

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

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 leviabale amount	1.5%	3
	Skills Development Expenditure on learning programmes matrix for black employees with disabilities as a percentage of leviabale amount	0.3%	1.5
	Skills Development Expenditure on learning programmes matrix for Black Women employees with disabilities as a percentage of leviabale 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 where 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-Driver.**

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-Driver** – 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

DRAFT 3

PUBLIC SECTOR BROAD-BASED BLACK ECONOMIC EMPOWERMENT CHARTER

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ABBREVIATIONS

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
PPFA	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 ^{s1}	Public Entities Including SOEs and Agencies Weighting ^{s2}
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 S¹	Public Entities Including SOEs and Agencies Weighting S²
Management	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
	Percentage of Black People in Senior Management	70%	3	70%	2	2
Employment Equity	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	3%	5	3%	4	5
	Number of black employees in Learnerships, Category B, C, & D Learning Programmes as a percentage of total workforce	5%	6	5%	5	6
	Number of black women employees in Learnerships, Category B, C, & D Learning Programmes as a percentage of total workforce	3%	6	3%	4	6
	Skills Spend on black employees living with disabilities as a percentage of total payroll	0.5%	1.5	0.5%	1.5	1.5
	Skills Development on	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	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	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 CEs 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 <u>planning, policymaking and directing</u> 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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	DEFINITION
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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	DEFINITION
	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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ALIGNED DRAFT B-BBEE CHARTER – MARITIME TRANSPORT &
SERVICES INDUSTRY SUB SECTOR



REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

DEPARTMENT OF TRANSPORT

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

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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; 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**