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## GENERAL NOTICE

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### NOTICE 1162 OF 2009

Issued in terms of Section 9 (1) of the BBBEE Act 53, 2003

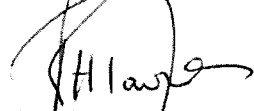
(DEPARTMENT OF TRADE AND INDUSTRY)

### CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

Whereas, the Minister of Trade and Industry:

- (a) Has issued a **DRAFT TRANSPORT SECTOR CODE (THE DRAFT CODE)** provided for in Code 000 Statement 003 of the Codes of Good Practice under **Section 9 (5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003) on the **24<sup>th</sup> December 2008**
- (b) In terms of which the public and interested persons were invited to comment on the Draft Sector Charter within a period of **60 days** from the date on which the Draft Sector having been published,
- (c) The public having commented, I, **Dr Rob Davies**, now publish the **TRANSPORT SUB-SECTOR CODES** as a **SECTOR CODES** on black economic empowerment in terms of **Section 9 (1)** of the BBBEE Act, 53 of 2003.

This notice is effective from the date of publishing and means that the **TRANSPORT SUB-SECTOR CODES** are binding on all stakeholders operating in the **TRANSPORT** Sector within which the Sub-Sector Codes apply.



**DR ROB DAVIES**

MINISTER OF TRADE AND INDUSTRY

DATE: 28/7/09

# **INTEGRATED TRANSPORT SECTOR CODES**

**GAZETTED IN TERMS OF SECTION 9 (1) OF THE  
BBBBEE ACT 53 OF 2003**

**JULY 2009**

## PREAMBLE

The parties to this Charter, organized as Government, Organised Labour, Industry and Interest groups, commit themselves to actively promote a transformed, vibrant, and globally competitive transport sector that reflects the demographics of South Africa, and contributes to the establishment of an equitable society by effectively providing accessible transport services to all South Africans, particularly Black people, and their participation in the transport industry.

The parties to this Sector Codes attest that this Integrated Transport Sector Codes provides guidelines for transformation in the transport sector and represents a partnership of programmes as outlined in the Government's Strategy for Broad-based Black Economic Empowerment and is aligned with the Department of Trade and Industry's Code of Good Practice.

The parties to this Sector Codes concur that the Sector Codes constitutes a framework that establishes the principles upon which Broad-Based Black Economic Empowerment will be implemented in the transport sector and in terms of which each principle shall be underpinned by targets, responsibilities, implementation mechanism and monitoring tools for the transformation of the sector.

The parties to this Sector Codes confirm that all the processes of targets, responsibilities, reviews, implementation and monitoring, shall be carried out primarily by the Transport Sector Black Economic Empowerment Council that shall be established specifically for this purpose.

The parties to this Sector Codes, commit to use Black Economic Empowerment as a tool to unlock efficiencies throughout the transport sector, maximizing all the sub sectors to promote an integrated, intermodal and multifaceted transport logistics system that supports both public and freight for the benefit of our economy.

Lastly the parties to this Sector Codes agree on embarking on 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 transportation industry, while creating opportunities for the unemployed and working poor to enter the formal economy.

**DEFINITIONS**

For purposes of clarification and for avoidance of ambiguity, the following terms apply to the all the gazetted Broad Based Economic Empowerment (B-BBEE) Sub-Sector Codes:

| <b>TERM</b>                                        | <b>DEFINITION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Acceptable Valuation Standard</b>               | 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.                                                                                                                         |
| <b>Aged Persons Act</b>                            | Means the Aged Persons Act 81 of 1967, as amended.                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Airline Service Providers</b>                   | Are those service providers that give services to airlines companies e.g catering services, travel news magazines etc                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Allowable Exclusions From Total Procurement</b> | 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.                                                                                                                                                                                                                                                                                                                                                     |
| <b>Associated Enterprise</b>                       | Means any black Enterprise other than the Measured Enterprise with which the Measured Enterprise has concluded a Qualifying Transaction.                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Black aged people</b>                           | Black people who are also aged people as defined in the Aged Persons Act 81 of 1967, as amended or substituted.                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Black designated groups</b>                     | (a) means unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution.<br>(b) Black people who are youth as defined in the National Youth Commission Act of 1996.<br>(c) Black people who are persons with disabilities as defined in the Code of Good Practise on employment of people with disabilities issued under the Employment Equity Act.<br>(d) Black people living in rural and under-developed areas. |
| <b>Black Enterprise</b>                            | Is one that is 50,1% owned by black persons and where there is substantial management control.                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Black Empowered Enterprise</b>                  | Is one that is at least 25.1% owned by black persons and where there is substantial management control.                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Black New Entrants</b>                          | 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                                                               |

| TERM                                                   | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                        | R20,000,000.00 measured in accordance with an Acceptable Valuation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Black People</b>                                    | 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:<br>(a) occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or<br>(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.                       |
| <b>Black unemployed people</b>                         | Black people who are unemployed, are not attending or are not required by law to attend an educational institution and who are not awaiting admission to an educational institution                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Black Women-Owned Enterprise</b>                    | is one with a minimum of 50,1% representation of black women in the ownership structure, which includes related economic interest and exercisable voting rights.                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Black workers</b>                                   | Black Persons employed in market production activities are those (aged 15-64 years) who during the reference week, even if it was for only one hour, did any of the following:<br><br>a) Worked for a wage, salary, commission or payment in kind (including paid domestic work).<br><br>b) Ran any kind of business, big or small, on their own or with one or more partners.<br><br>c) Helped without being paid in a business run by another household member.<br><br>d) Were temporarily absent from their jobs or businesses to which they would definitely return. |
| <b>Black youth</b>                                     | Black persons who are also youth as defined in the National Youth Commission Act 19 of 1996, as amended or substituted.                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Broad Based Black Economic Empowerment (B-BBEE)</b> | 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                                                                                                                                                                                                                                                                                     |

| TERM                                         | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                              | 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.                                                                                                                                                                                                                                                                                                                                           |
| <b>Community or broad based enterprise</b>   | 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.                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Control</b>                               | 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.                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Co-operative or Collective Enterprise</b> | 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.                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Development</b>                           | Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives. It also includes but not limited to the facilitation provided by established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models.                                                                                                                                                                                                                                                                                                |
| <b>Direct Empowerment</b>                    | The process of BEE should/may result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of a 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 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. |
| <b>Disabled employees</b>                    | 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.                                                                                                    |
| <b>Enterprise Development ventures</b>       | Includes business ventures such as sub-contracting, joint ventures, driver owner schemes, twinning, etc, which involves the development or setting up of business                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| TERM                                              | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                   | ventures which involves black operators, suppliers and especially or black SMME's (small, medium and micro enterprises).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Exclusions from Total Measured Procurement</b> | Generally has the same meaning as that contained in the Codes of Goods Practice gazetted on the 9 February 2007 and as amended however the list of inclusions/exclusions as per Annexure A of this Charter takes precedence.                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Executive Management</b>                       | Means the most senior position in the organisation as well as the overall heads of major divisions or functions (e.g. finance, engineering, operations, human resources etc.) responsible for planning, policymaking and directing of such functions.                                                                                                                                                                                                                                                                                                                                                    |
| <b>Exempted Micro Enterprises</b>                 | These are enterprises with a turnover of R5 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of spend.                                                                                                                                                                                                                                                                                          |
| <b>Fronting</b>                                   | The deliberate misrepresentation of information in order to gain an advantage over another individual or entity. In addition, it includes the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process.                                                                                                                                                                                                                                                                                                      |
| <b>Growth</b>                                     | Relates to the National Economic Growth, Industry Growth as well as Enterprise Development growth                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Indicator</b>                                  | The indicator represent the key measurement yardstick included to determine the BEE contribution made by taxi enterprises within each broad-based BEE factor of Ownership, Strategic Representation (Management), Employment Equity, Skills Development, Preferential Procurement, Enterprise Development, Social Development and Industry Specific.                                                                                                                                                                                                                                                     |
| <b>Indirect Empowerment</b>                       | <p>a core component of this BEE Strategy is the creation and nurturing of new enterprises established or owned by black people. Preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive BEE. A second element of indirect empowerment is enterprise development. This can take two forms:</p> <ul style="list-style-type: none"> <li>• Investment in black owned and black empowered enterprises.</li> <li>• Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.</li> </ul> |

| TERM                                       | DEFINITION                                                                                                                                                                                                                                                                                       |
|--------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Indirect ownership</b>                  | 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.                                                                                                              |
| <b>Job Creation</b>                        | Refers to the creation of opportunities for sustainable permanent employment.                                                                                                                                                                                                                    |
| <b>Job Creation Target</b>                 | 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.                                                                          |
| <b>Learners</b>                            | Refers to the people participating in learnerships or other learning interventions.                                                                                                                                                                                                              |
| <b>Leviable Amount</b>                     | Bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act.                                                                                                                                                         |
| <b>Locally-owned Enterprise</b>            | A commercial undertaking or business where 50% or more of shareholding is held within the borders of the Republic of South Africa.                                                                                                                                                               |
| <b>Management</b>                          | 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. |
| <b>Managerial or Supervisory Employees</b> | 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 and/or processes.                                                                                     |
| <b>Midibus</b>                             | Minibus means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver.                                                                          |
| <b>Net Asset Value</b>                     | Within the context of this Sub-Sector Code this term refers to Total Asset less Liabilities.                                                                                                                                                                                                     |
| <b>Net Value</b>                           | 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.                   |
| <b>Net Economic Interest</b>               | Is the percentage of the shareholding by black shareholders that is unencumbered by any financial obligations to third parties or to the principle company in which the stake is held.                                                                                                           |
| <b>Non-Discretionary spend</b>             | Non-discretionary spending is spending that is required and by law.                                                                                                                                                                                                                              |

| TERM                                   | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Ownership</b>                       | 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.                                                                                                                                                                                                                                                                                                                                                   |
| <b>People Living With Disabilities</b> | <p>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.</p> <p>Types of disabilities include:</p> <p>Spinal injuries-quadriplegic, paraplegic;</p> <p>Physical disabilities and deformities-post polio, amputations, arthritis, cerebral palsy;</p> <p>Epilepsy;</p> <p>Traumatic brain injuries &amp; neurological disorders, strokes;</p> <p>Visual impairments - blind, degrees of blindness, retinitis pigment, albinism;</p> <p>Hearing impairments- deaf, degrees of deafness;</p> <p>Psychiatric conditions- depression, bi-polar, personality disorders, mood disorders;</p> <p>Learning disabilities - dyslexia, downs syndrome; and</p> <p>Communication/speech problems</p> |
| <b>Preferential Procurement</b>        | Is a measure designed to widen market access for entities, in order to integrate them into mainstream of the economy. Preferential Procurement will create economic empowerment benefits indirectly but meaningfully as it multiplies the effects of private and public sector intervention to promote broad-based BEE.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Scorecard</b>                       | means the standard B-BBEE scorecard used by the transport sector.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Skills Development</b>              | Refers to all expenditure on Black skills development; education and training (including the Skills Development                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| TERM                                    | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | Levy). The actual expenditure on Black skills development, education and training that has been conducted during the last completed financial year to be used as a basis for the calculation. The total expenditure on Black skills development, education and training is expressed as a percentage of the total payroll costs. Total payroll costs include all remuneration related expenditure such as basic wages/salaries, overtime, and employment related company contributions. |
| <b>Socio-economic Development</b>       | Specifically aimed at targeted socio-economic development projects or initiatives. Organisations are encouraged to support, develop and invest in targeted community projects – this includes e.g. poverty alleviation initiatives, 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.                                              |
| <b>Stakeholders</b>                     | Refers to a range of interest groups who directly and indirectly participated in this process. These groups included Government, Private Industry, Parastatals, Agencies, Financial Institutions (Private and Public), Organised Labour, Civil Society Associations, B-BBEE operators, suppliers, SMME's as well as individuals.                                                                                                                                                        |
| <b>Taxi Recapitalisation</b>            | The overall goal of the Taxi Recapitalisation (TRP) initiated by Government in 1999 is the replacement of the current ageing fleet that constitute the bulk of the taxi industry with new vehicles that are safe and reliable. The programme also sought to ensure the sustainability of the industry as a business, as well as ensure its formalisation and effective regulation.                                                                                                      |
| <b>Total Measured Procurement Spend</b> | Generally has the same meaning as that contained in the Codes of Good Practice gazetted on 9 February 2007 and as amended however the list of exclusions as per Annexure A of this Charter takes precedence.                                                                                                                                                                                                                                                                            |

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

**RAIL SUB-SECTOR CODE FOR BBBEE**



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

**DEPARTMENT OF TRANSPORT**

**RAIL SUB-SECTOR CODE FOR BBBEE**

## RAIL SUB-SECTOR CODE FOR BBBEE

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## **RAIL SUB-SECTOR CODE FOR BBEE**

### **1. SCOPE OF APPLICATION**

- 1.1 The scope of this Sub-Sector Code extends to the entire rail industry value chain. The key players are the state-owned operators and infrastructure companies.
- 1.2 However, the challenge is for these companies to use their purchasing power to drive the transformation of the entire rail industry value chain, including manufacturers, suppliers' consultants and maintenance companies.
- 1.3 The Sub-Sector Code will also have an impact on other sectors of the economy that are not rail specific, for example, general services.
- 1.4 This Sub-Sector Code shall remain in effect until amended, substituted and repealed under Section 9 of the BBEE Act, or with the parties to this Sub-Sector Code process agreeing to do so.
- 1.5 The Sub-Sector Code Council will review this Sub-Sector Code following the end of the 5<sup>th</sup> year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

### **2. VISION**

#### **2.1 Overarching Vision**

- 2.1.1 Our overarching vision is to develop a world-class rail industry that will grow in size, stimulate economic growth and development, facilitate trade, comply with safety standards agreed with the Railway Safety Regulator (RSR) Act 16 of 2002. In addition deliver efficient and quality services to customers, and achieve a significant increase in black participation in ownership, management and employment in companies throughout the industry value chain. Stakeholders will pursue a growth strategy that prioritises the retention and creation of quality jobs.
- 2.1.2 To make this vision become a reality will require a deliberate strategy to increase access to skills, capital and economic opportunities. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black owned enterprises (and the development of existing ones) who can participate in economic opportunities throughout the rail industry value chain.
- 2.1.3 The signatories to this document believe that every company in South Africa must embrace Black Economic Empowerment (BEE) voluntarily, recognising that it is an economic imperative to secure a prosperous future for all our country's citizens. Accordingly, we commit ourselves to embark on a major communications and marketing campaign that will take this "Broad-Based Black Economic Empowerment (B-BBEE) Sub-Sector Code for the Rail Industry" to every organisation within our industry to ensure maximum participation by all stakeholders.

## RAIL SUB-SECTOR CODE FOR BBEE

- 2.1.4 Accordingly, all private sector stakeholders committing themselves to this Sub-Sector Code will agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) rated by an independent accredited B-BBEE verification agencies or company that is accredited by the Department of Trade and Industry (DTI). Public sector organisations will be monitored and their contributions annually verified in a separate process that will be designed by the DoT and DPE. However, an independent B-BBEE verification agency/company will verify the B-BBEE contribution of their suppliers. The B-BBEE verification agencies will go a long way towards eliminating any form of misrepresentation and fraudulent practices within the industry. Other parties committed to this Sub-Sector Code will have their contributions assessed and verified as to their compliance to their undertakings.
- 2.2 National Government Undertakings (to achieve this vision)**
- 2.2.1 Government is the most important player in the industry through its ownership of the majority of rail industry assets and operations and the employment of the majority of workers. Accordingly, Government commits to demonstrate the political will to revive the rail network.
- 2.2.2 Make decisive and direct interventions to enhance the competitiveness of rail as a mode of transport for freight and commuters. This will also require urgent action to improve the internal efficiencies of the state-owned operators.
- 2.2.3 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport and Rail Sector BEE processes. Examples of cross-cutting issues that require interventions across government departments and agencies include:
- 2.2.3.1 The countrywide shortage of matriculants with mathematics and science at higher grade.
- 2.2.3.2 The countrywide shortage of engineers and artisans across all disciplines.
- 2.2.3.3 Increasing awareness within the transport sector of available government investment incentives and grants.
- 2.2.3.4 Monitoring of stakeholder achievements in terms of the indicators on the Rail Sub-sector Balanced B-BBEE Scorecard.
- 2.2.4 Accelerate its programme (together with the relevant parastatals) to increase investments in freight and passenger rail infrastructure to eliminate current backlogs and expand the network, where necessary.
- 2.2.5 Convene a multi-stakeholder forum to investigate the scale of B-BBEE opportunities at the edges of the main network – eg private sector operations, private sidings, shunting, industrial townships, mining, tourism – and reach agreement on the modalities of effecting the entry of black entrepreneurs into the industry.
- 2.2.6 Continue existing initiatives with Transnet Freight Rail (TFR) formally known as Spoornet, provincial governments, local communities and the business sector to revive branch lines.

## **RAIL SUB-SECTOR CODE FOR BBBEE**

- 2.2.7 Investigate (together with the relevant parastatals and labour) the possibility of introducing job-sharing programmes at TFR, Shosholoza Meyl and SARCC/Metrorail.
- 2.2.8 Ensure that the restructuring of rail assets to effect new institutional arrangements must proceed in a manner that results in an increase in black participation at all levels – in employment and the procurement of services and goods.
- 2.2.9 Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment equity, Skills Development and Competition Acts.
- 2.2.10 Publish an annual report on B-BBEE and job creation within the Rail industry that consolidates reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry BEE Forum.
  
- 2.3 Labour Undertakings (to achieve this vision)**
  - 2.3.1 Encourage trade union controlled pension funds, where trade unions have significant influence, and trade union investment companies to make investments in the sector to help achieve the ownership targets.
  - 2.3.2 Encourage employers to first look towards their own employees when considering options for achieving black equity participation.
  - 2.3.4 Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage companies in the industry. These initiatives need to be aligned to the tripartite report published in September 2003 and should be utilised in this regard.
  - 2.3.5 Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
  - 2.3.6 Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity (EE), Skills Development (SD), Labour Relations and Basic Conditions of Employment Acts. Non-complying companies must be reported to the Transport Sector B-BBEE Forum/Council to take further action by inspecting the causes for non-compliance and reviewing performance targets as necessary.
  - 2.3.7 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.
  - 2.3.8 Monitor the impact of procurement/outsourcing on job creation and report findings to the Transport Sector BEE Forum/Council
  
- 2.4 TETA Undertakings (to achieve this vision)**
  - 2.4.1 Play a more interventionist role to influence training priorities in the Rail Chamber.
  - 2.4.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender.
  - 2.4.3 Continuously conduct analysis and update statistics about the future demand of critical skills sets and the supply side of the equation.
  - 2.4.4 Continuously conduct an analysis of the quantity, quality and nature of training that organisations and companies are doing.

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- 2.4.5 Commit to this B-BBEE Sub-Sector Code and strive to achieve the targets set (where applicable) as per the indicators (Management, Employment Equity, Skills Development, Preferential Procurement and Enterprise Development) in the balanced scorecard both internally and with specific reference to service providers.
- 2.4.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Charter.

### 3 INDICATORS OF EMPOWERMENT

#### 3.1 Rail Sub-sector Code and the Scorecard

The B-BBEE Sub-Sector Code for the Rail Industry seeks to encourage all stakeholders to pursue an aggressive transformation agenda according to the broad guidelines set out in the National Strategy and BEE Balanced Scorecard. It is necessary to set different targets and timeframes for the public and private Industry's because the two are at different stages of the transformation process.

#### 3.2 Ownership

##### 3.2.1 Guiding Principles

- 3.2.1.1 Our guiding principle is to increase black ownership of assets, management control and operational involvement across the entire spectrum of the rail industry value chain and design appropriate funding mechanisms to facilitate the process. We recognise that the majority of rail industry assets are publicly owned. However, the challenge is to identify opportunities outside the public sector and use the purchasing power of the rail parastatals to fast track the development of new black enterprise in the industry.

##### 3.2.2 The Private Industry Commits to:

- 3.2.2.1 Pro-actively seek opportunities to broaden the ownership base of their enterprises and ensure that a minimum of **25%+1** vote is in the hands of **black people**;
- 3.2.2.2 Ensure that a minimum of **25%** of economic interest accrues to **black people**;
- 3.2.2.3 Ensure that a minimum of least **10%** voting rights is in the hands of **black women**;
- 3.2.2.4 Ensure that **10%** of economic interest is in the hands of black women;
- 3.2.2.5 Ensure that **3%** is earmarked for black designated groups (including black people living with disabilities) and/or black participants in Employee Ownership Schemes, Broad based Ownership Schemes and Co-operatives within five years. This refers to **Black Natural People**;
- 3.2.2.6 If the ownership by black people living with disability is through a Non profit organisation or Public benefit organisation, the organisation will require to evidence that **85%** of the beneficiaries are black people living with disability as defined in the Employment Equity Act in order to realise maximum bonus points; and
- 3.2.2.7 **Qualifying Small Enterprises (QSEs)** as defined in this Sub-Sector Code will commit to:

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- 3.2.2.7.1 Increasing the ownership base of their companies and ensure that a minimum of **25%** of economic interest is in the hands of **black people**;
- 3.2.2.7.2 **25%+1** vote voting rights, or equivalent thereof, are in black hands; and
- 3.2.2.7.3 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved for both bigger entities (i.e. companies with turnover above R35 million) and Qualifying Small Enterprises (i.e. companies within R5 million and R35 million turnover threshold).
- 3.2.3 Measurement Principles and Application of the Charter**
  - 3.2.3.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
  - 3.2.3.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
  - 3.2.3.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The target contained in the ownership element of this Sub-Sector Code will apply.
  - 3.2.3.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
  - 3.2.3.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
  - 3.2.3.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.
- 3.3 Management Control**
  - 3.3.1 Private Industry Commits to:**
    - 3.3.1.1 Ideally, an equal level of management control should accompany black ownership. Private industry will therefore aspire to the following 5-year targets regarding management control:
      - 3.3.1.1.1 **Board Members**: 33% of the exercisable voting rights in the hands of black people.
      - 3.3.1.1.2 **Women Board Members**: 16.5% of exercisable voting rights in the hands black women.
      - 3.3.1.1.3 **Executive Directors**: 33% of all executive director positions occupied by black people.
      - 3.3.1.1.4 **Women Executive Directors**: 16.5% of all executive positions occupied by black people.
      - 3.3.1.1.5 **Senior Top Management**: 40% of all top senior management positions occupied by black people.
      - 3.3.1.1.6 **Women Senior Top Management**: 20% of all top senior positions occupied by black women.

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- 3.3.1.1.7 **Other Top Management:** 40% of all other top management positions occupied by black people.
- 3.3.1.1.8 **Women Other Top Management:** 20% of all other top management positions occupied by black women.
- 3.3.1.1.9 QSEs within the sector commits to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.
- 3.3.1.1.10 Recruiting black women at Top Management level; where they should constitute 25% of all such positions.
  
- 3.3.2 Measurement Principles and Application of the Charter**
  - 3.3.2.1 Measurement principles associated with the management control element is contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
  - 3.3.2.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
  - 3.3.2.3 Measurement principles needed for the application of the Sub-Sector Code with regards to the management control element for QSEs are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.
  
- 3.4 Employment Equity**
  - 3.4.1 Guiding Principle**
    - 3.4.1.1 Our guiding principle is to increase the participation of black people in top management, senior management and professional and technical occupations in the rail industry to create a workforce that truly represents the racial, ethnic and gender diversity of our country. This will require that all stakeholders create a supportive culture within their organization to 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 **Senior Management:** The minimum compliance level for total black representation is set at 60% and the minimum compliance level for black women representation is set at 30% of all senior management positions.
    - 3.4.2.2 **Middle Management:** The minimum compliance level for total black representation is set at 75% of all middle management and the minimum compliance level for black women representation is set at 37% of all middle management positions.
    - 3.4.2.3 **Junior Management:** The minimum compliance level for total black representation is set at 80% and the minimum compliance level for black women representation is set at 40% of all junior management positions.
    - 3.4.2.4 **Black Disabled Employees** – The minimum compliance level for black disabled representation is set at 3% of total staff.

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- 3.4.2.5 Black Women Disabled Employees—The minimum compliance level for black women disabled representation is set at 1.5% of total staff.
- 3.4.2.6 Measured entities falling within the QSEs threshold commit 40% of all management staff is black within 5 years. 50% of these positions should be earmarked for black women.
- 3.4.2.7 QSEs within this sub-sector commit to all 60% of all staff should be black within the next 5 years. Black women should occupy 30% of all positions within the next 5 years.
- 3.4.3 TETA commits to:
  - 3.4.3.1 Play a significant role in monitoring and supporting stakeholders in meeting their targets.
- 3.4.4 **Measurement Principles and Application of the Charter**
  - 3.4.4.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.
  - 3.4.4.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.
  - 3.4.4.3 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.
- 3.5 **Skills Development**
  - 3.5.1 **Guiding Principle**
    - 3.5.1.1 Our guiding principle is to increase the economic value added of every employee in the rail sector through best-practice Human Resource Development, Skills Development, Employment Equity and Gender policies. A key element will be to identify the critical skills, retain and create quality employment in the sector.
  - 3.5.2 **Private Industry Commit to:**
    - 3.5.2.1 Investing a minimum of **3.5%** of the leviable amount on skills development expenditure on Learning programmes as per the Learning Matrix contained in the Codes, for black people. The target is inclusive of all associated costs and the current 1% skills development levy.
    - 3.5.2.2 Investing a minimum of 1.5% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black women employees.
    - 3.5.2.3 Investing a minimum of 0.3% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black disabled employees.
    - 3.5.2.4 Investing a minimum of 0.15% of the leviable amount on skills development expenditure on Learning Programmes as per the Learning Matrix contained in the Codes for black women disabled employees.

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- 3.5.2.5 The number of black employees participating in Learnerships or Category B, C or D as a percentage of total employees will be 5%.
- 3.5.2.6 The number of black women employees participating in Learnerships or Category B, C or D as a percentage of total employees will be 2%.
- 3.5.2.7 Measured entities qualifying as QSEs to invest 2% of the leviable or payroll whichever is applicable on skills development expenditure on learning programmes for black employees. 50% of this amount to be spend on learning programmes for black women employees.
- 3.5.3 TETA Commits to:**
- 3.5.3.1 Expand the number of learnerships available based on the sector's skills requirements identified in the sector skills plan and the demands of the industry.
- 3.5.3.2 Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants. This would entail streamlining processes and developing user-friendly procedures that encourage companies to participate in learnerships programmes.
- 3.5.3.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships-in management, technical and professional occupational categories-to help public and private sector organisations to achieve their employment equity targets.
- 3.5.3.4 Conduct research to identify the management, professional and technical skills that the industry will require over the next decade and map out future demand/supply scenarios in a detailed skills audit that will guide and inform stakeholders in implementing their EE targets.
- 3.5.3.5 Pay particular attention to the issue of addressing the current shortage of engineering professionals in the rail industry and make proposals on how to eliminate the skills deficit in the medium term. The proposal will quantify the financial resources that may be required to eliminate the skills deficit.
- 3.5.3.6 Conduct research on the supply side of the skills development equation – i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry.
- 3.5.3.7 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category.
- 3.5.3.8 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in the identified areas.
- 3.5.4 Measurement Principles and Application of the Charter**
- 3.5.4.1 Measurement principles associated with the skills development element, is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.

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- 3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice
- 3.6 Preferential Procurement**
- 3.6.1 Guiding Principle**
- 3.6.1.1 Our guiding principle is to use the significant purchasing power of the rail parastatals to develop and support existing BEE companies in the sector and make deliberate attempts to identify new entrants, particularly in areas such as heavy engineering and maintenance, which have traditionally excluded black people. A key area of focus will be to identify areas where there is relatively little procurement from black suppliers and develop strategies to rectify the situation. However, quality and specification issues have to be reflected under procurement in order to ensure compliance with safety standards.
- 3.6.2 Private Industry Commits to:**
- 3.6.2.1 B-BBEE Procurement: The Private Sector commits itself to procure a minimum of **50% of B-BBEE procurement** spend based on the Recognition levels (see Appendix B) as a percentage of Total Measured Procurement Spend.
- 3.6.2.2 B-BBEE Procurement-QSEs and EMEs: The Private Sector commits itself to procure a minimum of **10% of all B-BBEE procurement** spend from Qualifying Small Enterprises and EMEs.
- 3.6.2.3 Procurement from **50% Black-Owned Enterprises**: The Private Sector commits itself to procuring a minimum of 9% of B-BBEE procurement spend from 50% Black-Owned Enterprises.
- 3.6.2.4 Procurement from **30% Black Women-Owned Enterprises**: The Private Sector commits itself to procuring a minimum of 6% of B-BBEE procurement spend from **30% Black Women-Owned Enterprises**.
- 3.6.2.5 QSEs within this sub-sector commit to procuring a minimum of 50% of total procurement from B-BBEE compliant suppliers.
- 3.6.2.6 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector BEE Forum/Council.
- 3.6.3 All stakeholders commit to:**
- 3.6.3.1 Ensure that companies and organisations develop uniform policies on Accounting for Affirmative Procurement and adopt the guidelines that will be set by the Transport Sector BEE Forum/Council.
- 3.6.3.2 Ensure that companies and organisations constantly explore possibilities to increase the amount of discretionary spending—for example by supporting local procurement and/or content in line with the agreements reached by stakeholders at the Growth and Development Summit (GDS) whilst at all times complying with their Safety Management System requirements.
- 3.6.3.3 This will require that companies and organisations state in their annual BEE reports the reasons for classifying an item of expenditure as “non-discretionary.” This information should be disclosed in a detailed statement that reconciles discretionary and non-discretionary expenditure.

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- 3.6.3.4 Companies and organisations should support the Proudly South African (PSA) campaign and note the agreement at the GDS that PSA is "an important means of taking the message of local content, fair labour standards, environmental sustainability and quality products and services to the nation."
- 3.6.3.5 As far as possible, companies and organisations should use local as opposed to foreign suppliers and state the reasons for using a foreign supplier. Where a foreign supplier must be used, companies and organisations must use the offset principle to secure the commitment of these companies to a set of BEE obligations.
- 3.6.3.6 As far as possible include early payment cycles, securities, guarantees etc when procuring from to Black owned enterprises, QSEs & EMEs.
- 3.6.4 **Measurement Principles and Application of the Charter**
- 3.6.4.1 Measurement principles associated with the preferential procurement element, is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.4.2 The formulae required in the determination of the preferential procurement score are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.4.3 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.7 **Enterprise Development**
- 3.7.1 **Guiding Principle**
- 3.7.1.1 Our guiding principle is to help set up, nurture and grow viable BEE enterprises in the rail sector that are majority-owned by black operators while developing existing companies.
- 3.7.2 **The Private Industry Commits to:**
- 3.7.2.1 Pro-actively seek opportunities to enter into joint ventures (and other forms of alliances) and make direct investments in BEE companies.
- 3.7.2.2 Facilitate the development of creative financial mechanisms to enable BEE companies and employees to purchase equity in their companies.
- 3.7.2.3 Enterprise development in the private sector will be measured as a percentage of Net Profit After Tax (NPAT) over a 5 year period. The private sector commits itself to an average annual value of Enterprise Development of 3% of NPAT.
- 3.7.2.4 QSEs within this sub-sector aspire to make contributions to enterprise development, which will amount to 2% of NPAT evaluated annually over the next 5 years.
- 3.7.3 **TETA commits to:**
- 3.7.3.1 To developing training programmes specifically designed for black entrepreneurs within the Rail Industry.
- 3.7.3.2 Contribute 10% of its allocation to developing training programmes specifically for entrepreneurs in this sector.

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- 3.7.3.3 Having 50% of all Learners in such programmes being black people.
- 3.7.4 Measurement Principles and Application of the Sub-Sector Code**
- 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 sub-sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.
- 3.8 Social-economic Development**
- 3.8.1 Guiding principles**
- The rail sub-sector is well placed to make a contribution towards the development of local rural communities. Our guiding principle is to increase the impact of companies and organisations within the rail venue chain on rural communities.
- 3.8.2 All Stakeholders commit to:**
- 3.8.2.1 A target of 1% of NPAT on social development projects as identified by the organisation/company with a specific focus on rural development, which may include HIV/AIDS treatment and prevention, education, etc.
- 3.8.2.2 QSEs within this sub-sector will contribute a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.
- 3.8.2.3 The rand spend on contributions directed in the following programmes that will be Rail Sector specific and designed areas will be enhanced by a factor of 1.25:
- 3.8.2.3.1 HIV Treatment and Prevention;
- 3.8.2.3.2 Education; and
- 3.8.2.3.3 Rural Development structures.
- 3.8.3 Measurement Principles and Application of the Charter**
- 3.8.3.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.3.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.8.3.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.

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

## RAIL SUB-SECTOR CODE FOR BBBEE

### 4. RAIL SUB-SECTOR B-BBEE SCORECARD

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

**RAIL SUB-SECTOR CODE FOR BBBEE**

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

**RAIL SUB-SECTOR CODE FOR BBBEE**

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

## RAIL SUB-SECTOR CODE FOR BBEE

### 5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD

| B-BBEE Element            | Indicators of Empowerment                                                                                                                                           | Private Sector 5 year target                                 | Private Sector Weightings |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------|
| <b>Ownership</b>          | 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                         |
|                           | <b>Bonus Points:</b> Involvement in the ownership of the Enterprise by black women                                                                                  | 10%                                                          | 2                         |
|                           | <b>Bonus Points:</b> Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes | 10%                                                          | 1                         |
| <b>Management Control</b> | Black Representation at Top Management level                                                                                                                        | 50.1%                                                        | 25                        |
|                           | <b>Bonus Points:</b> Black women representation at Top-Management                                                                                                   | 25%                                                          | 2                         |
| <b>Employment Equity</b>  | 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                         |
|                           | <b>Bonus points:</b> meeting or exceeding the EAP targets in each category                                                                                          |                                                              | 2                         |
| <b>Skills Development</b> | Skills Development spend on learning programmes for Black employees as a percentage of the leviable/payroll                                                         | 2%                                                           | 12.5                      |
|                           | Skills Development spend on learning programmes for Black                                                                                                           |                                                              | 12.5                      |

**RAIL SUB-SECTOR CODE FOR BBEE**

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

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.

## RAIL SUB-SECTOR CODE FOR BBEE

### 6. APPENDIX A: COMMITMENT EVALUATION MATRICES

#### Skills Development

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

**RAIL SUB-SECTOR CODE FOR BBBEE**

|                                                                                                   |                                                                  |                                                                                        |                                                  |
|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------|
|                                                                                                   |                                                                  | TETA.                                                                                  |                                                  |
| Set targets to increase the number of sustainable learnerships at all levels within the industry. | Money spent on learnerships as a % of total discretionary funds. | Report to Steering Committee on improvement (percentage change) in black learnerships. | TETA & Steering Committee/Sub-Sector CodeCouncil |

**Preferential Procurement**

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

**Enterprise Development**

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