

(12 April 2019 – to date)

BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT 53 OF 2003

(Gazette No. 25899, Notice No. 17 dated 9 January 2004. Commencement date: 21 April 2004 [Proc. No. R26, Gazette No. 26285])

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT DEFENCE SECTOR CODE

*Government Notice 567 in Government Gazette 42391 dated 12 April 2019. Commencement date:
12 April 2019.*

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

- a) Issue the Defence Sector Code in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013.
- b) Confirm that this is a replacement of Government Gazette No. 42021, General Notice 1223 published on 9 November 2018.
- c) Determine that these Codes come into effect on the date of this publication.

(Signed)

Dr Rob Davies, MP

Minister of Trade and Industry

13 February 2019

BROAD-BASED BLACK ECONOMIC EMPOWERMENT DEFENCE SECTOR CODE OF GOOD PRACTICE IN TERMS OF SECTION 9(1) OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT NO. 53 OF 2003 AS AMENDED BY ACT NO. 46 OF 2013

Table of Contents

1. PREAMBLE
2. VISION
3. MISSION
4. INTERPRETATIONS AND DEFINITIONS
5. OBJECTIVES
6. CHALLENGES FACING THE SADI
7. COMMITMENT

Prepared by:

8. APPLICATION
 9. KEY PRINCIPLES
 10. PRIORITY ELEMENTS, SUB-MINIMUM AND DISCOUNTING PRINCIPLE
 11. ELIGIBILITY AS AN EXEMPTED MICRO-ENTERPRISE
 12. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISE
 13. START-UP ENTERPRISES
 14. THE DEFENCE SECTOR SCORECARD
 15. B-BBEE RECOGNITION LEVELS
 16. ELEMENTS OF THE DEFENCE SECTOR: LARGE ENTITIES SCORECARD
 17. ELEMENTS OF THE DEFENCE SECTOR: SPECIALISED DEFENCE SECTOR SCORECARD FOR ORGANS OF STATE, PUBLIC ENTITIES AND NOT FOR PROFIT COMPANIES
 18. ELEMENTS OF THE DEFENCE SECTOR: THE QUALIFYING SMALL ENTERPRISES DEFENCE SCORECARD
 19. DEFENCE SECTOR CHARTER COUNCIL
 20. MONITORING AND EVALUATION
 21. REVIEW OF THE SECTOR
 22. EFFECTIVE DATE
- SCHEDULE 1

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 through 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 as set out in Chapter 2 of the Constitution 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 South African Defence Industry, 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 past 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, manufacturing, 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 South African Defence Industry, to give effect to the constitutionally enshrined right to equality by addressing the effects of systemic past exclusion of Black people from participating in the economy, which 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, and 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. **"Armcor"** means the Armaments Corporation of South Africa Limited established by the Armaments Corporation of South Africa Act No. 51 of 2003;
- 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 good practice or in terms of the dti's Generic Scorecard, has been verified by an accredited B-BBEE 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 Black 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:

- 4.5.1. Unemployed Black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;
- 4.5.2. Black people who are youth as defined in the National Youth Commission Act of 1996;
- 4.5.3. 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;
- 4.5.4. Black people living in rural and under developed areas;

4.6. **"Black Military Veterans"** means for the purpose of this Sector Code, any Black South African citizen who:

- 4.6.1. rendered military service to any of the Non-Statutory Military Organizations, which were involved in South Africa's Liberation War from 1960 to 1994;
- 4.6.2. served in the Union Defence Force before 1961;
- 4.6.3. became a member of the new South African National Defence Force after 1994; and
- 4.6.4. 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 4.5.1 or 4.5.2 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;

4.7. **"Black Owned Entity Company"** means a juristic person, having shareholding or similar members' interest, that is Black controlled, in which Black Participants enjoy a right to an Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle;

- 4.8. **"Black Controlled Entity"** means a juristic person, having shareholding or similar members interest, that is Black controlled, 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;
- 4.9. **"B-BBEE Recognition Level"** means the percentage B-BBEE Recognition Levels as determined:
- 4.9.1. for Entities that are neither Qualifying Small Enterprises nor Exempted Micro-Enterprises, using statement 000 of the Codes;
- 4.9.2. for Qualifying Small Enterprises, using statement 000 of the Codes; and
- 4.9.3. for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000 of the Codes.
- 4.10. **"Black People"** is a generic word which means Africans, Coloured and Indians:
- 4.10.1. who are citizens of the Republic of South Africa by birth or descent; or
- 4.10.2. who became citizens of the Republic of South Africa by naturalisation:
- 4.10.2.1. before 27 April 1994; or
- 4.10.2.2. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.
- 4.11. **"Broad-Based Black Economic Empowerment"** means the viable economic empowerment of all Black people, in particular women, workers, youth, people with disabilities, and people living in rural and underdeveloped areas, through diverse but integrated socio-economic strategies that include, but are not limited to:
- 4.11.1. increasing the number of Black people that manage, own and control enterprises and productive assets;
- 4.11.2. facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
- 4.11.3. human resources and skills development;
- 4.11.4. achieving equitable representation in all occupational categories and levels in the workforce; and
- 4.11.5. preferential procurement from enterprises that are owned or managed by Black people;

4.11.6. investment in enterprises that are owned or managed by Black people.

4.12. **"Broad-Based Ownership Scheme"** means an ownership scheme which meets the rules set out in Annexure 100(B) of the Codes;

4.13. **"Charter Council"** means the Defence Sector Charter Council established in terms of paragraph 17 of this Sector Code;

4.14. **"Codes"** means the Codes of Good Practice as amended from time to time including all the statements issued under Section 9 of the Act;

4.15. **"Defence Industrial Participation" (DIP)** means a government-initiated process whereby defence acquisitions and purchases are used as a leverage to oblige a foreign seller of Category 1 Matériel to reciprocate defence-related business in South Africa on a reciprocal basis in order to advance military strategic and defence-related industrial participation imperatives;

4.16. **"51% Black Owned"** means an Entity in which:

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

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

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

4.17. **"51% Black Women Owned"** means an Entity in which:

4.17.1. Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;

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

4.17.3. It has earned all the points for Net Value under statement 100.

4.18. **"30% Black Women Owned"** means an Entity in which:

4.18.1. Black women hold more than 30% of the exercisable voting rights as determined under Code series 100;

4.18.2. Black people hold at least 30% of the economic interest as determined under Code series 100;

4.18.3. It has earned all the points for Net Value under statement 100.

4.19. **“Defence Matériel”** means any Matériel whether raw or processed, including equipment, facilities, weapons, munitions, pyrotechnics, systems and services used principally for military purposes;

4.20. **“DoD”** means the Department of Defence and Military Veterans;

4.21. **“the dti”** means the Department of Trade and Industry;

4.22. **“EAP”** means Economically Active Population as determined and published by Statistics South Africa. The operative EAP for the purposes of any calculation under the Codes will be the most recently published EAP;

4.23. **“Economic Interest”** means a claim against the 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 Flow-Through principles;

4.24. **“Elements”** means the measurable quantitative or qualitative elements of B-BBEE compliance in the Codes;

4.25. **“Empowering Supplier”** means subject to any Notices that may be issued by the “the dti”, within the context of B-BBEE, is a B-BBEE compliant entity, which is a good South African corporate citizen, complying with all material regulatory requirements of the country such as employment equity and taxation and should meet at least 3 (three) if it is a Large Enterprise or 1 (one) if it is a Qualifying Small Enterprise on the following criteria:

4.25.1. at least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local suppliers in SA. For the service industry, labour costs are included but capped at 15%;

4.25.2. job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate period prior verified B-BBEE measurement is maintained;

4.25.3. at least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging;

4.25.4. skills transfer – at least spend 12 days per annum of productivity deployed in assisting Black Owned EMEs and QSEs to increase their operation or financial capacity;

4.25.5. labour costs – at least 85% of labour costs are paid to South African employees of Entities in the service industry;

Exempted Micro Enterprises and Start-Ups are automatically recognized as Empowering Suppliers;

- 4.26. **"Entity"** means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;
- 4.27. **"Enterprise Development Contributions"** means monetary or non-monetary contributions to Exempted Micro Enterprises or Qualifying Small Enterprises which are at least 51% Black Owned or at least 51% Black Women Owned with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries;
- 4.28. **"Equity Equivalent Investment Programme"** 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 of Trade and Industry as an Equity Equivalent Investment Programme;
- 4.29. **"Exempted Micro-Enterprise"** means an entity with an annual turnover of R5,000,000 (five million Rand) or less;
- 4.30. **"Flow-through Principle"** means as a general principle when measuring the rights of ownership of any category of Black People in a Measured Entity, only rights held by natural persons are relevant. If the rights of ownership of Black People pass through a juristic person then the rights of ownership of Black People in that juristic person is measurable. These principles apply through every tier of ownership in a multi-tiered chain of ownership until that chain ends with a natural Black person holding rights of ownership;
- 4.30.1. The method of applying the Flow Through Principle across one or more intervening juristic persons is as follows:
- 4.30.1.1. Multiply the percentage of the Participants' rights in the juristic persons through which those rights pass, by the percentage rights of ownership of each of those juristic persons successively to the Measured Entity; and
- 4.30.1.2. The result of this calculation represents the percentage of rights of ownership held by the Participant.
- 4.31. **"Foreign Enterprise"** means an Entity that is incorporated outside the borders of South Africa whether or not it carries on business in South Africa;
- 4.32. **"Fronting practice"** means a transaction, arrangement, or other act 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;

- 4.32.1. 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;
- 4.32.2. 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;
- 4.32.3. involving the conclusion of a legal relationship with a Black person for the purpose of that enterprise achieving a certain level of B-BBEE 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 involving the conclusion of an agreement with another enterprise in order to achieve or enhance B-BBEE status in circumstances in which:
- 4.32.3.1. there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
- 4.32.3.2. the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
- 4.32.3.3. the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis;
- 4.33. "**Generic Scorecard**" means the balanced B-BBEE scorecard as contained in statement 000 of the Codes;
- 4.34. "**Global Practice**" means a globally and uniformly applied practice of a Multinational, restricting alienation of equity in or the sale of business in its regional operations. The practice must have existed before the promulgation of the Act;
- 4.35. "**Local Enterprise**" means an enterprise with 51% or more equity ownership by South African citizens, registered in the Republic of South Africa and paying tax to South African Revenue Service;
- 4.36. "**Large Enterprise**" means an entity that qualifies for measurement under the Generic Scorecard, with an annual turnover of more than R50,000,000 (fifty million Rand);
- 4.37. "**Local content**" means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
- 4.38. "**Management**" means:

- 4.38.1. Executive management, which includes the Chief Executive Officer, Managing Director, Chief Financial Officer, Executive Directors and those managers who have a significant leadership role in the enterprise, have control over the day to day operations, have decision-making powers and report directly to the Chief Executive Officer, Managing Director and/or the Board of Directors;
- 4.38.2. Senior management means an employee who is a member of the occupational category of "Senior Management" as determined using the Employment Equity regulations, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended;
- 4.38.3. Middle management 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, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended; and
- 4.38.4. Junior management 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, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended.
- 4.39. **"Measured Entity"** means an Entity or Enterprise as well as an organ of state or public entity subject to measurement under the Codes;
- 4.40. **"Minister"** means the Minister of Trade and Industry;
- 4.41. **"Multinational Enterprise"** means a Measured Entity with a business in the Republic of South Africa and elsewhere which maintains its international headquarters outside the Republic;
- 4.42. **"National Development Plan"** "The National Development Plan (NDP) is an economic policy framework that aims to eliminate poverty and reduce inequality by 2030 through strategies that draw on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society;
- 4.43. **"Net Profit after Tax"** means the operating profit of a Measured Entity after tax. It incorporates both profit/loss figures and abnormal items, but excludes extraordinary items as determined by (International Financial Reporting Standards (IFRS);
- 4.44. **"NDIC"** means The National Defence Industry Council;
- 4.45. **"Non-Statutory Military Organisations"** means the Azanian People's Liberation Army (APLA), Azanian National Liberation Army (Azanla) and Umkhonto we Sizwe (Umkhonto);

- 4.46. **"Ownership"** means ownership of an Economic Interest in an enterprise;
- 4.47. **"Organs of State"** means:
- 4.47.1. A national or provincial department as defined in the Public Finance Management Act No. 1 of 1999;
 - 4.47.2. a municipality contemplated in the Constitution;
 - 4.47.3. a provincial legislature; and
 - 4.47.4. a constitutional institution listed in Schedule 1 of the Public Finance Management Act 1999 (Act No. 1 of 1999);
- 4.48. **"Participant"** means a natural person holding rights of ownership in a Measured Entity;
- 4.49. **"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 as well as in the context of procurement in the SADI, the complete process of acquiring or obtaining personnel, matériel, services, or property from outside the Defence Force (by means authorized in pertinent directives) in support of operational requirements and includes negotiating, contracting and purchasing;
- 4.50. **"Qualifying Small Enterprise"** means an Entity that qualifies for measurement under the Qualifying Small Enterprise Scorecard with a turnover of R5,000,000 (five million Rand) or more but less than R50,000,000 (fifty million Rand);
- 4.51. **"SADI"** means the South African Defence Industry which is a collective term for South African Defence Related Industries and means those Entities in the public and private sector, including commercial companies and business units of such Entities, which are directly or indirectly active in the design, research, development, manufacture and marketing of Defence Matériel;
- 4.52. **"Scarce Skills"** means **skills required in the SADI which shall contribute towards establishment or maintenance** of Sovereign Capability;
- 4.53. **"SMME"** means small, medium and micro enterprises namely Exempted Micro Enterprises and Qualifying Small Enterprises;
- 4.54. **"Sovereign Capability"** means the ability to ensure, full national control, without reliance on any direct foreign assistance, of certain capabilities identified as vital to national security, including but not limited to, command and control, secure communications, aspects of precision-guided munitions, elements of electronic warfare, relevant algorithms and relevant software;

- 4.55. **"Stakeholders"** means Measured Entities, Organs of state, Public Entities, State-Owned Enterprises and suppliers who are involved in the SADI;
- 4.56. **"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 with merely a continuation of a pre-existing enterprise;
- 4.57. **"Public Entity"** means an enterprise that is listed as a public entity in Schedule 2 or 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 4.58. **"Supplier"** 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;
- 4.59. **"Supplier Development Contributions"** means monetary or non-monetary contributions carried out for the benefit of value adding Suppliers to the Measured Entity that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black Women Owned, with the objective of contributing to the development, sustainability and financial and operational independence of such suppliers;
- 4.60. **"Strategic Enterprise"** means a public or private South African owned company which provides one or more of the capabilities identified as vital to national security and deemed sovereign;
- 4.61. **"Targeted-Procurement"** means a policy or programme of an Entity that reserves a percentage of procurement exclusively for certain categories of enterprises;
- 4.62. **"Voting Right"** means a voting right attached to an Entity Instrument owned by or held for a participant measured using the Flow Through Principle or the Control Principle, provided that:
- 4.62.1. to the extent that the provisions of the Codes of Good Practice Issued by "the 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 company having share capital, those provisions should be read in conjunction with this definition in relation to such enterprises; and
- 4.62.2. 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;
- 4.63. **"Weighting"** means the weightings applied to the various Elements in the Sector Code Scorecards.

5. OBJECTIVES

Prepared by:

- 5.1. 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, 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 2015;
- 5.2. More specifically, the Defence Sector Code aims to achieve the following objectives:
 - 5.2.1. to implement measures that will ensure the effective participation of Black people in the SADI and in the broader economy;
 - 5.2.2. to encourage the participation of and growth of SMME's in the SADI;
 - 5.2.3. to promote the growth of technical innovation within the SADI;
 - 5.2.4. to promote the growth of the SADI as a profitable, sustainable industry;
 - 5.2.5. to promote local manufacturing capability in the SADI for local and export purposes;
 - 5.2.6. to advance the acquisition, retention and transfer of critical, technical and Scarce Skills in the SADI;
 - 5.2.7. to protect South Africa's Sovereign Capability in the SADI;
 - 5.2.8. to actively promote entrepreneurship especially among the Black Designated Groups;
 - 5.2.9. to promote entrepreneurship and new enterprises in the SADI; and
 - 5.2.10. to contribute to job creation.

6. CHALLENGES FACING THE SADI

- 6.1. Declining local spending;
- 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 economic exclusion, and income inequality;
- 6.4. The exclusion of Black Military Veterans from the economy;
- 6.5. The inability of South African businesses in the SADI to meaningfully expand into the rest of the African continent's defence industry;

- 6.6. Continued over-reliance of the SADI on monopolies, oligopolies and Foreign-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 country'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 implementing the provisions of this Sector Code and the provisions of the Act in both substance and in form;
 - 7.3.2. to creating an enabling environment for the proper implementation of the measures in this Sector Code;
 - 7.3.3. to displaying the highest degree of good faith in all matters relating to the implementation of the Defence Sector Code and neither do anything nor refrain from doing anything that has the effect either directly or indirectly of hampering the implementation of this Sector Code; and
 - 7.3.4. to complying fully with the provisions of the Act especially and without limitation to avoid practices that frustrate the implementation of the Act and Defence Sector Code including fronting.

8. APPLICATION

- 8.1. This Sector Code is legally binding on all Entities in the SADI, in its entirety, including national or provincial departments, Organs of State, Public Entities, private enterprises providing Defence Matériel and/or any other supplies, products and services to the DoD or its agencies – whether they are procured from Local or Foreign Enterprises, 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 the gazetting of this Sector Code, such Entities shall be obliged, to be measured in terms of this Sector Code if they derive more than 50% (fifty) per cent of their annual turnover from the SADI.

9. KEY PRINCIPLES

- 9.1. The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 9.2. In interpreting the provisions of this Sector Code, any reasonable interpretation consistent with the objectives of the Act as amended must take precedence.
- 9.3. In the event of this Sector Code of Good Practice not providing specifically for a particular aspect relating to its applicability or any other related matter or in the event of a lack of clarity, such aspects or matters must be dealt with in accordance with the Codes as amended from time to time. In addition, the interpretation of the provisions of this Sector Code shall be made having regard to the Preamble, the Objectives, Key Principles and Commitments as the case may be.
- 9.4. 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.
- 9.5. 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 Act as amended, and they may lead to the disqualification of the entire scorecard of the Entity concerned.
- 9.6. The optimization of local intellectual property, research and development, as well as manufacturing capacity must be encouraged.
- 9.7. All measures taken in terms of this Sector Code 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, SUB-MINIMUM AND DISCOUNTING PRINCIPLE

- 10.1. The Priority Elements are as follows –

10.1.1. OWNERSHIP

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

10.1.2. SKILLS DEVELOPMENT

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

10.1.3. ENTERPRISE AND SUPPLIER DEVELOPMENT

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

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 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 Code, both Large Enterprises and QSEs that employ less than 50 employees are required to submit sufficient evidence for verification purposes.

11. ELIGIBILITY AS AN EXEMPTED MICRO-ENTERPRISE

11.1. Any Enterprise with an annual Total Revenue of R5, 000.000 (five million Rand) 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-BBEE 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 Contributor” having a B-BBEE recognition level of 135%;

11.3.2. despite paragraphs 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 Companies and Intellectual Property Commission (CIPC) issued certificate confirming the following:

11.4.1. annual total Revenue/Allocated Budget/Gross Receipts of R5,000,000 (five million Rand) 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 Act as amended from time to time.

12. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISE

12.1. Any Measured Entity with a Total Annual Revenue of between R5,000,000 (five million Rand) and R50,000,000 (fifty million Rand) qualifies as a QSE provided its qualification does not arise as a result of circumvention of the relevant Scorecard;

12.2. Entities that are QSEs must use the Qualifying Small Enterprises 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 Qualifying Small Enterprise that is at least 51% Black owned is only required to obtain a sworn affidavit of CIPC issued certificate on an annual basis, confirming the following: -

12.3.3.1. Annual Total Revenue/Allocated Budget/Gross Receipts of R50,000,000 (fifty million Rand) or less, but not less than R5,000,000; and

12.3.3.2. Level of Black Ownership.

12.4. Any misrepresentation in terms of paragraph 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 Qualifying Small Enterprise Scorecard that is not dealt with explicitly in this Sector Code must be dealt with in terms of Codes 100-500 of the Codes.

13. START-UP ENTERPRISES

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

13.2. A 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.

13.4. Despite paragraphs 13.1 and 13.2, a Start-Up Enterprise must submit a QSE scorecard when tendering for any contract or seeking any other economic activity covered by Section 10 of the Act, with a value higher than R5,000,000 (five million Rand) but less than R50,000,000 (fifty million Rand). For contracts or any other economic activity referred to in this paragraph 13.4, of R50,000,000 (fifty million Rand) or more, they should submit a Defence Sector Scorecard. 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 of 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 Entity buys 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 towards Socio-Economic Development or Sector Specific initiatives that promote access to the economy for Black people.
- 14.6. The Localisation Element measures the extent to which Entities procure Defence Matériel from Local Enterprises that contribute to the development of manufacturing and new locally developed technology.
- 14.7. 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 CODE REFERENCE
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
Localisation	10 Points	Paragraph 16.5
Socio-Economic Development	5 Points	Paragraph 16.6
Total	115	

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 level 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%

B-BBEE Status	Qualification	B-BBEE recognition level
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	50%
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: LARGE ENTITIES SCORECARD

16.1. OWNERSHIP

16.1.1. One of the most effective tools for promoting sustainable economic transformation and growth in the SADI is meaningful ownership by Black people of an Economic 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 Economic Interests held by Black people in Enterprises in the SADI in the first year after promulgation of this 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% (ten) per cent of an Economic Interest held by Black women in Enterprises in the SADI in the first year and 15% (fifteen) per cent in the second and third year; and

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

16.1.2. Black people who have an Economic Interest in an Enterprise must have exercisable Voting Rights and be entitled to receive economic benefits arising from such Economic 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 shall comply with the ownership element of the Sector Code unless they are subject to a Global Practice prohibiting such enterprises from selling shares outside their country.

16.1.5. In the event paragraph 16.1.4 applies, the Multinational Enterprise shall: -

16.1.5.1. produce satisfactory evidence of the such Global Practice; and

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

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

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

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

16.1.6.4. 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 and the fiduciaries of the scheme have no discretion in this regard;

16.1.6.5. 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 be available on request to any participant in an official language in which that person is familiar;

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

16.1.6.7. 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;

16.1.6.8. 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;

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

16.1.6.11. the Scheme should have representation on the board of directors 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 paragraphs 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 or 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 on 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 directors 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 and only 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 paragraphs 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 Public 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 Public Entities 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 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 Black Designated Groups to participate meaningfully in the SADI value chain.

OWNERSHIP SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target		
				Year 1	Year 2	Year 3
		1.1 Exercisable Voting Rights in the measured Entity in the hands of Black people.	4	25%	30%	35%

Prepared by:

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target		
				Year 1	Year 2	Year 3
Owners hip	1. Voting Rights	1.2 Exercisable Voting Rights in the Measured Entity in the hands of Black Women.	2	10%	15%	15%
	2. Economic Interest	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%
		Economic Interest of any of the following Black natural people in the Measured Entity				
		2.3.1 Black Military Veterans.	4	3%		
		2.3.2 Black people in Broad-based Ownership				
		2.3.3 Black New Entrants	1	2%		
	3. Realisation Points	Net Value	8			
		TOTAL	25 points			

16.2. MANAGEMENT CONTROL

16.2.1. The objective of Management Control is that Black people should be actively involved in making strategic decisions, proportionate to their Economic Interest in the board of directors of the Measured Entity and in the various levels of management. This means participation at the following levels:

16.2.1.1. Proportional 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

16.2.1.2. 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.

16.2.2. These positions should not be subject to any restrictions that are out of the ordinary nor token positions specifically created for Black executives.

16.2.3. The gazetting of the Defence Sector Code shall 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.

16.2.4. BOARDS

16.2.4.1. Large Measured Entities commit to achieve the following targets on their boards of directors:

–

16.2.4.1.1. 50% Black representation within the first year of the promulgation of the Sector Code increasing to 60% (sixty) per cent by the third anniversary of the promulgation; and

16.2.4.1.2. 25% Black female within the first year of the promulgation of the Sector Code increasing to 30% (thirty) per cent by the third anniversary of the promulgation and after the promulgation of the Sector Code.

16.2.5. EXECUTIVE MANAGEMENT

16.2.5.1. Measured Entities commit to achieve the following targets:

16.2.5.1.1. 60% Black executive directors; and

16.2.5.1.2. 30% Black female executive directors.

16.2.6. 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.

16.2.7. 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 Act on an equitable representation and weighted accordingly.

MANAGEMENT CONTROL SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target	
				Year 1 - 2	Year 3
	1. Board Participation	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 Management	2.1. Black Executive Management as a percentage of all executive management	2	60%	60%
		2.2. Black female Executive Management as a percentage of all executive management	1	30%	30%
	3. Senior Management	3.1. Black employees in Senior Management	2	60%	60%

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target	
				Year 1 - 2	Year 3
Management Control		as a percentage of all senior Management			
		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	15 points		

16.3. SKILLS DEVELOPMENT

16.3.1. The shortage of technical and critical skills is one of the major challenges in the SADI 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 SADI is to play its vital role in the reindustrialization of the South African economy, structured and strategic interventions are needed for the acquiring of 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 expansion and operation of Strategic Enterprises and retention of Sovereign Capabilities in the SADI.

16.3.2. Every Measured Entity therefore commits to spend 6% (six) per cent of their annual payroll on skills development programmes for Black persons.

16.3.3. Measured Entities must not count the same Black persons under more than one category as contained in paragraphs 2.1, 2.2 and 2.3 of the Skills Development Scorecard respectively, for the purpose of skills development.

SKILLS DEVELOPMENT SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Skills Development	1. 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	5	6%
		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	3	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	3	2.5%

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
		percentage of number of employees		
		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	4	2.5%
	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	

16.4. ENTERPRISE AND SUPPLIER DEVELOPMENT

16.4.1. The South African government focus areas for B-BBEE in the next 10 years links to key government economic development strategies such as the Defence Industry Strategy, Industrial Policy Action Plan (IPAP), the Defence Industrial Participation Programme (DIPP), the National Industrial Policy Framework (NIPF), 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 dti'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 SMME's. Empowerment policies and practices should not only support Exempted Micro Enterprises and Qualifying Small Enterprises but also assist them to grow into Large Enterprises.

16.4.2. The SADI is in a unique position to stimulate this growth and create new businesses. Public 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.

16.4.3. The aim of Enterprise and Supplier Development programmes is:

16.4.3.1. 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;

16.4.3.2. to increase local procurement through capacity building achieved by incentivising appropriate local supplier development programmes by businesses supplying imported goods and services; and

16.4.3.3. to actively support procurement from Black Owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.

16.4.4. Stakeholders therefore commit themselves to the following:

16.4.4.1. ORGANS OF STATE AND PUBLIC ENTITIES

16.4.4.1.1. Public Entities and Organs of State shall be entitled to implement Targeted Procurement for Black Owned Enterprises.

16.4.4.1.2. Public Entities and Organs of State shall be entitled to require that Measured Entities doing business with it, sub-contract a minimum of 30 % (thirty) per cent of a contract to the following entities that are at least 51% Black owned: –

- 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 Black Military Veterans;
- Exempted Micro Enterprises or Qualifying Small Enterprises owned by Black youth; and
- Exempted Micro Enterprises or Qualifying Small Enterprises *[sic]* by black people with disabilities.

16.4.4.1.3. Any Targeted Procurement shall not exceed 30% (thirty) per cent of the total procurement budget of the Organ of State or the Public Entity implementing such procurement in the first year after the promulgation of the Defence Sector Code, 35% (thirty-five) per cent in the second year and 40% (forty) per cent in the third year.

16.4.4.2. PRIVATE SECTOR ENTERPRISES

16.4.4.2.1. Private sector enterprises must, in instances where it is feasible or where it is required, sub-contract not less than 30% (thirty) per cent of any contract exceeding an amount of R30,000,000 (thirty million Rand) 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 Black Military Veterans;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by young Black people.

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.

16.4.4.3. DEFENCE INDUSTRY ENTERPRISE AND SUPPLIER DEVELOPMENT FUND

16.4.4.3.1. Stakeholders hereby agree to set up a Defence Industry Enterprise and Supplier Development Fund. Such a Fund will be administered by the Charter Council which may outsource the management of the Fund to any entity with the requisite skills, experience and capacity subject to such entity complying with the Charter Council's directives and the aims and objectives of this Sector Code.

16.4.4.3.2. The Defence Industry Enterprise and Supplier Development Fund shall be utilised for Enterprise and Supplier Development Initiatives including the following:

- To fund Black owned entities in the SADI;
- To engage in initiatives that promote manufacturing in the SADI;
- To fund innovative Black owned technology entities within the SADI or whose products or services can be utilized by the SADI;

- To promote the development of intellectual property and exploitation in the SADI by and in collaboration with Black people;
- To promote and fund the development and transfer of Sovereign and Strategic capability and investing to ensure sustainability of such capabilities in the SADI; and
- Through funding and other measures support the growth of Black businesses within the SADI to compete internationally and promote exports.

16.4.4.3.3. The Charter Council shall determine the method of operation of the Enterprise and Supplier Development Fund and identify any additional Enterprise and Supplier Development Initiatives to be funded by it.

16.4.4.3.4. All funding by the Enterprise and Supplier Development Fund shall be by way of grants and related mechanisms.

16.4.4.3.5. The Charter Council shall ensure that costs for the administration and management of the Enterprise and Supplier Development Fund does not exceed 3% (three) per cent of the total income of the Fund in any financial year.

16.4.4.3.6. All Measured Entities with the exception of Exempted Micro Enterprises must contribute 1% (one) per cent of their Net Profit After Tax (NPAT) to the Enterprise and Supplier Development Fund.

16.4.4.3.7. The Charter Council shall ensure that the Enterprise and Supplier Development Fund shall be established not later than 12 (twelve) months after the gazetting of this Sector Code.

16.4.4.3.8. Notwithstanding any provision to the contrary contained in this Sector Code, no stakeholder shall be required to contribute to the Enterprise and Supplier Development Fund in terms of paragraph 16.4.4.3.6 herein prior to the establishment of the Enterprise and Supplier Development Fund.

16.4.4.3.9. Notwithstanding any provision to the contrary contained in this Sector Code, in the period between the gazetting of this Sector Code and the establishment of the Enterprise and Supplier Development Fund, the annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity shall be 2% (two) per cent of NPAT. After the establishment of the Enterprise and Supplier Development Fund, paragraph 4 of the Enterprise and Supplier Development Scorecard dealing with contributions to the Enterprise and Supplier Development Fund, shall be applicable.

16.4.4.4. FOREIGN ENTERPRISES

Foreign Enterprises shall place DIP contracts equivalent to seventy-five percent (75%) of the total DIP obligation with local (South African) B-BBEE 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
Enterprise and Supplier Development	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%
		1.2. B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable BBBEE[sic] Procurement Recognition Levels as percentage of Total Measured Procurement Spend	3	8%
		1.3 B-B-BEE[sic] Procurement Spend from all Exempted Micro Enterprises based on the applicable BBBEE[sic] Procurement	4	15%

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
		Recognition Levels as a percentage of Total Measured Procurement Spend based on the Total Measured Procurement Spend		
		1.4. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable BBBEE[sic] Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	9	40%
		1.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	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	6	1% NPAT

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
	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
	5. Enterprise & Supplier Development Fund	Annual Contributions to the Enterprise and Supplier Development Fund	5	1% NPAT
	6. Bonus Points	6.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1	
		6.2 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	1	
		6.3 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	

16.5. LOCALISATION

16.5.1. 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.

16.5.2. Stakeholders therefore commit to:

16.5.2.1. procure at least 60% of Defence Matériel from Local Enterprises;

Prepared by:

16.5.2.2. provide support for and procurement from Local Enterprises that manufacture Defence Matériel in South Africa; and

16.5.2.3. provide support for Local Enterprises that introduce new locally developed technology that is not older than 24 (twenty-four) months in the SADI.

16.5.3. In the event that it is not practically achievable to procure 60% of Defence Matériel from Local Enterprises, Measured Entities doing business with Organs of State and Public Entities must submit a written request for exemption to Armscor or the Department of Defence as may be applicable which may at their sole discretion exempt such Measured Entities from compliance with this provision.

16.5.4. All Measured Entities that are granted an exemption must develop and implement an Enterprise and Supplier Development plan in addition to any other contributions in terms of the Enterprise and Supplier Scorecard in this Sector Code.

16.5.5. Measured Entities that do not do business with Organs of State or Public Entities may request such exemption from the dti which may at its sole discretion exempt such Measured Entities from compliance with this provision.

16.5.6. Any written request by a Measured Entity for exemption from compliance with the provisions of paragraph 16.5.2.1 must be accompanied by the following:

16.5.6.1. verifiable evidence that there is no existing local production of such Defense Matériel;

16.5.6.2. evidence that importing Defense Matériel will further promote value-added production within South Africa;

16.5.7. All Measured Entities that are granted an exemption must develop and implement an Enterprise and Supplier Development plan in addition to any other contributions in terms of the Enterprise and Supplier Scorecard in this Sector Code.

16.5.8. Any Enterprise and Supplier Development plan that an exempted Measured Entity develop in terms of paragraph 16.5.7, should include:

- Clear objectives
- Priority interventions
- Key performance indicators; and
- A concise implementation plan with clearly articulated annual milestones.

16.5.9. Measured Entities that are exempted in terms of this paragraph 16.5 and are fully compliant with the Enterprise and Supplier Plan in terms of paragraph 16.5.8 are deemed to have complied with the relevant provision of the Localisation Scorecard and are therefore entitled to the 6 Weighting Points.

LOCALISATION SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		1. Procurement of Defence Matériel produced and/or manufactured in South Africa by Local Enterprises.	6	60%
		2. Procurement from Local Enterprises that introduced new locally developed technology in the SADI that is not older than 24 months.	2	60%
		3. Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual property licensed thereto by Local or Foreign Enterprises	2	60%
		TOTAL	10 Points	

16.6. SOCIO-ECONOMIC DEVELOPMENT

16.6.1. Measured Entities receive recognition for any Socio-Economic Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.

16.6.2. Socio-Economic Development Contributions of any Measured Entity are recognizable annually.

- 16.6.3. 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.
- 16.6.4. 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.
- 16.6.5. The full value of Socio-Economic Development Contributions made to beneficiaries is recognisable if at least 75% of the value directly benefits Black people.
- 16.6.6. If less than 75% (seventy)[sic] per cent of 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 are recognisable.
- 16.6.7. The following is a non-exhaustive list of Socio-Economic Development Contributions:
- 16.6.7.1. grant contributions to beneficiaries of Socio-Economic Development Contributions;
 - 16.6.7.2. guarantees given or security provided for beneficiaries;
 - 16.6.7.3. direct costs incurred by a Measured Entity in assisting beneficiaries;
 - 16.6.7.4. overhead costs of a Measured Entity directly attributable to Socio Economic Development Contributions; developmental capital advanced to beneficiary communities;
 - 16.6.7.5. preferential terms granted by a Measured Entity for its supply of goods or services to beneficiary communities;
 - 16.6.7.6. payments made by the Measured Entity to third parties to perform socio-economic development on the Measured Entity's behalf;
 - 16.6.7.7. 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;
 - 16.6.7.8. 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

16.6.7.9. 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
1. Annual Value of all Socio-Economic Contributions by the Measured Entity as a percentage of the target	3	0.5% NPAT
2. Annual Value of all Socio-Economic Contributions to Black Military/Veterans by the Measured Entity as a percentage of the target	2	0.5% NPAT
Total	5 points	

16.6.8. 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%

Qualifying Contribution type	Contribution Amount	Benefit Factor
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%

17. ELEMENTS OF THE DEFENCE SECTOR CODE: SPECIALISED DEFENCE SECTOR SCORECARD FOR ORGANS OF STATE, PUBLIC ENTITIES AND NOT FOR PROFIT COMPANIES

17.1. SPECIALISED SCORECARD

ELEMENT	WEIGHTING	CODE SERIES REFERENCE
Management Control	20 points	200
Skills development	25 points	300
Enterprise and Supplier Development	50 points	400
Socio-Economic Development	5 points	500
Localisation	10 points	Paragraph 16.5 of this Code
TOTAL	110 Points	

17.2. 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%	70%

Measurement Category and Criteria	Weighting Points	Compliance targets		
		Year 1	Year 2	Year 3
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			

17.3 SKILLS DEVELOPMENT SPECIALISED SCORECARD

Category	Skills Development Element	Weighting points	Compliance Target		
			Year 1	Year 2	Year 3
Skills Development Expenditure on any programme specified in the Learning Programme Matrix for Black people as a percentage of the Levable Amount					
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for Black people as a percentage of Levable 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 Levable Amount		3	0.3%	0.3%	0.3%
Skills Development Expenditure on Learning Programmes for Black Military Veterans		2	2%	2%	3%
Learnerships, apprenticeships and internships					

Category	Skills Development Element	Weighting points	Compliance Target		
			Year 1	Year 2	Year 3
	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 or students participating in training specified in the learning programme matrix as a percentage of number of employees.	7	2.5%	2.5%	2.5%
Bonus Points					
	Number of Black people absorbed by the Measured Entity and Industry at the end of the learnership/apprenticeship or internship programme	5	100%	100%	100%
TOTAL		25 Points			

17.4. ENTERPRISE AND SUPPLIER DEVELOPMENT SPECIALISED 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 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 of Total Measured Procurement Spend	4	15%	15%	20%
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	11	40%	40%	45%

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
percentage of Total Measured Procurement Spend				
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	5	12%	12%	12%
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/Discretionary spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretionary spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretionary spend
ENTERPRISE DEVELOPMENT				
Annual value of Enterprise Development Contributions and Sector Programmes made by 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
Bonus Points				

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate 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	50 Points			

17.5. SOCIO-ECONOMIC DEVELOPMENT SPECIALISED SCORECARD

	Weighting Points	Compliance Target		
		Year 1	Year 2	Year 3
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			

17.6. LOCALISATION SPECIALISED SCORECARD

B-BBEE Element	Description	Weighting Points	Compliance Target		
			Year 1	Year 2	Year 3
Localisation	Procurement of Defence Matériel produced and/or manufactured in South Africa by Local Enterprises.	6	60%	60%	60%
	Procurement from local enterprises that introduce new locally developed technology in the SADI that is not older than 24 months.	2	60%	60%	60%
	Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property	2	60%	60%	60%

B-BBEE Element	Description	Weighting Points	Compliance Target		
			Year 1	Year 2	Year 3
	owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual property licensed thereto by Local or Foreign Enterprises.				
	TOTAL	10 points			

18. ELEMENTS OF THE DEFENCE SECTOR CODE: THE QUALIFYING SMALL ENTERPRISES DEFENCE SCORECARD

18.1. QSE 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 Codes.

18.2. THE QUALIFYING SMALL ENTERPRISES OWNERSHIP SCORECARD

Category and Ownership Indicator	Weighting Points	Compliance Table		
		Year 1	Year 2	Year 3
Voting rights				
Exercisable Voting Rights in the Enterprise in the hands of Black people	5	25%	30%	35%

Category and Ownership Indicator	Weighting Points	Compliance Table		
		Year 1	Year 2	Year 3
Exercisable Voting Rights in the Enterprise in the hands <i>[sic]</i> 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			

18.3. THE QUALIFYING SMALL ENTERPRISE MANAGEMENT CONTROL SCORECARD

Criteria	Weighting points	Compliance Target		
		Year 1	Year 2	Year 3
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			

18.4. THE QUALIFYING SMALL ENTERPRISE SKILLS DEVELOPMENT SCORECARD

Skills Development Element	Weighting points	Compliance Target		
		Year 1	Year 2	Year 3
Skills development expenditure on learning programs specified in the learning programme matrix for Black people as a percentage of leviabale amount	16	3%	3%	4%
Skills development expenditure on learning programmes specified in the learning programme matrix for Black females as a percentage of leviabale amount	10	1%	1%	2%
Skills development expenditure on learning programmes specified in the learning programme matrix for Black people with disabilities as a percentage of leviabale amount.	4	0.15%	0.15%	0.30%
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			

18.5 THE QUALIFYING SMALL 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%	1%	1%
Supplier Development				

Prepared by:

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
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% NPAT		
Bonus Points				
Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate 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			

18.6 THE QUALIFYING SMALL ENTERPRISE LOCALISATION SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		Defence Matériel products and services manufactured by[sic] procured from local enterprises	6	60%
		Procurement from local enterprises that introduce new locally developed technology in the SADI that is not older than 24 months.	2	60%
		Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual	2	60%

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
		property licensed thereto by Local or Foreign Enterprises		
		TOTAL	10 Points	

18.7. THE QUALIFYING SMALL ENTERPRISE SOCIO-ECONOMIC DEVELOPMENT SCORECARD

Criteria	Weighting points	Compliance Target		
		Year 1	Year 2	Year 3
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 Points			

19. DEFENCE SECTOR CHARTER COUNCIL

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

19.2. The Minister of Defence shall appoint the Charter Council after consulting with the SADI Stakeholders.

19.3. The functions of the Charter Council shall include:

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

19.3.2. liaising with all government departments, agencies and other relevant Stakeholders for the purpose of facilitating the implementation of this Sector Code and promote the SADI's interests;

19.3.3. compiling an annual report on overall progress by the SADI with the Defence Sector Code and submitting such report to any relevant stakeholders including the Minister, the Minister of Defence, the B-BBEE Commission and NDIC;

19.3.4. issuing implementation guidelines; and

19.3.5. initiating and supervising any revisions to this Sector Code.

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

19.5. The DOD shall be responsible for funding the operational expenses of the Charter Council.

20. MONITORING AND EVALUATION

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

20.2. 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 Charter Council.

21. REVIEW OF THE SECTOR CODE

This Sector Code may be reviewed in order to align it with any amendment to the Act or the Codes or after the expiry of the 3rd anniversary of the promulgation of this Sector Code or as[sic] when necessary.

22. EFFECTIVE DATE

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

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 [sic] 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.[sic] 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's 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 constitutes/sic/ 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.