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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES  
NOTICE 1160 OF 2015****CODES OF GOOD PRACTICE ON BROAD BASED BLACK  
ECONOMIC EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry, hereby:

- (a) Issue the following **Draft AgriBEE Sector Codes** for public comment in terms of **section 9 (5)** of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by Act 46 of 2013; and
- (b) Invite interested persons and the public to submit inputs and comments on the draft sector code within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of **Jacob Maphutha** and **Mologadi Leshiba**, to the following address/es:

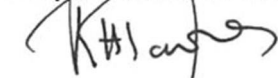
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**Dr ROB DAVIES, MP**  
**MINISTER OF TRADE AND INDUSTRY**  
**DATE:** 30 October 2015

## **Draft Amended AgriBEE Sector Code**

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## 1. INTRODUCTION

- 1.1. This Draft Amended Sector Code is the outcome of the deliberations of the AgriBEE Charter Council, following the gazetting of the AgriBEE Sector Code on 28 December 2012 and the establishment of the AgriBEE Sector Charter Council in December 2008. It takes into account opinions expressed at the Indaba and all previous drafts, and the Amended Codes of Good Practice for Broad-Based Black Economic Empowerment ('the Codes'), as published by the Department of Trade and Industry (**the dti**).
- 1.2. While the Broad-Based Black Economic Empowerment Act, No 53 of 2003 as amended by B-BBEE Act 46 of 2013 ('the Act') and the Codes has guided the development of the AgriBEE Sector Code, its conception is linked to the joint vision as contained in the Strategic Plan for South African Agriculture ('the Sector Plan') of a united and prosperous agriculture Sector designed to meet the challenges of constrained global competitiveness and low profitability, skewed participation, low investor confidence, inadequate support and delivery systems, and poor and unsustainable management of natural resources. This Draft Amended AgriBEE Sector Code derives directly from the Sector's core objective to ensure increased access and equitable participation in the Sector.
- 1.3. This document has been developed as a Draft Amended Sector Code for the Agricultural Sector in terms of Section 9 of the Act and provides for empowerment in the Sector and it includes the Draft Amended AgriBEE Scorecards for large enterprises, and Qualifying Small Enterprises (QSE). Where there is doubt, uncertainty or ambiguity with respect to the interpretation of this Code, the content of the Amended Codes of Good Practice, as published by **the dti**, will prevail.
- 1.4. The diversity and uniqueness of sub-sectors within the agricultural Sector is acknowledged. In this respect, where sub-sector charters are developed, these must not be in conflict with the Codes and, in turn, are encouraged to be consistent and in alignment with this Draft Amended AgriBEE Sector Code.
- 1.5. Targets contained in the Draft Amended AgriBEE Scorecard is based on those contained in the Amended Broad-Based Black Economic Empowerment Codes of Good Practice, as published by the Department of Trade and Industry, as well as on stakeholder inputs, comments and recommendations. Where no substantive reasons for deviation from targets contained in the Codes of Good Practice were put forward by stakeholders, targets have largely remained aligned with those contained in the Amended Codes of Good Practice.

## 2. SCOPE OF APPLICATION

- 2.1. The scope of the Draft Amended AgriBEE Sector Code shall include any Enterprise which derives majority of its turnover from:
- (a) The primary production of agricultural products;
  - (b) The provision of inputs and services to Enterprises engaged in the production of agricultural products;
  - (c) The beneficiation of agricultural products whether of a primary or semi-beneficiated form; and
  - (d) The storage, distribution, and/or trading and allied activities related to non-beneficiated agricultural products.
- 2.2. Where an Enterprise trades in more than one sector i.e. falls under more than one Sector Code or Transformation Charter, the Measured Enterprise must be guided by the principles embodied in the Amended Codes of Good Practice (refer to statement 003 of Amended CoGP)
- 2.3. This Draft Amended Sector Code applies to multinationals whose business falls within the scope of the Code as defined in this section. Where a specific regime for multinationals exists in the Amended Codes of Good Practice, this regime will apply.
- 2.4. Enterprises as defined in paragraph 2.1 should measure their contributions to the elements of broad-based BEE as contained in the Draft Amended AgriBEE Scorecard.
- 2.5. Notwithstanding paragraph 2.4, Enterprises with an annual turnover of between R10 million and R50 million qualify for BEE compliance measurement in terms of the Draft Amended AgriBEE QSE Scorecard. However, it should be noted that the Minister may, by notice in the Gazette, adjust the thresholds following appropriate benchmarking studies, sub-sector inputs, other relevant information and consultation with the major stakeholders in the sector-
- 2.6. Notwithstanding paragraph 2.4 and 2.5, Enterprises with an annual turnover of less than R10 million, will be classified as Exempted Micro Enterprises ('EME's'). EME's will enjoy a deemed BEE recognition Level 4 (as defined in the Amended Codes of Good Practice), and sufficient evidence of qualification as an Exempted Micro-enterprise is a sworn affidavit or Companies and Intellectual Property Commission (CIPC) issued certificate. However, EME's are encouraged to contribute to transformation in agriculture, particularly in



the areas of skills development and socio-economic development and are therefore incentivised to increase their BEE status by adopting this generic Draft AgriBEE Sector Code directive for EME's to move from Lower Level , respectively, to higher levels.

- 2.7. The AgriBEE Sector Charter Council will review and adjust the turnover thresholds for QSE's and EME's periodically in line with relevant economic indicators.

### **3. OBJECTIVES**

- 3.1. The objectives of the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended by B-BBEE Act 46 of 2013 are to facilitate Broad-Based Black Economic Empowerment by:

- (a) Promoting economic transformation in order to enable meaningful participation of Black People in the economy;
- (b) achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new Enterprises;
- (c) increasing the extent to which communities, workers, co-operatives and other collective Enterprises own and manage existing and new Enterprises and increasing their access to economic activities, infrastructure and skills training;
- (d) increasing the extent to which Black women own and manage existing and new Enterprises, and increasing their access to economic activities, infrastructure and skills training;
- (e) promoting investment programmes that lead to broad-based and meaningful participation in the economy by Black People in order to achieve sustainable development and general prosperity;
- (f) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and
- (g) promoting access to finance for black economic empowerment.

- 3.2. The objectives of this Draft Amended AgriBEE Sector Code are to facilitate Broad-based Black Economic Empowerment in the agricultural Sector by implementing initiatives to include Black South Africans at all levels of agricultural activity and Enterprises by:

- (a) Promoting equitable access and participation of Black People in the entire agricultural value chain;
- (b) De-racialising land and Enterprise ownership, control, skilled occupations and management of existing and new agricultural Enterprises;
- (c) Unlocking the full entrepreneurial skills and potential of Black People in the Sector;
- (d) Facilitating structural changes in agricultural support systems and development initiatives to assist Black South Africans in owning, establishing, participating in and running agricultural Enterprises;
- (e) Socially uplifting and restoring the dignity of Black South Africans within the Sector;
- (f) Increasing the extent to which communities, workers, co-operatives and other collective Enterprises own and manage existing and new agricultural Enterprises, increasing their access to economic activities, infrastructure and skills training;
- (g) Increasing the extent to which Black Designated Groups own and manage existing and new agricultural Enterprises, increasing their access to economic activities, infrastructure and skills training;
- (h) Empowering rural and local communities to have access to agricultural economic activities, land, agricultural infrastructure, ownership and skills;
- (i) The improvement of living and working conditions and promotion of decent living and working conditions for farm workers; and
- (j) Improving protection and standards of land rights and tenure security for labour tenants, farm workers and other vulnerable farm dwellers and addressing the inherently paternalistic nature of relationships associated with insecure tenure by promoting more permanent forms of tenure with the emphasis being on the transfer of ownership of land.

#### **4. DETERMINATION OF AgriBEE STATUS**

- 4.1. The BEE status of an Enterprise that falls within the scope of application of the Draft Amended AgriBEE Sector Code will be determined by the Enterprise's score on the Draft Amended AgriBEE Scorecard. The Draft Amended Scorecard consists of the following five key elements:

- (a) Ownership (Equity and Land)

- (b) Management control
- (c) Skills development
- (d) Enterprise and Supplier Development
- (e) Socio-Economic Development

### **Draft Amended AgriBEE Scorecard**

- 4.2. The Draft Amended AgriBEE Sector Code (Scorecard) enjoys equal status with that of any other code, including the Amended Generic Codes of Good Practice.
- 4.3. Measurement Principles:
- (a) A Measured Enterprise's score for a particular indicator is calculated by dividing the enterprise's actual contribution (as described by the relevant indicator) by the corresponding target
  - (b) The result is multiplied by the corresponding indicator weighting points to obtain a score for that indicator
  - (c) Where the enterprise attains a score in excess of the indicator weighting points, the enterprise shall only be entitled to the corresponding weighting points
  - (d) The score for an element is the sum of indicator scores under that element
  - (e) A Measured Enterprise's overall BEE score will determine its BEE status and BEE procurement recognition level
- 4.4. Targets contained in the Draft Amended AgriBEE Sector Code Scorecard are based on those contained in the Amended Broad-Based Black Economic Empowerment Codes of Good Practice (CoGP) as published by the Department of Trade and Industry, as well as on stakeholder inputs, comments and recommendations. Where no substantive reasons for deviation from targets contained in the Amended CoGP were put forward by stakeholders, targets have largely remained aligned with those contained in the Amended CoGP.

<b>BEE Status</b>	<b>Qualification</b>	<b>BEE procurement recognition level</b>
Level One Contributor	≥100 points on a broad-based BEE Scorecard	135%

Level Two Contributor	≥95 but <100 points on a broad-based BEE Scorecard	125%
Level Three Contributor	≥90 but <95 on a broad-based BEE Scorecard	110%
Level Four Contributor	≥80 but <90 on a broad-based BEE Scorecard	100%
Level Five Contributor	≥75 but <80 on a broad-based BEE Scorecard	80%
Level Six Contributor	≥70 but <75 on a broad-based BEE Scorecard	60%
Level Seven Contributor	≥55 but <70 on a broad-based BEE Scorecard	50%
Level Eight Contributor	≥40 but <55 on a broad-based BEE Scorecard	10%
Non-Compliant Contributor	<40 on a broad-based BEE Scorecard	0%

- 4.5. The gazettement of a Draft Amended AgriBEE Sector Code for the Agricultural Sector, in terms of Section 9 of the Act is evidence of the commitment by all stakeholders to promote Broad-Based Black Economic Empowerment in the Agricultural Sector.

## 5. PRIORITY ELEMENTS, SUBMINIMUM AND DISCOUNTING PRINCIPLE

### 5.1. Priority Elements and Subminimum

#### 5.1.1. Ownership and Land Ownership

The sub-minimum requirement for ownership(equity and land ownership) is 40% of Net Value (40% of the 8 points) based on the Time Based Graduation Factor as provided in Annexe 100(E) of Amended CoGP.

#### 5.1.2. Skills Development

The sub-minimum requirement for Skills Development is 40% of the total weighting points for Skills Development.

#### 5.1.3. Enterprise and Supplier Development

The sub-minimum requirement for Enterprise and Supplier Development is 40% for each of the three categories, within the Enterprise and Supplier Development element, namely Preferential Procurement, Supplier Development and Enterprise Development.

## **5.2. Compliance to priority elements**

- 5.2.1. A Large Enterprise is required to comply with all the Priority Elements;
- 5.2.2. A QSE is required to comply with Ownership as a compulsory element , and either Skills Development or Enterprise and Supplier Development

## **5.3. Discounting principle effects**

- 5.3.1. Non-compliance with the 40% sub-minimum requirements of any of the priority elements will result in the following outcomes for both Large Enterprises and QSEs:
- 5.3.2. The actual points scored by the Measured Entity and the consequent level that the Measured Entity would have achieved were it not for non-compliance with the 40% sub-minimum requirements will be recognised by the Verification Agency (the Recognition Level)
- 5.3.3. Notwithstanding the recognition in 5.3.2 above, the Measured Entity's B-BBEE status level will be discounted by one level down until the next applicable verification period in which the Measured Entity can demonstrate compliance with the 40% sub-minimum requirements, at which point the Recorded Level will become the applicable ratings level for that Measured Entity in the verification period.

## **5.4. Eligibility as an Exempted Micro Enterprise(EME)**

- 5.4.1. Any enterprise with annual Total Revenue of R10 Million or less qualifies as an EME
- 5.4.2. An EME is deemed to have a B-BBEE Status of "Level Four Contributor" having a B-BBEE recognition level of 100%.

## **5.5. Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise (EME):**

- 5.5.1. Despite paragraph 5.4.2, an EME which is 100% Black owned qualifies for elevation to "Level One Contributor" having a B-BBEE recognition level of 135%
- 5.5.2. Despite paragraph 5.4.2 and 5.5.1, an EME which is at least 51% Black owned qualifies for elevation to "Level Two Contributor" having a B-BBEE recognition level of 125%

5.6. Despite paragraph 5.4 and 5.5 an EME is allowed to be measured in terms of the QSE scorecard should they wish to maximise their points and move to higher B-BBEE recognition level.

5.6.1. An EME is only required to obtain a sworn affidavit or CIPC issued certificate on an annual basis, confirming:

(a) Annual Total Revenue of R10 million or less; and

(b) Level of Black ownership

(c) Any misrepresentation in terms of paragraph 5.6.1 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

**5.7. Eligibility as a Qualifying Small Enterprises (QSE)**

5.7.1. A Measured Entity with an annual Total Revenue of between R10 million and R50 million qualifies as a QSE.

5.7.2. A QSE must comply with all the elements of B-BBEE for the purpose of measurement

**5.8. Enhanced B-BBEE recognition level for QSE:**

5.8.1. A QSE which is 100% Black owned qualifies for a Level One B-BBEE recognition

5.8.2. A QSE which is at least 51% Black owned qualifies for Level Two B-BBEE recognition level.

5.8.3. QSEs mentioned under 5.8.1 and 5.8.2 are only required to obtain a sworn affidavit or CIPC issued certificate on an annual basis, confirming the following:

(a) Annual Total Revenue of R50 million or less; and

(b) Level of Black ownership

(c) Empowering Supplier status

5.9. Any misrepresentation in terms of paragraph 5.8 above constitutes a criminal offence as set out in the B-BBEE Act as amended

**5.10. Start-up enterprises**

5.10.1. Start-up enterprise must be measured as an EME under this statement for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the Start-up Enterprise.

5.10.2. Start-up Enterprise is deemed to have the qualifying B-BBEE Status in accordance with the principles of paragraph 5.4 of this Statement eligibility as an EME.

5.10.3. In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status in accordance with paragraph 5.6.1 Sworn affidavit statement or CIPC issued certificate.



- 5.10.4. Despite paragraph 5.10.1 and 5.10.2, a start-up Enterprise must submit a QSE scorecard when tendering for any contract, or seeking any other economic activity covered by Section 10 of the Act, with a value higher than R10 million but less than R50 million . For contracts of R50 million or more they should submit the Generic scorecard. The preparation of such scorecard must use annualised data.

## 6. ELEMENTS OF EMPOWERMENT

<b>DRAFT AMENDED AGRIBEE SCORECARDS WEIGHTINGS</b>		
<b>Element</b>	<b>Large enterprises Weighting</b>	<b>QSE Scorecard Weighting</b>
Ownership	25 points	25 points
Management control	19 points	15 points
Skills Development	20 points	30 points
Enterprise and Supplier Development	40 points	25 points
Socio-Economic Development	15 points	15 points

- Both Larger Enterprises and QSEs are measured using, all elements of the Draft Amended AgriBEE Scorecard
- This is also a sector endeavor to encourage broad-based empowerment, and ownership has always been a core transformation consideration of the sector.

### 6.1. OWNERSHIP

The objective of this element is to increase the participation of Black People in the Agri-Industry by increasing the level of entitlement of Black People to participate in the Economic Interest and Exercisable Voting Rights of Enterprises in the Sector.

#### 6.1.1. General Ownership

- 6.1.1.1. The mission of this element is to enhance equitable access and participation in the agricultural Sector; to de-racialise land and

Enterprise ownership; and to unlock the full entrepreneurial potential in the Sector.

- 6.1.1.2. AgriBEE is fundamental to the long-term growth and competitiveness of the Agricultural Sector. AgriBEE activities and processes should ultimately lead to the creation of viable and sustainable Enterprises in the Agricultural Sector.
  - 6.1.1.3. Stakeholders in the Sector will work towards the development and implementation of a diversity of Enterprise ownership models in support of AgriBEE.
  - 6.1.1.4. All Sector Stakeholders should endeavour to source sufficient financing in order to ensure the establishment of viable and sustainable Enterprises.
- 6.1.2. All other key principles of Statement 100 of the Amended Generic Codes not addressed in this statement are applicable.

**Agri-Industry undertakes to: -**

- (a) Further Black participation through ownership in the Agri-Industry by increasing the level of entitlement of Black People to participate in the Economic Interest and Exercisable Voting Rights in existing and new Enterprises. This includes the sale of equity in a Measured Enterprise, sale of assets through Qualifying Transactions and/or through share equity schemes and other forms of joint ventures with farm labourers and other Black entrepreneurs;
- (b) . Qualifying Transactions must be scored in terms of Statement 102 of the Amended CoGP, which states that equivalency points may be earned under the ownership element through this mechanism. In order for an Enterprise to enjoy continued recognition (also referred to as "once empowered, always empowered recognition) for ownership on the Scorecard through a Qualifying Transaction, the Transaction must ultimately result in:
  - I. the creation of sustainable businesses or business opportunities for Black People; and
  - II. the transfer of specialised skills or productive capacity to Black People; and
  - III. it must not result in unnecessary job-losses;
  - IV. it must involve a separate Associated Enterprise which has:
    - no unreasonable limitations with respect to its clients or customers;
    - clients, customers or suppliers other than the Enterprise with which the Qualifying Transaction was undertaken; and
    - no operational outsourcing arrangements with the initiating Enterprise that were not concluded at arms-length on a fair and reasonable basis.

**Government undertakes to: -**

- (a) Implement all legislative and other measures at its disposal to facilitate black ownership.
- (b) Facilitate access to state BEE funds that are made available by government departments, State-Owned Enterprises, and financial institutions.

**Draft Amended Ownership scorecard for Large Enterprises**

<b>Ownership for Large Enterprises</b>				
Weighting	Indicator	Measurement Category & Criteria	Weighting Points	Equity Ownership
25	2.1 Voting Rights	2.1.1 Exercisable Voting Rights (land ownership) in the Entity in the hands of Black people	4	25%+1
		2.1.2 Exercisable Voting Rights (land ownership) in the Entity in the hands of Black women	2	10%
	2.2 Economic Interest	2.2.1 Economic Interest in the Entity to which Black people are entitled	4	25%
		2.2.2 Economic Interest in the Entity to which Black women are entitled	2	10%
		Economic Interest of any of the following Black natural people in the Measured Entity		
		2.2.2.1 Black designated groups;	3	4%
		2.2.2.2 Black participants in Employee Share Ownership Programmes;		
		2.2.2.3 Black people in Broad based Ownership Scheme;		
		2.2.2.4 Black participants in Co-operatives;		
	2.2.4 New Entrants		2	2%
	Realisation Points	Net Value	8	Refer to Annex E of the Amended CoGP

**Draft Amended Ownership scorecard for QSEs**

<b>Ownership for QSEs</b>		
Category and Ownership Indicator	Weighting points	Compliance Target
<b>Voting rights:</b>		
Exercisable Voting Rights in the Enterprise in the hands of black people	5	25%+1 vote
Exercisable Voting Rights in the Enterprise in the hands of black women	2	10%
<b>Economic Interest:</b>		
Economic Interest of black people in the Enterprise	5	25%
Economic Interest of black women in the Enterprise	2	10%
New Entrants or Black Designated Groups	3	2%
<b>Realisation points:</b>		
Net Value	8	Refer to Annex 100(E)

The principles of Statement 102 (as being revised) of the Amended CoGP on Recognition of Sale of Assets will apply under Ownership Element.

**6.2. MANAGEMENT CONTROL**

The objective of this element is to increase the participation and levels of control of Black People and Black Women at board and executive management levels in the Agri-Industry. This will be achieved by increasing the absolute and relative number of Black People in these positions and by implementing mechanisms under the skills development element to ensure that secondary, tertiary and in-house training and development programmes are designed to meet the targets set under the Management Control element.

## Draft Amended Management control scorecard for Large Enterprises

Management Control for Large Enterprises			
Weighting	Measurement Category & Criteria	Weighting points	Compliance target
19	<b>Board participation</b>		
	Exercisable voting rights of black board members as a percentage of all board members	2	50%
	Exercisable voting rights of black female board members as a percentage of all board members	1	25%
	Black Executive directors as a percentage of all executive directors	2	50%
	Black female Executive directors as a percentage of all executive directors	1	25%
	<b>Other Executive Management:</b>		
	Black Executive Management as a percentage of all executive directors	2	60%
	Black female Executive Management as percentage of all executive directors	1	30%
	<b>Senior Management</b>		
	Black employees in Senior Management as a percentage of all senior management	2	60%
	Black female employees in Senior Management as a percentage of all senior management	1	30%
	<b>Middle Management</b>		
	Black employees in Middle Management as a percentage of all middle management	2	75%
	Black female employees in Middle Management as a percentage of all middle management	1	38%
	<b>Junior Management</b>		
	Black employees in Junior Management as a percentage of all junior management	1	88%
	Black female employees in Junior Management as a percentage of all junior management	1	44%
	<b>Employees with disabilities</b>		
	Black employees with disabilities as a percentage of all employees	2	2%

**Draft Amended Management Control scorecard for QSE**

<b>Management Control for QSE</b>			
Category and Ownership Indicator		Weighting points	Compliance Target
15			
	<b>Executive (senior) Management</b>		
	Black representation at Executive Management	5	50%
	Black female representation at Executive Management	2	25%
	<b>Non-Executive (middle and junior) Management</b>		
	Black representation at non-executive management	6	60%
	Black female representation at non-executive management	2	30%

**Agri-Industry undertakes to: -**

- (a) Promote participation by Black People in board positions;
- (b) Promote participation by Black People in executive management positions;
- (c) Promote participation by Black Women in board and executive management positions; and
- (d) Promote participation by Black People as Independent Non-executive Board Members.
- (e) Management Control and skills development targets

Management Control and skills development targets should be achieved within the ambit of the Employment Equity and Skills Development Acts. The objective of the management control element is to increase the representation of Black People, Black Women and Black Designated Groups at Senior Management level, at Professionally Qualified, Experienced Specialist and Mid-Management level and at Skilled Technical and Academically Qualified, Junior Management, Supervisory, Foremen and Superintendent level, in the Agri-Industry. This will be achieved by increasing the absolute and relative number of Black People in these positions and by implementing mechanisms under the skills development element to ensure that



secondary, tertiary and in-house training and development programmes are designed to meet the targets set under the employment equity element.

- (f) Proactively employ members of Black Designated Groups at Top Management, Senior Management, Professionally Qualified, Experienced Specialist, Mid-Management, Skilled Technical and Academically Qualified, Junior Management, Supervisors, Foremen, and Superintendent Levels as prescribed in the Scorecards.
- (g) All other key principles of Statement 200 of the Amended Generic Codes not addressed in this statement are applicable.

### 6.3. SKILLS DEVELOPMENT

- 6.3.1. Commercial viability in agriculture demands sustained productivity, high levels of entrepreneurship, long term commitment, resources and skills. The transformation demands of the Sector and rapid changes in the global environment require that more resources should be mobilised for expanding the existing human capital pool through investing in people, employment equity, skills development and institutional transformation.
- 6.3.2. Black Designated Groups are targeted under the skills development element. In addition, a focus on the development of core skills as identified by the enterprise, scarce and critical skills as identified by relevant Sector Education and Training Authority ('SETA'), must be ensured. In this respect, skills development spend on proposed learning interventions which address these skills shortages must account for 85% of the value of the actual contribution. Enterprises should engage with the relevant Sector Education and Training Authority ('SETA') for information on such learning interventions.
- 6.3.3. All other key principles of Statement 300 of the Amended Generic Codes not addressed in this statement are applicable.

#### Draft Skills Development scorecard for Large Enterprises

Skills Development			
Weighting	Measurement Category & Criteria	Weighting points	Compliance Target
20	Skills Development on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leverageable (payroll) Amount		

Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leivable (payroll) Amount. (provided 85% is on core and critical skills)	8	6%
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people with disabilities as a percentage of Leivable (payroll) Amount. (provided 85% is on core and critical skills)	4	0.3%
Learnership, Apprenticeships, and Internship		
Number of black people participating in Learnership, Apprenticeships, and Internships as a percentage of total employees (provided 85% is on core and critical skills)	4	2.5%
Number of black unemployed people participating in training specified in the learning programme matrix as a percentage of number of employees (provided 85% is on core and critical skills)	4	2.5%
<b>Bonus Points:</b>		
Number of black people absorbed by the Measured and Industry Entity at the end of the Learnership programme	5	100%

### Draft Amended Skills Development scorecard for QSE

Skills Development for QSE			
Criteria		Weighting points	Compliance Target
30	Skills development expenditure on learning programmes specified in the learning programme matrix for black people as a percentage of leivable amount. (provided 85% is on core and critical skills)	15	3%
	Number of black unemployed people participating in training specified in the learning programme matrix as a percentage of number of employees (provided 85% is on core and critical skills)	5	1%

Skills development expenditure on learning programmes specified in the learning programme matrix for black women as a percentage of leviable amount. (provided 85% is on core and critical skills)	10	1%
<b>Bonus Points:</b>		
Number of black people absorbed by the Measured and Industry Entity at the end of the Learnership programme	5	100%

**Agri-Industry undertakes to:-**

- (a) Identify gaps in workers' training needs so as to co-operate with and complement teaching and educational institutions and to allow their workers to receive skills and in-service training;
- (b) Dedicate resources to provide for experiential training, internships, in-service training and training infrastructure for prospective agribusiness entrepreneurs, farm managers and farm labourers;
- (c) Ensure maximum use of resources provided by the Skills Levy of the relevant SETAs ;
- (d) Institute a sector-wide young professional employment and mentoring programme, which targets Black unemployed and underemployed graduates in all disciplines. Mentorship programmes shall be accredited by the relevant SETA or other agreed authority; and
- (e) Implement quantifiable and measurable in-house mentoring programmes as part of the skills development of black employees.

**The relevant SETAs undertake to:-**

- (a) Establish SETA-funded training programmes for farm and Enterprise workers in appropriate technical and management skills;
- (b) Fast-track the registration of learners on NQF-aligned learning programmes;
- (c) Fast-track the implementation of appropriate learnership, internship, apprenticeship, in-service and mentorship programmes required by the Sector;
- (d) Fast-track the accreditation of appropriate sectoral service providers;
- (e) Encourage, support and monitor such programmes in the private sector;
- (f) Ensure the transformation of agricultural training institutions to accelerate preferential recruitment and admission of black trainees;

- (g) Encourage quantifiable and measurable in-house mentoring programmes as part of the skills development of black employees;
- (h) Encourage the implementation of sector-wide young professional employment and mentoring programmes, which target Black unemployed and underemployed graduates in all disciplines. Mentorship programmes shall be accredited by the relevant SETA or other agreed authority; and
- (i) Provide support to QSE's and EME's in the implementation of relevant skills development initiatives, including Enterprises which are exempted from the payment of the skills development levy.

**Government undertakes to:-**

- (a) Provide primary education and training. This includes adult literacy and numeracy training. The State, in conjunction with the governing bodies of educational institutions and similar structures, must ensure that quality training is offered by all primary, secondary and tertiary institutions;
- (b) Encourage agricultural and agro-processing training at schools and agricultural colleges. A focused, formal agricultural and agro-processing training system which adequately equips future agriculturalists and agro-processors should be developed;
- (c) Promote agriculture and agro-processing as a competitive career option;
- (d) Undertake a review of the effective demand for human resources in the agricultural Sector;
- (e) Lead and co-ordinate a targeted programme in collaboration with education authorities, farmers' organisations, labour and the agricultural private sector to review existing education and training curricula in order to enhance technical, entrepreneurial, and management skills for Black entrants into the Sector;
- (f) Ensure the inclusion of a substantial number of Black persons from the Sector as the nucleus of strategic partners in Government overseas trade missions, technical assistance, study visits and training opportunities;
- (g) Promote functional literacy and numeracy through ABET programmes;
- (h) Encourage quantifiable and measurable in-house mentoring programmes as part of the skills development of black employees; and
- (i) Encourage the implementation of a sector-wide young professional employment and mentoring programmes, which target Black unemployed and underemployed graduates in all disciplines. Mentorship programmes shall be accredited by the relevant SETA or other agreed authority.

## 6.4. DRAFT AMENDED ENTERPRISE AND SUPPLIER DEVELOPMENT

## Draft Amended Enterprise and Suppliers Development scorecard for Large Enterprises

Enterprise and Supplier Development for Large Enterprises			
Weighting	Measurement Category & Criteria	Weighting Points	Compliance Target
40	<b>1. PREFERENTIAL PROCUMENT</b>		
	1.1. B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	80%
	1.2. B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	15%
	1.3. B-BBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%
	1.4. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend <b>Phase in:</b> 10% for 1 <sup>st</sup> Year, 20% for 2 <sup>nd</sup> year, 25% for 3 <sup>rd</sup> year, 30% for 4 <sup>th</sup> year, 40% for 5 <sup>th</sup> year, provided the measured entity achieve the 3% NPAT under 2.1 below	9	40%
	1.5. B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend. <b>Phase in:</b> Target is 6% for year 1 to year 4, provided the target for supplier development is increased to 3% NPAT.	4	12%
	<b>Bonus points</b>		
	1.6. B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black owned.	2	2%

<b>2. SUPPLIER DEVELOPMENT</b>			
2.1.	Annual value of all Supplier Development Contribution made by the Measured Entity as a percentage of the target	10	(3% of NPAT for year 1 to year 4) 2% of NPAT
<b>3. ENTERPRISE DEVELOPMENT</b>			
3.1.	Annual value of Enterprise Development Contribution and Sector Specific Programmes made by the Measured Entity as a percentage of the target.	5	1.5% of NPAT
<b>Bonus points</b>			
3.2.	Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1	
3.3.	Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	

Note 1:

Ownership is kept at 25% + 1 vote because emphasis is placed on Enterprise and Supplier Development to develop and initiate more black industrialists to own enterprises.

Note 2:

Government and the Private Sector undertake to establish Enterprise and Supplier Development (ESD) Fund to be managed by an Independent Fund Administrator. Measured Entities (both QSEs and Large Enterprises) can contribute their 3% NPAT on Supplier Development and 1.5% NPAT on Enterprise Development into the ESD Fund. Measured Entities have a choice to contribute directly the fund or undertake Supplier Development and Enterprise Development on their own. For measured entities which decide to contribute to the fund will score full points under the Supplier Development (10 points) and Enterprise Development (5 points). In order to earn full points on ESD, measured entities who chose to contribute to the fund must still implement preferential procurement sub-element of the ESD. Measured Entities which contributed to the fund can apply for funding from the Fund Administrator to



implement ESD in their various enterprises. The objectives of the fund are as follows:

- To create black industrialists to own agricultural enterprises;
- To establish new suppliers and enterprises in the agricultural value chain;
- To support enterprise development initiatives; and
- To contribute to transformation in the overall ownership in the entire Agricultural Sector.

### Draft Amended Enterprise and Suppliers Development scorecard for QSE

Enterprise and Suppliers Development for QSE			
Category and Ownership Indicator		Weighting points	Compliance Target
25	<b>1. PREFERENTIAL PROCUREMENT</b>		
	1.1. B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measured Procurement Spend	10	60%
	1.2. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend <b>Phase in:</b> 5% for 1 <sup>st</sup> Year, 10% for 2 <sup>nd</sup> year, 15% for 3 <sup>rd</sup> year,	5	15%
	<b>2. SUPPLIER DEVELOPMENT</b>		
	2.1. Annual value of all Supplier Development Contribution made by the Measured Entity as a percentage of the target	5	1% of NPAT
	<b>3. ENTERPRISE DEVELOPMENT</b>		
	3.1. Annual value of Enterprise Development Contribution and Sector Specific Programmes made by the Measured Entity as a percentage of the target	5	1.5% of NPAT

#### **6.4.1. KEY MEASUREMENT PRINCIPLES**

6.4.1.1. The Enterprise and Supplier Development consist of,

- (a) Preferential Procurement; and
- (b) Enterprise Development and Supplier Development.
- (c) Enterprise Development and Supplier Development Contributions will be recognized as a percentage of annual Net Profit After Tax(NPAT)
- (d) All other key principles of Statement 400 of the Amended Generic Codes not addressed in this statement are applicable.

#### **6.4.2. SUB-MINIMUM AND DISCOUNTING PRINCIPLE**

6.4.2.1. A measured Entity must achieve a minimum of 40% of the targets set out on 1, 2 and 3 excluding bonus points of the Enterprise and Supplier Development Scorecard.

6.4.2.2. Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.4 in statement 000.

6.4.2.3. An empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:

- (a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.
- (b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.
- (c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.
- (d) Skills transfer- at least 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.

(e) At least 85% of labour cost should be paid to South African employees by service industry entities.

6.4.2.4. Exempted Micro Enterprises and Start-Ups are automatically recognized as Empowering Supplies.

6.4.2.5. The weighting points in the Enterprise and Supplier Development scorecard represent maximum number of points possible for each of the criteria.

6.4.2.6. If a measured entity procures goods and services from a supplier that is:

- (a) A recipient of supplier development contributions from a Measured Entity under Code series 400 has a minimum 3 year contract with the Measured Entity, the recognizable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor 1.2;
- (b) A black owned QSE or EME which is not a supplier development beneficiary but that has a minimum 3 year contract with the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2
- (c) A first time supplier to the Measured Entity, the recognisable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2.
- (d) Procurement of goods and services and any other activities that fall under 1 will not qualify for scoring under 2 and 3 and vice versa.
- (e) Beneficiaries of Supplier Development and Enterprise Development are EMEs or QSEs which are at least 51% black owned or at least 51% black women owned.

#### 6.4.3. General Principles

6.4.3.1. To strengthen local procurement in order to help South Africa's industrial base in critical sectors of production and value adding manufacturing, which are largely labour-intensive industries.

6.4.3.2. To increase local procurement through capacity building achieved by incentivizing appropriate local supplier development programmes by businesses supplying imported goods and services.

6.4.3.3. The imports provisions do not apply to the designated sectors and products for local production, as when published.

- 6.4.3.4. To actively support procurement from black owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.
- 6.4.3.5. To support procurement from black owned and black women owned businesses in order to increase the participation of these businesses in the main stream economy.
- 6.4.3.6. To promote the use of black owned professional service providers and entrepreneurs as suppliers.
- 6.4.3.7. Measured Entities receive recognitions for any Enterprise Development and Supplier Development Contributions that are quantifiable as a monetary value using Standard Valuation Method.
- 6.4.3.8. Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with designated sectors of government's localisation in value adding programmes.
- 6.4.3.9. Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with their supply chain requirements thereby linking Enterprise Development and Supplier Development with Preferential Procurement.
- 6.4.3.10. Qualifying Enterprise Development and Supplier Development Contributions of any Measured Entity are recognisable on an annual basis.
- 6.4.3.11. Contributions, programmes and/or initiatives that span over multiple years, the total contribution amount must be divided by the number of years, and the average per year is then to be utilized for annual contribution.
- 6.4.3.12. Measured Entities are encouraged to develop and implemented Enterprise Development and Supplier Development plan for Qualifying Beneficiaries. The plan should include:
  - 6.4.3.12.1. Priority interventions
  - 6.4.3.12.2. Key performance indicators; and
  - 6.4.3.12.3. A concise implementation plan with clearly articulated milestones.
- 6.4.3.13. Measured Entities will not get recognition for the same activities undertaken under 2. and 3, they will only get recognition for one of two i.e. 2 or 3

- 6.4.3.14. No portion of the value of any Qualifying Enterprise Development and Supplier Development Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.

**6.4.4. Total Measured Procurement Spend**

The following procurement is measurable within Total Measured Procurement Spend:

- 6.4.4.1. Cost of sales: all goods and services procured that comprise the cost of sales of the Measured Entity;
- 6.4.4.2. Operational expenditure: all goods and services procured that comprise the operational expenditure of the Measured Entity;
- 6.4.4.3. Capital expenditure: all capital expenditure incurred by the Measured Entity;

**6.4.5. Public sector procurement:**

- 6.4.5.1.1. All goods and services procured from organs of state and public entities  
Despite this, procurement by a Measured Entity from a local government authority, which is a reseller of that service, is measurable at the B-BBEE Recognition Level of the primary Supplier of the service; and
- 6.4.5.1.2. In any event, any procurement of any goods or services from any organ of state or public entity that enjoys a statutory or regulated monopoly in the supply of such or services, is excluded;
- 6.4.5.2. Monopolistic procurement: all goods and services procurement from suppliers that enjoy a monopolistic position;
- 6.4.5.3. Third-party procurement: all procurement for third-party or a client, where the cost of that procurement is an expense recorded in the Measured Entity's annual financial statements;
- 6.4.5.4. Labour brokers and independent contractors: any procurement of the Measured Entity which is Outsourced Labour Expenditure;
- 6.4.5.5. Pension and medical aid contributions: payments made to any post retirement funding scheme or to a medical aid or to a similar medical insurer by a Measured Entity for its employees, excluding any portions of such payments which are a contribution to a capital investment of the employee. The scheme or insurer must issue a certificate dividing payments between the capital investment portion

and the balance to establish the amount that is measurable within Total Measured Procurement Spend;

- 6.4.5.6. Trade commission's: any commission or similar payments payable by a Measured Entity; to any other person pursuant to the business or trade of the Measured Entity
- 6.4.5.7. Empowerment related expenditure: all goods and services procured in carrying out B-BBEE. The Total Measured Procurement Spend does not include actual contribution portion recognized under section 2 and 3 of this statement or Code series 500 but does not include any expenditure incurred in facilitating those contributions;
- 6.4.5.8. Imports: all goods and services that are imported or procured from a non-South African source; and
- 6.4.5.9. Intra-group procurement: all goods and services procured from subsidiaries or holding companies of the Measured Entity (BEE credentials of the entity supplying goods and/or services must be confirmed by way of a valid BEE certificate).

#### **6.4.6. Exclusion from Total Measured Procurement Spend**

The following list provides permissible exclusions from Total Measured Procurement Spend recognisable in terms of paragraph 6.4.4:

- 6.4.6.1. Taxation: any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorized to impose such tax or levy, including rates imposed by a municipality or other local government;
- 6.4.6.2. Salaries, wages, remunerations, and emoluments: any amount payable to an employee as an element for their salary or wage and any emolument or similar payment paid to a director of Measured Entity.
- 6.4.6.3. Pass-through third-party procurement: all procurement of third-party or a client that is recorded as an expense in the third-party or client's annual financial statement but is not recorded as such in the Measured Entity's annual financial statement;
- 6.4.6.4. **Empowerment Related Procurement:**
  - 6.4.6.4.1. Investments in or loans to an Associated Enterprise;
  - 6.4.6.4.2. Investments, loans or donations qualifying for recognition under any statement under Code series 400 or 500;



**6.4.6.5. Imports: The Following Imported Goods and Services:**

- 6.4.6.5.1. Imported capital goods or components for value-added production in South Africa provided that:
- 6.4.6.5.1.1. There is no existing local production of such capital goods or components; and
  - 6.4.6.5.1.2. Importing those capital goods or components promotes further value-added production within South Africa;
- 6.4.6.5.2. Imported goods and services other than those listed in paragraph 6.4.6.5.1 if there is no local production of those goods or services including, but not limited to, imported goods or services that-
- 6.4.6.5.2.1. Carry a brand different to the locally produced goods or services; or
  - 6.4.6.5.2.2. Have different technical specifications to the locally produced goods or services.
- 6.4.6.5.3. The exclusion of imports listed under 6.4.6.5.2 are subject to them having developed and implemented an Enterprise Development and Supplier Development plan for imported goods and services. This plan should include:
- 6.4.6.5.3.1. Clear objectives
  - 6.4.6.5.3.2. Priority interventions
  - 6.4.6.5.3.3. Key performance indicators; and
  - 6.4.6.5.3.4. A concise implementation plan with clearly articulated milestones
- 6.4.6.5.4. The Department of Trade and Industry will from time to time consult with the industry and issue practice notes with regard to the provisions on import exclusion.

**6.4.7. Measurement of B-BBEE Procurement Spend**

- 6.4.7.1. B-BBEE Procurement Spend is the value of the procurement falling within paragraph 6.4.4 and not excluded by paragraph 6.4.6. If a supplier falls within a category of supplier listed in paragraph 6.4.2.6, the value of procurement from that supplier is multiplied by the applicable factor listed in that paragraph.
- 6.4.7.2. B-BBEE Procurement Spend can be measured in terms of formula 'A' in Annexe 400 (A).

6.4.7.3. The B-BBEE Procurement Spend for a Measured Entity in respect of supplier is calculated by multiplying the spend contemplated by paragraph 6.4.4 (and not excluded by paragraph 6.4.6) in respect of that supplier by supplier's B-BBEE Recognition Level.

6.4.7.4. A Measured Entity's Total Procurement Spend is the total of all amounts calculated in terms of paragraph 6.4.7.3.

**6.4.8. The calculation of Preferential Procurement Contributions to B-BBEE**

6.4.8.1. A measured Entity receives a score for procurement in proportion to the extent that it meets the compliance target.

6.4.8.2. The Measured Entity's score for Preferential Procurement contributions to B-BBEE under the preferential procurement scorecard can be calculated in terms of formula 'B' in Annexe 400(A).

**6.4.9. Enterprise Development and Supplier Development Contributions**

6.4.9.1. The following is a non-exhaustive list of Enterprise Development and Supplier Development Contributions:

6.4.9.1.1. Investments in beneficiary entities;

6.4.9.1.2. Loans made to beneficiary entities;

6.4.9.1.3. Guarantees given or security provided on behalf of beneficiaries;

6.4.9.1.4. Credit facilities made available to beneficiary entities;

6.4.9.1.5. Grant Contributions to beneficiary entities;

6.4.9.1.6. Direct costs incurred by Measured Entity in assisting and hastening development of beneficiary entities;

6.4.9.1.7. Overhead costs of Measured Entity directly attributable to Enterprise Development and Supplier Development Contributions;

6.4.9.1.8. Preferential credit terms granted by Measured Entity to beneficiary entities;

6.4.9.1.9. Preferential terms granted by a Measured Entity in respect of its supply of goods and services to beneficiary entities;

6.4.9.1.10. Contributions made to settling service costs relating to operational or financial capacity or efficiency levels of beneficiary entities;

- 6.4.9.1.11. Discounts given to beneficiary entities in relation to the acquisition and maintenance cost associated with the grant to those beneficiary entities of franchise, licence, agency, distribution or other similar business rights;
- 6.4.9.1.12. The creation or development of capacity and expertise for beneficiary entities needed to manufacture or produce goods or services previously not manufactured, produced or provided in the Republic of South Africa is provided For in Government's economic growth and local supplier development policies and initiatives;
- 6.4.9.1.13. Facilitating access to credit for beneficiary entities without access to similar credits facilities through traditional means owing to lack of credit history or lack of collateral;
- 6.4.9.1.14. Provision of training or mentoring by suitably qualified entities or individuals to beneficiary entities which will assist the beneficiary entities to increase their operational or financial capacity; and
- 6.4.9.1.15. The maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of beneficiary entities or candidate beneficiary entities.
- 6.4.9.1.16. New projects promoting beneficiation by the Measured Entity for the benefit of Enterprise Development and Supplier Development Beneficiaries.
- 6.4.9.1.17. Provision of preferential credit facilities to a beneficiary entity by a Measured Entity may constitute an Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:
- 6.4.9.1.18. Provision of finance to beneficiary entities at lower than commercial rates of interest;
- 6.4.9.1.19. Relaxed security requirements or absence of security requirements for beneficiary entities unable to provide security for loans; and
- 6.4.9.1.20. Settlement of accounts with beneficiary entities over a shorter period of time in relation to Measured Entity's normal payment period, provided the shorter period is no longer than 15 days;
- 6.4.9.1.21. Providing training and mentoring to beneficiary communities by Measured Entity. (Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A

clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs incurred).

6.4.9.1.22. Maintaining an Enterprise Development and Supplier Development unit by the Measured Entity. (Only that option of salaries and wages attributable to time spent by staff in, and the other expenses related to, promoting or implementing Enterprise Development and Supplier Development constitute contributions.)

6.4.9.1.23. Payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise Development and Supplier Development on the Measured Entity's behalf.

#### 6.4.10. **Monetary and Non-Monetary Contributions**

6.4.10.1. Subject always to the definition of Qualifying Enterprise Development and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered:

6.4.10.1.1. The provision of seed or development capital;

6.4.10.1.2. Contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of Qualifying Enterprise Development and Supplier Development Beneficiary including, without limitation:

6.4.10.1.2.1. Professional and consulting services;

6.4.10.1.2.2. Licensing and/or registration fees;

6.4.10.1.2.3. Industry specific levies and/or other such fees; and

6.4.10.1.2.4. IT services;

6.4.10.1.3. Subject to paragraph 6.4.10.1, creation development of capacity and expertise for Beneficiary Entities required to manufacture or produce goods and/or services previously not manufactured, produced or provided in the Republic of South Africa;

6.4.10.1.4. Subject to paragraph 6.4.10.2, provision of preferential credit facilities;

6.4.10.1.5. Subject to paragraph 6.4.10.1, facilitation of access to credit for Beneficiary Entities unable to access similar credit facilities through traditional means owing to a lack of credit history, high risk and/or lack of collateral;

- 6.4.10.1.6. Subject to paragraph 6.4.10.3, provision for training and/or mentoring to Beneficiary Entities which assist the Beneficiary Entities to increase their operational and/or financial capacity; and
- 6.4.10.1.7. Subject to paragraph 6.4.10.1.4, the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of Beneficiary Entities or candidate Beneficiary Entities.
- 6.4.10.2. The creation and/or development of the capacity of Beneficiary Entities which will enable them to manufacture and produce goods and/or provide services previously not available in the Republic of South Africa, may constitute a Qualifying Enterprise Development and Supplier Development Contribution, and will be measured as the rand value of monetary contributions made as well as investments into, loans made to or guarantees given for Beneficiary Entities.
- 6.4.10.3. Provision of preferential credit facilities to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation:
- (a) Provision of finance to Beneficiary Entities at rates of interest below the applicable rate. Such contributions will be measured as the value of the differential between the actual interest rate provided to the Beneficiary Entity and the applicable rate;
  - (b) Relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans. Such contributions shall be measured as being 35 (three percent) of any positive differential between the initial capital value of the loan and the value of security taken; and
  - (c) Settlement of accounts with Beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided that the shorter period is no longer than 15 days. Preferential provided that the shorter period is no longer than 15 days. Preferential payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier Development Contributions.
- 6.4.10.4. Provision of training and/or mentoring to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Such contributions will be measured by quantifying the cost of time spent by staff management

of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not be included in this cost. Furthermore, a clear justification has to be supplied with respect to the calculation of such time costs incurred, commensurate with the level of seniority and expertise of the trainer or mentor. Common forms of such contribution include without limitation:

- 6.4.10.4.1. Professional and consulting services;
- 6.4.10.4.2. IT services; and
- 6.4.10.4.3. Any other services which help to increase the entity's financial and/or operational capacity and which have not also been accounted for under skills development.
- 6.4.10.5. The maintenance of an Enterprise Development and Supplier Development unit by the Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Common examples of such contributions include without limitation the salaries and wages and other expenses involved in the operation of such Enterprise Development and Supplier Development unit. Notwithstanding the afore going, only that portion of salaries and wages which relate to the time spent by the staff and other expenses related to the promotion and implementation of Enterprise Development and Supplier Development in respect of Beneficiary Entities should be taken into consideration under Enterprise Development and Supplier Development contributions.

**6.4.11. Measurement of Enterprise Development and Supplier Development Contributors**

- 6.4.11.1. A measured Entity receives a score for Enterprise Development and Supplier Development in proportion the extent that it meets the compliance target.
- 6.4.11.2. Qualifying Contributions are measurable using the formula "A" in Annexe 400(B)

**Agri-Industry undertakes to:-**

- (a) Proactively identify and implement targeted procurement strategies and policies to realise AgriBEE objectives and to meet preferential procurement targets;
- (b) Report annually on all preferential procurement spent;
- (c) Strengthen and accelerate the development of the operational and financial capacity of Black entrepreneurs;

- (d) Provide mentoring, access to inputs, credit, infrastructure, markets, technology and extension services where applicable. Mentoring, as part of the enterprise development element, refers to the provision of technical and/ or general business assistance and support to Black emerging farmers, land reform beneficiaries and Black entrepreneurs.
- (e) Support land reform beneficiaries and Black owned EMEs to create sustainable businesses through the transfer of specialised skills in mentorship programmes. Such support [as well as the types of support described in paragraph (d) above] will be eligible for points under the enterprise development element provided it is quantified to a Rand value in terms of the opportunity cost of time spent on mentoring and/or other enterprise development endeavours. Support to land reform beneficiaries will enjoy enhanced recognition at a multiple of 1.5 of the Rand value of the actual contribution. Enterprises should engage with the relevant SETA for information on such learning interventions;
- (f) Commit cumulative enterprise development contributions which assist and accelerate the development of black entrepreneurs, as a percentage of cumulative net profit after tax measured from the Inception Date to the date of measurement as a criterion for measurement;
- (g) Enhanced Recognition will be enjoyed for certain types of enterprise development initiatives, at a multiple of the Rand value of the actual contribution. These initiatives and their corresponding multipliers are listed below:
- (h) Progressively provide preferred supplier status to QSE's and EME's, including the supply of services and goods, in accordance with the requirements of the AgriBEE Scorecard.

**Government undertakes to: -**

- (a) Align their procurement practices with AgriBEE when procuring goods and services from the Agricultural Sector, once Sector Codes for the Agricultural Sector have been gazetted;
- (b) Provide Black People and QSE's preferred supplier status in the procurement of goods and services;
- (c) Identify, prioritise and target Black Entrepreneurs and Enterprises that contribute to Broad-based BEE, when awarding tenders and contracts to entities in the private sector; and
- (d) Utilise all legislative and other measures available to it, including preferential procurement, to influence the attainment of broad-based BEE objectives.
- (e) Enterprise development refers to the establishment, support and integration of Black Entrepreneurs in mainstream business processes. Support services such



as access to finance, infrastructure, information and knowledge systems, are core pillars of sustainable empowerment initiatives.

- (f) Ensure the creation of an enabling environment to support agriculture;
- (g) Continue with, and further develop, the implementation of the Comprehensive Agricultural Support Programme ('CASP') and other government programmes;
- (h) Implement MAFISA (Micro-Agricultural Financial Institutions of South Africa) and other government financing facilities to further enterprise development;
- (i) Establish Public-Private Partnerships to improve service delivery; and
- (j) Activate Land Bank funding opportunities and financial products for black farmers.

Enterprise and Supplier Development Initiative	Multiple
Initiatives which directly contribute towards new job(s) created in the associate enterprise. If there increase of 100% of jobs created on the base, the measured entity gets full points of 1.5 multiple factor. Pro rata will apply if the increase is less than 100%.	1.5
Initiatives which assist the development of beneficiary entities to produce goods and/ or services not previously produced or manufactured in South Africa. An agreement between Measured Entity and beneficiary is required	1.5
Contributions in respect of warehousing fund (provided these funds do not own an equity interest in the Measured Enterprise). <b>This exclude statutory levies and third party enterprise and supplier development facilitators</b>	1.25
Support to Land Reform beneficiaries and other black owned enterprises in terms of mentoring or extension services(12 days per annum spend doing skills development with the beneficiary) , capital provision, input supply and market access opportunities, access to technology and infrastructure	1.5

For the purpose of verification, new Enterprise Development Initiatives or projects are defined as green field projects that include, but are not limited to, those that support the Industrial Policy Action Plan. Points will be scored for permanent employees based on the following sliding scale: Year 1: 100% points; Year 2: 70% points and Year 3: 30% points. Additionally, should there be a percentage decrease in employment; there would be a pro rata percentage decrease in percentage points scored.

**6.5. DRAFT AMENDED SOCIO-ECONOMIC DEVELOPMENT (SED)****Draft Amended Socio-Economic Development for Large Enterprises scorecard**

<b>Socio-Economic Development for Large Enterprises</b>			
<b>Weighting</b>	<b>Criteria</b>	<b>Weighting Points</b>	<b>Compliance Target</b>
<b>15</b>	Annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target	15	1.5% of NPAT

**Draft Amended Socio-Economic Development scorecard for QSEs**

<b>Socio-Economic Development for QSEs</b>			
<b>Weighting</b>	<b>Criteria</b>	<b>Weighting Points</b>	<b>Compliance Target</b>
<b>15</b>	Annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target	15	1.5% of NPAT

- 6.5.1. Socio-economic development refers to contributions that are related to the agricultural industry and contributions actually initiated and implemented in favour of Black People with the specific objective of facilitating access to the economy. These initiatives should be motivated by the objective of providing Black People with social and economic opportunities. Priority should therefore be given to implementing income generating socio-economic initiatives that create sustainable livelihood for beneficiaries. In this regard a Measured Entity must consult and provide proof that it consulted with the beneficiaries to establish their needs.
- 6.5.2. Where the SED is directed at farm workers it should not be linked to the pay package
- 6.5.3. The agricultural sector is specifically rewarded for its contribution in the rural areas. Due to its geographic location it is best located to make a significant contribution to real transformation.
- 6.5.4. All other key principles of Statement 500 of the Amended Generic Codes not addressed in this statement are applicable.

**Farming Enterprises undertake to:-**

Contribute to socio-economic development initiatives in respect of rural community members, workers and their families and seasonal workers, in particular. The following is a non-exhaustive list of examples, but all such contributions are conditional:

- (a) Provision of good quality housing, including access to clean water, sanitation and electricity;
- (b) Provision of recreational facilities as well as running costs in this regard;
- (c) Provision or implementation of, health care programmes and related services (with due consideration for HIV/AIDS programmes);
- (d) Meeting the transport requirements of workers and their dependents, such as transport to clinics and hospitals, transportation of workers' products to the market, etc. in line with transport legislation and regulations;
- (e) Implementation of retirement, funeral and related schemes provided they are separate from the pay package of beneficiaries;
- (f) Investment in, and/or provision of support to, farm and/or rural schools;
- (g) Engagement in collective contributions to social development;
- (h) Provision of ABET to seasonal workers, rural community members and family of staff members (whether casual or permanent) to increase literacy levels amongst rural South Africans;
- (i) Maintenance of bursary schemes to enable Black People to gain access to tertiary education institutions.
- (j) Contribute to corporate socio-economic initiatives and/or land available to farm workers. In such cases, the Measured Enterprise will be awarded points in proportion to the target achieved for their contributions.

**Agribusiness Enterprises undertake to:-**

Contribute to social development and industry specific initiatives. The following is a non-exhaustive list of examples:

- (a) support for community education facilities; education programmes aimed at promoting the agricultural industry; and bursaries and scholarships to encourage learners to study agricultural sciences;
- (b) contributions to community training programmes aimed at skills development for the unemployed and ABET;

- (c) participation in development programmes for the youth and other designated groups;
- (d) support for programmes in conservation projects; community clean-up programmes and preservation of the natural environment that have direct and tangible benefits to the beneficiaries of B-BBEE;
- (e) promotion of job creation programmes in the agricultural and agricultural related Sectors, external to the business;
- (f) support for development programmes to develop new talent for arts and culture;
- (g) support community clinics and community health programmes (with due consideration for HIV/AIDS programmes); and
- (h) Participate in and support sports development programmes.

**Government undertakings:**

- (a) Support initiatives of socio-economic development. For example, food security programmes/projects

**7. GOVERNANCE**

- 7.1. An AgriBEE Charter Council has been established and will report to the B-BBEE Commission, Black Economic Empowerment Presidential Advisory Council, appointed in terms of the Act and the Minister of Trade and Industry, on progress made by the Sector in terms of the AgriBEE Charter.

The fundamental principles of the AgriBEE Charter Council are as follows:

- (a) The AgriBEE Sector Charter Council will be established as an independent body with a mandate to oversee the implementation of the AgriBEE Charter;
- (b) The AgriBEE Sector Charter Council will address issues of principle relating to the implementation of the Charter;
- (c) The AgriBEE Sector Charter Council will conduct reviews and take decisions;
- (d) The AgriBEE Sector Charter Council will consider whether the targets and implementation strategies are still appropriate, and if not how they should be varied should there be a material change in the circumstances or the environment in which the Charter has to be implemented;
- (e) There will be equitable composition of Stakeholders in the members of the AgriBEE Sector Charter Council.
- (f) Decisions of the Sector Charter Council will be taken on a consensual basis. If, on any issue, the Sector Charter Council is unable to achieve

consensus, there will be a dispute-breaking mechanism in the Sector Charter Council either by some agreed mechanism within the Sector Charter Council, or by reference to arbitration or mediation.

7.2. The Sector Charter Council should be tasked with ensuring that the verification of BEE contributions in the Agricultural Sector:

- (a) consists of a valid and reliable process that is practical and legally defensible;
- (b) is an accessible, flexible and cost effective system for the industry which may include electronic systems such as e-filing of BEE contribution data and self-assessment tools;
- (c) is subject to audit by agencies appointed in terms of the Codes of Good Practice;
- (d) includes the issuing of qualified and unqualified BEE verification certificates, which respond to the unique needs of the Sector; and
- (e) is universal and generally accepted and nationally recognised standards.

## 8. DEFINITIONS

For the purposes of clarification and to avoid ambiguity, the following terms apply to this Charter: The definitions in the amended B-BBEE Act (53 of 2003) as amended and the amended Codes of Good Practice, as published by the Department of Trade and Industry, will prevail in cases where clarity regarding definitions is required.

<b>1. ABET</b>	Means Adult Basic Education and Training as determined by the National Qualification Authority.
<b>2. Absorption</b>	means a measure of the Measured Entity's ability to successfully secure formal permanent or long-term contract employment for the Learner or to assist the Learner's proceed with further education and training;
<b>3. Accreditation Body</b>	means the South African National Accreditation System or any other Entity appointed by the Minister for Trade and Industry from time to time. a. accrediting Verification Agencies; and b. developing, maintaining and enforcing the Verification Standards.
<b>4. Acquisition Debt</b>	means the debts of: (a) Black participants incurred in financing their purchase of their equity instruments in the Measured Entity; and (b) Juristic persons or trusts found in the chain of ownership between the eventual Black Participants and the Measured Entity for the same purpose as those in (a);
<b>5. AgriBEE</b>	is a Sectoral Transformation Charter as defined in Section 12 of the Broad-Based Black

	Economic Empowerment Act 53 of 2003 as amended.
6. <b>AgriBEE Scorecard (Draft)</b>	means the Broad-Based BEE scorecard published in the Government Gazette in terms of Section 9 of the Act for public comments. The Indicative Scorecard attached to this Charter document should be regarded as an indication of what is likely to be included in possible, future Sector Codes for agriculture.
7. <b>AgriBEE QSE Scorecard (Draft)</b>	means the Broad-Based BEE scorecard for Qualifying Small Enterprises published in the Government Gazette in terms of Section 9 of the Act for public comments. The Indicative AgriBEE QSE Scorecard attached to this Charter document should be regarded as an indication of what is likely to be included in possible, future Sector Codes for agriculture. It could be used in the interim by the sector for measuring BEE contribution until the S9 Sector Codes are finalised.
8. <b>Agriculture</b>	refers to all the economic activities associated with the production and processing of agricultural products as defined in section 2.1.
9. <b>Agricultural Products</b>	are as defined by the Marketing of Agricultural Products Act No. 47 of 1996.
10. <b>Agri-Industry</b>	refers to the combination of <b>Farming Enterprises</b> and <b>Agribusiness Enterprises</b> .
11. <b>Apprenticeship</b>	means an agreement between an apprentice and an employer for a set period of time during which the apprentice works and receives training in the workplace;
12. <b>Approved Socio-economic Development Contributions</b>	means monetary or non-monetary contributions carried out for the benefit of any projects approved for this purpose by any organ of state or sectors including without limitation: <ul style="list-style-type: none"> <li>a. profits focusing on environmental conservation, awareness, education and waste management; and</li> <li>b. projects targeting infrastructural development, enterprise creation or reconstruction in underdeveloped areas, rural communities or geographic areas identified in the</li> </ul>



	government's integrated sustainable rural development or urban renewal programmes.
<b>13. Associated Entity</b>	means an Entity with which a Seller has concluded a Qualifying Transaction;
<b>14. B-BBEE</b>	means Broad-Based Black Economic Empowerment;
<b>15. B-BBEE Controlled Company</b>	means a juristic person, having shareholding or similar members interest, in which black participants enjoy a right to Exercisable Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>16. B-BBEE Owned Company</b>	means juristic person, having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle;
<b>17. BBBEE Procurement Recognition Level</b>	means the percentage B-BBEE Recognition Levels as determined: (a) for Entities that are neither Qualifying Small Enterprises nor Exempted Micro Enterprises, using statement 000; (b) for Qualifying Small Enterprises, using statement 000; and (c) for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000
<b>18. B-BBEE Status</b>	means the B-BBEE status of a Measured Entity as determined under statement 000;
<b>19. B-BBEE Verification Professional Regulator</b>	means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals;

<b>20. Beneficiation</b>	means value-added processing
<b>21. Benefit Factor</b>	means a factor specified in the Benefit Factor Matrix applicable to fixing the monetary value of Enterprise Development and Supplier Development and Socio Economic Development Contributions claimable under statement 400 and 500;
<b>22. Benefit Factor Matrix"</b>	means the Benefit Factor Matrix for Enterprise Development and Supplier Development and Socio Economic Development Contributions annexed to statement 400 and 500;
<b>23. Black Designated Groups</b>	<p>means:</p> <p>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;</p>
<b>24. Black New Entrants</b>	means Black participants who hold rights of ownership in a Measured Entity and who,

	before holding the Equity Instrument in the Measured Entity, have not held equity instruments in other Entities which has a total value of more than R50,000,000, measured using a standard valuation method;
<b>25. Black People</b>	<p>Is a generic term which means African, Coloureds and Indians</p> <p>(a) who are citizens of the Republic of South Africa by birth or decent; or</p> <p>(b) who became citizens of the Republic of south Africa by naturalisation –</p> <p>(i) before 27 April 1994;</p> <p>(ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.</p>
<b>26. Black Professionals</b>	means Black Individuals who provide services of a professional nature.
<b>27. Board</b>	means those persons appointed by the Participants of a Measured Entity to undertake the management control of the Measured Entity. The Board is distinguishable from the Senior and Other Top Management by virtue of the fact that Senior and Other Top Management are primarily active in the operational day-to-day management while the Board is primarily active in the control function of the Measured Entity. This does not imply that members of the Board cannot also be Senior and Other Top Management. The term Board does not include persons appointed to that body as alternates
<b>28. Broad-based Black Economic Empowerment (as defined in the Act)</b>	<p>means the economic empowerment of all Black People including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-</p> <ul style="list-style-type: none"> <li>• increasing the number of Black People that manage, own and control Enterprises and productive assets;</li> </ul>

	<ul style="list-style-type: none"> <li>• facilitating ownership and management of Enterprises and productive assets by communities, workers, cooperatives and other collective Enterprises;</li> <li>• human resource and skills development;</li> <li>• achieving equitable representation in all occupational categories and levels in the workforce;</li> <li>• preferential procurement; and</li> </ul> <p>investment in Enterprises that are owned or managed by Black People;</p> <p>means a ownership scheme which meets the rules set out in Annexe 100B;</p>
<b>29. Broad-Based Ownership Scheme</b>	
<b>30. Charter</b>	means the AgriBEE Transformation Charter, including the Indicative AgriBEE Scorecard and the Indicative AgriQSE Scorecard
<b>31. Certified Learning Programme</b>	<p>means any Learning Programme for which the Measured Entity has</p> <p>(a) any form of independent written certificate as referred to in the "Learning Achievements" column of the Learning Programme Matrix; or if it does not have such certification:</p> <p>(b) an enrolment certificate issued by the independent person responsible for the issue of the certification referred to in statement 300 confirming the employee has:</p> <p>i. enrolled for, is attending and is making satisfactory progress in the Learning Programme; or</p> <p>ii. enrolled for but not attended the Learning; or</p> <p>iii. attended the Training Programme but has failed an evaluation of their learning progress</p>
<b>32. Companies Act</b>	means the Companies Act, No. 71 of 2008 as amended or substituted;
<b>33. Company Limited by guarantee</b>	means a company as referred in the Companies Act, No. 71 of 2008;

<b>34. Competent Person</b>	means a person who has acquired through training, qualification and experience the knowledge and skills necessary for undertaking any task assigned to them under the codes;
<b>35. Core Skills</b>	means skills that are: (a) value-adding to the activities of the Measured Entity in line with its core business; (b) in areas the Measured Entity cannot outsource; or (c) within the production/operational part of the Measured Entity's value-chain; as opposed to the supply side; services or downstream operations; (d)
<b>36. Critical Skills</b>	means those skills identified as being critical by any SETA;
<b>37. EAP</b>	Economically Active Population as determined and published by Stats SA. The operative EAP for the purposes of any calculation under the Codes will be the most recently published EAP;
<b>38. Economic Interest</b>	means a claim against an Entity representing a return on ownership of the Entity similar in nature to a dividend right, measured using the Flow Through and, where applicable, the Modified Through Principles;
<b>39. EE Act</b>	means the Employment Equity Act of 1998, as amended;

<b>40. EE Regulations</b>	means the regulations under the Employment Equity Act
<b>41. Elements</b>	means the measurable quantitative or qualitative elements of B-BBEE compliance in the Generic Scorecard and the Codes;
<b>42. Employed Learner</b>	In terms of section 18 (1) of the Skills Development Act it means a learner that was in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The learner's contract of employment is therefore not affected by the agreement.
<b>43. Employee</b>	bears the meaning as defined in the Labour Relations Act 66 of 1995 as amended.
<b>44. Employee with a Disability</b>	has the meaning defined in the Code of Good Practice on Key Aspects of Disability in the Workplace issued under section 54 of the Employment Equity Act; align with the Employment Equity Act
<b>45. Employee</b>	bears the meaning as defined in the Labour Relations Act 66 of 1995 as amended;
<b>46. Employee Ownership Scheme</b>	means a worker or employee scheme;
<b>47. Empowering Supplier</b>	An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements

	<p>of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:</p> <p>(a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.</p> <p>(b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.</p> <p>(c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.</p> <p>(d) Skills transfer - at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.</p> <p>(e) At least 85% of labour cost should be paid to South African employees by service industry entities.</p>
<b>48. Enterprise</b>	<p>means a natural or juristic person conducting a business, trade or profession in the Republic of South Africa. Unless the context otherwise indicates, Enterprises include, without limitation, a Measured Enterprise and an Associated Enterprise. Different types of Enterprises within the Sector are defined as follows:</p>



	<ul style="list-style-type: none"> <li>• <b>Agribusiness Enterprises</b> means those individuals, groups, cooperatives or companies engaged in other agricultural activities as defined in the scope</li> <li>• <b>Farming Enterprises</b> means those individuals, groups, co-operatives or companies engaged in primary agricultural production activities as defined in the scope.</li> </ul>
49. <b>Enterprise Development</b> 50. <b>Contributions</b>	<p>means monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:</p> <p>(a) Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black women owned;</p>
51. <b>Entity</b>	means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;
52. <b>Enterprise Development Contributions</b>	<p>means monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:</p> <p>a. Category A Enterprise Development Contributions involves Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are 50% black owned or black women owned;</p> <p>b. Category B Enterprise Development Contributions involves Enterprise Development Contributions to any other Entity that is 50% black owned or black women owned; or 25% black owned or black women owned with a BEE status of between Level One</p>

	and Level Six.
<b>53. Entrepreneur</b>	means a person who starts and / or operates a business which includes identifying opportunities in the market, taking risks with a view of being rewarded with profits;
<b>54. Equity Equivalent contribution</b>	means an equity equivalent contribution made by a Multinational under an Equity Equivalent Investment Programme;
<b>55. Equity Equivalent Investment</b>	means a public programme or scheme of any government department, provincial or
<b>56. Programme</b>	local government in the Republic of South Africa or any other programme approved by the Minister as an Equity Equivalent Investment Programme;
<b>57. Equity Instrument</b>	means the instrument by which a Participant holds rights of ownership in an Entity;
<b>58. Equivalency Percentage</b>	means a percentage ownership performance for all the indicators in the Associated Enterprise's Ownership Scorecard arising from a Qualifying Transaction included in the Ownership Scorecard of the beneficiary entity;
<b>59. Exempted Micro Enterprise</b>	means an Entity with an annual turnover of R 10 (ten) million or less;
<b>60. Exercisable Voting Right</b>	means a voting right of a Participant that is not subject to any limit;
<b>61. Global Practice</b>	means a globally and uniformly applied practice of a Multinational, restricting alienation of equity in or the sale of businesses in its regional operations. The practice must have existed before the promulgation of the Act;
<b>62. Grant Contribution</b>	means the monetary value of Qualifying Contributions made by the Measured Entity to a beneficiary in the form of grants, donations, discounts and other similar quantifiable

	benefits which are not recoverable by the Measured Entity;
<b>63. Group Structure</b>	means an ownership arrangement whereby one or more Measured Entities that are juristic persons are subsidiaries of another Measured Entity that would qualify as a holding company;
<b>64. Higher Education Institution</b>	means a higher education institution as defined under the Higher Education Act of 1997;
<b>65. Indicator Percentage</b>	means the percentage compliance of the Associated Entity for all the indicators of the Associated Enterprises ownership Scorecard. The calculation of indicator Percentages follows the rules in statement 100 using the actual percentage compliance for each indicator and not the resulting scores;
<b>66. Industry Specific Initiatives</b>	means the qualifying contributions that are unique to the industry in which enterprises operate. For the purposes of the Codes an industry may be grouped in major divisions in accordance with the Standard Industrial Classification Coding System used by Statistic South Africa;
<b>67. Internship</b>	means an opportunity to integrate career related experience into an undergraduate education by participating in planned, supervised work;
<b>68. Junior Management</b>	means an employee of the Measured Entity who is a member of the occupational category of "Junior Management" as determined using the Employment Equity regulations;
<b>69. Learnership</b>	means a work-based route to a qualification. It is a workplace education and training

	programme comprising both structured practical workplace (on-the-job) experience and structured theoretical training.
<b>70. Learning Programmes</b>	means any learning programme set out in the Learning Programme Matrix;
<b>71. Learning Programme Matrix</b>	means the Learning Programme Matrix annexed as Annexe "300A" in statement 300;
<b>72. 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>73. Management Fees</b>	means the total Economic Interest received by a Broad-Based Ownership Scheme or Black participants in any year less the amounts distributed or applied to beneficiaries and the amounts reserved for future distribution or application;
<b>74. Mandated Investments</b>	means any investments made by or through any third party regulated by legislation on behalf of the actual owner of the funds, pursuant to a mandate given by the owner to a third party, which mandate is governed by that legislation. Some examples of domestic mandated investments and the portions of those investments subject to the exclusion principle are contained in Annex 100A attached to statement 100;
<b>75. Measured Entity</b>	means an Entity as well as an organ of state or public entity subject to measurement under the Codes;
<b>76. 51% Black Owned</b>	means an Entity in which:

	<p>(a) Black people hold at least 51% of the exercisable voting rights as determined under Code series 100;</p> <p>(b) black people hold at least 51% of the economic interest as determined under Code series 100; and</p> <p>(c) has earned all the points for Net Value under statement 100;</p>
<b>77. 51% Black Women Owned</b>	<p>means an Entity in which:</p> <p>(a) Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;</p> <p>(b) Black women hold at least 51% of the economic interest as determined under Code series 100; and</p> <p>(c) has earned all the points for Net Value under statement 100;</p>
<b>78. 30% Black Women Owned</b>	<p>means an Entity in which:</p> <p>a) Black women hold more than 30% of the exercisable voting rights as determined under Code series 100;</p> <p>b) Black women hold more than 30% of the economic interest as determined under Code series 100; and</p> <p>c) has earned all the points for Net Value under statement 100;</p>
<b>79. Middle Management</b>	<p>means an employee of the Measured Entity who is a member of the occupational</p>

	category of "Middle Management" as determined using the Employment Equity regulations;
<b>80. Multinational Business</b>	means a Measured Entity with a business in the Republic of South Africa and elsewhere which maintains its international headquarters outside the Republic;
<b>81. National Skills Development 82. Strategy</b>	means the national skills development strategy referred to in section 5(1)(a)(ii) of the Skills Development Act;
<b>83. Net Profit After Tax</b>	means the operating profit of a measured entity after tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>84. "Net Profit Before Tax"</b>	means the operating profit of a measured entity before tax. It incorporates both the equity / loss figures and abnormal items, but excludes extra ordinary items as determined by (GAAP) Generally Accepted Accounting Practices;
<b>85. Net Value</b>	means the percentage resulting from the formula in Annexe 100(C) of statement 100;
<b>86. Net-Value date</b>	means the later occurring of the date of commencement of statement 100 and the date upon which the earliest of all still operative transactions undertaken by the Measured Entity in order to achieve black rights of ownership, became effective and unconditional;
<b>87. New Enterprise</b>	means an early stage business which is similar to a start-up. However, an early stage business is typically 3 years old or less.
<b>88. Non-Profit Organisation</b>	means a non-profit organisation registered under the Non-Profit Organisation Act of

	1997;
<b>89. Outsourced Labour Expenditure</b>	<p>means any expenditure incurred in:</p> <ul style="list-style-type: none"> <li>a) procuring the services of or from a labour broker; and</li> <li>b) procuring the services of any person who receives any remuneration or to whom any remuneration accrues because of any services rendered by such person to or on behalf of a labour broker;</li> </ul>
<b>90. Participant</b>	means a natural person holding rights of ownership in a Measured Entity;
<b>91. PIVOTAL report</b>	means a report on 'Professional, Vocational, Technical and Academic Learning' programmes that meet the critical needs for economic growth and social development, generally combining course work at universities, universities of technology and colleges with structured learning at work.
<b>92. Priority Skills</b>	<p>means Core, Critical and Scarce Skills as well as any skills specifically identified:</p> <ul style="list-style-type: none"> <li>a) in a Sector Skills Plan issued by the Department of Labour of the Republic of South Africa;</li> <li>b) National Skills Development Strategy III;</li> <li>c) New Growth Path; and</li> </ul>



	d) National Development Plan Remove.
93. Private Equity Fund	means a third party fund through which investments are made on behalf of the actual owner of the funds pursuant to a mandate given by that person to the private equity fund;
94. Professionally Qualified, Experienced Specialists and Mid-management	in terms of the Employment Equity element, is as per the EEA9 Form issued as a regulation under the Employment Equity Act.
95. Public Benefit Organisation	means an entity as defined in section 30 of the income Tax Act of 1962;
96. Qualifying Enterprise and Supplier	means a collective term describing Enterprise Development and Supplier Development Contributions targeting EME's and QSE's which are at least 51% black owned or at least 30% black women owned, black youth in rural, and underdeveloped areas in statement 400;
97. Development Contributions	
98. Qualifying Small Enterprise"	means an Entity that qualifies for measurement under the Qualifying Small Enterprise scorecard with a turnover of R10 million or more but less than R50 million;
99. Qualifying Socio-Economic Contributions	Is a collective term for Socio-Economic Project Contributions and Socio-Economic Contributions;
100. Qualifying Transaction	means a sale of a business, valuable business assets or shares that results in the creation of sustainable business opportunities and transfer of specialised skills or productive capacity to Black people;
101. Realisation Points	means the Ownership Fulfilment points added to the Net Value points in the ownership scorecard.
102. Related Enterprise	means an Entity controlled by a Measured Entity whether directly or indirectly

	controlled by the natural persons who have direct or indirect control over that Measured Entity or the immediate family of those natural persons;
104. <b>Rights of Ownership</b>	Is a collective term for the right to Economic Interest and the right to Exercisable Voting Rights;
105. <b>Scarce Skills</b>	are those skills identified as being scarce by any SETA;
106. <b>Section 21 Company</b>	means an association not for gain incorporated under section 21 of the Companies Act;
107. <b>Sector Code</b>	means a code in series 003 which is applicable to a particular sector;
108. <b>Seller</b>	means the Entity or the person concluding a Qualifying Transaction with the Associated Enterprise;
109. <b>Senior Management</b>	means an employee of the Measured Entity who is a member of the occupational category of "Senior Management" as determined using the Employment Equity regulations;
110. <b>Senior Top Management</b>	means Employees of a Measured Entity who are: (a) members of the occupation category of "Top Management" as defined using the EE Regulations as qualified in a Sector Code; (b) appointment by or on the authority of the Board to undertake the day-to-day management of that Measured Entity and who: (i) have individual responsibility for the overall management and for the financial management of that Measured Entity; and (ii) actively involved in developing and implementing the Measured Entity's overall strategy.
111. <b>Skilled Technical and Academically Qualified Workers, Junior Management, Supervisors,</b>	in terms of the Employment Equity element, is as per the EEA9 Form issued as a regulation under the Employment Equity Act

<b>Foremen, Superintendents</b>	
112. <b>Skills Development Expenditure</b>	comprises the money that a Measured Entity spends on skills development. It excludes the skills development levy payable by the Measured Entity under the Skills Development Levies Act;
113. <b>Socio-Economic Development</b> 114. <b>Contributions</b>	<p>means monetary or non-monetary contribution implemented for communities, natural persons or groups of natural persons where at least 75% of the beneficiaries are Black people. The objective of Socio-Economic Development Contributions is the promotion of sustainable access for the beneficiaries to the economy. Socio-Economic Development Contributions commonly take the following forms:</p> <p>(a) development programmes for women, youth, people with disabilities, people living in rural areas;</p> <p>(b) support of healthcare and HIV/AIDS programmes;</p> <p>(c) support for education programmes, resources and materials at primary, secondary and tertiary education level, as well as bursaries and scholarships;</p> <p>(d) community training; skills development for unemployed people and adult basic education and training; or</p> <p>(e) support of arts, cultural or sporting development programmes;</p>
115. <b>Socio-Economic Project</b> 116. <b>Contributions</b>	means monetary or non-monetary contributions carried out for the benefit of any projects approved for this purpose by any organ of state or sectors including without limitation:

	<p>(a) projects focusing on environmental conservation, awareness, education and waste management; and</p> <p>(b) projects targeting infrastructural development or reconstruction in underdeveloped areas; rural communities or geographic areas identified in the government's integrated sustainable rural development or urban renewal programmes;</p> <p>(c) New projects promoting beneficiation;</p>
117. <b>Stakeholder</b>	used as a broad term to describe participants in the entire agricultural value chain as well as current and potential beneficiaries of the AgriBEE including government.
118. <b>Standard Valuation</b>	means a standard valuation method for an asset, an Economic Interest, or any other instrument or right relevant to measurement under statement 100, undertaken using normal valuation methods that represent standard market practice;
119. <b>Start-up Enterprise</b>	means a recently formed or incorporated Entity that has been in operation for less than 1 year. A start-up enterprise does not include any newly constituted enterprise which merely a continuation of a pre-existing enterprise;
120. <b>Subsidiary</b>	has the meaning defined in section 1(3) of the Companies Act;

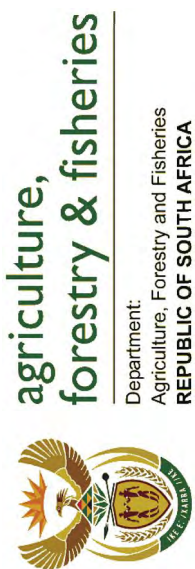
121.	<b>Superior Contributor to B-BBEE</b>	is a Level One to Level Three Contributor to B-BBEE;
122.	<b>Supplier</b>	means any supplier or service provider to a Measured Entity if any portion of the supply or service provision falls within the definition of Total Measured Procurement Spend;
123.	<b>Supplier Development</b>	means monetary or non-monetary contributions carried out for the benefit of value-
124.	<b>Contributions</b>	adding suppliers to the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries: (a) Supplier Development Contributions to suppliers that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% black owned or at least 51% black women owned;
125.	<b>Target</b>	means the targets for the various Elements in the Generic and QSE Scorecard;
126.	<b>the Act</b>	means the Broad-Based Black Economic Empowerment Act 53 of 2003;
127.	<b>the Codes</b>	means the Codes of Good Practice including all the statements as issued under section 9 of the Act;
128.	<b>the Generic Scorecard</b>	means the balanced B-BBEE scorecard as contained in statement 000;

129.	<b>the PFMA</b>	means the Public Finance Management Act 1 of 1999 as amended;
130.	<b>the QSE Scorecard</b>	means the QSE scorecard referred to in statement 000;
131.	<b>the Skills Development Act</b>	means the Skills Development Act of 1998;
132.	<b>the Skills Development Levies Act</b>	means the Skills Development Levies Act of 1999;
133.	<b>the Strategy Document</b>	means the document entitled "South Africa's Economic Transformation – A Strategy for Broad-Based Black Economic Empowerment" published by the department of trade and industry in March 2003 as amended or substituted under section 11 of the Act;
134.	<b>Third Party Rights</b>	<p>means third party legal or commercial rights that restrict withhold or defer any benefit associated with ownership of any Equity Instrument. Third party rights include only those rights:</p> <p>(a) created against a black Participant to secure, for a lender, repayment of a loan advanced to that Participant for financing their purchase of their equity instrument in the Measured Entity;</p> <p>(b) held against a juristic person or trust that is in the chain of ownership between the Measured Entity and that the eventual black Participant serving the same purpose mentioned in (a) above;</p>
135.	<b>Top Manager</b>	means employees of a Measured Entity who hold rights of ownership, serve on the

	Board, undertake the day to day management, have overall responsibility for the overall financial management and are actively involved in developing and implementing the overall strategy of the Measured Entity.
136. <b>Total Labour Cost</b>	means the total amount of remuneration paid by an Entity to its employees determined using section 3(4) of the Skills Development Levies Act of 1999 and the Forth Schedule of the Income Tax Act of 1962;
137. <b>Total Revenue</b>	means the total income of an Entity from its operations as determined under South African Generally Accepted Accounting Practice;
138. <b>Transformation Charters</b>	means the sectoral transformation charters referred to in section 12 of the Act;
139. <b>Uncertified Learning Programme</b>	means any Learning Programme of the Measured Entity that is not a Certified Learning Programme.
140. <b>Unincorporated Joint Venture</b>	means a joint venture between two or more Measured Entities effected by agreement without incorporation.
141. <b>Unemployed Learner</b>	means a learner that was not in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The employer and learner must therefore enter into a contract of employment. Refer to the Skills Development Act.



142. <b>Unincorporated Joint Venture</b>	means a joint venture between two or more Measured Entities effected by agreement without incorporation;
143. <b>Value-Adding Enterprise</b>	means an Entity registered as a vendor under the Value-Added Tax of 1991, whose Net Profit Before Tax summed with its Total Labour Cost exceeds 25% of the value of its Total Revenue.
144. <b>Voting Right</b>	means a voting right attaching to an Equity Instrument owned by or held for a participant measured using the Flow through Principle or the Control Principle;
145. <b>Weighting</b>	means the weightings applied to various Elements in the Generic Scorecard and QSE Scorecard;
146. <b>Workplace Skills Plan</b>	means the plan of a Measured Entity approved by the relevant SETA.



### **Resolution by the AgriBEE Charter Council – 12 September 2012.**

The following are the two (2) issues that will be deliberated and concluded *post* the gazette of the AgriBEE Sector Code 9 (1) and once there is a clear scientific and legislative directive on all the two issues, the AgriBEE Sector Code will be amended accordingly through the Minister of Agriculture, Forestry and Fisheries.

#### The issues are:

1. The inclusion of the contents of the Local Procurement Accord into the AgriBEE Preferential Procurement Scorecard. The Department of Trade and Industry will give guidance with regard to the revised Preferential Procurement Scorecard;
2. The proposal that all farms that are subject to land claim in terms of Land Restitution should be given an automatic level 4 BEE status or 3 (as described in the Codes of Good Practice).





# IMPORTANT Information from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

## **GPW Business Rules**

# RULES

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).



**eGazette**

