 months of its existence and is working in terms of an explicit, auditable programme of skills transfer which will render it fully functional and operationally independent of its F&C shareholder within the 24 months mentioned above, then partial reliance on skills from its F&C shareholder within the said 24 months period shall not constitute fronting as defined, provided that within the said 24 months the enterprise shall not sub-contract to its F&C shareholder.

**CONFIDENTIAL
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ALIGNED DRAFT B-BBEE CHARTER - RAIL SUB-SECTOR**



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

DRAFT

**RAIL SUB-SECTOR BROAD-BASED BLACK ECONOMIC EMPOWERMENT
CHARTER**

DRAFT B-BBEE CHARTER RAIL SUB-SECTOR

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1. **SCOPE**

- 1.1 The scope of this charter extends to the entire rail industry value chain. The key players are the state-owned operators and infrastructure companies.
- 1.2 However, the challenge is for these companies to use their purchasing power to drive the transformation of the entire rail industry value chain, including manufacturers, suppliers' consultants and maintenance companies.
- 1.3 The charter will also have an impact on other sectors of the economy that are not rail specific, for example, general services.

2. **VISION**

2.1 **Overarching Vision**

- 2.1.1 Our overarching vision is to develop a world-class rail industry that will grow in size, stimulate economic growth and development, facilitate trade, comply with safety standards agreed with the Railway Safety Regulator (RSR) Act 16 of 2002. In addition deliver efficient and quality services to customers, and achieve a significant increase in black participation in ownership, management and employment in companies throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs.
- 2.1.2 To make this vision become a reality will require a deliberate strategy to increase access to skills, capital and economic opportunities. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black owned enterprises (and the development of existing ones) who can participate in economic opportunities throughout the rail industry value chain.
- 2.1.3 The signatories to this document believe that every company in South Africa must embrace Black Economic Empowerment (BEE) voluntarily, recognising that it is an economic imperative to secure a prosperous future for all our country's citizens. Accordingly, we commit ourselves to embark on a major communications and marketing campaign that will take this "Broad-Based Black Economic Empowerment (B-BBEE) Charter for the Rail Industry" to every organisation within our industry to ensure maximum participation by all stakeholders.
- 2.1.4 Accordingly, all private sector stakeholders committing themselves to this Charter will agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) rated by an independent accredited B-BBEE verification agencies or company that is accredited by the Department of Trade and Industry (DTI). Public sector organisations will be monitored and their contributions annually verified in a separate process that will be designed by the DoT and DPE. However, an independent B-BBEE verification agency/company will verify the B-BBEE contribution of their suppliers. The B-BBEE verification agencies will go a long way towards eliminating any form of misrepresentation and fraudulent

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practices within the industry. Other parties committed to this Charter will have their contributions assessed and verified as to their compliance to their undertakings.

2.2 National Government Undertakings (to achieve this vision)

- 2.2.1 Government is the most important player in the industry through its ownership of the majority of rail industry assets and operations and the employment of the majority of workers. Accordingly, Government commits to demonstrate the political will to revive the rail network.
- 2.2.2 Make decisive and direct interventions to enhance the competitiveness of rail as a mode of transport for freight and commuters. This will also require urgent action to improve the internal efficiencies of the state-owned operators.
- 2.2.3 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport and Rail Sector BEE processes. Examples of cross-cutting issues that require interventions across government departments and agencies include:
 - 2.2.3.1 The countrywide shortage of matriculants with mathematics and science at higher grade.
 - 2.2.3.2 The countrywide shortage of engineers and artisans across all disciplines.
 - 2.2.3.3 Increasing awareness within the transport sector of available government investment incentives and grants.
 - 2.2.3.4 Monitoring of stakeholder achievements in terms of the indicators on the Rail Sub-sector Balanced B-BBEE Scorecard.
- 2.2.4 Accelerate its programme (together with the relevant parastatals) to increase investments in freight and passenger rail infrastructure to eliminate current backlogs and expand the network, where necessary.
- 2.2.5 Convene a multi-stakeholder forum to investigate the scale of B-BBEE opportunities at the edges of the main network – eg private sector operations, private sidings, shunting, industrial townships, mining, tourism – and reach agreement on the modalities of effecting the entry of black entrepreneurs into the industry.
- 2.2.6 Continue existing initiatives with Transnet Freight Rail (TFR) formally known as Spoornet, provincial governments, local communities and the business sector to revive branch lines.
- 2.2.7 Investigate (together with the relevant parastatals and labour) the possibility of introducing job-sharing programmes at TFR, Shosholoza Meyl and SARCC/Metrorail.
- 2.2.8 Ensure that the restructuring of rail assets to effect new institutional arrangements must proceed in a manner that results in an increase in black participation at all levels – in employment and the procurement of services and goods.
- 2.2.9 Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment equity, Skills Development and Competition Acts.
- 2.2.10 Publish an annual report on B-BBEE and job creation within the Rail industry that consolidates reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry BEE Forum.

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2.3 Labour Undertakings (to achieve this vision)

- 2.3.1 Encourage trade union controlled pension funds, where trade unions have significant influence, and trade union investment companies to make investments in the sector to help achieve the ownership targets.
- 2.3.2 Encourage employers to first look towards their own employees when considering options for achieving black equity participation.
- 2.3.4 Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage companies in the industry. These initiatives need to be aligned to the tripartite report published in September 2003 and should be utilised in this regard.
- 2.3.5 Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
- 2.3.6 Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity (EE), Skills Development (SD), Labour Relations and Basic Conditions of Employment Acts. Non-complying companies must be reported to the Transport Sector B-BBEE Forum/Council to take further action by inspecting the causes for non-compliance and reviewing performance targets as necessary.
- 2.3.7 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.
- 2.3.8 Monitor the impact of procurement/outsourcing on job creation and report findings to the Transport Sector BEE Forum/Council

2.4 TETA Undertakings (to achieve this vision)

- 2.4.1 Play a more interventionist role to influence training priorities in the Rail Chamber.
- 2.4.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender.
- 2.4.3 Continuously conduct analysis and update statistics about the future demand of critical skills sets and the supply side of the equation.
- 2.4.4 Continuously conduct an analysis of the quantity, quality and nature of training that organisations and companies are doing.
- 2.4.5 Commit to this B-BBEE Charter and strive to achieve the targets set (where applicable) as per the indicators (Management, Employment Equity, Skills Development, Preferential Procurement and Enterprise Development) in the balanced scorecard both internally and with specific reference to service providers.
- 2.4.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Charter.

3 INDICATORS OF EMPOWERMENT

- 3.1 The B-BBEE Charter for the Rail Industry seeks to encourage all stakeholders to pursue an aggressive transformation agenda according to the broad guidelines set out in the National Strategy and BEE Balanced Scorecard. It is necessary to set different targets

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and timeframes for the public and private Industry's because the two are at different stages of the transformation process.

DURATION OF THIS SUB-SECTOR CHARTER

This Charter shall remain in effect until amended, substituted and repealed under Section 9 of the BBEE Act, or with the parties to this charter process agreeing to do so.

The Charter Council will review this Charter following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.2 Ownership

3.2.1 Guiding Principle

- 3.2.1.1 Our guiding principle is to increase black ownership of assets, management control and operational involvement across the entire spectrum of the rail industry value chain and design appropriate funding mechanisms to facilitate the process.

3.2.2 The Private Industry Commits to:

- 3.2.2.1 Pro-actively seek opportunities to broaden the ownership base of their enterprises and ensure that a minimum of **25%+1** vote is the hands of **black people**;
- 3.2.2.2 Ensure that a minimum of **25%** of economic interest accrues to **black people**;
- 3.2.2.3 Ensure that a minimum of least **10%** voting rights is in the hands of **black women**;
- 3.2.2.4 Ensure that 10% of economic interest is in the hands of black women;
- 3.2.2.5 Ensure that **3%** is earmarked for black designated groups (including black people living with disabilities) and/or black participants in Employee Ownership Schemes, Broad based Ownership Schemes and Co-operatives within five years. This refers to **Black Natural People**;
- 3.2.2.6 If the ownership by black people living with disability is through a Non profit organisation or Public benefit organisation, the organisation will require to evidence that **85%** of the beneficiaries are black people living with disability as defined in the Employment Equity Act in order to realise maximum bonus points; and
- 3.2.2.7 **Qualifying Small Enterprises (QSEs)** as defined in this charter will commit to:
 - 3.2.2.7.1 Increasing the ownership base of their companies and ensure that a minimum of **25%** of economic interest is in the hands of **black people**;
 - 3.2.2.7.2 **25%+1** vote voting rights, or equivalent thereof, are in black hands; and
 - 3.2.2.7.3 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved for both bigger entities (i.e. companies with turnover above R35 million) and Qualifying Small Enterprises (i.e. companies within R5 million and R35 million turnover threshold).

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3.2.3 Measurement Principles and Application of the Charter

- 3.2.3.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.3.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.3.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The target contained in the ownership element of this Charter will apply.
- 3.2.3.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.3.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.3.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

3.3 Management Control

3.3.1 Private Industry Commits to:

- 3.3.1.1 Ideally, an equal level of management control should accompany black ownership. Private industry will therefore aspire to the following 5-year targets regarding management control:
 - 3.3.1.1.1 **Board Members:** 33% of the exercisable voting rights in the hands of black people.
 - 3.3.1.1.2 **Women Board Members:** 16.5% of exercisable voting rights in the hands black women.
 - 3.3.1.1.3 **Executive Directors:** 33% of all executive director positions occupied by black people.
 - 3.3.1.1.4 **Women Executive Directors:** 16.5% of all executive positions occupied by black people.
 - 3.3.1.1.5 **Senior Top Management:** 40% of all top senior management positions occupied by black people.
 - 3.3.1.1.6 **Women Senior Top Management:** 20% of all top senior positions occupied by black women.
 - 3.3.1.1.7 **Other Top Management:** 40% of all other top management positions occupied by black people.
 - 3.3.1.1.8 **Women Other Top Management:** 20% of all other top management positions occupied by black women.
 - 3.3.1.1.9 QSEs within the sector commits to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.
 - 3.3.1.1.10 Recruiting black women at Top Management level; where they should constitute 25% of all such positions.

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3.3.2 Measurement Principles and Application of the Charter

- 3.3.2.1 Measurement principles associated with the management control element is contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.3.2.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
- 3.3.2.3 Measurement principles needed for the application of the charter with regards to the management control element for QSEs are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.

3.4 Employment Equity

3.4.1 Guiding Principle

- 3.4.1.1 Our guiding principle is to increase the participation of black people in top management, senior management and professional and technical occupations in the rail industry to create a workforce that truly represents the racial, ethnic and gender diversity of our country.

3.4.2 Private Industry Commits to:

- 3.4.2.1 **Senior Management:** The minimum compliance level for total black representation is set at 60% and the minimum compliance level for black women representation is set at 30% of all senior management positions.
- 3.4.2.2 **Middle Management:** The minimum compliance level for total black representation is set at 75% of all middle management and the minimum compliance level for black women representation is set at 37% of all middle management positions.
- 3.4.2.3 **Junior Management:** The minimum compliance level for total black representation is set at 80% and the minimum compliance level for black women representation is set at 40% of all junior management positions.
- 3.4.2.4 **Black Disabled Employees** – The minimum compliance level for black disabled representation is set at 3% of total staff.
- 3.4.2.5 Black Women Disabled Employees–The minimum compliance level for black women disabled representation is set at 1.5% of total staff.
- 3.4.2.6 Measured entities falling within the QSEs threshold commit 40% of all management staff is black within 5 years. 50% of these positions should be earmarked for black women.
- 3.4.2.7 QSEs within this sub-sector commit to all 60% of all staff should be black within the next 5 years. Black women should occupy 30% of all positions within the next 5 years.

3.4.3 Measurement Principles and Application of the Charter

- 3.4.3.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.

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3.4.3.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.

3.4.3.3 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

3.5 **Skills Development**

3.5.1 **Guiding Principle**

3.5.1.1 Our guiding principle is to increase the economic value added of every employee in the rail sector through best-practice Human Resource Development, Skills Development, Employment Equity and Gender policies. A key element will be to identify the critical skills, retain and create quality employment in the sector.

3.5.2 **Private Industry Commit to:**

3.5.2.1 Investing a minimum of **3.5%** of the leviable amount on skills development expenditure on Learning programmes as per the Learning Matrix contained in the Codes, for black people. The target is inclusive of all associated costs and the current 1% skills development levy.

3.5.2.2 Investing a minimum of 1.5% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black women employees.

3.5.2.3 Investing a minimum of 0.3% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black disabled employees.

3.5.2.4 Investing a minimum of 0.15% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black women disabled employees.

3.5.2.5 The number of black employees participating in Learnerships or Category B, C or D as a percentage of total employees will be 5%.

3.5.2.6 The number of black women employees participating in Learnerships or Category B, C or D as a percentage of total employees will be 2%.

3.5.2.7 Measured entities qualifying as QSEs to invest 2% of the leviable or payroll whichever is applicable on skills development expenditure on learning programmes for black employees. 50% of this amount to be spend on learning programmes for black women employees.

3.5.3 **TETA Commits to:**

3.5.3.1 Expand the number of learnerships available based on the sector's skills requirements identified in the sector skills plan and the demands of the industry.

3.5.3.2 Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants. This would entail streamlining processes and developing user-friendly

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procedures that encourage companies to participate in learnerships programmes.

- 3.5.3.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships-in management, technical and professional occupational categories-to help public and private sector organisations to achieve their employment equity targets.
- 3.5.3.4 Conduct research to identify the management, professional and technical skills that the industry will require over the next decade and map out future demand/supply scenarios in a detailed skills audit that will guide and inform stakeholders in implementing their EE targets.
- 3.5.3.5 Pay particular attention to the issue of addressing the current shortage of engineering professionals in the rail industry and make proposals on how to eliminate the skills deficit in the medium term. The proposal will quantify the financial resources that may be required to eliminate the skills deficit.
- 3.5.3.6 Conduct research on the supply side of the skills development equation – i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry.
- 3.5.3.7 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category.
- 3.5.3.8 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in the identified areas.

3.5.4 Measurement Principles and Application of the Charter

- 3.5.4.1 Measurement principles associated with the skills development element, is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice

3.6 Preferential Procurement

3.6.1 Guiding Principle

- 3.6.1.1 Our guiding principle is to use the significant purchasing power of the rail parastatals to develop and support existing BEE companies in the sector and make deliberate attempts to identify new entrants, particularly in areas such heavy engineering and maintenance, which have traditionally excluded black people. A key area of focus will be to identify areas where there is relatively little procurement from black suppliers and develop strategies to rectify the situation. However, quality and specification issues have to be reflected under procurement in order to ensure compliance with safety standards.

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3.6.2 Private Industry Commits to:

- 3.6.2.1 B-BBEE Procurement: The Private Sector commits itself to procure a minimum of **50% of B-BBEE procurement** spend based on the Recognition levels (see Appendix B) as a percentage of Total Measured Procurement Spend.
- 3.6.2.2 B-BBEE Procurement-QSEs and EMEs: The Private Sector commits itself to procure a minimum of **10% of all B-BBEE procurement** spend from Qualifying Small Enterprises and EMEs.
- 3.6.2.3 Procurement from **50% Black-Owned Enterprises**: The Private Sector commits itself to procuring a minimum of 9% of B-BBEE procurement spend from 50% Black-Owned Enterprises.
- 3.6.2.4 Procurement from **30% Black Women-Owned Enterprises**: The Private Sector commits itself to procuring a minimum of 6% of B-BBEE procurement spend from **30% Black Women-Owned Enterprises**.
- 3.6.2.5 QSEs within this sub-sector commit to procuring a minimum of 50% of total procurement from B-BBEE compliant suppliers.
- 3.6.2.6 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector BEE Forum/Council.

3.6.3 All stakeholders commit to:

- 3.6.3.1 Ensure that companies and organisations develop uniform policies on Accounting for Affirmative Procurement and adopt the guidelines that will be set by the Transport Sector BEE Forum/Council.
- 3.6.3.2 Ensure that companies and organisations constantly explore possibilities to increase the amount of discretionary spending—for example by supporting local procurement and/or content in line with the agreements reached by stakeholders at the Growth and Development Summit (GDS) whilst at all times complying with their Safety Management System requirements.
- 3.6.3.3 This will require that companies and organisations state in their annual BEE reports the reasons for classifying an item of expenditure as “non-discretionary.” This information should be disclosed in a detailed statement that reconciles discretionary and non-discretionary expenditure.
- 3.6.3.4 Companies and organisations should support the Proudly South African (PSA) campaign and note the agreement at the GDS that PSA is “an important means of taking the message of local content, fair labour standards, environmental sustainability and quality products and services to the nation.”
- 3.6.3.5 As far as possible, companies and organisations should use local as opposed to foreign suppliers and state the reasons for using a foreign supplier. Where a foreign supplier must be used, companies and organisations must use the offset principle to secure the commitment of these companies to a set of BEE obligations.
- 3.6.3.6 As far as possible include early payment cycles, securities, guarantees etc when procuring from to Black owned enterprises, QSEs & EMEs.

3.6.4 Measurement Principles and Application of the Charter

- 3.6.4.1 Measurement principles associated with the preferential procurement element, is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.

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- 3.6.4.2 The formulae required in the determination of the preferential procurement score are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.4.3 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.7 Enterprise Development**
- 3.7.1 Guiding Principle**
- 3.7.1.1 Our guiding principle is to help set up, nurture and grow viable BEE enterprises in the rail sector that are majority-owned by black operators while developing existing companies.
- 3.7.2 The Private Industry Commits to:**
- 3.7.2.1 Pro-actively seek opportunities to enter into joint ventures (and other forms of alliances) and make direct investments in BEE companies.
- 3.7.2.2 Facilitate the development of creative financial mechanisms to enable BEE companies and employees to purchase equity in their companies.
- 3.7.2.3 Enterprise development in the private sector will be measured as a percentage of Net Profit After Tax (NPAT) over a 5 year period. The private sector commits itself to an average annual value of Enterprise Development of 3% of NPAT.
- 3.7.2.4 QSEs within this sub-sector aspire to make contributions to enterprise development, which will amount to 2% of NPAT evaluated annually over the next 5 years.
- 3.7.3 TETA commits to:**
- 3.7.3.1 To developing training programmes specifically designed for black entrepreneurs within the Rail Industry.
- 3.7.3.2 Contribute 10% of its allocation to developing training programmes specifically for entrepreneurs in this sector.
- 3.7.3.3 Having 50% of all Learners in such programmes being black people.
- 3.7.4 Measurement Principles and Application of the Charter**
- 3.7.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this subsector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.

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3.8 Social-economic Development

3.8.1 All Stakeholders commit to:

- 3.8.1.1. A target of 1% of NPAT on social development projects as identified by the organisation/company with a specific focus on rural development, which may include HIV/AIDS treatment and prevention, education, etc.
- 3.8.1.2 QSEs within this sub-sector will contribute a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.
- 3.8.1.3 The rand spend on contributions directed in the following programmes that will be Rail Sector specific and designed areas will be enhanced by a factor of 1.25:
 - 3.8.1.3.1 HIV Treatment and Prevention;
 - 3.8.1.3.2 Education; and
 - 3.8.1.3.3 Rural Development structures.

3.8.2 Measurement Principles and Application of the Charter

- 3.8.2.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.2.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.8.2.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.2.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this sub-sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice.

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4. RAIL SUB-SECTOR B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weights
Ownership	Exercisable voting rights in the hands of black people	25%+1 vote	3
	Exercisable voting Rights in the hands of Black Women	10%	2
	Economic Interest in the hands of black people	25%	4
	Economic Interest in the hands of Black Women	10%	2
	Economic interest in the hands of black natural people in the enterprise: -Black designated groups; -Black participants in employee ownership schemes; -Black beneficiaries of broad-based ownership schemes or Black participants in cooperatives	3%	1
	Net Economic Interest/Net Value	25% graduated over 10 years as per the Codes (year 5 at 60%)	7
	Ownership Fulfilment	-	1
	Bonus Points:		
	Involvement in the ownership of the Enterprise black new entrants	10%	2
	Involvement in the ownership of the Enterprise of black participants in ESOPs, Broad-Based Schemes or Co-operatives	10%	1
	Economic Interest & exercisable voting rights in the hands of black disabled people	2%	2
Management	% of total exercisable voting rights in the hands of black board members	33%	1.5
	% of total exercisable voting rights in the hands of black women board members	16.5%	1.5
	% Black persons who are executive directors	33%	1

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weights
	% Black women who are executive directors	16.5%	1
	% of black people who hold senior top management positions	40%	1.5
	% of black women who hold senior top management positions	20%	1.5
	% of black people who hold other top management positions	40%	1
	% of black women who hold other top management positions	20%	1
	Bonus Point: Black Independent non-executive board members	40%	1
Employment Equity	% Black People in Senior Management	60%	3
	% Black Women in Senior Management	30%	2
	% Black People in Middle Management	75%	2
	% Black Women in Middle Management	37%	2
	% Black People in Junior Management	80%	2
	% Black Women in Junior Management	40%	2
	Black People living with disabilities as a % of all employees	3%	1
	Black Women living with disabilities as a % of all employees	1.5%	1
	% of Black Women in semi-skilled and unskilled positions	15%	2
	Bonus points: Meeting or exceeding the EAP target in each category of employment equity		3
Skills Development	Skills Development Spend on black employees as a % of Leverageable amount total payroll	3.5%	7
	Skills Development Spend on black women employees as a % of total leverageable amount/payroll	1.5%	3

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weights
	Number of black employees in Learnerships Programmes or Category B, C and D as a % of total workforce	5%	5
	Number of black women employees in Learnerships Programmes or Category B, C or D as a % of total workforce	2%	2
	Skills Spend on black employees living with disabilities as a % of total payroll	0.3%	1.5
	Skills Spend on black women employees living with disabilities as a % of total payroll	0.15%	1.5
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a % of Total Measured Procurement Spend	50%	10
	Procurement from B-BBEE Compliant QSEs and EMEs as defined by the B-BBEE Recognition Levels as a % of Total Measured Procurement Spend	10%	3
	Procurement from 50% Black-Owned as a % of discretionary spend	9%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of discretionary spend	6%	2
Enterprise Development	Expenditure on supplier development initiatives as a proportion of NPAT	3% of NPAT	10
Socio-economic Development	Expenditure on social development programmes as a % of NPAT	1% of NPAT	5
TOTAL			100

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5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of black people	25%+1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points:		
	Ownership fulfilment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points: Involvement in the ownership of the Enterprise by black women	10%	2
	Bonus Points: Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management as a % of all Management	40%	7.5
	Black Women Employees of the Measured Entity who are management as a % of all Management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points: meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for Black employees as a percentage of the leviable/payroll	2%	12.5
	Skills Development spend on learning programmes for Black Women employees as a percentage of the leviable/payroll	1%	12.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	50%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	2% of NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	25
TOTAL			175

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

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6. APPENDIX A: DEFINITIONS

	DEFINITION
Broad-Based Black Empowerment	Accordingly, government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
Black-Owned Enterprise	Is an enterprise where a minimum of 50,1% of the enterprise is owned by black persons. Ownership refers to economic interest and exercisable voting rights.
Black People	Has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation: (a) Occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or (b) Occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
Community Or Broad Based Enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers
Control	Of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders' agreement
Co-Operative Or Collective Enterprise	Is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly - owned enterprise and democratically controlled enterprise.
Development	Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives. It also includes but not limited to the facilitation provided by established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models.
Direct Empowerment	Is the process of B-BBEE must result in an increase in the ownership rights and management control of the economy by black persons. This means that a significant portion of black people's ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and operational levels, and the assumption of real risk. In the rail sub-sector scorecards, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments
Disabled Employees	For the purpose of this Charter, the definition of employees with disabilities contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental

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	DEFINITION
	impairment, which substantially historically limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation
Exempted Micro Enterprises (EMEs)	Are enterprises with a turnover of R5 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of the spend.
Fronting	The deliberate misrepresentation of information in order to gain an advantage over another individual/entity. In addition the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/tender adjudication process
Growth	Relates to the National Economic Growth, Industry Growth as well as Enterprise Development growth
Indirect Empowerment	A core component of this B-BBEE Strategy is the creation and nurturing of new enterprises by black people, preferential procurement by the State, parastatals and the private sector is an effective and efficient instrument to drive B-BBEE. A second element of indirect empowerment is enterprise development. This can take two forms: Investment in black-owned and black-empowered enterprises. Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.
Job Creation	Refers to the creation of opportunities for ongoing permanent employment.
Learners	Refers to the people participating in the learnerships and other similar programmes
Leviable Amount	Has the same meaning as contained in the Skills Development Act.
Net Asset Value	Within the context of this Charter this term refers to Total Asset less Liabilities.
Net Economic Interest	Is the percentage of the shareholding by black shareholders that is unencumbered by any financial obligations to third parties or to the principle company in which the stake is held.
Non-Discretionary Spend	Refers to all commodities and services where organisations have no option but to procure from companies (exports, water and electricity, rates and taxes, telephone etc).
Ownership	Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
Qualifying Small Enterprises (QSEs)	Are enterprises with an annual turnover of between R35 million and R5 million for the purposes of this Charter. Their B-BBEE status is referenced by their contributor level on the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice.

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	DEFINITION
Stakeholders	Refers to a range of interest groups within the Rail Industry who directly and indirectly participated in this process. These groups included Government, Private Industry, Parastatals, Agencies, Financial Institutions (Private and Public), Organised Labour, Civil Society Associations, B-BBEE operators, suppliers, SMME's as well as individuals.
TETA	Refers to the Rail and Freight Handling Chambers

7. APPENDIX B: COMMITMENT EVALUATION MATRICES

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Prioritise the training of high school learners in mathematics and science at higher grade	Money spend on mathematics and science programmes for high school learners	Annual Report on Progress made in implementing B-BBEE within the Rail Industry and annual B-BBEE report	Steering Committee/Charter Council & DoT
Prioritise the implementation of bursary schemes and education grants for science and engineering students in South African Universities and Technikons	Money spent on research as a % of total discretionary funds	Number of information session programmes and number of beneficiary enterprises benefiting from government programmes	Steering Committee/Charter Council & DoT
Ensure and monitor compliance within existing legislation that might be linked to the B-BEE such as Employment Equity, Skills Development, Competition Act, etc.	Money spent on awareness campaigns as a % of total discretionary funds	Annual Report on Progress made in implementing B-BBEE within the Rail Industry and annual B-BBEE report	SC, DoT, DoL, TETA and dti
Increase awareness programmes that will publicise information regarding scholarships and training resources.	Money spent on awareness campaigns as a % of total discretionary funds	Report to Steering Committee on number of new attendees at awareness campaigns.	TETA & Steering Committee/Charter Council
Implement funding strategy to facilitate the improvement of technical skills of black people within the industry.	Amount of funding as a % of total discretionary funds.	Assessment Report on technical skills of black people within the industry.	TETA & Steering Committee/Charter Council
Facilitate high quality training of black people through mentorship programmes.	Money spent on skills development as a % of total	Assessment Report on skills of black people	TETA & Steering Committee/Charter Council

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	discretionary funds	within the industry.	
Implement skills audit to identify management, professional and technical skills that will be required over the next decade.	Money spent on research as a % of total discretionary funds	Analysis and forecasts to be presented to Steering Committee and TETA.	TETA & Steering Committee/Charter Council
Set targets to increase the number of sustainable learnerships at all levels within the industry.	Money spent on learnerships as a % of total discretionary funds.	Report to Steering Committee on improvement (percentage change) in black learnerships.	TETA & Steering Committee/Charter Council

Preferential Procurement

Action Undertaken	Input measurement	Output measurement	Quality Control
Ensure that uniform accounting practices regarding preferential procurement are adopted by public sector agencies.	Money spent on research as a % of total discretionary funds	Assessment Report on accounting practices regarding preferential procurement submitted to Steering Committee.	Steering Committee/Charter Council

Enterprise Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Enter into joint ventures with B-BBEE enterprises.	Annex 600A (Benefit Factor Matrix) of the Codes shall apply.	Report to Steering Committee on improvement (percentage change) in new entities.	Steering Committee/Charter Council