



# tourism

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Department:  
Tourism  
**REPUBLIC OF SOUTH AFRICA**

PROPOSED TOURISM B-BBEE CODES

TO BE PUBLISHED IN THE GOVERNMENT GAZETTE IN TERMS OF SECTION 9 (1) OF THE B-BBEE ACT NO. 53 OF 2003

BEFORE 30 APRIL 2015

**PROPOSED TOURISM FRAMEWORK FOR MEASURING BROAD-BASED BLACK ECONOMIC  
EMPOWERMENT**

**ISSUED UNDER SECTION 9 OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT  
NO. 53 OF 2003**

**ARRANGEMENT OF THIS STATEMENT**

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## 1. PREAMBLE

1.1 We, the stakeholders of the Tourism Sector, take this opportunity to state our awareness of the need to align the Tourism B-BBEE Codes as published in the Government Gazette on 22 May 2009 with the Department of Trade and Industry's (**the dti**) Amended Generic Codes of Good Practice for B-BBEE issued on 11 October 2013, and advance sector initiatives to empower black South Africans, and in so doing, to make the sector more accessible and more beneficial to all South Africans.

1.2 The Tourism Sector Codes express the commitment of all the stakeholders in the Tourism Sector to the empowerment and transformation of the sector and its commitment to working collectively to ensure that the opportunities and benefits of the tourism sector are extended to black South Africans as well. We will submit to the **the dti** to publish the Amended Tourism B-BBEE Codes as a final code in terms of the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended. We will ensure that the Tourism B-BBEE Code fulfils the requirements set out under section 9 for publishing in the Government gazette as a sector code, namely that it:

- (a) Has no deviations from **the dti** Amended B-BBEE Codes definition and principles ,and
- (b) Is sufficiently comparable to the codes in the order of elements, targets and weightings.

## 2. OUR COMMITMENT

2.1 We acknowledge that two main challenges face the Tourism Sector, namely:

- The need to become more globally competitive; and
- The need to include black people in the Tourism Sector.

2.2 We believe that these two challenges are fundamentally linked. For our sector to thrive and grow, we commit to both. The commitment to empowerment and transformation is therefore based not only on our moral obligations with regard to transforming South Africa, but also upon our fiduciary obligations to our shareholders and employees, and to the growth of our sector within the broader South Africa economy.

2.3 The stakeholders make this commitment fully aware of the fact that empowerment and transformation of the Tourism Sector will contribute to its growth and sustainability. The key

areas of focused empowerment and transformation, in the context of this Scorecard are Ownership, Management control, Skills Development, Enterprise and Supplier Development as well as Socio-Economic Development.

### **3. THE LEGACY**

3.1 We recognise that our country requires an economy that can meet the needs of all economic citizens, our people and their enterprises in a sustainable manner. The tourism industry like the rest of South African society, remains characterized by large disparities in access to equal opportunities and benefits, and in particular for black people.

3.2 We also recognise that our sector still excludes vast majority of South Africans in particular black people and we are aware of the residual impact of this legacy of inequality, and its continuing impact on efforts to ensure that a tourism and tourist-friendly culture takes root in our country. Furthermore, we recognise that the legacy of Apartheid system remains apparent in some of the Tourism Sector's associations and bodies. Therefore, we acknowledge the need for transformation within these associations so that they may become truly representative and reflective of our society.

3.3 In addition, we recognise that our sector remains largely inaccessible to the majority of black South African tourists. Since South Africa has so much to offer in terms of tourism, we recognise the need to reverse this legacy and to make tourism in South Africa more adaptable and accessible to black South African tourists.

### **4. SUSTAINABILITY**

4.1 We acknowledge that, for our initiatives to be sustainable and meaningfully empowering, they must be based on the identification of strategic opportunities for our enterprises and for our industry. These initiatives must be underpinned by sound commercial logic, and must be well structured and focused, with deliverable growth objectives. We further acknowledge that the sustainability, competitiveness and growth of our industry require the empowerment and transformation of the sector.

4.2 Empowerment and transformation make good business sense as they will introduce innovation into the tourism sector through introductory of new role players. This will attract new markets and stimulate new products development.

## 5. OBJECTIVES OF THE TOURISM SECTOR CODES

- 5.1 The Tourism Sector Codes have been developed to advance the objectives of the Broad-Based Black Economic Empowerment Act No.53 of 2003 as amended (B-BBEE Act);
- 5.2 The Code also constitute a framework and establish the principles upon which B-BBEE will be implemented in the Tourism Sector;
- 5.3 Represents a partnership programme as outlined in government's strategy for Broad-Based Black Economic Empowerment;
- 5.4 Provides the basis for the sector's engagement with other stakeholders including government and labour.

## 6. DEVELOPMENT OF THE TOURISM SCORECARD

- 6.1 The Tourism B-BBEE Charter Council (the Council) was formally established by the Minister for Tourism to further the objectives of transformation within the Tourism Sector. To this end, the Council was mandated to align the Tourism Sector Codes to the revised Generic Codes of Good (GCGP) per Government gazette of October 2013 by **the dti** on B-BBEE. As a result, the Council will embark on a nationwide consultative process to solicit views and inputs from various stakeholders in the sector which will culminate in the development of the final Tourism Sector B-BBEE Codes. The Tourism Sector B-BBEE Codes, once approved and published, will be the only basis for the application and recognition of B-BBEE initiatives undertaken by the tourism sector.
- 6.2 The participation of all major stakeholders will be encouraged and obtained in the form of submissions from various constituencies, which will form the basis for the drafting of the final draft Scorecard.
- 6.3 The final draft will be based on the definitions, principles and methodologies of transformation outlined in the B-BBEE Act No. 53 of 2003 as amended and the Generic Codes of Good Practice for B-BBEE issued by **the dti** where there is any conflict the Codes of Good Practice takes precedence.

## 7. SCOPE OF APPLICATION

The Tourism Sector Codes apply to all privately owned enterprises and public institutions within the Tourism Sector, and all parts of the value chain in that sector, inter alia:

### 7.1 Accommodation

- 7.1.1 Hotels (small and big)
- 7.1.2 Resort properties and timeshare
- 7.1.3 Bed and breakfast (B&B's)
- 7.1.4 Guest houses
- 7.1.5 Game lodges
- 7.1.6 Backpackers and hostels

### 7.2 Hospitality and Related Services

- 7.2.1 Restaurants (not attached to hotels)
- 7.2.2 Conference venues (not attached to hotels)
- 7.2.3 Professional catering
- 7.2.4 Attractions
- 7.2.5 Consulting and professional services companies

### 7.3 Travel Distribution Systems

- 7.3.2 Tour wholesalers
- 7.3.3 Tour operators
- 7.3.4 Travel agents
- 7.3.5 Tourist guides
- 7.3.6 Car rental companies
- 7.3.7 Coach operators

In addition, this Code applies to organs of state and public entities, organized labour and communities involved with or interested in the Tourism sector.

## 8. TOURISM B-BBEE SCORECARD

The Generic Tourism Scorecard is applicable to all tourism businesses with annual turnover of more than R35 Million (or other threshold as determined by the Sector). The proposed tourism B-BBEE scorecard does not include QSE and Specialised scorecard as both of them are still going to be developed by the Department of Trade and Industry. The same principles of alignment provided by the Department of Trade and Industry will apply.

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
<b>1.1</b>	<b>Voting Rights</b>		
1.1.1	Exercisable Voting Rights in the Entity in the hands of Black people;	4	30% + 1 Vote
1.1.2	Exercisable Voting Rights in the Entity in the hands of Black women.	2	15%
<b>1.2</b>	<b>Economic Interest</b>		
1.2.1	Economic Interest in the Entity to which Black people are entitled;	4	30%
1.2.2	Economic Interest in the Entity to which Black women are entitled	2	15%
1.2.3	Economic Interest – of any of the following Black natural people in the Measured Entity.		
1.2.3.1	Black designated groups;		
1.2.3.2	Black participants in Employee Share Ownership Programmes;	3	3%
1.2.3.3	Black people in Broad based Ownership Schemes;		
1.2.3.4	Black participants in Co-operatives.		
1.2.4	New Entrants	2	10%
<b>1.3</b>	<b>Realisation Points</b>		
1.3.1	Net Value	8	Time-Based Graduation Factor
<b>TOTAL</b>		<b>25</b>	

**OWNERSHIP**

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
<b>MANAGEMENT CONTROL</b>	<b>2.1 Board Participation:</b>		
	2.1.1 Exercisable voting rights of Black board members as a percentage of all board members;	2	50%
	2.1.2 Exercisable voting rights of Black female board members as a percentage of all board members;	1	30%
	2.1.3 Black Executive directors as a percentage of all executive directors;	2	50%
	2.1.4 Black female Executive directors as a percentage of all executive directors.	1	30%
	<b>2.2 Other Executive Management</b>		
	2.2.1 Black Executive Management as a percentage of all executive directors;	2	60%
	2.2.2 Black female Executive Management as a percentage of all executive directors.	1	30%
	<b>2.3 Senior Management</b>		
	2.3.1 Black employees in Senior Management as a percentage of all senior management;	2	60%
	2.3.2 Black female employees in Senior Management as a percentage of all senior management.	1	30%
	<b>2.4 Middle Management:</b>		
	2.4.1 Black employees in Middle Management as a percentage of all middle management;	2	70%
	2.4.2 Black female employees in Middle Management as a percentage of all middle management.	1	35%

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
MANAGEMENT CONTROL	2.5 Junior Management		
	2.5.1 Black employees in Junior Management as a percentage of all junior management;	1	80%
	2.5.2 Black female employees in Junior Management as a percentage of all junior management.	1	40%
	2.6 Employees with Disabilities		
	2.6.1 Black employees with disabilities as a percentage of all employees.	2	2%
	2.7 Bonus points:		
	2.7.1 Number of employees with disabilities as a percentage of all employees over and above the 2% target for Black employees with disabilities in terms of 2.6.1	2	1%
TOTAL		21	

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
<b>SKILLS DEVELOPMENT</b>	<b>3.1 Skills Development Expenditure on any programmes specified in Learning Programme Matrix for Black people as a percentage of Leivable Amount.</b>		
	3.1.1 Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leivable Amount;	8	6%
	3.1.2 Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leivable Amount.	4	0.3%
	<b>3.2 Learnerships, Apprenticeships and Internships</b>		
	3.2.1 Number of Black people participating in Learnerships, Apprenticeships and Internships as a percentage of total employees;	4	2.5%
	3.2.2 Number of Black unemployed people participating in training specified in the Learning Programme Matrix as a percentage of number of employees.	4	2.5%
	<b>3.3 Bonus Points:</b>		
	3.3.1 Number of Black people absorbed by the Measured and/or Industry Entity at the end of the Learnerships programme.	4	100%
	<b>TOTAL</b>		<b>24</b>

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
<b>ENTERPRISE AND SUPPLIER DEVELOPMENT</b>	<b>4.1 Preferential Procurement</b>		
	4.1.1 B-BBEE Procurement Spend from all Empowering Suppliers based on B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend;	5	80%
	4.1.2 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%
	4.1.3 B-BBEE Procurement Spend from all Exempt Micro Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend;	4	15%
	4.1.4 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;	9	40%
	4.1.5 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.	4	12%

B-BBEE Element	Measurement Category & Criteria		Weighting Points	New Tourism Target
ENTERPRISE AND SUPPLIER DEVELOPMENT	<b>4.2 Supplier Development</b>		10	3% of NPAT
	4.2.1	Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.		
	<b>4.3 Enterprise Development</b>		5	0.5% of NPAT
	4.3.1	Annual Value of Enterprise Development contributions and Sector Specific programmes made by the Measured Entity as a percentage of the target.		
	<b>4.4 Bonus Points</b>		1	
	4.4.1	Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level.		
	4.4.2	Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	
<b>TOTAL</b>		<b>42</b>		

B-BBEE Element	Measurement Category & Criteria	Weighting Points	New Tourism Target
<b>SOCIO ECONOMIC DEVELOPMENT</b>	<b>5. Socio Economic Development Contributions</b>		
	Annual Value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target.	5	1% of NPAT
	Status of TOMSA levy collector	3	Yes
	<b>TOTAL</b>	<b>8</b>	

## **9. GENERAL PRINCIPLES**

In order for this Code to be an effective vehicle for the transformation of the tourism sector, it has been closely aligned with the Amended Codes of Good Practice issued by the Department of Trade and Industry (**the dti**) in October 2013 under gazette No. 36928. Because of this alignment, specific methods defined under gazette No. 36928 for calculating the indicators of compliance are used in the Tourism Sector Code.

This Code has adopted basic principles, definitions and methodologies enshrined in the Amended Generic Codes of Good Practice published under gazette No. 36928. However, due to the unique composition of the tourism sector, certain indicators and sub-indicators have been included in this Code because those adopted in the Amended Generic Codes of Good Practice do not cover specific needs of the tourism sector.

## **10. BROAD-BASED BLACK ECONOMIC EMPORWERMENT ELEMENTS**

It is the measurement of the Broad-Based Black Economic Empowerment (B-BBEE) elements that determines the level of B-BBEE contribution by the measured enterprise. There are five basic B-BBEE elements, namely:

- 10.1 Ownership
- 10.2 Management Control
- 10.3 Skills Development
- 10.4 Enterprise and Supplier Development
- 10.5 Socio-Economic Development

## **11. WEIGHTING**

The weighting of each element reflects the relative importance that the sector places thereon. Weightings are measured in percentages and the five elements of B-BBEE are weighted to bring the scorecard to a maximum of 100% compliance.

## **12. TARGETS**

The targets represent the ideal scenario at which measured entities will score full points for the respective indicator. Tourism enterprises under measurement will score proportional points on each indicator, according to the proportion of the relevant target achieved for that particular indicator. The milestone targets set for each indicator varies in order to drive an active

transformation of the sector from broader participation to more active Ownership and Management Control of black people.

**13. ELIGIBILITY AS AN EXEMPTED MICRO ENTERPRISE (EME)**

Any enterprise with an annual Total Revenue of less than R 2.5 Million qualifies as an Exempted Micro-Enterprise. This Code complies with all principles and methodologies enshrined in Statement 000 issued under gazette No. 36928 for measuring an EME.

**14. ELIGIBILITY AS QUALIFYING SMALL ENTERPRISES (QSE)**

A Measured Entity with annual total revenue of between R 2.5 Million and R35 Million qualifies as a Qualifying Small Enterprise. This Code complies with a principles and methodologies enshrined into Statement 000 issued under gazette No. 36928 for measuring a QSE.

**15. ELEGIBILITY AS LARGE ENTERPRISES (LE)**

A Measured Entity with annual total revenue above R 35 Million qualifies as a Large Entity. This Code complies with all principles and methodologies enshrined into Statement 000 issued under gazette No. 36928 for measuring a Large Entity in the Tourism Sector.

The following table represents the B-BBEE generic scorecard for Large Enterprises.

<b>ELEMENT</b>	<b>WEIGHTING</b>
Ownership	25
Management Control	21
Skills Development	24
Enterprise and Supplier Development	42
Socio-Economic Development	8

**16. MEASUREMENT OF OWNERSHIP ELEMENT**

This Code shall adhere to all principles, definitions, calculations and measurement methodologies contained in statement 100 issued under gazette No. 36928 for the measurement of the Ownership element.

**17. MEASUREMENT OF MANAGEMENT CONTROL ELEMENT**

This Code shall adhere to all principles, definitions and measurement methodologies contained in statement 200 issued under gazette No. 36928 for the measurement of the Management Control element.

## **18. MEASUREMENT OF SKILLS DEVELOPMENT ELEMENT**

The following criteria must be fulfilled in order for the measured entity to receive points on the Skills Development Scorecard:

- 18.1 Workplace Skills Plan, an annual training report and pivotal report which are approved by the Culture, Arts, Tourism, Hospitality and Sport, Sector, Education and Training Authority (CATHSSETA); and
- 18.2 Implementation of priority skills programme generally, and more specifically for black people
- 18.3 The 6% compliance target on the skills development scorecard includes external training expenditure of unemployed black people.
- 18.4 A trainee tracking tool has to be developed in order for the measured entity to score bonus points.
- 18.5 If less than 100% of the trainees are absorbed the percentage achieved or absorbed will be recognized.

This Code complies with all other principles, definitions and methodologies contained in statement 300 issued under gazette No. 36928 for the measurement of the Skills Development element.

## **19. MEASUREMENT OF ENTERPRISE AND SUPPLIER DEVELOPMENT ELEMENT**

An Empowering Supplier within a context of Tourism B-BBEE scorecard is a B-BBEE compliant entity which is an entity that complies with all relevant requirements of the country and meets at least four requirements if it is a large enterprise or two if it is a QSE of the following criteria;

- 19.1 At least 25% of cost of sales excluding labour costs must be procured from local producers or local suppliers in South Africa.
- 19.2 At least 85% of labour costs should be paid to South African employees by service industry entities.
- 19.3 At least 50% of jobs created from the previous 12 months must be for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.
- 19.4 At least 51% of total measured procurement spend must be from South African suppliers.
- 19.5 Skills transfer by Senior and Top Management ( as defined by the Employment Equity regulations)- spend at least 12 days per annum assisting Black EMEs and QSEs beneficiaries to increase their operation and/or financial capacity.

## 20. ENTERPRISE DEVELOPMENT PROGRAMME

20.1 The Enterprise Development Programmes and contributions must focus specifically on the development of entities in the tourism sector. Pre-requisites for an Enterprise Development Relationship are the following:

20.1.1 An Enterprise and Supplier Development Relationship (ESDR) agreement of co-operation and assistance must be in place between the measured entity and beneficiary to ensure sustainable development;

20.1.2 The beneficiary must have a valid tourism B-BBEE certificate issued by accredited B-BBEE assessor;

20.1.3 The Measured Entity may not have an equity holding larger than 50% in the beneficiary shareholding, either directly or through a flow-through methodology published in the Government Gazette No 36928.

20.2 Enterprise and Supplier Development Relationship (ESDR) agreement for non-monetary contributions measured under this Code must meet the following requirements, but not limited to the following:

20.2.1 Duration of least 1 year within the measurable period.

20.2.2 Developed a Needs Analysis for developing the beneficiary.

20.2.3 Programmes milestones and time frames.

20.2.4 At least three of the following target areas for the development must have been identified applicable to the measurement period but not limited to:

- Assistance with drafting business model, marketing and financial strategic planning;
- Facilitate the process to access financial capital and new projects;
- Tendering and project management skills transfer;
- Business skills transfer with emphasis on entrepreneurial, cash-flow management, risk management and negotiation skills;
- Management and labour skills transfer;
- Establishment of administrative systems;
- Establishment of cost control systems;
- Technical skills transfer with emphasis on innovation;
- Legal compliance;
- Procurement Skills Transfer;

- Contractual knowledge transfer;
- Allocate resources for the Development of the beneficiary involved in the Enterprise and Supplier Development Relationship;

Except enterprise and supplier development programme this Code complies with all other principles, calculations, methodologies and definitions contained in statement 400 issued under gazette No. 36928 for the measurement of the Enterprise and Supplier Development element.

## **21. MEASUREMENT OF SOCIO-ECONOMIC DEVELOPMENT ELEMENT**

21.1 The Socio Economic Development Programmes measured under this Code must comply with the following requirements:

21.1.1 A Socio-Economic Development Agreement of co-operation and assistance must be in place between the beneficiary and Measured Entity to ensure sustainable development;

21.1.2 Contributions must not be made directly to employees of the measured entity;

21.1.3 The beneficiaries must meet the criteria of black people as per Statement 500 published in the Government Gazette No. 36928;

21.2 Socio Economic Development contributions measured under this Code must meet the following requirements, but not limited to the following:

21.2.1 Education: Support for community education facilities in rural areas, programmes at primary, secondary and tertiary educational levels aimed at promoting the industry as well as bursaries and scholarships;

21.2.2 Training: Community training, skills development for unemployed and adult basic education;

21.2.3 Health: Support programmes for healthcare and HIV/AIDS patients;

21.2.4 Support of Arts, cultural or sports development programmes;

21.2.5 The Socio Economic Development programmes duration must be at least 1 year programme within the measurable period to ensure sustainable development;

With the exception of Socio-Economic Development programme this Code complies with all other principles, calculations, methodologies and definitions contained in statement 500 issued under gazette No. 36928 for the measurement of the Socio-Economic Development element.

## **22. INTERPRETATION AND DEFINITIONS**

The Tourism B-BBEE Codes must be interpreted according to the provisions of the Amended Codes of Good Practice issued by the Department of Trade and Industry.

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<b>"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>"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>"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;
<b>"Associated Entity"</b>	means an Entity with which a Seller has concluded a Qualifying Transaction;
<b>"B-BBEE"</b>	means Broad-Based Black Economic Empowerment;
<b>"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>"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>"B-BBEE 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

	<p>000; and</p> <p>(c) for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000;</p>
<b>"B-BBEE Status"</b>	means the B-BBEE status of a Measured Entity as determined under statement 000;
<b>"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>"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>"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>"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>

<p><b>“Black New Entrants”</b></p>	<p>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;</p>
<p><b>“Black People”</b></p>	<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 descent; 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>
<p><b>“Broad-Based Ownership Scheme”</b></p>	<p>means a ownership scheme which meets the rules set out in Annexe 100B;</p>
<p><b>“Certified Learning Programme”</b></p>	<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</p>

	progress
"Companies Act"	means the Companies Act, No. 71 of 2008 as amended or substituted;
"Company Limited by guarantee"	means a company as referred in the Companies Act, No. 71 of 2008;
"Competent Person"	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;
"Core Skills"	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;
"Critical Skills"	means those skills identified as being critical by any SETA;
"EAP"	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;
"Economic Interest"	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;
"EE Act "	means the Employment Equity Act of 1998, as amended;
"EE Regulations"	means the regulations under the Employment Equity Act;
"Elements"	means the measurable quantitative or qualitative elements of B-BBEE compliance in the

	Generic Scorecard and the Codes;
"Employed Learner"	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.
"Employee with a Disability"	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;
"Employee"	bears the meaning as defined in the Labour Relations Act 66 of 1995 as amended;
"Employee Ownership Scheme"	means a worker or employee scheme;
"Empowering Supplier"	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: <ul style="list-style-type: none"> <li>(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%.</li> <li>(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.</li> <li>(c) At least 25% transformation of raw material/beneficiation which include local</li> </ul>

	<p>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><b>"Enterprise Development Contributions"</b></p>	<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>
<p><b>"Entity"</b></p>	<p>means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;</p>
<p><b>"Entrepreneur"</b></p>	<p>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;</p>
<p><b>"Equity Equivalent contribution"</b></p>	<p>means an equity equivalent contribution made by a Multinational under an Equity Equivalent Investment Programme;</p>
<p><b>"Equity Equivalent Investment Programme"</b></p>	<p>means a public programme or scheme of any government department, provincial or local government in the Republic of South Africa or any other programme approved by the Minister as an Equity Equivalent Investment Programme;</p>
<p><b>"Equity Instrument"</b></p>	<p>means the instrument by which a Participant holds rights of ownership in an Entity;</p>

<b>"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>"Executive Members of the Board"</b>	means those members of the Board who are executive directors as defined in the King Report;
<b>"Exempted Micro Enterprise"</b>	means an Entity with an annual turnover of R 10 (ten) million or less;
<b>"Exercisable Voting Right"</b>	means a voting right of a Participant that is not subject to any limit;
<b>"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>"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>"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>"Higher Education Institution"</b>	means a higher education institution as defined under the Higher Education Act of 1997;
<b>"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>"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>"Internship"</b>	means an opportunity to integrate career related experience into an undergraduate education by participating in planned, supervised work;
<b>"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>"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>"Learning Programmes"</b>	means any learning programme set out in the Learning Programme Matrix;
<b>"Learning Programme Matrix"</b>	means the Learning Programme Matrix annexed as Annexe "300A" in statement 300;
<b>"Leviable Amount"</b>	bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act;
<b>"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>"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

	<p>mandated investments and the portions of those investments subject to the exclusion principle are contained in Annexure 100A attached to statement 100;</p>
<b>"Measured Entity"</b>	<p>means an Entity as well as an organ of state or public entity subject to measurement under the Codes;</p>
<b>"51% Black Owned "</b>	<p>means an Entity in which:</p> <ul style="list-style-type: none"> <li>(a) Black people hold at least 51% of the exercisable voting rights as determined under Code series 100;</li> <li>(b) black people hold at least 51% of the economic interest as determined under Code series 100; and</li> <li>(c) has earned all the points for Net Value under statement 100;</li> </ul>
<b>"51% Black Women Owned "</b>	<p>means an Entity in which:</p> <ul style="list-style-type: none"> <li>(a) Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;</li> <li>(b) Black women hold at least 51% of the economic interest as determined under Code series 100; and</li> <li>(c) has earned all the points for Net Value under statement 100;</li> </ul>
<b>"30% Black Women Owned"</b>	<p>means an Entity in which:</p> <ul style="list-style-type: none"> <li>(a) Black women hold more than 30% of the exercisable voting rights as determined under Code series 100;</li> <li>(b) Black women hold more than 30% of the economic interest as determined under Code series 100; and</li> </ul>

	(c) has earned all the points for Net Value under statement 100;
<b>"Middle Management"</b>	means an employee of the Measured Entity who is a member of the occupational category of "Middle Management" as determined using the Employment Equity regulations;
<b>"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>"National Skills Development Strategy"</b>	means the national skills development strategy referred to in section 5(1)(a)(ii) of the Skills Development Act;
<b>"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>"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>"Net Value"</b>	means the percentage resulting from the formula in Annexe 100(C) of statement 100;
<b>"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>"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>"Non-Profit Organisation"</b>	means a non-profit organisation registered under the Non-Profit Organisation Act of 1997;

<b>"Outsourced Labour Expenditure"</b>	<p>means any expenditure incurred in:</p> <p>(a) procuring the services of or from a labour broker; and</p> <p>(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;</p>
<b>"Participant"</b>	means a natural person holding rights of ownership in a Measured Entity;
<b>"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>"Priority Skills"</b>	<p>means Core, Critical and Scarce Skills as well as any skills specifically identified:</p> <p>(a) in a Sector Skills Plan issued by the Department of Labour of the Republic of South Africa;</p> <p>(b) National Skills Development Strategy III;</p> <p>(c) New Growth Path; and</p> <p>(d) National Development Plan Remove.</p>
<b>"Private Equity Fund"</b>	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;
<b>"Public Benefit Organisation"</b>	means an entity as defined in section 30 of the income Tax Act of 1962;
<b>"Qualifying Enterprise and Supplier Development Contributions"</b>	means a collective term describing Enterprise Development and Supplier Development

	Contributions targeting EME's and OSE'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;
"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;
"Qualifying Socio-Economic Contributions"	Is a collective term for Socio-Economic Project Contributions and Socio-Economic Contributions;
"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;
"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;
"Rights of Ownership"	Is a collective term for the right to Economic Interest and the right to Exercisable Voting Rights;
"Scarce Skills"	are those skills identified as being scarce by any SETA;
"Section 21 Company"	means an association not for gain incorporated under section 21 of the Companies Act;
"Sector Code"	means a code in series 003 which is applicable to a particular sector;
"Seller"	means the Entity or the person concluding a Qualifying Transaction with the Associated Enterprise;

<p><b>"Senior Management"</b></p>	<p>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;</p>
<p><b>"Skills Development Expenditure"</b></p>	<p>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;</p>
<p><b>"Socio-Economic Development Contributions"</b></p>	<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> <ul style="list-style-type: none"> <li>(a) development programmes for women, youth, people with disabilities, people living in rural areas;</li> <li>(b) support of healthcare and HIV/AIDS programmes;</li> <li>(c) support for education programmes, resources and materials at primary, secondary and tertiary education level, as well as bursaries and scholarships;</li> <li>(d) community training: skills development for unemployed people and adult basic education and training; or</li> <li>(e) support of arts, cultural or sporting development programmes;</li> </ul>
<p><b>"Socio-Economic Project Contributions"</b></p>	<p>means monetary or non-monetary contributions carried out for the benefit of any projects</p>

	<p>approved for this purpose by any organ of state or sectors including without limitation:</p> <ul style="list-style-type: none"> <li>(a) projects focusing on environmental conservation, awareness, education and waste management; and</li> <li>(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;</li> <li>(c) New projects promoting beneficiation;</li> </ul>
<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;
<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;
<b>"Subsidiary"</b>	has the meaning defined in section 1(3) of the Companies Act;
<b>"Superior Contributor to B-BBEE"</b>	is a Level One to Level Three Contributor to B-BBEE;
<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;
<b>"Supplier Development Contributions"</b>	means monetary or non-monetary contributions carried out for the benefit of value-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;
"Target"	means the targets for the various Elements in the Generic and OSE Scorecard;
"the Act"	means the Broad-Based Black Economic Empowerment Act 53 of 2003;
"the Codes"	means the Codes of Good Practice including all the statements as issued under section 9 of the Act;
"the Generic Scorecard"	means the balanced B-BBEE scorecard as contained in statement 000;
"the PFMA"	means the Public Finance Management Act 1 of 1999 as amended;
"the OSE Scorecard"	means the OSE scorecard referred to in statement 000;
"the Skills Development Act"	means the Skills Development Act of 1998;
"the Skills Development Levies Act"	means the Skills Development Levies Act of 1999;
"the Strategy Document"	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;

<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>
<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;
<b>"Total Revenue"</b>	means the total income of an Entity from its operations as determined under South African Generally Accepted Accounting Practice;
<b>"Transformation Charters"</b>	means the sectoral transformation charters referred to in section 12 of the Act;
<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.
<b>"Unincorporated Joint Venture"</b>	means a joint venture between two or more Measured Entities effected by agreement without incorporation;
<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;
<b>"Weighting"</b>	means the weightings applied to various Elements in the Generic Scorecard and QSE Scorecard;
<b>"Workplace Skills Plan"</b>	means the plan of a Measured Entity approved by the relevant SETA.

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