

DEPARTMENT OF TRADE AND INDUSTRY

NO. 812

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CODES OF GOOD PRACTICE ON BROAD-BASED BLACK ECONOMIC EMPOWERMENT

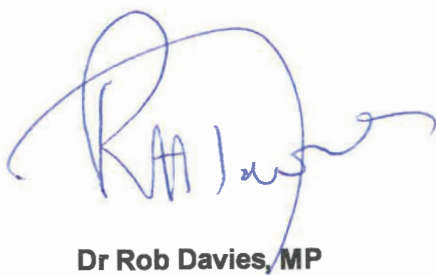
I, Dr Rob Davies, Minister of Trade and Industry, hereby:

- a) Issue the following Draft Defence Sector Codes of Good Practice for public commentary in terms of Section 9 (5) of the Broad-Based Black Economic Empowerment Amendment Act No. 46 of 2013; and
- b) Invite interested persons and the public to submit comments on the Draft Defence Sector Codes of Good Practice within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of Mr Jacob Maphutha and Ms Mologadi Leshiba to any of the following addresses:

1. E-mail: defencesectorcode@thedti.gov.za
2. The dti Campus, 77 Meintjies street, Sunnyside, Pretoria, 0002
3. c/o BEE Unit, Private Bag X 84, Pretoria, 0002

Enquiries: 012 394 1609/3430



Dr Rob Davies, MP

Minister of Trade and Industry, MP

30 June 2017

**BROAD - BASED BLACK ECONOMIC EMPOWERMENT DEFENCE
SECTOR CODE IN TERMS OF SECTION 9 (1) OF THE BROAD - BASED
BLACK ECONOMIC EMPOWERMENT ACT 53 OF 2003 AS AMENDED
BY ACT 46 OF 2013**

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1. PREAMBLE

Colonialist and apartheid policies and practices in South Africa excluded Black people from the economy and deprived them of equal educational opportunities and equal access to the economy of the country. This resulted in a myriad of socio-economic problems which have resulted in high levels of poverty and inequality, significant shortage of skills, the reliance of the economy on a small number of people and the continued exclusion of Black people from the South African economy, resulting in an economy that performs below its potential.

To help deal with the inherited problems, South Africa adopted a Constitution which aimed to establish a society based on democratic values, social justice and fundamental human rights, improve the quality of life of all citizens and free the potential of each person, build a united and democratic South Africa, able to take its rightful place as a sovereign state in the family of nations; and to promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination.

Section 9 of the Bill of Rights states: ***"Equality includes the full and equal enjoyment of all rights and freedoms."*** This right to equality includes the right of all South Africans to participate fully in the economy of the country. The Broad – Based Black Economic Empowerment Act no 53 of 2003 and the Amended Codes of Good Practice seek to give effect to this right. The SADI, like other industries in South Africa is negatively affected by problems of the past and needs a framework which finds solutions that will address the negative impact of racially skewed rule and development and which will grow the defence industry in order for it to make a sustainable and meaningful contribution to the economy. A strong economy in which all citizens have an equal opportunity to participate will contribute towards the strengthening of South Africa as a democratic developmental state. In this regard, the need for effective and significant economic transformation is essential. Such transformation must include access to economic opportunities and productive resources for previously excluded groups, the promotion of local businesses and entrepreneurship, manufacture, the development of skills for a knowledge based economy and the development of innovative indigenous technology and Intellectual Property.

The Defence Sector Code aims, within the defence industry, to give effect to the constitutionally enshrined right to equality by addressing the systemic past exclusion of Black people from participating in the economy, which effects remain firmly in place.

2. VISION

A fully transformed, revitalized defence industry with effective and sustainable economic participation by black people as employees, managers, entrepreneurs, industrialists, developers, and shareholders.

3. MISSION

To create a framework for the meaningful and sustainable transformation and growth of the South African defence industry through ownership, management, skills development, enterprise and supplier development programmes.

4. INTERPRETATIONS AND DEFINITIONS

- 4.1. **"The Act"** means the Broad - Based Black Economic Empowerment Act no 53 of 2003 as amended from time to time;
- 4.2. **"Associated Enterprise"** means an entity with which a Measured Entity has concluded a Qualifying Transaction;
- 4.3. **"B-BBEE Enterprises"** means enterprises whose B-BBEE score, in terms of a sector scorecard which has been issued as a sector code of practice or in terms of the DTI's generic scorecard, has been verified by an accredited verification agency or in the case of Exempt Micro Enterprises or Qualifying Small Enterprise that are at least 51% black owned, produced an affidavit verifying their status;
- 4.4. **"B-BBEE Facilitator Status"** means Organs of State or Public Entities or State-Owned Enterprises that have been designated as B-BBEE Facilitators by the Minister of Trade and Industry by notice in the Government Gazette. In calculating their Ownership score, Measured Entities must treat B-BBEE Facilitators as having rights of Ownership held –

4.4.1. 100% by Black People;

4.4.2. 40% by Black women;

4.4.3. 20% by designated groups;

4.4.4. without any acquisition of debts; and

4.4.5. without any third party rights;

4.5. **"Black Designated Groups"** means black people who are unemployed, black people who live in rural areas, black people who are youth, black people who are persons with disabilities, black women, and black military veterans;

4.6. **"Black People with Disabilities"** means Black People who also satisfy the criteria in the definition of 'persons with disabilities' set forth in paragraph 5.1 of the 'Code of Good Practice on the Employment of Persons with Disabilities' (as amended or substituted from time to time) issued in terms of section 54(1)(a) of the Employment Equity Act 55 of 1998;

4.7. **"Black Owned Enterprises"** means enterprises that are at least 51% owned by black people. 51% Black owned means an Entity in which –

4.7.1. Black people hold at least 51% of the exercisable voting rights as determined under Code Series 100;

4.7.2. Black people hold at least 51% of the economic interest as determined under Code series 100; and

4.7.3. has earned all the points for Net Value under statement 100;

- 4.8. **"Black People"** means Africans, Coloureds and Indians in terms of the Act and read in conjunction with the definition in the Code of Good Practice, which limits the definition to natural persons who are citizens of the Republic of South Africa by birth or by descent as well as natural persons who acquired citizenship by naturalization prior to 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;
- 4.9. **"Black Youth"** means black people who are also youth as defined in the National Youth Commission Act 19 of 1996, as amended or substituted;
- 4.10. **"Broad-Based Black Economic Empowerment"** means the economic empowerment of all black people including women, workers, youth, people with disabilities, people living in rural areas and military veterans through diverse but integrated socio-economic strategies that include, but are not limited to –
 - 4.10.1. increasing the number of black people who manage, own and control enterprises and productive assets;
 - 4.10.2. facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
 - 4.10.3. targeted procurement and investment in enterprises that are owned and managed by black people;
 - 4.10.4. human resources and skills development;
 - 4.10.5. achieving equitable representation in all occupational categories and levels in the workforce; and
 - 4.10.6. facilitating the provision of additional skills to black employees at all levels in the workforce;
- 4.11. **"Broad-Based Ownership Scheme"** means a juristic person, a trust or a common-law association of persons constituted with a view to facilitating the

participation of specified natural persons, in the benefit flowing from the ownership by that scheme or its fiduciaries of an Equity Interest in an Enterprise(s);

- 4.12. **"Charter Council"** means the Defence Sector Charter Council established in terms of paragraph 17 of this Sector Code;
- 4.13. **"Defence Industry"** means the commercial industry involved in research and development, engineering, production, and the servicing of military material, equipment, and facilities, including Military Veterans;
- 4.14. **"Defence Industrial Participation" (DIP)** means the Department of Defence policy framework for the retention and development of the South African defence industry, which is regarded as a national strategic and economic asset;
- 4.15. **"DOD"** means the Department of Defence and Military Veterans;
- 4.16. **"DTI"** means the Department of Trade and Industry;
- 4.17. **"Economic Interest"** means a Participant's Claim against the Enterprise representing a return on ownership of the Enterprise, measured in accordance with the Flow-Through and Modified Flow-Through Principles;
- 4.18. **"Element"** means the measurable quantitative or qualitative elements of B-BBEE compliance specified in applicable legislation;
- 4.19. **"Empowering Supplier"** means subject to Notice 708 of 2016 and any further Notices issued by the DTI, a B-BBEE compliant entity, which is a good South African citizen and 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 Qualifying Small Enterprise of the following criteria –

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- 4.19.1. at least 25% of cost of sales excluding labour cost, finance 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%;
- 4.19.2. 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;
- 4.19.3. at least 25% transforming of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging;
- 4.19.4. skills transfer – at least spend 12 days per annum of productivity deployed in assisting Black EME's and QSE's beneficiaries to increase their operation or financial capacity;
- 4.19.5. labour Costs – at least 85% of labour costs are paid to South African employees, for service industry;
- 4.21.6. Exempted Micro Enterprise and Start-Ups are automatically recognized as Empowering Suppliers;
- 4.22 **"Enterprise"** means a natural or a juristic person, or any form of Co-operative, conducting a business, trade or profession in the Republic of South Africa;
- 4.23 **"Enterprise Development"** means the development of black owned enterprises through investment, mentoring, skills development, systems transfer, etc.;
- 4.24 **"Enterprise Development Contributions"** means monetary or non-monetary contributions carried out for the benefit of Exempted Micro Enterprise or Qualifying Small Enterprises which are at least 51% Black owned;
- 4.25 **"Equity Equivalent Investment Programme"** means –
- 4.25.1. public program or scheme of any government department, provincial government or local government in the Republic of South Africa which has been approved by the Minister of Trade and Industry as entitling that

Multinational Enterprise to indicative points under the Ownership Scorecard;

4.26 **"Equity Interest"** means the entitlement of a Participant to receive an Economic Interest and to exercise a Voting Right in an Enterprise;

4.27 **"Exempted Micro-Enterprise"** means an entity with an annual turnover of R5 million or less

4.28 **"Flow-through Principle"** means the principle which determines the entitlement of black people to exercise voting rights in an enterprise or to share in the economic interest of an enterprise. Regard is solely to voting rights and/or economic interest to which black people, who are natural persons, are entitled. In cases where an entitlement to voting rights and/or economic interest is held by juristic persons, regard will be to voting rights and/or economic interest to which black people, who are natural persons, are entitled in that juristic person. The same principle will apply throughout the chain of ownership by juristic persons, until such time as that chain terminates in a natural person, who is a black person, or who represents black women or black designated groups, as the case may be. The natural black person(s) shall be entitled to such voting rights and/or economic interest;

4.29 **"Fronting"** means any practice, arrangement, transaction or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the Act or the implementation of any of the provisions of the Act, including but not limited to practices in connection with a B-BBEE initiative:

4.29.1 in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;

4.29.2 in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation;

- 4.29.3 involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- 4.29.4 involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which -
- 4.29.4.1. there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
- 4.29.4.2. the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
- 4.29.4.3. the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis;
- 4.30 **"Generic Scorecard"** means the balanced B-BBEE scorecard included in Code 000 Statement 000 of the DTI Codes of Good Practice;
- 4.31 **"Global Policy"** means a globally and uniformly applied restriction upon the alienation of Equity in or the sale of businesses of the Multinational Affiliates of a Multinational Business imposed by that Multinational Business or by a regulator which has lawful jurisdiction over that Multinational Business or by any law of application to the Multinational Business. Where the Global Policy is imposed by a regulator or by law, such Global Policy must substantially have been in existence prior to the date of promulgation of the Act;
- 4.32 **"Local Enterprise"** means an enterprise that is incorporated in South Africa, whose majority shareholders are South African citizens and which sources and manufactures its products locally sourcing not less than 50% of its raw material locally;

4.33 **"Large Enterprise"** means an entity with an annual turnover of more than R50 million;

4.34 **"Multinational Enterprise"** means a South African based Enterprise which is a Multinational Affiliate of a Multinational Business it being recorded as a branch of an external company as defined in the Companies Act of 71 of 2008;

4.35 **"Management"** means –

4.35.1. executive management, which includes the Chief Executive Office, Managing Director, Chief Financial Officer, Executive Directors and those managers who have a significant leadership role in the enterprise, have control over day to day operations, have decision-making powers and report directly to the Chief Executive Officer, Managing Director and/or the Board of Directors;

4.35.2. senior manager, which includes the heads of all major functions not represented on the main board and within the executive management and who are responsible for programming decisions;

4.35.3. middle management, which includes the professionally qualified and experience specialists in an enterprise who are responsible for interpretive decisions; and

4.35.4. junior managers, which includes skilled, technical and academically qualified employees, supervisors, foremen and superintendents, who make routine and process decisions;

4.36. **"Measured Entity"** means an enterprise or entity including an organ of state or public entity subject to measurement under this Sector Code;

4.37. **"Military Veterans"** means any Black South African citizen who —

4.37.1. rendered military service to any of the non-statutory military organisations, which were involved in South Africa's Liberation War from 1960 to 1994;

4.37.2. served in the Union Defence Force before 1961;

4.37.3 became a member of the new South African National Defence Force after 1994; and

4.37.4. has completed his or her military training and no longer performs military service, and has not been dishonourably discharged from that military organization or force,

provided that this definition does not exclude any person referred to in paragraph 4.37.1 or 4.37.2 who could not complete his or her military training due to an injury sustained during military training or a disease contracted or associated with military training;

4.38 **"National Development Plan"** means the detailed blueprint for how the Republic of South Africa can eliminate poverty and reduce inequality by the year 2030;

4.39 **"Net Profit after Tax"** means the operating profit of a measure entity after tax. It incorporates both equity /loss figure and abnormal items , but excludes extraordinary items as determined by (GAAP) Generally Accepted Accounting Practices;

4.40 **"Ownership"** means ownership of an equity interest in an enterprise;

4.41 **"Organs of State"** means –

4.41.1 A national or provincial department as defined in the Public Finance Management Act 1999 (Act no 1 of 1999)

4.41.2 a municipality contemplated in the Constitution;

4.41.3 a provincial legislature; and

4.41.4 a constitutional institution listed in Schedule 1 of the Public Finance Management Act 1999 (Act no 1 of 1999)

4.42 **"Participant"** means a natural person having an Equity Interest in an enterprise;

4.43 **"Procurement"** means all expenditure for goods, products, equipment and services, including capital expenditure and excluding where the expenditure is on municipal rates and taxes or part of payroll;

4.44 **"Qualifying Small Enterprise"** means an entity whose annual turnover is R5 million or more but less than R50 million;

4.45 **"Qualifying Transaction"** means a sale of business and/or assets from a measured enterprise to an associated enterprise. A qualifying transaction shall not be included under the enterprise development element of this Sector Code. In addition, in order for such a transaction to be regarded as a qualifying transaction, it must comply with the following requirements –

4.45.1 the qualifying transaction must ultimately result in the creation of sustainable businesses and/or business opportunities for black people and in the transfer of specialized skills and/or productive capacity to black people; and

4.45.2 the associated enterprise arising from the qualifying transaction must be a fully-fledged enterprise in its own right and as such, should at a minimum –

4.45.2.1 have no unreasonable limitations imposed upon it in relation to the identity of its clients and/or customers; and

4.45.2.2 have clients and/or customers and suppliers other than the enterprise with which the qualifying transaction was undertaken; and

4.45.2.3 have no operational outsourcing arrangements with the initiating enterprise, which were not concluded at arm's length and on a fair and reasonable basis;

4.46 **"SADI"** means the South African Defence Industry;

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- 4.47 **"SMME"** means small, medium and micro enterprises namely Exempt Micro Enterprises and Qualifying Small Enterprises;
- 4.48 **"Sovereign Capability"** means such products whether corporeal or incorporeal or services that are partially or wholly owned or controlled by the government and/or identified by the government/ DoD as vital to national security and/or strategic interests of the country;
- 4.49 **"Stakeholders"** means Measured Entities, organs of state, public entities, state-owned enterprises and suppliers who are involved in the defence industry;
- 4.50 **"Start – Up Enterprise"** 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;
- 4.51 **"State-Owned Enterprise"** means a business enterprise that is registered in terms of the Companies Act 71 of 2008 as a company, is wholly owned by the South African government and accounts to Parliament;
- 4.52 **"Supplier"** means a statutory registered enterprise or individual who has the capacity to deliver goods and/or services required, in the time frames specified;
- 4.53 **"Voting Rights"** means the votes attached to an instrument owned by a black participant or held on behalf of a black participant, that may be exercised at a general meeting of the shareholders of a company having share capital or any similar rights in any other form of enterprise, measured in accordance with the flow-through principle or control principle, provided that –
- 4.53.1 to the extent that the provisions of the Codes of Good Practice Issued by DTI on 11 October 2013 and as amended from time to time provide further definition as to the nature of voting rights in an enterprise other than a
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company having share capital, those provisions should be read in conjunction with this definition in relation to such enterprises; and

4.53.2 voting rights exercised on behalf of a black participant, by another natural person who acts in a fiduciary capacity or in terms of specific mandate or proxy, shall be deemed to be exercised by that participant; and

4.54 **"Weighting"** means the weighting attributed to the various elements in the Sector Code and the Act.

5 OBJECTIVES

The Objectives of the Defence Sector Code are to provide the SADI with a framework within which to implement B-BBEE and to give practical effect to national policy imperatives as set out in The National Development Plan (Vision 2030), the Defence Industrial Participation Programme, the National Industrial Policy Framework, the Industrial Policy Action Plan, the Black Industrialists Policy and the South African Defence Review 2014.

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- 5.1. More specifically, the Sector Code aims to achieve the following objectives:
- 5.1.1. to implement measures that will ensure the effective participation of Black people in SADI and in the broader economy;
 - 5.1.1. to encourage the participation of and growth of SMME's in SADI;
 - 5.1.2. to promote the growth of technical innovation within SADI;
 - 5.1.3. to promote the growth of SADI as a profitable, sustainable industry;
 - 5.1.4. to promote local manufacturing capability in the SADI for local and export purposes;
 - 5.1.5. to advance the acquisition, retention and transfer of critical, technical and scarce skills in SADI;
 - 5.1.6. to protect South Africa's sovereign capability in the SADI;
 - 5.1.7. to actively promote entrepreneurship especially among the Black designated groups;
 - 5.1.8. to promote entrepreneurship and new enterprises in the defence industry; and
 - 5.1.9. to contribute to job creation.

6. CHALLENGES FACING THE DEFENCE INDUSTRY

- 6.1. Declining local spending in the defence industry;
- 6.2. A South African economy that is growing at a slow rate;
- 6.3. The rising threat of socio-political instability as a result of income inequality;

- 6.4. The exclusion of military veterans of non-statutory forces (former liberation fighters) from the economy;
- 6.5. The inability of South African businesses to meaningfully expand into the rest of the African continent defence industry;
- 6.6. Continued over-reliance of the South African defence industry on monopolies, oligopolies and foreign-owned enterprises;
- 6.7. Lack of adequate protection and preferential access for local defence manufacturers over international competition; and
- 6.8. Regulatory constraints.

7. COMMITMENT

- 7.1. The stakeholders acknowledge that the SADI is vital for the maintenance of South Africa's strategic capability and it plays a critical role in the Republic's economic growth, through manufacturing and technological innovation.
- 7.2. The stakeholders further acknowledge that B-BBEE is a business imperative which is essential for the sustainability and growth of the industry.
- 7.3. The stakeholders therefore commit themselves fully –
 - 7.3.1. to implement the provisions of this Sector Code and the provisions of the Act in both substance and in form;
 - 7.3.2. to create an enabling environment for the proper implementation of the measures in this Sector Code;

- 7.3.3. to display the highest degree of good faith in all matters relating to the implementation of the Sector Code and neither do anything nor refrain from doing anything that has the effect (either directly or indirectly) of hampering the implementation of the Sector Code; and
- 7.3.4. to comply fully with the provisions of the Act especially and without limitation to avoid practices that frustrate the implementation of the Act and Sector Code including fronting.

8. APPLICATION

- 8.1. This Sector Code is legally binding on all entities in the South African defence industry, in its entirety, including national or provincial departments, organs of state, state owned enterprises, private enterprises providing supplies, products and services to the state – whether they are procured from local or foreign-owned enterprises – defence manufacturing enterprises, research and development enterprises and other entities, as well as any role-player and stakeholder that might opt in.
- 8.2. Notwithstanding any other Sector Code that the entities in paragraph 8.1. may be subject to at the date of gazetting of this Sector Code, such entities shall be obliged to be measured in terms of this Sector Code.
- 8.3. In the event of this Sector Code not providing specifically for a particular aspect or in the event of a lack of clarity, the provisions of the Broad-Based Black Economic Empowerment Act and the Generic Scorecard as amended from time to time shall be used as a reference and guide. In addition, the interpretation of the provisions of this Code shall be made having regard to the Preamble, the Objectives, Key Principles and Commitments as the case may be.

9. KEY PRINCIPLES

- 9.1. The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 9.2. In the interpreting the provisions of this Sector Code any reasonable interpretation consistent with the objectives of the B-BBEE Act as amended must take precedence.
- 9.3. The basis for measuring B-BBEE initiatives under this Sector Code is the B-BBEE compliance of the Measured Entity at the date of Measurement.
- 9.4. Any misrepresentation or attempt to misrepresent a Measured Entity's true B-BBEE status will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended, and they may lead to the disqualification of the entire scorecard of the entities concerned.
- 9.5. The optimization of local intellectual property, research and development, as well as manufacturing capacity must be encouraged.
- 9.6. All measures taken in terms of this Sector Code herein shall be implemented in a manner that promotes local manufacturing and the stimulation of indigenous technology and products and must be underpinned by a firm commitment to promote South Africa, its interests and its economy.

10. PRIORITY ELEMENTS, SUBMISSION AND DISCOUNTING PRINCIPLE

- 10.1. The Priority Elements are as follows –

10.1.1. OWNERSHIP:

10.1.1.1. The Sub-minimum requirement for Ownership is 40% of net value.

10.1.2. SKILLS DEVELOPMENT:

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

10.1.3. ENTERPRISE AND SUPPLIER DEVELOPMENT:

10.1.3.1 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.

10.2. COMPLIANCE WITH PRIORITY ELEMENTS

10.2.1. A Large Enterprise is required to comply with all the Priority Elements.

10.2.2. A Qualifying Small Enterprise is required to comply with Ownership as a compulsory element and either Skills Development or Enterprise and Supplier Development.

10.3. DISCOUNTING PRINCIPLE EFFECT

- 10.3.1. Non-compliance with the 40% sub-minimum requirements of any of the priority elements, as per paragraphs 10.2.1 and 10.2.2. above, will result in the following outcomes for both Large Enterprises and Qualifying Small Enterprises;
- 10.3.2. 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 40% sub-minimum requirements will be recognized by the Verification Agency ("the Recognition Level");
- 10.3.3. Notwithstanding the recognition in the 10.3.2. 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 that verification period; and
- 10.3.4. The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 is only applicable to 'designated employers' who employ 50 or more employees. However, for the purpose of measurement in terms of this Sector both Generic and Qualifying Small Enterprises that employ less than 50 employees are required to submit sufficient evidence for verification purposes.

11. ELIGIBILITY AS AN EXEMPTED MICRO-ENTERPRISE (EME)

- 11.1. Any enterprise with an annual Total Revenue of R5 Million or less qualifies as an Exempted Micro-Enterprise.
- 11.2. An Exempted Micro-Enterprise is deemed to have a B-BBEE Status of "Level Four Contributor" having a B-BBEE recognition level of 100%

- 11.3. Enhanced B-BBEEE recognition level for an Exempted Micro-Enterprise –
 - 11.3.1. Despite paragraph 11.2 an EME which is 100% Black owned qualifies for elevation to “Level One Contribution” having a B-BBEE recognition level of 135%;
 - 11.3.2. Despite paragraph 11.2 and 11.3.1, an EME which is at least 51% Black owned qualifies for elevation to “Level Two Contributor” having a B-BBEE recognition level of 125%; and
 - 11.3.3. Despite paragraphs 11.2 and 11.3, an EME is allowed to be measured in terms of the QSE scorecard should they wish to maximize their points and move to a higher B-BBEE recognition level.
- 11.4. An EME is only required to obtain a sworn affidavit or CIPC issued certificate on an annual basis, confirming the following –
 - 11.4.1. Annual total Revenue/Allocated Budget/Gross Receipts of R5 million or less; and
 - 11.4.2. Level of Black Ownership.
- 11.5. Any misrepresentation in terms of Paragraph 11.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

12. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISE (QSE)

- 12.1. Any Measured Entity with Total Revenue of between R5 million and R50 million qualifies as a Qualifying Small Enterprise provided its qualification does not arise as a result of circumvention of the relevant Scorecard.
- 12.2. Entities that are Qualifying Small Enterprises must use Scorecard in this Sector Code.
- 12.3. Enhanced B-BBEE recognition level for QSE –
 - 12.3.1. A Qualifying Small Enterprise which is 100% Black owned qualifies for a Level One B-BBEE recognition;
 - 12.3.2. Despite paragraph 12.2, a qualifying Small Enterprise which is at least 51% Black owned qualifies for a Level Two B-BBEE recognition level of 125%; and
 - 12.3.3. Despite paragraph 12.2, a QSE that is at least 51% Black owned is only required to obtain a sworn affidavit on an annual basis, confirming the following –
 - 12.3.3.1. Annual Total Revenue/Allocated Budget/Gross Receipts of R50 million or less; and
 - 12.3.3.2. Level of Black Ownership.
- 12.4. Any misrepresentation in terms of Para 12.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.
- 12.5. Any matter concerning the application of the Specialised Qualifying Small Enterprise Scorecard that is not dealt with explicitly in this Sector Code must be dealt with in terms of codes 100-500.

13. START-UP ENTERPRISES

- 13.1. Start-Up Enterprise must be measured as an Exempted Micro –Enterprise 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.
- 13.2. Start-up Enterprise is deemed to have the qualifying B-BBEE status in accordance with the principles of paragraph 11 of this Sector Code.
- 13.3. In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status in accordance with paragraph 11.4.
- 13.4. Despite paragraphs 13.1 and 13.2, Start-Up and Exempted Micro 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 R5 million but less than R50 million. The preparation of such scorecards must use annualized data.

14. THE DEFENCE SECTOR SCORECARD

- 14.1. The Ownership Element, measures effective ownership of entities by Black people.
- 14.2. The Management Control Element measures the effective control by entities by Black people.
- 14.3. The Skills Development Element measures the extent to which employers carry initiatives designed to develop the competencies of Black employees and Black people internally and externally.

- 14.4. The Enterprise and Supplier Development Element, measures the extent to which entities buy goods and services from Empowering Suppliers preferably between level 1 and level 4 B-BBEE recognition levels. This element also measures the extent to which enterprises carry out supplier development and enterprise development initiatives intended to assist and accelerate the growth and sustainability of black enterprises.
- 14.5. The Socio-Economic Development and Sector Specific Contributions Element, measures the extent to which entities carry out initiatives that contribute toward Socio-Economic Development or Sector Specific initiatives that promote access to the economy for Black people.
- 14.6. Organs of State and State-Owned Enterprises shall be measured using the Specialised Defence Scorecard but shall otherwise comply with all the provisions of this Sector Code unless expressly excluded there from.

THE DEFENCE SCORECARD

ELEMENT	WEIGHTING	SECTOR REFERENCE	CODE
Ownership	25 Points	Paragraph 16.1	
Management Control	15 points	Paragraph 16.2	
Skills Development	20 Points	Paragraph 16.3	
Enterprise and Supplier Development	40 Points	Paragraph 16.4	
Socio-Economic Development	5 Points	Paragraph 16.6	
Localisation	10 Points	Paragraph 16.5	
TOTAL	115 Points		

15. B-BBEE RECOGNITION LEVELS

Based on the overall performance of a Measured Entity using the Defence Sector Scorecard the Measured Entity will receive one of the following B-BBEE Status uses with the corresponding B-BBEE recognition level.

B-BBEE Status	Qualification	B-BBEE recognition level
Level One Contributor	≥100 points on the Defence Sector Scorecard	135%
Level Two Contributor	≥95 but <100 points on the Defence Sector Scorecard	125%
Level Three Contributor	≥90 but <95 points on the Defence Sector Scorecard	110%
Level Four Contributor	≥80 but <90 points of the Defence Sector Scorecard	100%
Level Five Contributor	≥75 but <80 points on the Defence Sector Scorecard	80%
Level Six Contributor	≥70 but <75 points on the Defence Sector Scorecard	60%
Level Seven Contributor	≥55 but <70 points on the Defence Sector Scorecard	10%
Level Eight Contributor	≥40 but <55 points on the Defence Sector Scorecard	10%
Non-Compliant Contributor	<40 points on the Defence Sector Scorecard	0%

16. ELEMENTS OF THE DEFENCE SECTOR CODE

16.1. OWNERSHIP

16.1.1. One of the most effective tools for effecting sustainable economic transformation and growth in the defence industry is meaningful ownership of Black people of equity interest in enterprises. Stakeholders therefore commit to achieving the following ownership targets within a period of 3 (three) years from the date of the promulgation of this Sector Code –

16.1.1.1. a minimum target of 25% (twenty-five per cent) of equity interest held by Black people in enterprises in the defence industry in the first year after promulgation of the Sector Code, 30% (thirty per cent) in the second year and in the third year 35% (thirty-five per cent);

16.1.1.2. a minimum of 10% per cent of equity interest held by Black women in enterprises in the defence industry in the first year and 15% in the second and third year; and

16.1.1.3. any ownership target, as with other elements of the Sector Code, shall include a minimum threshold for Designated groups.

16.1.2. Black people who have an equity interest in an enterprise must have exercisable voting rights and be entitled to receive economic benefits arising from such equity interest subject to any liabilities they may have incurred in the course of acquiring an economic interest.

16.1.3. All Measured Entities are bound by the ownership targets set out herein except where specifically exempted in this Sector Code.

16.1.4. Multinational Enterprises or Multinational Businesses shall comply with the ownership element of the Sector Code unless they are subject to a global policy prohibiting such enterprises from selling shares outside their country;

16.1.5. In the event 16.1.4 applies, the Multinational Enterprise shall –

16.1.5.1. produce satisfactory evidence of the such global policy; and

16.1.5.2. evidence of Equity Equivalent Programme approved by the Minister.

16.1.6. Holding rights of ownership in a Measured Entity through Employee Share Ownership Schemes may contribute a maximum of 40% of the total points on the ownership scorecard provided that such Employee Share Ownership Scheme meet the following qualification criteria –

16.1.6.1. the members of the Employee Share Ownership Scheme must be Black;

16.1.6.2. the constitution of the scheme must define the participants and the proportion of their claim to receive distributions;

16.1.6.3. not less than 85% of the value of benefits allocated by the scheme must accrue to Black people;

16.1.6.4. not less than 50% of the fiduciaries of the Scheme must be black people and at least 25% must be Black women;

16.1.6.5. Participants may be named or referred to as a defined class of natural persons and their claim to receive distributions may be in fixed percentages or determined in terms of a formula. The fiduciaries of the scheme have no discretion in this regard;

16.1.6.6. the constitution of the Scheme and any other information affecting the scheme including such information of the Measured Entity that a shareholder in a company having shareholding would be entitled to must be available on request to any participant in an official language in which that person is familiar;

16.1.6.7. the fiduciaries of the Scheme must present the financial reports of the scheme to participants yearly at an annual general meeting of the scheme;

16.1.6.8. the participants must take part in appointing at least 50% of the fiduciaries and must have a role in the management of the scheme similar to the role of a shareholder in a company having shareholding;

16.1.6.9. all accumulated Economic Interest in the scheme is payable to the participants at the earlier of a date specified in the constitution or on termination or winding up of the scheme;

16.1.6.10. no onerous or punitive measures exist in the constitution or management of the Scheme that in any manner whatsoever deprive the participants of any rights to the benefits of the scheme including when they cease to be employees of the Measured Entities;

16.1.6.10.1. the chairperson of the scheme must be independent; and

16.1.6.11. the Scheme should have representation on the board of the Measured Entity;

16.1.7. Black Participants in a Trust holding rights of ownership in a Measured Entity may contribute a maximum of 40% of the total points on the Ownership Scorecard of the Measured Entity if the Trust meets the qualification criteria for Trusts set out in clauses 16.1.8 and 16.1.9. herein.

16.1.8. The qualification criteria for the recognition of Trusts are as follows –

16.1.8.1. the trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;

16.1.8.2. a written record of the names of the beneficiaries or the use of defined of natural person satisfies the requirement for identification;

16.1.8.3. a written record or fixed percentage of entitlement or the use of a formula for calculation entitlement satisfies the need for defining proportion of benefit;

16.1.8.4. the trustees must have no discretion of the above-mentioned terms;

16.1.8.5. on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries;

16.1.8.6. The trust must have been established for legitimate commercial purposes which must be fully disclosed and its objects must reflect;

- 16.1.8.7. The Trust must be entitled to nominate and appoint persons on the board of the Measured Entity commensurate with its shareholding in such Measured Entity; and
- 16.1.8.8. the terms of the Trust do not directly or indirectly seek to circumvent the provisions of the Defence Sector Code and the Act.
- 16.1.9. The qualification criteria for the recognition of Family Trusts are as follows: –
 - 16.1.9.1. the trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;
 - 16.1.9.2. a written record of the names of the beneficiaries or the use of a defined class of natural persons satisfies the requirement of defining beneficiaries;
 - 16.1.9.3. a use of a formula for calculating entitlement satisfies the need for defining proportion of benefit. on the trustee must have discretion on the above mentioned terms; and
 - 16.1.9.4. on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries.
- 16.1.10. The provisions relating to Trusts do not apply to any Trusts registered prior to the gazetting of the Defence Sector Code.
- 16.1.11. The decisions of Black owners of equity interests to sell, transfer, alienate or otherwise dispose of their Equity Interest in any enterprise shall not affect the obligation of such enterprise to at all times fully comply with the ownership targets in this Sector Code.
- 16.1.12. When determining ownership in a Measured Entity, ownership held by Organs of State or State-Owned Enterprises must be excluded.
- 16.1.13. Exclusion of Ownership held by the Organs of the State or State-Owned Enterprises is to be effected before any other Ownership discounting methods are to be applied.

16.1.14. In calculating the Ownership score, Measured Entities must apply the Exclusion Principle to any portion of their Ownership held by Organs of State or State-Owned Entities

16.1.15. The provisions of clauses 16.1.8 to 16.1.10 shall not apply to organs of State or State-Owned Entities that are B-BBEE Facilitators during the relevant period of measurement. Such exemption applies only to the Ownership Element and such Organs of State and State Owned Entities who are B-BBEE Facilitators must comply with all other provisions of this Sector Code.

16.1.16. Notwithstanding any other provision in this Sector Code, Organs of State and State Owned Enterprises may, taking into consideration the objectives of this Sector Code, introduce restrictions on or exclude Measured Entities from tendering or doing business with them if they do not comply with the ownership targets set out in paragraph 16.1.1 hereof.

16.1.17. EQUITY EQUIVALENTS

16.1.17.1. Examples of Equity Equivalents shall include, but not be limited to –

16.1.17.1.1. skills transfer programmes aimed at building the capacity of black people to participate in the defence industry;

16.1.17.1.2. technology transfer programmes intended to increase the participation of black people in the defence industry;

16.1.17.1.3. programmes that promote economic growth and employment creation through the development of technological innovation beyond the Multinational's core business activities;

16.1.17.1.4. supplier-development and any other interventions targeted at reducing the overreliance of the South African defence industry on foreign-owned enterprises;

16.1.17.1.5. programmes in line with applicable programmes in South Africa that were initiated to increase the manufacturing capacity of the economy;

16.1.17.1.6. programmes of the defence industry that are in place to facilitate the skills and technology transfer to South African enterprises in general and black-owned enterprises in particular; and

16.1.17.1.7. programmes aimed at building the capacity of designated groups to participate meaningfully in the defence industry value chain.

OWNERSHIP SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target		
				Year 1	Year 2	Year 3
Ownership	1. Voting Rights	1.1. Exercisable Voting Rights in the Measured Entity in the hands of Black people	4	25%	30%	35%
		1.2. Exercisable Voting Rights in the Measured Entity in the hands of Black women	2	10%	15%	15%
		2.1. Economic Interest in the Measured Entity to which Black people are entitled	4	25%	30%	35%
		2.2. Economic Interest in the Measured Entity to which Black women are entitled	2	10%	15%	15%
		2.3. Economic Interest of any of the following Black natural people in the Measured Entity				

	2. Economic Interest	2.3.1. Military Veterans	2	3%
		2.3.2. Black people in Broad-based Ownership	2	
		2.3.3. New Entrants	1	2%
	3. Realisation Points	Net Value	8	
		TOTAL	25 Points	

MANAGEMENT CONTROL

16.1.18. The objective of Management Control is that black people should be actively involved in making strategic decisions, proportionate to their Equity Interest in the Board of the Measured Entity and in the various levels of management. This means participation at the following levels –

16.1.18.1. Proportionate representation at the non-executive and executive board level that is geared to give strategic direction to the Measured Entity, without restrictions that may be linked to the indebtedness of the shareholders they represent, even if this indebtedness arises out of financing the acquisition of the shareholding that necessitated their board participation; and

16.1.18.2. Executive management – including key strategic positions that could include Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer among others, that is accompanied with the requisite executive powers to make decisions, including budget allocation and deployment, staff appointment and such powers as are ordinarily exercised within corporations by persons occupying such positions.

- 16.1.19. These positions should not be subject to any restrictions that are out of the ordinary nor token ones specifically created for Black executives.
- 16.1.20. The Gazetting of the Defence Sector Code does not affect the obligation of a designated employer's obligation to comply with the Employment Equity Act and Regulations as amended from time to time.

16.1.21. **BOARDS**

16.1.21.1. Large Measured Entities commit to achieve the following targets on their boards –

16.1.21.1.1. 50% Black representation within the first year of the promulgation of the Sector Code increasing to 60% by the third anniversary of the promulgation; and

16.1.21.1.2. 25% Black female within the first year of the promulgation of the Sector Code increasing to 30% by the third anniversary of the promulgation and after the promulgation of the Sector Code.

16.1.22. **EXECUTIVE MANAGEMENT**

16.1.22.1. Measured Entities commit to achieve the following targets –

16.1.22.1.1. 60% Black executive directors; and

16.1.22.1.2. 30% Black female executive directors.

16.1.23. The compliance target for senior, middle and junior management in the Management Control Scorecard are based on the national and regional demographic representation of Black people as defined in the Regulations of the Employment Equity Act no.55 of 1998 as amended from time to time and Commission of Employment Equity Report.

16.1.24. In determining a Measured Entity's Score, the targets should be further broken down into specific criteria according to the different race sub - groups within the definition of Black in accordance with the Employment Equity on an equitable representation and weighted accordingly.

MANAGEMENT CONTROL SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target	
				Year 1 - 2	Year 3
Management Control	1. Board Participati on	1.1. Exercisable voting rights of Black board members as a percentage of all board members	2	50%	60%
		1.2. Exercisable voting rights of Black Military Veterans board members as a percentage of all board members	1	30%	30%
		1.3. Exercisable voting rights of Black female board members as a percentage of all board members	1	25%	30%
		1.4. Black Executive directors as a percentage of all executive directors	1	50%	60%
		1.5. Black female Executive directors as a percentage of all executive directors	1	25%	30%
	2. Other Executive Managem ent	2.1. Black Executive Management as a percentage of all executive directors	2	60%	60%
		2.2. Black female Executive Management as a	1	30%	30%

		percentage of all executive directors			
3. Senior Management	3.1.	Black employees in Senior Management as a percentage of all senior management	2	60%	60%
	3.2.	Black female employees in Senior Management	1	30%	30%
4. Middle Management	4.1.	Black employees in Middle Management as a percentage of all middle management	2	75%	80%
	4.2.	Black female employees in Middle Management as a percentage of all middle management	1	38%	40%
5. Junior Management	5.1.	Black employees in Junior Management as a percentage of all junior management	1	88%	90%
	5.2.	Black female employees in Junior Management as a percentage of all junior management	1	44%	45%
6. Employees with disabilities		Black employees with disabilities as a percentage of all employees	2	2%	3%
		TOTAL	19 Points		

16.2. SKILLS DEVELOPMENT

16.2.1. The shortage of technical and critical skills is one of the major challenges in the defence industry which negatively impacts on the ability of the industry to grow. This shortage is a direct result of the historical exclusion of Black people from acquiring such skills. If the defence industry is to play its vital role in the re-industrialization of the South African economy, structured and strategic interventions are needed for the acquiring critical and scarce skills. Skills Development initiatives must focus on scarce skills including those related to the generation and development of new knowledge that could be deployed to increase the participation of black persons in the growing and operation of strategic enterprises and retention of sovereign capabilities in the defence industry.

16.2.2. Every Measured Entity therefore commits to spend 4% of their annual payroll on skills development programmes for Black persons.

16.2.3. Defence Industry Skills Development Fund

16.2.3.1. Stakeholders hereby agree to set up a Skills Development Fund which shall be administered by the industry to assist with developing skills that are critical for the defence industry.

16.2.3.2. Measured entities commit to contribute 1% of their annual payroll to a Defence Industry Skills Development Fund which will be utilized for skills development of critical and scarce skills in the defence industry.

16.2.3.3. **Measured entities commit to contribute 1% of their annual payroll to skills development programmes for Military Veterans.**

16.2.3.4. The Defence Sector Charter Council established in terms of this Sector Code shall as soon as possible after promulgation of the Sector Code negotiate with the all relevant government departments and agencies to exempt measured entities in the defence industry from contributing a skills' levy due to their contribution to the Defence Industry Skills Development Fund.

SKILLS DEVELOPMENT SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Skills Development	Skills Development Expenditure on any programme specified in the Learning Programme Matrix for Black people as a percentage of the Leviable Amount	1.1. Skills Development expenditure on Learning Programmes for black people as a percentage of Leviable Amount	7	4%
		1.2. Skills Development Expenditure on Learning Programmes for Black employees with disabilities	2	0,3%
		1.3. Skills Development Expenditure on Learning Programmes for Black Military Veterans	1	1%
	2. Learnerships, Apprenticeships and Internships	2.1. Number of people from Black Designated Groups participating in Learnerships, Apprenticeships and Internships as a percentage of number of employees	3	3%
		2.2. Number of Black people participating in Learnerships, Apprenticeships and Internships as a percentage of number of employees	3	2.5%

		2.3. Number of Black unemployed people (or students) participating in Learnerships, Internships and Apprenticeships participating in training as a percentage of number of employees	2	2.5 %
		2.4. Contribution to the Defence Industry Skills Development Fund for development of critical and scarce skills	2	1%
	3. Bonus Points	Number of previously unemployed Black people absorbed by the Entity at the end of the Learnerships, Internships and Apprenticeships programme	5	100%
		TOTAL	20 Points	

16.3. ENTERPRISE AND SUPPLIER DEVELOPMENT

- 16.3.1. The government's focus areas for B-BBEE in the next 10 years link it to key government economic development strategies such as the Industrial Policy Action Plan (IPAP), the Defence Industrial Participation Programme (DIP), the National Development Plan (NDP) and the Black Industrialist Policy. Key aspects of all these strategies are the promotion of entrepreneurship, focusing on businesses that result in job creation, expanding business horizons by venturing into new fields, operational excellence and risk taking. The Department of Trade and Industry's Black industrialists Policy is also important in this regard. This emphasis is carried through to the Generic Scorecard in which Enterprise and Supplier Development is a priority element carrying the highest weighting. Most Black businesses are small and medium sized enterprises. Empowerment policies and practices should not only support Exempted Micro Enterprises and Qualifying Small Enterprises but also assist them to grow into large enterprises.
- 16.3.2. The Defence industry is in a unique position to stimulate this growth and create new businesses. State Owned Entities should take the lead in driving such changes. The promotion of local content and stimulation of local manufacturing is also to be encouraged through this Sector Code.
- 16.3.3. The aim of Enterprise and Supplier Development programmes is to –
- 16.3.3.1. to strengthen local procurement in order to help build South Africa's industrial base in critical sectors of production and value adding manufacturing, which are largely labour-intensive industries;
 - 16.3.3.2. to increase local procurement through capacity building achieved by incentivising appropriate local supplier development programmes by businesses supplying imported goods and services; and
 - 16.3.3.3. to actively support procurement from black owned QSEs and EMEs by identifying opportunities to increase procurement from local supplier in order to support employment creation.

16.3.4. Stakeholders therefore commit themselves to the following –

16.3.4.1. ORGANS OF STATE AND STATE-OWNED ENTERPRISES

16.3.4.1.1. State-Owned Enterprises and Organs of State shall be entitled to implement preferential set asides for the following categories of Black people –

- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black females;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black people;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by military veterans;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black youth; and
- Exempted Micro - Enterprises or Qualifying Small Enterprises by people with disabilities.

16.3.4.1.2. Any preferential set asides shall not exceed 30 % (thirty per cent) of the total procurement budget of the Organs of State or the State Owned Enterprise or the Public Entity in the first year after the promulgation of the Defence Sector Code and 35% in the second year and 40% in the third year.

16.3.4.2. PRIVATE SECTOR ENTERPRISES

16.3.4.2.1. Measured entities in the private sector must procure a minimum of 40% of their goods and services from black owned enterprises.

16.3.4.2.2. Private sector enterprises must sub-contract not less than 30% (thirty percent) of any contract exceeding an amount of R30 million to –

- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black females;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black people; and
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by military veterans;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by young black people;

16.3.4.2.3. All stakeholders undertake to use as a guide, the non-exhaustive list of Enterprise Development and Supplier Development Contributions in Schedule 1 of this Sector Code to meet the Enterprise and Supplier Development targets.

16.3.4.3. DEFENCE INDUSTRY ENTERPRISE AND SUPPLIER DEVELOPMENT FUND

16.3.4.3.1. Stakeholders hereby agree to set up a Defence Industry Enterprise and Supplier Development Fund. Such Fund will be used for Enterprise and Supplier Development Initiatives and will be administered by the Sector Charter Council or any agency on its behalf. Not more than 8% of the income of the Fund may be used for the administration and management of the Fund.

16.3.4.3.2. All Measured Entities with the exception of Exempted Micro-Enterprises commit to the withholding of 1% of the value of any contracts with Armscor and/or Department of Defence and Military Veterans as a contribution towards such Fund and such contribution to be measured in terms of the Scorecard.

16.3.4.3.3. The proceeds of the 1% of the value of the contracts so withheld, shall be administered by the Defence Industry Fund who shall disburse such proceeds on behalf of and in accordance with guidelines provided by the Sector Charter Council.

16.3.4.4. Foreign Enterprises

16.3.4.4.1. Foreign Enterprises shall place DIP contracts equivalent to seventy five percent (75%) of the total DIP obligation with local (South African) BEE compliant suppliers (Enterprises that are at least 25,1% owned by black people and at least 25,1% controlled by black people) while at least twenty five percent (25%) of this value shall be placed with Enterprise and Supplier Development (ESD) beneficiaries.

ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
	1. Preferential procurement	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%
Enterprise and Supplier Development		1.2. B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable BBEE Procurement Recognition Levels as percentage of Total Measured Procurement Spend	3	8%
		1.3. B-BBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend based on the Total Measured Procurement Spend	4	15%
		1.4. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black	9	40%

		owned based on the applicable BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend		
		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%
	2. Bonus Points	B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black owned.	2	6%
	3. Supplier Development	Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target	8	2% NPAT
	4. Enterprise Development	Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	4	1% NPAT
		Annual Contributions to the Enterprise and Development Fund	3	1% of value of contracts with State
	5. Bonus Points	Bonus point for graduation of one or	1	

		more Enterprise Development beneficiaries to graduate to the Supplier Development level		
		Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	
		Bonus points for discharging DIP obligations for benefit of South African entities that are 25.1% Black owned and managed.	2	75%
		TOTAL	40 Points	

16.4. LOCALISATION

- 16.4.1. One of the most important mechanisms for growing a sustainable defence industry is the stimulation and expansion of South African enterprises and improving their global competitiveness.
- 16.4.2. Stakeholders therefore commit to –
 - 16.4.2.1. procure at least 60% of Defence matériel products and services from local enterprises. In the event that this is not practically achievable and on written request accompanied by evidence, Armscor or the Department of Defence and Military Veterans may at their discretion exempt such Measured Entities from compliance with this provision; and
 - 16.4.2.2. provide support for enterprises that introduce new locally developed technology in the industry.
- 16.4.3. The provisions of the Localisation Scorecard does not apply to designated sectors.

LOCALISATION SPECIALISED SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		Defence Matériel products and services procured from local enterprises	6	60%
		<p>Procurement from local enterprises that introduce new locally developed technology in the industry</p> <p>Technologies that are manufactured within the Republic of South Africa by locally-based enterprises from intellectual property owned by local enterprises; and</p> <p>Technologies that are manufactured within the Republic of South Africa by local enterprises from intellectual properties licensed thereto by local or off-shore enterprises.</p>	4	60%
		TOTAL	10 Points	

16.5. SOCIO-ECONOMIC DEVELOPMENT

- 16.5.1. Measured Entities receive recognition for any Socio-Economic Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 16.5.2. Socio-Economic Development Contributions of any Measured Entity are recognizable annually.
- 16.5.3. No portion of the value of any Socio-Economic Development contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.
- 16.5.4. Socio-Economic Development Contributions consist of monetary or non-monetary contributions actually initiated and implemented in favour of beneficiaries by a Measured Entity with the specific objective of facilitating income generating activities for targeted beneficiaries.
- 16.5.5. The full value of Socio-Economic Development Contributions made to beneficiaries is recognizable if at least 75% of the value directly benefits black people
- 16.5.6. If less than 75% the full value of Socio-Economic Development Contributions directly benefits black people, the value of the contribution made multiplied by the percentage that benefits people is recognizable.
- 16.5.7. The following is a non-exhaustive list of Socio-Economic Development Contributions –
 - 16.5.7.1. grant Contributions to beneficiaries of Socio-Economic Development Contributions;
 - 16.5.7.2. guarantees given or security provided for beneficiaries;
 - 16.5.7.3. direct costs incurred by a Measured Entity in assisting beneficiaries;
 - 16.5.7.4. overhead costs of a Measured Entity directly attributable to Socio Economic Development Contributions;
 - 16.5.7.5. developmental capital advanced to beneficiary communities;
 - 16.5.7.6. preferential terms granted by a Measured Entity for its supply of goods or services to beneficiary communities;

- 16.5.7.7. payments made by the Measured Entity to third parties to perform socio-economic development on the Measured Entity's behalf;
- 16.5.7.8. subject to paragraph 16.6.7.6. the maintenance by the Measured Entity of a Socio-Economic development unit which focuses only on support of beneficiaries and beneficiary communities.
- 16.5.7.9. providing training or mentoring of beneficiary communities by a 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 must support any claim costs incurred, commensurate with the seniority and expertise of the trainer; and
- 16.5.7.10. maintaining a socio-economic development unit by the Measured Entity. (only that portion of salaries and wage attributable to time spent by the staff in, and the other expenses related to, promoting and implementing socio-economic development constitute contributions.

SOCIO-ECONOMIC DEVELOPMENT SCORECARD

Criteria	Weighting Points	Compliance Target
Annual Value of all Socio-Economic Contributions by the Measured Entity as a percentage of the target	3	0.5% NPAT
Annual Value of all Socio-Economic Contributions to Military Veterans by the Measured Entity as a percentage of the target	2	0.5% NPAT
TOTAL	5 Points	

16.5.8. MEASUREMENT OF SOCIO-ECONOMIC DEVELOPMENT CONTRIBUTIONS

Socio- Economic Development Contributions are measured using the formula in the Benefit Factor Matrix set out below.

BENEFIT FACTOR MATRIX

Qualifying Contribution type	Contribution Amount	Benefit Factor
Grant and Related Contributions		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Development Contributions	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practice supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Development Contributions	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Contributions	Verifiable Cost (including both monetary and non-monetary)	80%
Contributions made in the form of human resource capacity		
Professionals services rendered at no cost supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Development Contributions	Commercial hourly rate of professional	80%
Professional Services rendered at a discount supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Development Contributions	Value of discount based on commercial hourly rate of professional	80%

Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development, sector specific or Qualifying Socio-Economic Development Contributions	Monthly Salary divided by 160	80%
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17. DEFENCE SECTOR CHARTER COUNCIL

17.1. A Defence Sector Charter Council shall be established to oversee and monitor the implementation of the Sector Code. The Council shall be a representative body comprising of stakeholders in the defence industry and shall comprise of not less than 5 members.

17.2. The Minister of Defence shall appoint the Defence Sector Charter Council after consulting with industry stakeholders.

17.3. The functions of the Defence Sector Charter Council shall include –

17.3.1. monitoring compliance with this Sector Code;

17.3.2. managing both the Skills Development Fund and Enterprise and Supplier Development Fund

17.3.3. providing guidance, support and assistance with interpretation of this Sector Code;

17.3.4. liaising with all government departments and agencies for the purpose of facilitating the implementation of the Sector Code and promote the defence industry's interests;

17.3.5. compiling an annual report on overall progress by the defence industry with the Sector Code and submitting such report to any relevant stakeholders

including the Minister of Trade and Industry, the Minister of Defence, the B-BBEE Commission and NDIC; and

17.3.6. initiating and supervising any revisions to this Sector Code

17.4. The Council shall have executive authority and shall be supported by administrative staff.

18. MONITORING AND EVALUATION

18.1. In order to ensure compliance with this Sector Code all Measured Entities shall annually file a report to the Defence Sector Charter Council. The report must contain a scorecard audited by an accredited verification agency and a detailed report on progress with complying with the provisions of this Sector Code.

18.2. The first annual report shall be filed not later than the first anniversary of the promulgation of this Sector Code. The date for subsequent annual reports shall be determined by the Defence Sector Charter Council.

19. REVIEW OF THE SECTOR CODE

This Sector Code may be reviewed in order to align it with any amendment to the Act or Generic Scorecard or after the expiry of the 3rd anniversary of the promulgation of this Sector Code.

20. EFFECTIVE DATE

The Sector Code shall come into effect on the date it is Gazetted.

SPECIALISED DEFENCE SECTOR SCORECARD FOR ORGANS OF STATE AND STATE OWNED ENTERPRISES

ELEMENT	WEIGHTING	CODE SERIES REFERENCE
Management Control	20 points	
Skills development	25 points	
Enterprise and Supplier Development	50 points	
Socio-Economic Development	5 points	
Localization	15 points	
TOTAL	115 Points	

MANAGEMENT CONTROL SPECIALISED SCORECARD

Measurement Category and Criteria	Weighting Points	Compliance targets		
		Year 1	Year 2	Year 3
Board Participation				
Exercisable voting rights of black board members as a percentage of all board members	2	50%	60%	70%
Exercisable voting rights of black female board members as a percentage of all board members	1	25%	30%	40%
Black Executive Directors as a percentage of all executive directors	2	50%	60%	70%
Black female Executive directors as a percentage of all executive directors	1	25%	30%	40%
Other Executive Management				
Black executive management as a percentage of all executive management	2	60%	65%	7%
Black female executive management as a percentage of all executive management	1	30%	40%	40%
Senior Management				
Black employees in senior management as a percentage of all senior management	2	60%	65%	70%
Black female employees in senior management as a percentage of all senior management	1	30%	40%	40%
Middle Management				
Black employees in middle management as a percentage of all middle management	2	75%	80%	85%
Black female employees in senior management as a percentage of all middle management	1	38%	40%	45%
Junior Management				
Black employees in junior management as a percentage of all junior management	2	88%	90%	90%
Black female employees in junior management as a percentage of all junior management	1	44%	50%	55%

Employees with Disabilities				
Black employees with disabilities as a percentage of all employees	2	2%	3%	5%
TOTAL	20 Points			

SKILLS DEVELOPMENT SPECIALISED SCORECARD

Category	Skills Development Element	Weighting points	Compliance Target		
			Year 1	Year2	Year3
Skills Development Expenditure on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leivable Amount					
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leivable Amount	7	6%	6%	6%	
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leivable Amount	3	0.3%	0.3%	0.3%	
Skills Development Expenditure on Learning Programmes for Black Military Veterans	2	4%	4%	4%	
Learnerships, apprenticeships and internships					
Number of black people participating in learnerships, apprenticeships and internships as a percentage of total employees	6	2,5%	2.5%	2.5%	
Number of black unemployed people participating in training specified in the learning programme matrix as a percentage of number of employees .	5	2,5%	2.5%	2.5%	
Contribution to the Defence Skills Development Fund for development of critical and scarce skills	2	1%	1%	1%	
Bonus Points					
Number of black people absorbed by the Measured Entity and Industry at the end of	5	100%	100%	100%	

the learnership/apprenticeship or internship programme				
TOTAL	25 Points			

ENTERPRISE AND SUPPLIER DEVELOPMENT SPECIALISED SCORECARD

Criteria	Weighting points	Compliance targets		
		Year1	Year2	Year3
PREFERENTIAL PROCUREMENT				
B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measured Procurement Spend	5	80%	80%	85%
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	4	15%	15%	20%

of Total Measured Procurement Spend				
B-BBEE Procurement Spend from all Exempted Micro-Enterprise based on the applicable B-BBEE procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	15%	15%	20%
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	11	40%	15%	20%
B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the	5	12%	12%	12%

applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend				
Bonus Points				
B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% black owned	2	2%	2%	2%
SUPPLIER DEVELOPMENT				
Annual value of all Supplier Development Contribution made by the Measured Entity as a percentage target	15	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/ Allocated budget/ Gross receipts/Discretion al spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretion al spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretion al spend
ENTERPRISE DEVELOPMENT				
Annual value of Enterprise Development Contributions and	5	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretion al spend	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretion al spend	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretion al spend

Sector Programme s made by Measured Entity as a percentage of the target				
Bonus Points				
Bonus point for graduation of one or more Enterprise Developme nt beneficiarie s to graduate to the Supplier Developme nt level.	1			
Bonus point for creating one or more jobs directly as a result of Supplier Developme nt and Enterprise Developme nt initiatives by the Measured Entity	1			
TOTAL	50 Points			

SOCIO-ECONOMIC DEVELOPMENT SPECIALISED SCORECARD

	Weighting Points	Compliance Target		
		Year 1	Year2	Year3
Annual value of all Socio-Economic Development contributions by the Measured Entity as a percentage of the target	5	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend
TOTAL	5 Points			

LOCALISATION SPECIALISED SCORECARD

B-BBEE Element	Description	Weighting Points	Compliance Target		
			<u>Year 1</u>	Year 2	Year 3
Localisation	Defence Matériel products and services procured from local enterprises	6	60%	60%	60%
	Procurement from local enterprises that introduce new, locally developed technology in the industry	4	60%	60%	60%
	TOTAL	10 Points			

THE QUALIFYING SMALL ENTERPRISES (QSE'S) DEFENCE SCORECARD

The following table represents and contains the Elements of the scorecard and the weighting for each element:

ELEMENT	WEIGHTING				
Ownership	25 points				
Management Control	15 points				
Skills Development	25 points				
Enterprise and Supplier Development	30 points				
Localisation	10 points				
Socio-Economic Development	5 points				
TOTAL	110 Points				

The Weighting in respect of any elements in the scorecard represents the maximum number of points possible for each of the criteria

Any matter concerning the application of the QSE Scorecard that is not dealt with explicitly in this Sector code must be dealt with in terms of the Generic Codes of Good Practice.

THE QSE OWNERSHIP SCORECARD

Category and Ownership Indicator	Weighting Points	Compliance Table		
		Year 1	Year 2	Year3
Voting rights				
Exercisable Voting Rights in the Enterprise in the hands of black people	5	25%	30%	35%
Exercisable Voting Rights in the Enterprise in the hands black women	2	10%	15%	15%
Economic Interest		25%	30%	35%
Economic Interest of black people in the Enterprise	5	25%	30%	35%
Economic Interest of black women in the Enterprise	2	10%	15%	15%
New Entrants or Black Designated Groups	3	2%	3%	5%
Realisation Points				
Net Value	8	Refer to Annexure 100 (E) of the Generic Scorecard		
TOTAL	25 Points			

THE QSE MANAGEMENT CONTROL SCORECARD

Criteria	Weighting points	Compliance Target		
		Year1	Year2	Year3
Executive Management				
Black representation at Executive Management	5	50%	50%	60%
Black female representation at Executive Management	2	25%	25%	30%
Senior, Middle and Junior Management				
Black representation at Senior , Middle and Junior Management	6	60%	60%	70%
Black female representation at Senior, Middle and Junior Management	2	30%	30%	30%
TOTAL	15 Points			

THE QSE SKILLS DEVELOPMENT SCORECARD

Skills Development Element	Weighting points	Compliance Target		
		Year 1	Year2	Year3
Skills development expenditure on learning programs specified in the learning programme matrix for black people as a percentage of leviabile amount	15	3%	3%	5%
Skills development expenditure on learning programmes specified in the learning programme matrix for black female as a percentage of leviabile amount	10	1%	1%	3%
Skills development expenditure on learning programmes specified in the learning programme matrix for black people with disabilities as a percentage of leviabile amount.	3	0.15%	0.15%	0.30%
Defence Skills Development Fund				
Contribution to the Defence Skills Development Fund for development of critical and scarce skills	2	1%	1%	1%
Bonus Points				
Number of black people absorbed by the measured entity and industry at the end of the learning	5	100%	100%	100%
TOTAL	30 Points			

THE QSE ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
Preferential Procurement				
B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Recognition Levels as a percentage of Total Procurement Spend	15	60%	60%	70%
B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement	4	15%	20%	30%
Bonus Points				
B-BBEE Procurement Spend from Designated Group suppliers that are at least 51% black owned based on the B-BBEE Recognition Level	1	1%		
Supplier Development				
Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	4	1% of Net Profit After Tax		
Enterprise development				

Annual value of Enterprise Development Contribution and Sector Specific Programmes made by the Measured Entity as a percentage of the target	4	1%NPAT		
Annual Contributions to the Enterprise and Development Fund	3	1% of value of contracts with State		
Bonus Points				
Bonus point for graduation of one or more Enterprise Development beneficiaries to graduated to the Supplier Development level	1			
Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1			
TOTAL	30 Points			

THE QSE LOCALISATION SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		Defence Matériel products and services procured from local enterprises	6	60%
		Procurement from local enterprises that introduce new locally developed technology in the industry	4	60%
		TOTAL	10 Points	

THE QSE SOCIO-ECONOMIC DEVELOPMENT (SED) SCORECARD

Criteria	Weighting Points	Compliance Target		
		Year 1	Year2	Year3
Annual value of all Socio-Economic Development Contributions and Qualifying Socio-Economic Development Contributions made by the Measured Entity as a percentage of the target	5	1% NPAT	1 % NPAT	1 % NPAT
TOTAL	5			

SCHEDULE 1

1. LEGITIMATE ENTERPRISE AND SUPPLIER DEVELOPMENT CONTRIBUTIONS

1.1. The following is a non-exhaustive list of Enterprise Development and Supplier Development Contributions –

1.1.1. investment in beneficiary entities;

1.1.2. loans made to beneficiary entities; - guarantees given or security provided on behalf beneficiaries; credit facilities made available to beneficiary entities grant Contributions to beneficiary entities; direct costs incurred by a measured Entity in assisting and hastening development of beneficiary entities; overhead costs of a Measured Entity directly attributable to Enterprise Development and Supplier Development Contributions preferential credit terms granted by a Measured Entity to beneficiary entities;

1.1.3. preferential terms granted by a Measured Entity in respect of its supply of goods to beneficiary entities;

1.1.4. contributions made to beneficiary to settling service costs relating to the supply of goods or services to beneficiary entities;

1.1.5. discounts given to beneficiary entities in relation to the acquisition and maintenance costs associated with the grant to those beneficiary entities of franchise, license, Agency, distribution or other similar business rights;

1.1.6. the creation or development of capacity and expertise for beneficiary entities needed to manufacture or produce goods or services previously not manufactured, produces or provided in the Republic of South Africa is provide for in Government's economic growth and local supplier development policies and initiatives ; facilitating access to credit for beneficiary entities without access to similar credit facilities through traditional means owing to a lack of credit history, high-risk or lack of collateral;

- 1.1.7. 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;
- 1.1.8. 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;
- 1.1.9. provision of preferential credit facilities to a beneficiary by a Measured entity may constitute an Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation;
- 1.1.10. provision of finance to beneficiary entities at lower than commercial rates of interest relaxed security requirement or absence of security requirements for beneficiary entities unable to provide security for loans; and settlement of accounts with beneficiary entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided the shorter period is no longer than 15 days.
- 1.1.11. providing training or mentoring to beneficiary communities by a 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). By the Measured Entity. (only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to. Promoting or implementing Enterprise Development and Supplier Development constitute contributions; or
- 1.1.12. payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise Development and Supplier Development on the Measured Entity' behalf.

2. MONETARY AND NON-MONETARY CONTRIBUTIONS

2.1. Subject always to the definitions of qualifying Enterprise Development and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered –

2.1.1. the provision of seed or development capital;

2.1.2. contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Enterprise Development and Supplier Development Beneficiary including, without limitation;

2.1.3. professional and consulting services;

2.1.4. licensing and/or registration fees;

2.1.5. industry specific levies and/or other such fees;

2.1.6. IT services;

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

2.1.8. 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;

2.1.9. provision of training and/or mentoring to Beneficiary Entities which will assist the Beneficiary Entities to increase their operational and/or financial capacity; and

2.1.10. 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 or candidate beneficiary Entities.

- 2.2. 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 a Beneficiary Entity.
- 2.3. 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—
 - 2.3.1. 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;
 - 2.3.2. relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans. Such contributions shall be measured as being 3% (three percent) of any positive differential between the initial capital value of the loan and the value of security taken; and
 - 2.3.3. 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 payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier Development Contributions. 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 their staff or 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 must 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 –

2.3.3.1. professional and consulting services;

2.3.3.2. IT services; and

2.3.3.3. 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. 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 of staff and other expenses involved in the operation of such Enterprise Development and Supplier Development unit. Notwithstanding the foregoing, only that portion of salaries and wages which relate to time spent by the staff in the other expenses related to the promotion and implementation of Enterprise Development and Supplier Development in respect of Beneficiary Entities or candidate Beneficiary Entities should be taken into consideration under Enterprise Development and Supplier Development contributions.
