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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 1064

06 NOVEMBER 2015

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

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

- (a) Issue the following **Draft Revised Forest Sector Code** for public comment in terms of **Section 9 (5)** of the Broad-Based Black Economic Empowerment Amendment Act No. 46 of 2013; and
- (b) Invite interested persons and the public to submit comments on the draft sector code within 60 days from the date of this publication.

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

E-mail: forestsectorcode@thedti.gov.za

or

The dti Campus

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Sunnyside, Pretoria

0002

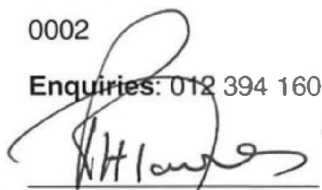
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Private Bag X 84

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Enquiries: 012 394 1609/3430



Dr ROB DAVIES, MP
MINISTER OF TRADE AND INDUSTRY
DATE: 27/10/2015

DRAFT AMENDED FOREST SECTOR CODE

Draft Amended Forest Sector Code

1

**AMENDED CODE SERIES FSC000: FRAMEWORK FOR MEASURING BROAD-BASED
BLACK ECONOMIC EMPOWERMENT IN THE FOREST SECTOR**

STATEMENT FSC000: GENERAL PRINCIPALS AND THE GENERIC SCORECARD

**Issued under section 9 (5) of the Broad-Based Black Economic Empowerment Act of
2003 as amended by Act 46 of 2013**

Arrangement of this statement:

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1 OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the measurement principals and industry specific principles of Broad-Based Black Economic Empowerment (B- BBEE);
- 1.2 Specify the application of the Draft Amended FSC and the basis for measurement under the Draft Amended FSC;
- 1.3 Indicate the qualifying threshold for Measured Entity to qualify as Exempted Micro-Enterprises (EME) or Qualifying Small Enterprises (QSE);
- 1.4 Specify the method of measuring Start-Up Enterprises;
- 1.5 Specify the elements of B-BBEE measurable under the Generic Scorecard and Qualifying Small Enterprises Scorecard;
- 1.6 Specify the basis for determining compliance by Entities with the Draft Amended FSC; and
- 1.7 Provide for the Effective Date and Transitional Arrangements.

2 KEY PRINCIPLES

2.1 MEASUREMENT PRINCIPLES

- 2.1.1 The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 2.1.2 In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of the B-BBEE Act as amended and the B-BBEE Strategy must take precedence.
- 2.1.3 The basis for measuring B-BBEE initiatives under the Codes:
 - 2.1.3.1 for the 'Ownership' and 'Management Control' elements are the B-BBEE compliance of the Measured Entity at the Date of Measurement; and
 - 2.1.3.2 for the 'Skills Development', 'Enterprise and Supplier Development' and 'Socio Economic Development' elements the B-BBEE compliance of the Measured Entity over the Measurement Period.

- 2.1.4 Any misrepresentation or attempt to misrepresent a Measured Entity's true B-BBEE Status will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended, and may lead to the disqualification of the entire scorecard of the entities concerned.
- 2.1.5 Initiatives which split, separate or divide a Measured Entity with the intent of ensuring eligibility as an Exempted Micro-Enterprise, a Qualifying Small Enterprise or a Start-Up Enterprise will constitute an offense and will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended.
- 2.1.6 When determining eligibility as an Exempted Micro-Enterprise, a Qualifying Small Enterprise or a Generic Enterprise, only the Revenue of the Measured Entity will be considered, unless the Measured Entity is seeking a consolidated verification that includes its subsidiaries. The aggregate Revenue of Related Enterprises will only be considered as per par 17.15 to 17.16 of Appendix 2 of the Verification Manual (Gazetted 31255, 18 July 2008) as amended where:
- 2.1.6.1 An intent to defraud as per 2.5 above is present; or where
- 2.1.6.2 A holding entity that does not house the operations of the group is measured separately.
- 2.1.7 Any representation made by an Entity about its B-BBEE compliance must be supported by Suitable Evidence or Documentation. A Measured Entity that does not provide Suitable Evidence or Documentation supporting any initiative must not receive any recognition for that initiative.
- 2.1.8 Wherever a Standard Valuation Method applies to measuring an indicator, the same standard should apply, as far as reasonably possible, consistently in all other applicable calculations in this statement.
- 2.1.9 The measurement of Unincorporated Joint Ventures will be done as follows:
- 2.1.9.1 Unincorporated Joint Ventures are required to compile a consolidated verification certificate. A consolidated verification certificate will consolidate the verified compliance data of joint venture partners in accordance with paragraph 2.1.9.2 below as if those Measured Entities were a single Measured Entity.
- 2.1.9.2 The consolidation of compliance data shall be based on a weighting in accordance with the joint venture agreement relevant to the specific joint venture. Therefore, should two companies enter into an Unincorporated Joint Venture their respective scores in terms of the Draft Amended FSC will be weighted according to their proportionate share in the joint venture and added together for a combined score out of 100.

- 2.1.9.3 Should a company qualify in terms of the Qualifying Small Enterprise Scorecard its B-BBEE score out of 100 must be used to calculate the consolidated score.
- 2.1.9.4 51% Black Owned or 100% Black Owned EME's and QSE's will qualify for a Level 1 B-BBEE recognition level.
- 2.1.9.5 EME's other than those in paragraph 2.1.9.4 above will qualify for a Level B-BBEE recognition level.
- 2.1.9.6 Where all the partners in the joint venture are Empowering Suppliers the Unincorporated Joint Venture will also qualify as an Empowering Supplier. If not, the compliance of the Unincorporated Joint Venture with the Empowering Supplier requirements must be measured as though it is a single Measured Entity with each partner contributing, to the categories of measurement for Empowering Supplier status, in proportion to its share in the joint venture.
- 2.1.10 Where a matter is not expressly dealt with in terms of this Draft Amended FSC the general Codes of Good Practice will take precedence. In all other matters this Draft Amended FSC will take precedence.
- 2.1.11 To the extent that the following statements contained in the Codes and as amended from time to time, do not contradict a provision of this Draft Amended FSC, they are expressly incorporated into the Draft Amended FSC as per the table below:

	Statement	Description
2.1.11.1	004	Scorecards for SPECIALISED Enterprises
2.1.11.2	005	BROAD-BASED BLACK ECONOMIC EMPOWERMENT VERIFICATION
2.1.11.3	102	RECOGNITION IN THE SALE OF ASSETS
2.1.11.4	103	THE RECOGNITION OF EQUITY EQUIVALENTS FOR MULTINATIONALS

- 2.1.12 Measured Entities are only measureable against their South African operations. This applies to the measurement of all the elements and indicators of the scorecard.

2.2 **SECTOR SPECIFIC PRINCIPLES**

The Forest Sector has adopted the following sector specific principles that guided the formulation of the Draft Amended FSC and is to be applied with respect to the implementation thereof:

2.2.1 **B-BBEE is Broad-Based**

Sector Transformation needs to be broad-based both in terms of:

- 2.2.1.2 The spectrum of black people (including women, workers, youth, people with disabilities, and those living in rural areas) that benefit from the transformation process; and
- 2.2.1.3 The set of instruments to be used to achieve the empowerment objectives (ownership, management control, human resources and skills development, employment equity, preferential procurement, enterprise development, social investment and other industry specific initiatives).

2.2.2 **B-BBEE is an Inclusive Process**

Sector transformation needs to be an inclusive process with the participation and commitment of all stakeholders in the sector, including all enterprises, whether large or small, both management and labour that operate within the sector, as well as community groups and relevant government departments that interface with the sector. Inclusiveness is required both in relation to the formulation of the Draft Amended FSC and its implementation.

2.2.3 **B-BBEE and Economic Growth**

The scope and sustainability of B-BBEE will depend in large measure on growth in the sector and *vice versa*. Being exposed to global markets, the sector needs to maintain its competitiveness and profitability to secure long-term sustainable growth. Growth linked transformation needs to provide for the expansion of the country's limited plantation resource, increased productivity, value-adding and SMME development in making B-BBEE work for the poor.

2.2.4 **B-BBEE and Partnerships**

The successful implementation of B-BBEE in the Forest Sector requires partnerships at different levels:

- 2.2.4.1 Between different sub-sectors because of vertical integration and horizontal interdependence between different operators in the value chain.
- 2.2.4.2 Between large corporate and small-scale enterprises that operate in the sector: their joint effort is needed to deal successfully with many of the challenges facing the sector and to secure the transfer of skills and mentorship support to

empower black owned enterprises to be able to succeed and thrive in the competitive business environment.

2.2.4.3 Between the industry (with its managerial and technical skills as well as financial resources) and government (that contributes resources and controls the policy and regulatory environment in which the industry operates).

2.2.4.4 Between industry and local/rural communities: these communities should both benefit from B-BBEE and impact on the socio-economic context in which the forest enterprises operate.

2.2.5 **B-BBEE and Good Governance**

Good governance must underpin B-BBEE. All participants in the sector (management, labour, communities and government) need to adhere to the highest standards of good corporate governance to improve the quality and transparency of business in the sector. Good governance includes being compliant with legislation, following due process, applying fair labour practices, being socially responsible and applying environmentally sustainable business practices. Fronting as a disguise for B-BBEE will not be acceptable and will be dealt with in accordance with the B-BBEE Act as amended.

2.2.6 **Shared Vision for the Industry**

All role players need to commit to a shared vision for the forest industry and seek win-win approaches to tackling the transformation challenges arising. This needs to be underpinned by a common understanding of the challenges facing the sector and its sub-sectors, and a commitment to implement the strategies and instruments for sustainable growth and broad-based empowerment throughout the forestry value chain. This Draft Amended FSC represents the sector stakeholders' shared vision for broad-based empowerment with growth for the Forest Sector, namely:

2.2.6.1 An inclusive and equitable Forest Sector in which black women and men fully participate.

2.2.6.2 A Forest Sector that is characterised by sustainable use of resources, sustainable growth, international competitiveness and profitability for all its participants.

2.2.6.3 A Forest Sector that contributes meaningfully to poverty eradication, job creation, rural development and economic value-adding activities in the country.

2.2.7 Rural Development

The Forestry Sector is uniquely positioned to address rural development issues in that its operations are primarily situated in rural and under developed areas. The Industry therefore recognises its ability to have a meaningful impact on these communities and also black women within these communities that have traditionally been marginalised. This understanding should guide the manner within which Measured Entities in this sector targets and implements B-BBEE initiative. It should also guide the development of sector specific initiatives within the Sector. As such some of the objectives of the Draft Amended FSC can be summarized as follows:

- 2.2.7.1 Bona Fide enterprise development that ensures that the main beneficiaries of enterprise development are previously disadvantaged Black People, with a specific focus on marginalized groups.
- 2.2.7.2 The promotion of a linkage between enterprise and supplier development initiatives and the socio-economic challenges in forestry communities whose main economic activities are conducted in rural areas with a specific focus on building sustainable small business.
- 2.2.7.3 A focus on addressing the poor growth of black women owned enterprises through addressing access to finance, business development support, prioritising marginalised and rural black women and improving their position in the value chain.
- 2.2.7.4 Addressing the structural issues of women and rural people enterprise and supplier development. In particular the issue of empowering women in forestry should be addressed.
- 2.2.7.5 Promote the use of broad-based schemes such as cooperatives to prevent development initiatives (ownership, enterprise and supplier development) benefiting only a narrow base of beneficiaries. Emphasis should also be on rural beneficiation.
- 2.2.7.6 The restructuring of state owned assets such as SAFCOL should emphasise rural and broad based empowerment for current industry participants and minimize any detrimental impact on job security.

2.2.8 Accountability

The Draft Amended FSC contains various commitments from industry, government, labour and other stakeholders. The stakeholders are interdependent on each other for the successful implementation of their respective obligations. More importantly, the participants to the sector recognise that the successful transformation of black people in this sector is wholly dependent on these commitments being executed. All stakeholders in

the sector are therefore accountable for the commitments that they agreed to in terms of this FSC. Accountability means that there are consequences to non-performance on commitments. Given the fact that the B-BBEE scorecard is traditionally only an effective tool for incentivising performance of one participant to the sector, namely Industry – the stakeholders have agreed that this sector code and its scorecard will incentivise performance from all stakeholders in the sector. Targets and Weightings in the scorecards have therefore been aligned to stakeholders' commitments in terms of the Draft Amended FSC.

3. APPLICATION OF THE DRAFT AMENDED FOREST SECTOR CODE

3.1 This Code applies to all enterprises involved with commercial forestry and first level processing of wood products. This covers the following sub-sectors:

3.1.1 Growers sub-sector (plantations, nurseries and indigenous forests)

3.1.2 Contracting sub-sector (forestry contractors in silviculture, harvesting, fire-fighting services and other forestry contracting services that are not covered by their own Sector Charters)

3.1.3 Fibre sub-sector (pulp, paper, paperboard, timber board product, woodchip and wattle bark manufactures)

3.1.4 Sawmilling sub-sector (industrial, structural and mining timber sawmills and match producers)

3.1.5 Pole sub-sector (pole treatment plants)

3.1.6 Charcoal sub-sector (charcoal producers)

3.2.1 Non-timber forest product enterprises such as those involved in honey production, harvesting of mushrooms and medicinal plant, as well as forestry based tourism enterprises are not directly covered by the Code, as they are included in other sector codes. However, because forestry growers license these activities, non-timber forest product enterprises will be impacted on and benefit from the agreements reached within the FSC.

3.2.2 The South African Forest Company Limited (SAFCOL) is a state owned enterprise that has certain obligations in terms of this Forest Sector Code. SAFCOL is however excluded from the Forest Sector Code for purposes of its own measurement. It should apply the Amended Codes when measuring its B-BBEE status level.

- 3.3 All Measured Entities falling within the scope of the Draft Amended FSC as set out in 3.1 and 3.2 above may only be measured for compliance in accordance with this Draft Amended FSC.
- 3.3.1 Where a Measured Entity operates in more than one sector, whether it requires a single entity verification or a consolidated verification for it as a group, it will be required to report in terms of the scorecard for the sector in which the majority of its core activities (measured in terms of Revenue) are located.
- 3.3.2 Where the Measured Entity in 3.3.1 is the holding entity in a consolidated verification and any of its subsidiaries are subject to measurement in terms of a set of codes (sector or general) other than that which governs the Measured Entity, then such subsidiary will not be able to tender the consolidated verification certificate of the Measured Entity as its own, notwithstanding the fact that it formed part of the consolidated verification. The subsidiary will have to be measured in terms of the set of codes (sector or general) applicable to it based on its own core activities (measured in terms of Revenue).
- 3.4 The basis for measuring the B-BBEE compliance of an Entity in terms of paragraph 3.1 is:
- 3.4.1 Paragraph 4, in the case of an Exempted Micro-Enterprise or Start-up Enterprise;
- 3.4.2 The Generic Scorecard and QSE Scorecard, in the case of other Measured Entities.
- 3.5 The Draft Amended FSC is a relevant code of good practice for purpose of all activities listed in section 10 of the B-BBEE Act as amended.

3.6 PRIORITY ELEMENTS, SUBMINIMUM AND DISCOUNTING PRINCIPAL

- 3.6.1 The priority Elements are as follows:

3.6.1.1 **Ownership:**

- 3.6.1.1.1 The sub-minimum requirement for Ownership is 40% of Net Value (40% of the 8 points) based on the Time Based Graduation Factor provided in Annexe FSC100 (E).

3.6.1.2 **Skills Development:**

- 3.6.1.2.1 The sub-minimum requirements for Skills Development is 40% of the total weighting points (excluding bonus points) for Skills Development.

3.6.1.3 **Enterprise and Supplier Development:**

3.6.1.3.1 The sub-minimum for Enterprise and Supplier Development is 40% of the total weighting points (excluding bonus points) of each of the three broad categories, within the Enterprise and Supplier Development element, namely Preferential Procurement; Supplier Development and Enterprise Development. For the avoidance of doubt this means that the Measured Entity must achieve at least:

- (i) 9.2 points under the Preferential Procurement category;
- (ii) 4 points under the Supplier Development category;
- (iii) 4 points under the Enterprise Development category;

3.6.2 **COMPLIANCE TO PRIORITY ELEMENTS**

3.6.2.1 A Large Enterprise is required to comply with all the Priority Elements;

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

3.6.3 **DISCOUNTING PRINCIPLE EFFECT**

3.6.3.1 Non-compliance with the 40% sub-minimum requirements of any of the priority elements, as per paragraph 3.6.2 above, will result in the following outcomes for both Large Enterprises and Qualifying Small Enterprises:

3.6.3.1.1 The actual points scored by the Measured Entity and the consequent level that the Measured Entity have achieved after discounting will be recognised by the Verification Agency ("the B-BBEE Status Level").

3.7 **COMPLIANCE WITH EMPLOYMENT EQUITY ACT**

3.7.1 The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 is not the same for all employers. Some employers will initially only need to report to the Department of Labour every second year as opposed to every year.

3.7.2 Generic and Qualifying Small Entities that employ less than 150 employees are required to submit sufficient evidence for verification purposes, notwithstanding the fact that they may not be required to report to the Department of Labour each year as contemplated in paragraph 3.7.1 above.

3.7.3 For the avoidance of doubt, compliance with the reporting requirements of the Employment Equity Act 55 of 1998, is not a pre-requisite for claiming points under the Management Control element as long as the Measured Entity is able to submit sufficient evidence for verification purposes to support its claim under that element.

Non-compliance will however disqualify the Measured Entity from being recognised as an Empowering Supplier given the requirement that a Measured Entity must comply with all regulatory requirements for it to qualify as an Empowering Supplier.

4. ELIGIBILITY AS AN EXEMPTED MICRO ENTERPRISE (EME)

4.1 Any enterprise with a total annual Revenue of R10 Million or less qualifies as an Exempted Micro-Enterprise.

4.2 An Exempted Micro-Enterprise is deemed to have a B-BBEE Status of "Level Four Contributor" having a B-BBEE recognition level of 100% under paragraph 8.2.

4.3 Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise:

4.3.1 Despite paragraphs 4.2 an EME which is 100% Black Owned qualifies for elevation to "Level One Contributor" having a B-BBEE recognition level of 135%.

4.3.2 Despite paragraph 4.2 and 4.3.1, an EME which is at least 51% Black Owned qualifies for elevation to "Level Two Contributor" having a B-BBEE recognition level of 125%.

4.4 Despite paragraphs 4.2 and 4.3, an EME is allowed to be measured in terms of the QSE scorecard should they wish to maximise their points and move to a higher B-BBEE recognition level.

4.5 An EME is only required to obtain a sworn affidavit or Certificate issued by Companies and Intellectual Property Commission (CIPC) on an annual basis, confirming the following:

4.5.1 Total annual Revenue of R10 million or less; and

4.5.2 Level of Black ownership.

4.6 Any misrepresentation in terms of Para 4.5 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

4.7 Notwithstanding paragraph 4.5 an EME may elect to obtain a verification certificate from an accounting officer or verification professional approved in terms of Statement 005.

5. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISES (QSE)

5.1 A Measured Entity with a total annual Revenue of more than R10 million but less than R50 million qualifies as a Qualifying Small Enterprise.

5.2 A QSE must comply with all of the elements of B-BBEE for the purposes of measurement.

- 5.3 Enhanced B-BBEE recognition level for QSE:
- 5.3.1 A Qualifying Small Enterprise which is 100% Black Owned qualifies for Level One B-BBEE recognition.
- 5.3.2 A QSE which is at least 51% Black Owned qualifies for a Level Two B-BBEE recognition level.
- 5.3.3 A QSE that is 51% Black Owned or 100% Black Owned is only required to obtain a sworn affidavit or CIPC issued certificate on an annual basis, confirming the following:
- 5.3.3.1 Total annual Revenue of R50 million or less; and
- 5.3.3.2 Level of Black ownership; and
- 5.3.3.3 Empowering Supplier status.
- 5.4 Any misrepresentation in terms of Para 5.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.
- 5.5 Notwithstanding paragraph 5.3.3 a QSE that is 51% Black Owned or 100% Black Owned may elect to obtain a verification certificate from a verification professional approved in terms of statement FSC005. For the avoidance of doubt, all QSE's other than those referred to in paragraph 5.3.3, will be required to obtain a verification certificate to substantiate their B-BBEE status.
- 5.6 At the date of publication hereof only a draft revised QSE scorecard has been published in terms of the Revised Codes although it is anticipated that the Dti will gazette a final QSE scorecard in terms of section 9(1) of the Act.
- 5.6.1 All QSE's other than those referred to in paragraph 5.3.3. and also those that notwithstanding their qualification in terms of 5.3.3. above elects to be verified in terms of a QSE scorecard, will use the until such time as **the dti** publishes the Amended QSE scorecard.
- 5.6.2 Notwithstanding 5.6.1 above the Forest Sector reserves the right to develop its own QSE scorecard for approval by the Minister of the dti in due course.
- 6. START-UP ENTERPRISES**
- 6.1 A Start-Up Enterprise must be measured as an Exempted Micro-Enterprise under this statement for the first year following the commencement of its operations. This provision applies regardless of the expected total Revenue of the Start-Up Enterprise.
- 6.2 A Start-up Enterprise is deemed to have the qualifying B-BBEE Status in accordance with the principles of paragraph 4 of this Statement.

6.3 In order to qualify as a Start-up Enterprise, the enterprise must provide confirmation of its status in accordance with paragraph 4.5.

6.4 Despite paragraph 6.1 and 6.2, a Start-up Enterprise must submit a QSE scorecard when tendering for any contract, or seeking any other economic activity covered by Section 10 of the Act, with a value higher than R10 million but less than R50 million. For contracts of R50 million or more they should submit the Generic scorecard. The preparation of such scorecards must use annualised data.

7. THE ELEMENTS IN TERMS OF THE GENERIC SCORECARD

7.1 The Ownership Element, as set out in Code series FSC100, measures effective ownership of entities by Black people.

7.2 The Management Control element, as set out in Code series FSC200, measures the effective control of entities by Black people.

7.3 The Skills Development element, as set out in Code series FSC300, measures the extent to which employers carry out initiatives designed to develop the competencies of Black employees and Black people internally and externally.

7.4 The Enterprise and Supplier Development element, as set out in Code series FSC400, measures the extent to which entities buy goods and services from Empowering Suppliers with strong 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.

7.5 The Socio-Economic Development and Sector Specific Contributions element, as set out in Code series FSC500, 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.

8. THE B-BBEE GENERIC SCORECARD

8.1 The following table represents the B-BBEE Generic Scorecard

Element	Weighting	Code Series Reference
Ownership	25 points + 5 bonus points	100
Management Control	19 points	200
Skills Development	20 points + 5 bonus points	300
Enterprise and Supplier Development	43 points + 6 bonus points	400
Socio-Economic Development	5 points + 3 bonus points	500

8.2 B-BBEE RECOGNITION LEVELS

8.2.1 Based on the overall performance of a Measured Entity using the Generic Scorecard and Qualifying Small Enterprise Scorecard, the Measured Entity will receive one of the following B-BBEE Status uses with the corresponding B-BBEE recognition level:

B-BBEE Status	Qualification	B-BBEE Recognition Level
Level One Contributor	>100 points on the Scorecard	135%
Level Two Contributor	>95 but <100 points on the Scorecard	125%
Level Three Contributor	>90 but <95 points on the Scorecard	110%
Level Four Contributor	>80 but <90 points on the Scorecard	100%
Level Five Contributor	>75 but <80 points on the Scorecard	80%
Level Six Contributor	>70 but <75 points on the Scorecard	60%
Level Seven Contributor	>55 but <70 points on the Scorecard	50%
Level Eight Contributor	>40 but <55 points on the Scorecard	10%
Non-Compliant Contributor	<40 points on the Scorecard	0%

9. ENHANCED RECOGNITION FOR CERTAIN CATEGORIES OF BLACK PEOPLE

- 9.1 Throughout the Codes, various criteria appear which advance the interests of certain categories of Black People. These include:
- 9.1.1 Black women should form between 40% and 50% of the beneficiaries of the relevant Elements of the scorecard;
- 9.1.2 Black People with disabilities, Black youth, Black People living in rural areas and Black unemployed people form part of the beneficiaries of the relevant Elements of the Scorecard.

10. EFFECTIVE DATE AND TRANSITIONAL ARRANGEMENTS

- 10.1 FSC will, subject to paragraphs 10.2.1; 10.2.2 and 10.2.3, come into effect on the date of publication hereof.
- 10.2.1 The FSC will not be applied retrospectively and its application will therefore be limited to Measurement Periods and Measurement Dates that commences after the date of publication hereof.
- 10.2.2 Measurement Periods and Measurement Dates that commenced prior to the date of publication hereof will be measurable in terms of the Old Forest Sector Code, which will, unless otherwise expressly stated, only remain effective with respect to the measurement of those Measurement Periods or Measurement Dates.
- 10.2.3. A Measured Entity measurable in terms of the Old Forestry Sector Code in accordance with paragraph 10.2.2, may notwithstanding such paragraph, opt to be measured in terms of the FSC.
- 10.3 Because some suppliers of Forest Sector companies will still have certificates in terms of the Old Codes that were issued prior to 30 April 2015 and which will consequently still be valid after this date it will take some time for all Measured Entities to have been measured in terms of the Revised Codes. Therefore, Measured Entities, that are measurable in terms of the FSC, may in the interim accept valid verification certificates and compliance reports for contributors to their scorecard that was conducted in terms of the Old Codes or any old sector code, for as long as they are valid. For this purpose the following terms in the Old Codes will contribute to measurement in terms of the FSC as though they equated to the corresponding FSC terms in the table below:

	FSC term	Equivalent Old Codes term
10.3.1	EME	EME
10.3.2	QSE	QSE

10.3.3	51% Black Owned	50% black owned
10.3.4	51% Black Women Owned	50% black women owned
10.3.5	30% Black Women Owned	30% black women owned
10.3.6	Empowering Supplier	Value Adding Supplier
10.3.7	Enterprise & Supplier Development Beneficiaries	Category A Enterprise Development Beneficiaries

11. ADJUSTMENT OF THRESHOLDS

The Minister may, by notice in the Gazette, adjust the thresholds in paragraphs 4 to 6. Any such changes apply to compliance reports of Measured Entities prepared for Measured Periods that commences after the gazetting of the adjustment.

12. DURATION OF THE FOREST SECTOR CODES

- 12.1 A Forest Sector Code remains in effect until expressly amended, substituted or repealed under Section 9 of the Act.
- 12.2 The Minister may review the Forest Sector Code at any stage, and regular reviews will take place to monitor the implementation of B-BBEE throughout the Forest Sector.

**AMENDED CODE SERIES FSC100: MEASUREMENT OF THE OWNERSHIP ELEMENT
OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT IN THE FORESTRY
SECTOR**

STATEMENT FSC100: THE GENERAL PRINCIPALS FOR MEASURING OWNERSHIP

Issued under section 9 (5) of the Broad-Based Black Economic Empowerment Act of 2003
as amended by Act 46 of 2013

Arrangement of this statement

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1 OBJECTIVES OF THIS STATEMENT

- 1.1 specify the scorecard for measuring the Ownership Element of Broad-Based Black Economic Empowerment (B-BBEE);
- 1.2 define the key measurement principles;
- 1.3 specify the specific measurement principles applicable to various types of Entities;
- 1.4 specify the specific measurement principles applicable to various types of Equity Instruments;
- 1.5 specify the formula for measuring Voting Rights, Economic Interest, and Net equity Value points.

2 THE OWNERSHIP SCORECARD

The following table represents the indicators and methods for calculating a score for Ownership under this statement:

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
OWNERSHIP	2.1 Voting Rights	2.1.1 Exercisable Voting Rights in the Entity in the hands of Black People	4	25%+1 Vote
		2.1.2 Exercisable Voting Rights in the Entity in the hands of Black women	2	10%
	2.2 Economic Interest	2.2.1 Economic Interest in the Entity to which Black People are entitled.	4	25%
		2.2.2 Economic Interest in the Entity to which Black women are entitled.	2	10%
		2.2.3 Economic Interest of any of the following Black natural people in the Measured Entity		

		2.2.3.1 Black Designated Groups; 2.2.3.2 Black Participants in Employee Share Ownership Programmes; 2.2.3.3 Black People in Broad-Based Ownership Schemes; 2.2.3.4 Black Participants in Co-operatives	3	7.5%
		2.2.4 Black New Entrants	2	2%
	2.3 Realisation Points	2.3.1 Net Value	8	Refer to Annexe FSC100 (E)
	2.4 Bonus Points	2.4.1 Economic Interest held by communities in areas of operation of the Measured Entity	1.5	2.5% (over and above the 7.5% target)
		2.4.2 Economic Interest held by Black Employees of the Measured Entity	1.5	2.5% (over and above the 7.5% target)
		2.4.3 Bonus point for Economic Interest in the hands of Black People in excess of the 25% target in indicator 2.2.1	1	5% (over and above the 25% target)
		2.4.4 Bonus point for Economic Interest in the hands of Black women in excess of the 10% target in indicator 2.2.2	1	5% (over and above the 10% target)
TOTAL			30	

3 KEY MEASUREMENT PRINCIPLES

3.1 GENERAL PRINCIPLES:

3.1.1 An Entity receives points for participation by Black People in its rights of Ownership, using the Ownership scorecard in paragraph 2. Black People may hold their rights of Ownership in a Measured Entity as direct Participants or as Participants through some form of Entity such as:

3.1.1.1 a Company as defined in the Companies Act of 2008 (as amended);

- 3.1.1.2 a Close corporation;
 - 3.1.1.3 a Co-operative;
 - 3.1.1.4 a Trust
 - 3.1.1.5 a Broad-Based Ownership Scheme;
 - 3.1.1.6 an Employee Share Ownership Programme;
 - 3.1.1.7 a partnership or other association of natural persons; and
 - 3.1.1.8 any form of juristic person recognised under South African law.
- 3.1.2 The Rights of Ownership held by black people in South African Multinationals are measureable against the value of their South African operations only. The Exclusion Principle must be applied with reference to the value of the Measured Entity's foreign operations when calculating its ownership score.
- 3.1.3 Government has made commitments as listed in Schedule 2 & 3 hereto that are necessary for the facilitation of the transfer of Rights of Ownership in the Forest Sector.
- 3.1.3.1 Notwithstanding the fact that the deadline for these commitments expired 1 year after the gazetting of the Forest Sector Charter, several of these commitments were still not implemented at the date of gazetting hereof.
 - 3.1.3.2 The signatories to this Code (see Schedule 4), including Government, invite members of the public to comment on the proposal that until such time as the following list of commitments by Government has been implemented that every Measured Entity in the Forest sector will receive recognition for 5% Black women Rights of Ownership to be applied towards the Targets in indicators 2.1.1; 2.1.2; 2.2.1 and 2.2.2 of the Ownership scorecard as though it was calculated using the Flow Through Principle only. This 5% is deemed to be free of any Acquisition Debt for purposes of Formula A for Net Value.
 - 3.1.3.3 The list of commitments by government referred to in 3.1.3.2 above is as follows:

- 3.1.3.3.1 Expediting restitution claims on forest land (see paragraph 8.1.7 of Schedule 2); and
- 3.1.3.3.2 Government's commitments to Enterprise Development initiatives (see paragraph 2.1 (c) of Schedule 2) as further expanded upon by:
 - 3.1.3.3.2.1 Paragraph 6.1 of Schedule 2: "*Access to funds and financial services for emerging black entrepreneurs*";
 - 3.1.3.3.2.2 Paragraph 6.3 of Schedule 2: "*Expedite the authorisation process for afforestation & paper and sawmilling facilities*" as read together with the section "*Streamline and expedite afforestation licensing procedures*" in Schedule 3;
 - 3.1.3.3.2.3 Restructuring of State forest assets (see paragraph 2.3 of Schedule 2).
- 3.1.3.4 Based on comments from the public and if it is approved, the Forest Sector Charter Council will publish a notice once all these commitments have been implemented, from which moment the special recognition of the 5% Black women Rights of Ownership as contemplated in paragraph 3.1.3.2 will no longer apply.

3.2 SUB-MINIMUM REQUIREMENTS

- 3.2.1 A Measured Entity is required to achieve a minimum of 40% on Net Value points (i.e. 8 points) based on Annexe FSC100 (E) paragraph 4 of this statement.
- 3.2.2 Non-compliance with this sub-minimum target, as per paragraph 3.2.1, will result in the achieved B-BBEE status level being discounted in accordance with paragraph 3.4 in statement 000.

3.3 FLOW-THROUGH PRINCIPLE

- 3.3.1 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 are measurable. This principle applies across every tier of Ownership in a multi-tiered chain of Ownership until that chain ends with a Black person holding rights of Ownership.

3.3.2 The method of applying the Flow-Through Principle across one or more intervening juristic persons is as follows:

3.3.2.1 Multiply the percentage of the Participant's rights of Ownership 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

3.3.2.2 The result of this calculation represents the percentage of rights of Ownership held by the Participant.

3.4 MODIFIED FLOW-THROUGH PRINCIPLE

3.4.1 A Measured Entity applying this Modified Flow-Through Principle cannot benefit from the Exclusion Principle in relation to Mandated Investments.

3.4.2 Subject to 3.4.3.2 below the Modified Flow-Through Principle applies to a B-BBEE Owned or Controlled Company in the Ownership of the Measured Entity.

3.4.3 In calculating Exercisable Voting Rights under paragraph 2.1.1, and Economic Interest under paragraph 2.2.1 of the Ownership scorecard the following applies:

3.4.3.1 Where in the chain of Ownership, Black People have a flow-through level of participation of at least 51%, and then only once in the entire Ownership structure of the Measured Entity, such Black participation may be treated as if it were 100% Black.

3.4.3.2 Notwithstanding 3.4.3.1 above the Modified Flow-Through Principle may not be applied at the level of the Measured Entity itself.

3.4.4 The Modified Flow-Through Principle may only be applied in the calculation of the indicators in paragraphs 2.1, 2.2 and 2.4.3 of the Ownership scorecard. In all other instances, the Flow-Through Principle applies.

3.5 EXCLUSION OF SPECIFIED ENTITIES WHEN DETERMINING OWNERSHIP

- 3.5.1 When determining Ownership in a Measured Entity, Ownership held by Organs of State or Public Entities must be excluded.
- 3.5.2 The exclusion of Ownership held by Organs of State or Public Entities is to be effected before any other Ownership discounting methods are to be applied.
- 3.5.3 In calculating their Ownership score, Measured Entities must apply the Exclusion Principle to any portion of their Ownership held by Organs of State or Public Entities.

3.6 B-BBEE FACILITATOR STATUS

- 3.6.1 Despite paragraphs 3.5.1 and 3.5.3 above, the Minister may by notice in the gazette, designate certain Organs of State or Public Entities as B-BBEE Facilitators. In calculating their Ownership score, Measured Entities must treat B-BBEE Facilitators as having rights of Ownership held:
- 3.6.1.1 100% by Black People;
 - 3.6.1.2 40% by Black women;
 - 3.6.1.3 20% by Black designated groups;
 - 3.6.1.4 Without any acquisition debts; and
 - 3.6.1.5 Without any third-party rights.
- 3.6.2 The South African Forestry Company Limited (SAFCOL) will within one year from the publication of this Forest Sector Code have applied and done all things necessary to be approved as a B-BBEE facilitator by the Department of Trade and Industry.

3.7 MANDATED INVESTMENTS

- 3.7.1 When determining Ownership in a Measured Entity, rights of Ownership of Mandated Investments may be excluded.

- 3.7.2 The maximum percentage of the Ownership of any Measured Entity that may be so excluded is 40%.
- 3.7.3 A Measured Entity electing not to exclude Mandated Investments when it is entitled to do so, may either treat all that Ownership as non-Black or obtain a competent person's report estimating the extent of Black rights of Ownership measurable in the Measured Entity and originating from those Mandated Investments.
- 3.7.4 A Measured Entity cannot selectively include or exclude Mandated Investments and therefore an election to exclude one Mandated Investment is an election to exclude all Mandated Investments and vice versa.
- 3.7.5 A Measured Entity applying the Exclusion Principle to Mandated Investments cannot benefit from the Modified Flow-Through Principle.

3.8 RECOGNITION OF OWNERSHIP AFTER THE SALE OR LOSS OF SHARES BY BLACK PARTICIPANTS

- 3.8.1 A Measured Entity is allowed to recognise a portion of Black Ownership after a Black Participant has exited through the sale or loss of shares subject to the following criteria:
- 3.8.1.1 the Black Participant has held shares for a minimum period of 3 years;
 - 3.8.1.2 net value based on the Time Based Graduation Factor as per annexe 100 (E) must have been created in the hands of Black People and;
 - 3.8.1.3 transformation has taken place within the Measured Entity using the B-BBEE Recognition Level from the period of entry of black participants to the exiting period.
- 3.8.2 Black participation arising from continued recognition of Black Ownership cannot contribute more than 40% of the score on the Ownership scorecard.
- 3.8.3 A written agreement between the Measured Entity, the Black participant and, where applicable, a lender must record the original terms of the ownership transaction and any related financing arrangements, where applicable
- 3.8.4 **In the case of a loss of shares by the Black Participant, the following additional rules apply:**
- 3.8.4.1 The period over which the continued recognition points are allocated or recognized after sale or loss of shares will not exceed the period over which the shares were held.

3.8.5 The Ownership points under this paragraph that are attributable to the Measured Entity will be calculated by multiplying the following elements:

- 3.8.5.1 the value created in the hands of Black Participants as a percentage of the total value of the Black Participants' shareholding in the Measured Entity at the date of sale or loss of shares;
- 3.8.5.2 the B-BBEE status of the Measured Entity based on the balanced scorecard at the Date of Measurement; and
- 3.8.5.3 the Ownership points that was attributable to the Measured Entity on the date of sale or loss shares.

3.9 BROAD-BASED OWNERSHIP SCHEMES AND EMPLOYEE SHARE OWNERSHIP PROGRAMME

3.9.1 Black Participants in Broad-Based Ownership Schemes and Employee Share Ownership Programmes holding rights of Ownership in a Measured Entity may contribute:

- 3.9.1.1 a maximum of 40% of the total points on the Ownership scorecard of the Measured Entity if they meet the qualification criteria set out in Annexe FSC100 (B) and Annexe FSC100 (C)
- 3.9.1.2 100% of the total points on the Ownership scorecard of the Measured Entity if they meet the additional qualification criteria set out in Annexe FSC100 (B) and Annexe FSC100 (C)

3.10 PRIVATE EQUITY FUNDS

3.10.1 A Measured Entity may treat any of its Ownership arising from a Private Equity Fund as if that Ownership were held by Black People, where the Private Equity Fund meets the following criteria:

- 3.10.1.1 At least 51% of any of the Private Equity Fund Managers' Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of Ownership, must be held by Black People;
- 3.10.1.2 At least 51% of the Private Equity Fund's Executive Management and Senior Management must be Black People;
- 3.10.1.3 At least 51% of the profits made by the Private Equity Fund Manager after realizing any investment made by it, must by written agreement, accrue to Black People;

- 3.10.2 The term profit in this instance is deemed as profit from the operations of the Private Equity Fund Manager and the carried interest that the Private Equity Fund Manager (and/or its associated entities, provided that at least 51% of the profits of the associated entities accrue to the Private Equity Fund Manager) receives after realising any investment made by it;
- 3.10.2.1. The Private Equity Fund Manager must be a B-BBEE Owned Company as defined;
- 3.10.3 The Private Equity Fund Manager must seek to invest at least 51% of the value of funds under management in companies that have at least a 25% direct Black shareholding using the Flow -Through Principle.
- 3.10.4 The Private Equity Fund Manager can facilitate direct Black shareholding at the time of entering into the transaction should the target company not meet the requirement of at least 25% Black shareholding at the time that the transaction is concluded.
- 3.10.6 This determination will be made at each measurement date and the status given to the Private Equity Fund Manager will be applicable for a period of 12 months;
- 3.10.7.1. In recognition of the fact that it is currently a challenge for Private Equity Fund Managers to find companies to invest in that already have a significant Black shareholding, in practice it should be allowed to achieve the 51% target over a period of time based on the formulation detailed below. (It must be noted that this formulation is in line with that of the Net Value calculation above.) This rule will apply to all investments made after 11 October 2014 and the date of establishment of a new fund;
- 3.10.8.1. Within a year from the commencement date, more than 5% of the sale of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 25% direct Black shareholding;
- 3.10.9.1. Within two years from the commencement date, more than 10% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 25% direct Black shareholding;
- 3.10.10 From the first day of the third year and the last day of the fourth year from the commencement date, more than 20% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 25% direct Black shareholding;
- 3.10.11 From the first day of the fifth year and the last day of the sixth year from the commencement date, more than 30% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least

25% direct Black shareholding;

- 3.10.12 From the first day of the seventh year and the last day of the eight year from the commencement date, more than 40% of the value of the funds invested by the Private Equity Fund must at all times be invested in the enterprises that have at least 25% direct Black shareholding;
- 3.10.13 From the first day of the ninth year and beyond from the commencement date, at least 51% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 25% direct Black shareholding;
- 3.10.14 It should be noted that the measurement of at least 51% of the value of funds invested by any Private Equity Fund that must be invested in enterprises with at least 25% direct Black shareholding is to be measured with reference to the cost of the investment made by the Private Equity Fund;
- 3.10.15 In the case of Private Equity Funds that were fully invested prior to October 2014, investments by the fund managers will be considered as being made by Black People if the Private Equity Fund Manager entities meet the following criteria:
- 3.10.15.1 At least 51% of any of the Private Equity Fund Manager's Exercisable Voting Rights associated with the Equity rights of ownership in a Measured Entity, must be held by Black People;
- 3.10.15.2 At least 51% of the profits accruing to the Private Equity Fund Manager after realizing any investment made by it, must by written agreement, accrued to Black People; and
- 3.10.15.3 Private Equity Fund Manager must be a B-BBEE Owned Company.

3.11 NON-PROFIT COMPANIES

- 3.11.1 A Measured Entity may elect to include or exclude Non-Profit Companies for the purposes of measuring Ownership in terms of this statement;
- 3.11.2 When a Measured Entity elects to exclude such companies, it can do so by excluding up to 40% of the level of their Ownership completely from the determination of its compliance with the Ownership target;
- 3.11.3 A Measured Entity electing not to exclude Non-Profit Companies when it is entitled to do so, may either treat all of that Ownership as a non-Black or obtain a competent person's report estimating the extent of Black rights of Ownership measurable in the Measured Entity and originating from those Non-Profit Companies; and
- 3.11.4 A Non-Profit Company that houses a Broad-Based Ownership Scheme or an Employee Share Ownership Programme is subject to the provisions governing those types of schemes and not to paragraphs 3.11.1 to 3.11.3.

3.11.5 Black Participants in a Non-Profit Company or a company limited by guarantee that houses a Broad-Based Ownership Scheme or an Employee Share Ownership Programme holding rights of Ownership in a Measured Entity may contribute:

3.11.5.1 A maximum of 40% of the total points on the Ownership scorecard of the Measured Entity if they meet the qualification criteria for Broad-Based Ownership Schemes and Employee Share Ownership Programmes set out in FSC 100(B) and Annexe FSC100(C) respectively.

3.11.5.2 100% of the total points on the Ownership scorecard of the Measured Entity if they meet the additional qualification criteria set out for Broad-Based Ownership Schemes and Employee Share Ownership Programmes in Annexe FSC100 (B) and Annexe FSC100 (C) respectively.

3.12 TRUSTS

3.12.1 Black Participants in a Trust holding rights of Ownership in a Measured Entity may contribute:

3.12.1.1 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 Annexe FSC100(D)

3.12.1.2 100% of the total points on the Ownership scorecard of the Measured Entity if the Trust meets the additional qualification criteria set out for Trusts in Annexe FSC100 (D)

3.13 OPTIONS AND SHARE WARRANTS

3.13.1 Exercisable Voting Rights and Economic Interest will be recognized where a Participant holds an instrument granting the holder the right to acquire an Equity Instrument or part thereof at a future date, if the following requirements are met:

3.13.1.1 The Exercisable Voting Rights attached to that instrument are irrevocably transferred to the holder for the option period and are exercisable by the holder before acquiring the Equity Instrument;

3.13.1.2 The value of any Economic Interest is irrevocably transferred to the holder for the option period and paid to the holder of that instrument before the exercise of that right; and

3.13.1.3 The value of the instrument must be determined by using a Standard Valuation Method for calculating the Net Value.

3.14 EQUITY INSTRUMENTS CARRYING PREFERENCE RIGHTS

- 3.14.1 An Equity Instrument carrying preferential rights is measurable in the same manner as an ordinary Equity Instrument.
- 3.14.2 An Equity Instrument carrying preferential rights that have the characteristics of a debt, regardless of whether the debt is that of an Entity or of a Participant, must be treated as an ordinary loan. If the debt is that of a Black Participant, it may be subject to measurement under Net Value.
- 3.14.3 In evaluating an instrument that has a hybrid nature including the characteristics of a debt, only that portion that represents a debt will be measured under current equity interest. The remainder is measurable as an ordinary equity instrument.

3.15 BONUS POINTS

- 3.15.1 The communities and Employees referred to in paragraphs 2.4.1 and 2.4.2 respectively do not need to hold their Economic Interest through a Broad-Based Ownership Scheme or Employee Share Ownership Programme for it to earn the Measured Entity recognition.
- 3.15.2 The bonus points in indicators 2.4.3 and 2.4.4 can only be earned if the Measured Entity has already achieved the targets in each of those cases as set out in indicators 2.2.1 and 2.2.2. respectively.

4. ANNEXE FSC100 (A)**EXAMPLES OF MANDATED INVESTMENTS**

Description of Investment	Portion Subject to Exclusion Principle
Investments made by or for a South African collective investment scheme as defined in the Collective Investments Scheme Control Act of 2002 of South Africa	full value
Investments made by or for a South African pension fund as defined in the Pension Fund Act of 1956 of South Africa	full value
Investments made by or for a South African medical scheme as defined in the Medical Schemes Act of 1998 of South Africa out of member's funds	portion recorded as made out of member's fund
Investments made by or for South African long-term insurers as defined in the Long-Term Insurance Act of 1998 of South Africa out of policyholder funds	portion recorded as made out of policyholder funds
Investments made by or for a friendly society as defined in the Friendly Societies Act of 1956 of South Africa	full value
Investments made by or for a South African bank as defined in the Banks Act of 1990 of South Africa out of depositors funds as opposed to own reserves	depositor portion determined by apportioning investment in the ratio that depositor funds to own reserves
Investments made by or for a South African mutual bank as defined in the Mutual Banks Act of 1993 of South Africa out of depositor funds as opposed to own reserves	depositor portion determined by apportioning investment in the ratio that depositor funds to own reserves

ANNEXE FSC100 (B)**1. RULES FOR BROAD-BASED OWNERSHIP SCHEMES**

- 1.1 The following rules apply to Broad-Based Ownership Schemes:
- 1.1.1 the Management Fees of the scheme must not exceed 15% of the total Economic Interest received by the scheme in any year;
 - 1.1.2 the constitution of the scheme must record the rules governing any portion of Economic Interest received and reserved for future distribution or application;
 - 1.1.3 the constitution of the scheme must define the Participants and the proportion of their claim to receive distributions;
 - 1.1.3.1 a written record of the name of the Participants or the use of a defined class of natural person satisfies the requirement for identification;
 - 1.1.3.2 a written record of fixed percentages of claim or the use of a formula for calculating claims satisfies the need for defining proportion of benefit; and
 - 1.1.4 the fiduciaries of the scheme must have no discretion on the above mentioned terms of the constitution;
 - 1.1.5 at least 85% of the value of benefits allocated by the scheme must accrue to Black People;
 - 1.1.6 at least 50% of the fiduciaries of the scheme must be independent persons having no employment with or direct or indirect beneficial interest in the scheme;
 - 1.1.7 at least 50% of the fiduciaries of the scheme must be Black People and at least 25% must be Black women;
 - 1.1.8 the chairperson of the scheme must be independent;
 - 1.1.9 the constitution or other relevant statutory documents, of the scheme must be made available, on request, to any Participant in an official language in which that person is familiar;
 - 1.1.10 On winding-up or termination of the scheme, all accumulated Economic Interest must be transferred to the beneficiaries or an entity with similar objectives.

2. ADDITIONAL CRITERIA APPLICABLE TO BROAD-BASED OWNERSHIP SCHEMES

2.1 For a Measured Entity to obtain the maximum points on its Ownership scorecard, the following additional requirements must be met by a Broad-Based Ownership Scheme:

2.1.1 a track-record of operating as a Broad-Based Ownership Scheme, or in the absence of such a track-record demonstrable evidence of full operational capacity to operate as a Broad-Based Ownership Scheme; and

2.1.1.1 operational capacity must be evidenced by suitably qualified and experienced staff in sufficient number, experienced professional advisors, operating premises, and all other necessary requirements for operating a business.

ANNEXE FSC100 (C)**1. RULES FOR EMPLOYEE SHARE OWNERSHIP PROGRAMMES**

- 1.1 The following rules apply to Employee Share Ownership Programmes;
- 1.1.1 The constitution of the scheme must define the Participants and the proportion of their claim to receive distributions;
- 1.1.1.1 a written record of the name of the Participants or the use of a defined class of natural person satisfies the requirement for identification;
- 1.1.1.2 a written record of fixed percentages of claim or the use of a formula for calculating claims satisfies the need for defining proportion of benefit; and
- 1.1.2 The fiduciaries of the scheme must have no discretion on the above mentioned terms of the constitution; and
- 1.1.3 The Participants must take part in:
- 1.1.3.1 Appointing at least 50% of the fiduciaries of the scheme;
- 1.1.3.2 Managing the scheme at a level similar to the management role of shareholders in a company having shareholding;
- 1.1.4 The constitution, or other relevant statutory documents, of the scheme must be made available, on request, to any Participant in an official language in which that person is familiar;
- 1.1.5 The scheme fiduciaries must present the financial reports of the scheme to Participants yearly at an annual general meeting of the scheme; and
- 1.1.6 All accumulated Economic Interest of the scheme is payable to the Participants at the earlier of a date or event specified in the scheme constitution or on the termination or winding-up of the scheme.

2. ADDITIONAL CRITERIA APPLICABLE TO EMPLOYEE SHARE OWNERSHIP PROGRAMMES

- 2.1 For a Measured Entity to obtain the maximum points on its Ownership scorecard, the following additional requirements must be met by an Employee Share Ownership Programme:
- 2.1.1 a track-record of operating as a Broad-Based Ownership Scheme or Employee Share Ownership Scheme, or in the absence of such a track-record demonstrable evidence of full operational capacity to operate as an Employee Share Ownership Programme;
- 2.1.1.1 operational capacity must be evidenced by suitably qualified and experienced staff in sufficient number, experienced professional advisors, operating premises and all other necessary requirements for operating a business.

ANNEXE FSC100 (D)**1. RULES FOR TRUSTS (INCLUDING FAMILY TRUSTS)**

- 1.1 The qualification criteria for the recognition of Trusts are as follows:
- 1.1.1 The trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;
- 1.1.1.1 a written record of the names of the beneficiaries or the use of a defined class of natural person satisfies the requirement for identification;
- 1.1.1.2 a written record of fixed percentages of entitlement or the use of a formula for calculating entitlement satisfies the need for defining proportion of benefit;
- 1.1.4 The trustees must have no discretion on the above mentioned terms of the trust deed except where it is a family trust. In case of a family trust only the trustees may have a discretion with respect to the above mentioned terms and then only within the confines of the discretion awarded them by the trust deed; and
- 1.1.5 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.

2. ADDITIONAL CRITERIA APPLICABLE TO TRUSTS

- 2.1 For a Measured Entity to obtain the maximum points on its Ownership scorecard from shareholding by a Trust, the Measured Entity must be in possession of a certificate issued by a competent person to the effect:
- 2.1.1 that the Trust was created for a legitimate commercial reason which must be fully disclosed; and
- 2.1.2 that the terms of the Trust do not directly or indirectly seek to circumvent the provisions of the Codes and the Act.

3. RULES FOR DISCRETIONARY JURISTIC PERSONS

- 3.1 The terms of a constitution, memorandum of incorporation (MOI) or the trust deed of a juristic person, whichever the case may be, may notwithstanding the Rules for Broad-Based Ownership Schemes, Employee Share Ownership Programmes and the Rules for Trusts (Annexe FSC100 B; C & D), provide for a discretion to the fiduciaries to distribute, in their sole and unfettered discretion, such portions of the juristic person's income and capital as they deem fit from time to time to such beneficiaries or members of a defined class of beneficiaries as they may decide in their sole and unfettered discretion from time to time;
- 3.2 The discretion to the fiduciaries referred to in 3.1. above must be exercised in accordance with the terms of the constitution, MOI or trust deed. Subject to compliance with the remainder of the rules and additional rules as embodied in Annexe FSC100 B, C and D, such discretion will not disqualify the juristic person from qualifying for recognition under the Ownership Scorecard;
- 3.3. Where such a discretion or a partial discretion exists, the race and gender composition of rights of ownership that flow through the juristic person must be determined with reference to the wording of the constitution, MOI or trust deed having regard to the race and gender of Participants thereof and their proportion of entitlement to income or that of certain classes of Participants (where applicable);
- 3.3.1 where the wording of the constitution, MOI or trust deed is clear on the racial or gender composition of Participants - the constitution, MOI or trust deed, which ever the case may be, will serve as sufficient evidence to those facts it is clear on;
- 3.3.2 where the determination of race and gender of Participants are not practically determinable from a pure reading of the trust deed, reliance may be placed on a competent person's report estimating the rights of ownership that flows through the juristic person. Such report may have regard to various factors which could include where appropriate:
- 3.3.2.1 *ad hoc* distributions to Participants of income and capital during the Measurement Period;
- 3.3.2.2 official estimating records such as publicly available

municipal records, university or school enrolment records and the South African census reports;

- 3.3.3 where the determination of race and gender of Participants are indeterminable notwithstanding the mechanisms provided for in paragraphs 3.3.1 and 3.3.2 the Participants must be regarded as non-black.
- 3.4 Participants in juristic person's with these discretionary terms seldom have the right to vote at general meetings of the juristic person. Their rights are represented by the fiduciaries who make decisions on their behalf. For this reason the Economic Interest of such Participants as determined in paragraph 3.3 above will serve as a proxy for their Voting Rights.

ANNEXE FSC100 (E)**1. MEASUREMENT OF VOTING RIGHTS**

- 1.1 The calculation of the Ownership indicators provided for in paragraphs 2.1.1 and 2.1.2 of the Ownership scorecard is as follows:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved for the Entity for the measured Ownership indicator

B is the percentage that Exercisable Voting Rights in the hands of the category of Participants who are Black People in that Entity holds to all Voting Rights held by all Participants of that Entity

C is the percentage compliance Target for Exercisable Voting Rights for the applicable measured Ownership indicator in paragraph 2.1 of the Ownership scorecard.

D is the Weighting points allocated to the applicable measured Ownership indicator in paragraph 2.1 of the Ownership scorecard.

- 1.2 If an Entity gains a score in the Formula above that is more than the Weighting points in paragraph 2.1, that Entity will only receive the Weighing points.

2. MEASUREMENT OF ECONOMIC INTEREST

- 2.1 The calculation of the Ownership indicators provided for in paragraphs 2.2.1, 2.2.2, 2.2.3 and 2.2.4 of the Ownership scorecard is as follows:

$A = \frac{B}{C} \times D$
<p>Where</p> <p>A is the score achieved for the Entity for the measured Ownership indicator</p> <p>B is the percentage that Economic Interest to which Participants who fall within the category of Black People in that Entity holds to all Economic Interest held by all Participants of that Entity</p> <p>C is the percentage compliance Target for Economic Interest for the applicable measured Ownership indicator in paragraph 2.2 of the Ownership scorecard.</p> <p>D is the Weighting points allocated to the applicable measured Ownership indicator in paragraph 2.2 of the Ownership scorecard.</p>

- 2.2 If an Entity gains a score in the Formula above that is more than the Weighting points in paragraph 2.2, that Entity will only receive the Weighting points.

3. CALCULATION OF DEEMED VALUE

- 3.1 In calculating the "Deemed Value" referred to in Formula 4 below, the following formula applies:

$A = \frac{B - C}{D}$
<p>Where</p> <p>A is the Deemed Value</p> <p>B for the purposes of Formula 4 below is the value of the Equity Instruments relevant to the calculation, determined on the Date of Measurement</p> <p>C for the purpose of Formula 5 below is the value of the Equity Instruments relevant to the calculation, determined on the date of sale or loss</p>

C for the purposes of Formula 4 below is the carrying value of any Acquisition Debts of the relevant Black Participants on the Date of Measurement

C for the purpose of Formula 5 is the carrying value of any Acquisition Debts of the relevant Black Participants on the date of sale or loss

D for the purpose of Formula 4 below is the value of the Measured Entity on the Date of Measurement

D for the purpose of Formula 5 below the value of the Measured Entity (inclusive of the black Equity Instruments sold or lost) on the date of sale or loss

D for the purpose of the Exclusion Principle is the value of the measurable portion of the Measured Entity on the Date of Measurement

4. NET VALUE

4.1 The "Net Value" points in paragraph 2.3.1 are the lower result of Formula A and Formula B below:

Formula A

$$A = B \times \left(\frac{1}{25\% \times C} \right) \times 8$$

Where

A is the score under paragraph 2.3.1 of the Ownership scorecard

B is the Deemed Value for all Black Participants in the Measured Entity determined using Formula 3 above

C is the Time-Based Graduation Factor of the Economic Interest compliance target outlined below:

- **10%** for the first year after the Current Equity Interest Date.
- **20%** for the second year after the Current Equity Interest Date.
- **40%** from the first day of the third year after the Current Equity Interest Date to the last day of the fourth year after the Current Equity Interest Date.

- **60%** from the first day of the fifth year after the Current Equity Interest Date to the last day of the sixth year after the Current Equity Interest Date.
- **80%** from the first day of the seventh year after the Current Equity Interest Date to the last day of the eighth year after the Current Equity Interest Date.
- **100%** from the first day of the ninth year after the Current Equity Interest Date to the last day of the tenth year after the Current Equity Interest Date.

C for the purpose of Measured Entities in the grower sub-sector is the Time-Based Graduation Factor of the Economic Interest compliance target determined as follows. Instead of a period over 10 years it is based on full payment in equal tranches over the crop rotation cycle for the timber crop grown by the enterprise, by applying the following formula:

$$C = N/R \times 100\%$$

Where

C is the Time Based Graduation Factor;

N is the year after the effective date being measured;

R is the crop rotation period in years.

Formula B

$$A = \frac{B}{C} \times 8$$

Where

A is the score under paragraph 2.3.1 of the Ownership scorecard.

B is the percentage Economic Interest in the Measured Entity of Black Participants measured using the Flow Through Principle.

C is the target for the Ownership indicator in paragraph 2.2.1 of the Ownership scorecard.

- 4.2 If an Entity gains a score in the Formula above that is more than the Weighting points in paragraph 2.3.1, that Entity will only receive the Weighting points.

5. CALCULATION OF THE RECOGNITION OF OWNERSHIP AFTER THE SALE OR LOSS OF SHARES BY BLACK PARTICIPANTS:

The calculations in paragraphs 3.8.1 and 3.8.4 use the following formula:

$A = B \times C \times D$
<p>Where</p> <p>A is the percentage of rights of Ownership that survive the sale or loss of an Equity Instrument by a Black Participant in paragraph 3.8 of the statement</p> <p>B is the percentage of rights of Ownership for each of indicators in the Ownership scorecard that were attributable to the Black Participants immediately before his or her sale or loss of shares</p> <p>C is the Deemed Value percentage provided for in paragraph 3 above undertaken for the Equity Instruments sold or lost by the Black Participant on the date of the sale or loss. The value of the Entity is measurable as at the date of sale or loss of shares</p> <p>D is the most recently determined B-BBEE Recognition Level of the Measured Entity (which must be less than 1-year old) based on its applicable Scorecard result for all Elements other than Ownership determined using statement 000</p>

6. CALCULATION OF THE BONUS POINTS ON THE OWNERSHIP SCORECARD:

- 6.1 The calculation of the Ownership indicators provided for in paragraphs 2.4.1, 2.4.2, 2.4.3 and 2.4.4 of the Ownership scorecard in as follows:

$A = \frac{B}{C} \times D$
<p>Where</p> <p>A is the score achieved for the Entity for the measured Ownership indicator</p> <p>B is the percentage that Economic Interest to which Participants who fall within the category of Black People in that Entity holds to all Economic Interest held by all Participants of that Entity</p> <p>C is the percentage compliance Target for Economic Interest for the applicable measured Ownership indicator in paragraph 2.4 of the Ownership scorecard.</p> <p>D is the Weighting points allocated to the applicable measured Ownership indicator in paragraph 2.4 of the Ownership scorecard.</p>

- 6.2 If an Entity gains a score in the Formula above that is more than the Weighting points in paragraph 2.4, that Entity will only receive the Weighting points.

AMENDED CODE SERIES FSC200: MEASUREMENT OF THE MANAGEMENT CONTROL ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT FSC200: THE GENERAL PRINCIPLES FOR MEASURING MANAGEMENT CONTROL

Issued under the section 9 (5) of the Broad-Based Black Economic Empowerment Act of 2003 as amended by Act 46 of 2013

Arrangement of this statement

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1 OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring Management Control contributions to B-BBEE;
- 1.2 Define the key measurement principles for measuring the Management Control contributions to B-BBEE; and
- 1.3 Define the formula for calculating the score for Management Control.

2 MANAGEMENT CONTROL SCORECARD

The following table represents the criteria used for deriving a score for Management Control under this statement.

Measurement Category & Criteria	Weighting Points	Compliance Targets
2.1 Board Participation:		
2.1.1 Exercisable Voting Rights of black board members as a percentage of all board members	2	50%
2.1.2 Exercisable Voting Rights of black female board members as a percentage of all board members	1	25%
2.1.3 Black Executive Directors as a percentage of all executive directors	2	50%
2.1.4 Black female Executive Directors as a percentage of all Executive Directors	1	25%
2.2 Other Executive Management:		
2.2.1 Black Other Executive Management as a percentage of all Other Executive Management	2	60%
2.2.2 Black female other Executive Management as a percentage of all Other Executive Management	1	30%

2.3 Senior Management		
2.3.1 Black Employees in Senior Management as a percentage of all Senior Management	2	60%
2.3.2 Black female Employees in Senior Management as a percentage of all Senior Management	1	30%
2.4 Middle Management		
2.4.1 Black Employees in Middle Management as a percentage at all Middle Management	2	75%
2.4.2 Black female Employees in Middle Management as a percentage of all Middle Management	1	38%
2.5 Junior Management		
2.5.1 Black Employees in Junior Management as a percentage of all Junior Management	1	88%
2.5.2 Black female Employees in Junior Management as a percentage of all Junior Management	1	44%
2.6 Employees with disabilities		
2.6.1 Black Employees with Disabilities as a percentage of all office based Employees	2	2%

3 KEY MEASUREMENT PRINCIPLES

- 3.1 A Measured Entity receives points for its achievement towards the Targets for participation of Black People and black women at Board, Executive Management, Senior Management, Middle Management, Junior Management Level, and black Employees with Disabilities.
- 3.2 A Measured Entity must use the current payroll data as at Measurement Date in calculating its score under the Management Control scorecard.
- 3.3 If a Measured Entity does not distinguish between Other Executive Management and Senior Management, then Executive Management is measurable as a single

indicator with a Weighting of 6 points under paragraphs 2.2.1 and 2.2.2 split as 4 and 2 points respectively.

- 3.4 Where a Measured Entity does not have any employees in any of the categories: Middle- or Junior Management, then the weightings of the indicator which has no employees must be evenly distributed among the remaining categories of Senior, Middle or Junior Management. Where there is no Senior, Middle or Junior Management, the aggregate weightings of these 3 categories will be allocated to 'Other Executive Management'. Male weighting points to male and female to female.

3.5 DEFINING OTHER EXECUTIVE MANAGEMENT

- 3.5.1 Executive Management positions include the Executive Directors of the Measured Entity.
- 3.5.2 Executive Management positions also include executive management that do not serve on the board, such as chief executive officer, chief operating officer, chief financial officer, human resource executive, transformation executive and other people holding similar positions. Executive Management such as these that do not serve on the board are herein referred to as 'Other Executive Management' and are measurable under 2.2.1 and 2.2.2 of the Management Control Scorecard.
- 3.5.3 Executive Directors are only measurable under 2.1 of the Management Control scorecard and not 2.2.

4 MEASUREMENT OF THE MANAGEMENT CONTROL CRITERIA

The criteria in the Management Control scorecard is measured in terms of the formula set out in Annexe FSC200 (A), (B) and (C).

ANNEXE FSC200 (A)**MEASUREMENT OF MANAGEMENT CONTROL INDICATORS**

The Management Control criteria provided for in paragraphs 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 is calculated as follows:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved by a Measured Entity in respect of the measurement of the criteria specified in paragraph 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Management Control scorecard

B in the case of paragraph 2.1, is the Voting Rights in the hands of black members of the Board as a percentage of Voting Rights of all members of the Board in the Measured Entity; or

B in the case of paragraph 2.2, is the percentage of Black Employees in the Other Executive Management category of the Measured Entity; or

B in the case of paragraph 2.3, 2.4 and 2.5, is the percentage of Black Employees for each of the indicators in those paragraphs as calculated in Annexe FSC200 (B); or

B in the case of paragraph 2.6, is the percentage of Black Employees with a Disability as a percentage of all Employees

C is the percentage compliance Target in respect of the applicable criteria being measured as specified in paragraph 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Management Control scorecard

D means the Weighting points allocated to the applicable criteria being measured as specified in paragraph 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Management Control scorecard

ANNEXE FSC200 (B)**1. MEASUREMENT OF THE 'BLACK PEOPLE' INDICATORS OF SENIOR MANAGEMENT, MIDDLE MANAGEMENT, AND JUNIOR MANAGEMENT.**

Subject to the limitations in clause 3 Annexe FSC200 (B) below, the calculation of the Management Control indicators provided for in paragraphs 2.3.1, 2.4.1, and 2.5.1 of the Management Control scorecard are as follows:

$$A = AM + CM + IM + AF + CF + IF$$

Where:

A is the percentage of Black Employees that is "**B**" in the formula in Annexe FSC200 (A) for each of the indicators in paragraphs 2.3.1, 2.4.1 and 2.5.1.

AM is the percentage of Employees in the measurement category that are African Males.

CM is the percentage of Employees in the measurement category that are Coloured Males.

IM is the percentage of Employees in the measurement category that are Indian Males.

AF is the percentage of Employees in the measurement category that are African Females.

CF is the percentage of Employees in the measurement category that are Coloured Females.

IF is the percentage of Employees in the measurement category that are Indian Females.

2. MEASUREMENT OF THE 'BLACK FEMALE' INDICATORS OF SENIOR MANAGEMENT, MIDDLE MANAGEMENT, AND JUNIOR MANAGEMENT.

Subject to the limitations in clause 3 Annexe FSC200 (B) below, the calculation of the Management Control indicators provided for in paragraphs 2.3.2, 2.4.2, and 2.5.2 of the Management Control scorecard are as follows:

$$A = AF + CF + IF$$

Where:

A is the percentage of Black female Employees that is "**B**" in the formula in Annexe FSC200 (A) for each of the indicators in paragraphs 2.3.2, 2.4.2 and 2.5.2.

AF is the percentage of Employees in the measurement category that are African Females.

CF is the percentage of Employees in the measurement category that are Coloured Females.

IF is the percentage of Employees in the measurement category that are Indian Females.

3. LIMITATION OF *AM*, *CM*, *IM*, *AF*, *CF* and *IF*

3.1 ***AM*, *CM*, *IM*, *AF*, *CF*** and ***IF*** wherever they occur in the formulae above, are always limited to a proportion of the respective Target in paragraphs 2.3.1, 2.3.2, 2.4.1, 2.4.2, 2.5.1. and 2.5.2. The proportion to be applied to such Target to determine the limitation on each of ***AM*, *CM*, *IM*, *AF*, *CF*** and ***IF*** are the respective proportion which each of them contribute to the Black People component (or where applicable Black female component) of the overall EAP as published in the Commission for Employment Equity Report, and as amended from time to time in terms of the Employment Equity Regulations (see Annexe FSC200(C) for an example).

3.2 Measured Entities will not all have a national footprint and may, for example, conduct the majority of their business operations within a province where the racial and gender composition of the EAP are significantly different to that of the overall national EAP. To make provision for these provincial distortions from the overall national EAP, Measured Entities will have an election to make use of either the overall national or overall provincial EAP statistics of a particular province when they calculate the proportion that each race and gender sub-groups in the formulas contribute to the Black People and Black female component respectively of the EAP as per 3.1 above.

- 3.3 A Measured Entity electing to use the overall provincial EAP of a particular province must use the overall provincial EAP of the province the majority of its Employees are from.
- 3.4 The word '*overall*' as used above in relation to 'national' or 'provincial' EAP statistics refers to the EAP of the labour force as a whole, whether nationally or for a particular province, whichever the case may be. Therefore, even though the Commissioner for Employment Equity Report also reports on the EAP breakdown nationally and provincially per Senior, Middle and Junior management the term '*overall*' is used to indicate that this further breakdown per employment category, should not be used.

ANNEXE FSC200 (C)**EXAMPLE FOR DETERMINING LIMITATION OF AM, CM, IM, AF, CF and IF**

The example below illustrates how the limitation of the Target for each of the race sub-categories is determined with respect to the 'Black People' indicator of Senior Management (par. 2.3.1):

Step 1: Determine the profile of the overall national EAP distribution per race and gender as per the CEE Report*

	African Male	Coloured Male	Indian Male	White Male	African Female	Coloured Female	Indian Female	White Female	Total
National EAP distribution by race and gender as per CEE Report	40.70%	5.80%	1.90%	6.40%	34.20%	5.00%	1.10%	4.90%	100%

* In this example the overall national EAP statistics are used. It could just as well have been the overall provincial EAP statistics if the Measured entity selected so in terms of paragraph 3.2 of Annexe FSC200 (B).

Step 2: Calculate the total Black People component of the EAP as per the CEE Report in step 1*

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Black People Component
Black People component of national EAP	40.70%	5.80%	1.90%	34.20%	5.00%	1.10%	88.70%

*If one were calculating the limitation applicable to the female sub-race groups if one were measuring the 'Black Female' indicator of Senior Management, then Step 2 would reference the Black female sub-race groups only.

Step 3: Calculate the proportion each Black race and gender sub-group constitutes of the total Black People component determined as per Step 2

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Total
Proportion of each race and gender sub-group of Black People component of EAP	45.89%	6.54%	2.14%	38.56%	5.64%	1.24%	100%

Step 4: Apply the proportion calculated in step 3 to the Target for Senior Managers (par. 2.3.1) i.e. 60%

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Senior Management Target
Limit each race and gender sub-group of Black People may contribute to Senior Management's Target	27.53%	3.92%	1.29%	23.13%	3.38%	0.74%	60%

For calculating the score for par. 2.3.1 of the Management Control Scorecard **AM, CM, IM, AF, CF** and **IF** are therefore limited to the percentages as calculated per Step 4 above.

**AMENDED CODE SERIES FSC300: MEASUREMENT OF THE SKILLS
DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT FSC300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS
DEVELOPMENT**

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003 as amended by Act 46 of 2013

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1 OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 Define the key measurement principles associated with the Skills Development Element; and
- 1.3 Indicate the formula for measuring the Skills Development Element

2 THE SKILLS DEVELOPMENT ELEMENT SCORECARD

- 2.1 The following table represents the criteria used for deriving a score for Skills Development under this statement:

Category	Skills Development Element	Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any programme specified in the Learning Programme Matrix for Black People as a percentage of the Leivable Amount		
2.1.1.1	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for Black People as a percentage of Leivable Amount	8	5%
2.1.1.2	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for Black People with Disabilities as a percentage of Leivable Amount	4	0.3%
2.1.2	Learnerships, Apprenticeships, and Internships		
2.1.2.1	Number of Black Employees participating in Learnerships, Apprenticeships and Internships paid for by the Measured Entity as a percentage of total Employees	4	2.5%
2.1.2.2	Number of black Unemployed Learners participating in Learnerships, Apprenticeships and Internships paid for by the Measured Entity as a percentage of number of total Employees	4	2.5%
Bonus points:			
2.1.3	Number of Black People Absorbed by the Measured Entity at the end of the Learnerships programme	5	100%

3 KEY MEASUREMENT PRINCIPLES

- 3.1 The following criteria must be fulfilled in order for the Measured Entity to receive points on the Skills Development scorecard:
- 3.1.1 Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and
 - 3.1.2 Implementation of Priority Skills programme generally, and more specifically for Black People.
- 3.2 The 5% compliance target under paragraph 2.1.1.1 includes external training expenditure for Black People that are not employed by the Measured Entity.
- 3.3 A trainee tracking tool has to be developed in order for the Measured Entity to score under paragraph 2.1.3.
- 3.4 If less than 100% of the trainees are absorbed under paragraph 2.1.3, the percentage achieved or Absorbed will be recognised.
- 3.5 Skills Development Expenditure on Black People that are counted under the Skills Development scorecard may not be counted again under any other B-BBEE element of the QSE or Generic Scorecard.

4 SUBMINIMUM AND DISCOUNTING PRINCIPLE

- 4.1 A Measured Entity must achieve a minimum of 40% of the total Weighting points (excluding bonus points) set out in the Skills Development Element
- 4.2 Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.6.3 of statement FSC000.

5 GENERAL PRINCIPLES

5.1 Skills Development must:

- 5.1.1 contribute to the achievement of the country's economic growth and social development goals that will enrich the creation of decent work and sustainable livelihoods.
- 5.1.2 promote the development of an industrial skills base in critical sectors of production and value-added manufacturing, which are largely labour-intensive industries.
- 5.1.3 support Professional, Vocational, Technical and Academic Learning programmes, achieved by means of professional placements, work-integrated learning, Apprenticeships, Learnerships and Internships, that meet the criteria needs for economic growth and development.
- 5.1.4 strengthen the skills and human resource base by encouraging the support of skills development initiatives with an emphasis on skills development and career pathing for all working people in order to support employment creation.

5.2 Recognisable Skills Development Expenditure includes any Legitimate Training Expenses incurred for any Learning Programme offered by a Measured Entity to Black People, Black People with Disabilities or black Unemployed Learners, evidenced by an invoice or appropriate internal accounting record.

5.3 Skills Development Expenditure arising from Informal training or Category F and G Learning Programmes under the Learning Programmes Matrix cannot in aggregate represent more than 15% of the total value of Skills Development Expenditure.

5.4 The following Legitimate Training Expenses incurred by the Measured Entity cannot in aggregate represent more than 15% of the total value of Skills Development Expenditure:

- 5.4.1 accommodation of learners;
- 5.4.2 catering for learners at learning site;
- 5.4.3 travelling of learners to and from the learning site.

5.5 Salaries or wages paid to an Employee of the Measured Entity participating as a learner in any Learning Programme only constitute Skills Development Expenditure

if the Learning Programme is a Learnership, Internship or Apprenticeship (Category B, C and D of the Learning Programme Matrix). Salaries or wages so paid to the Employee are only claimable for the period over which that Employee was participating in the Learnership, Internship or Apprenticeship.

5.6 Expenses on scholarships and bursaries for Employees do not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the Employee or if the grant of the scholarship or bursary is conditional. Despite the afore ongoing, if the right of recovery or the condition involves either of the following obligations of the Employee, the expenses are recognisable:

5.6.1 the obligation of successful completion in their studies within the time period allocated; or

5.6.2 the obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.

5.7 Mandatory sectoral training e.g. health and safety training may not in aggregate contribute more than 60% of the Skills Development Expenditure, and then only if it is training that are regarded as Core Skills or Critical Skills by the Forest Sector Council in consultation with the relevant SETA. The Forest Sector Council will from time to time publish a list of mandatory training that may be regarded as training on Core Skills or Critical Skills. The Forest Sector Council may also upon request issue a ruling on whether or not a particular mandatory training intervention can be regarded as Core Skills or Critical Skills training for purposes of this paragraph.

5.8 Training on the operation of machinery unique to the Forest Sector, that is not locally available and therefore provided outside the country or that are provided locally but then only by foreign service providers, that are in line with the Learning Programme Matrix under Annexure FSC300 (A) is measurable if it meets the criteria in the Learning Programme Matrix. References in the matrix to terms such as 'statutory occupational or professional body', 'accredited body' and 'registered formal institution of learning' will in such cases include the foreign service provider whether it is actually accredited, registered or formally approved as a statutory occupational or professional body in South Africa or abroad, or not.

6 LEGITIMATE TRAINING EXPENSES

6.1 Legitimate Training Expenses include but is not necessarily limited to:

6.1.1 costs of training materials;

- 6.1.2 costs of trainers;
- 6.1.3 costs of training facilities including costs of catering;
- 6.1.4 scholarships and bursaries;
- 6.1.5 course fees;
- 6.1.6 accommodation and travel; and
- 6.1.7 Administration costs such as the organization of training including, where appropriate, the cost of the Measured Entity of employing a Skills Development facilitator or a training manager.

7 MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS

The formulae and example that explains the method of measurement of the criteria in the Skills Development scorecard is set out in Annexe FSC300 (B), (C) and (D).

8 ANNEXE FSC300 (A)

Cat	Programme	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
A	Bursaries	Institution-based theoretical instruction alone – formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited formal institution of learning
B	Internships	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
C	Learnerships	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
D	Learnerships or Apprenticeships	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institutions and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning

E	Work – integrated learning	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace, institutional as well as ABET providers	Credits awarded for registered unit standards, continued professional development, improved performance or skills (e.g. evidence of outputs based on Performance Development Programme)
F	Informal training	Occupationally-directed informal instructional programmes	Structured, information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standard (in some instances)
G	Informal training	Work-based informal programmes	Informal training	Workplace	Increased understanding of job or work context or improved performance of skills

ANNEXE FSC300 (B)**MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS**

The Skills Development criteria provided for in paragraphs 2.1.1, 2.1.2 and 2.1.3 of the scorecard are calculated as follows:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved by a Measured Entity in respect of the measurement of the Skills Development criteria specified in paragraphs 2.1.1, 2.1.2 and 2.1.3

B in the case of paragraph 2.1.1.1, is the amount of Skills Development Expenditure on Black People expressed as a percentage of the Leviable Amount of the Measured Entity, as calculated in Annexe FSC300(C); **or**

B in the case of paragraph 2.1.1.2, is the amount of Skills Development Expenditure on Black People with Disabilities expressed as a percentage of the Leviable Amount of the Measured Entity; **or**

B in the case of paragraph 2.1.2.1, is the number of Black Employees that are on Learnerships, Apprenticeships and Internships, expressed as a percentage of the total number of Employees of the Measured Entity, as calculated in Annexe FSC300(C); **or**

B in the case of paragraph 2.1.2.2 is the number of Black Unemployed Learners participating Learnerships, Apprenticeships and Internships, expressed as a percentage of the total number of Employees of the Measured Entity, as calculated in Annexe FSC300(C); **or**

B in the case of paragraph 2.1.3 is the number of Black People that completed a Learnership Programme during the Measurement Period and who was subsequently Absorbed by the Measured Entity, expressed as a percentage of the total number of Learnership Programmes that Black People were enrolled for and that ended during the Measurement Period.

C is the percentage compliance Target in respect of the applicable criteria being measured as specified in paragraph 2.1.1, 2.1.2, and 2.1.3 of the Skills Development scorecard

D is the Weighting for the applicable criteria being measured as specified in paragraph 2.1.1, 2.1.2, and 2.1.3 of the Skills Development scorecard

ANNEXE FSC300 (C)**1. MEASUREMENT OF THE EAP ADJUSTED INDICATORS OF THE SKILLS DEVELOPMENT SCORECARD.**

Subject to the limitations in clause 2 of this Annexe FSC300 (C) below, the calculation of the Skills Development indicators provided for in paragraphs 2.1.1.1, 2.1.2.1, and 2.1.2.2 of the Skills Development scorecard are as follows:

$$A = AM + CM + IM + AF + CF + IF$$

Where

A is the percentage spend on Black People (indicator 2.1.1.1) or percentage of Black People (indicator 2.1.2.1 and 2.1.2.2), that is "**B**" in the formula in Annexe FSC300 (B) for each of these indicators

AM is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are African Males

CM is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are Coloured Males

IM is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are Indian Males

AF is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are African Females

CF is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are Coloured Females

IF is the percentage of spend (indicator 2.1.1.1) or people (indicator 2.1.2.1 and 2.1.2.2) in the measurement category that are Indian Females

2. LIMITATION OF AM, CM, IM, AF, CF and IF

2.1 **AM, CM, IM, AF, CF** and **IF** wherever they occur in the formulae above, are always limited to a proportion of the respective Target in paragraphs 2.1.1.1, 2.1.2.1, and 2.1.2.2 of the Skills Development scorecard. The proportion to be applied to such Target to determine the limitation on each of **AM, CM, IM, AF, CF** and **IF** are the respective proportion which each of them contribute to the Black People component of the overall EAP as published in the Commission for Employment Equity Report, and as amended from time to time in terms of the Employment Equity Regulations (see Annexe FSC300 (D) for an example).

- 2.2 Measured Entities will not all have a national footprint and may, for example, conduct the majority of their business operations within a province where the racial and gender composition of the EAP are significantly different to that of the overall national EAP. To make provision for these provincial distortions from the overall national EAP, Measured Entities will have an election to make use of either the overall national or overall provincial EAP statistics of a particular province when they calculate the proportion that each race and gender sub-groups in the formulas contribute to the Black People and Black female component respectively of the EAP as per 2.1 above.
- 2.3 A Measured Entity electing to use the overall provincial EAP of a particular province must use the overall provincial EAP of the province the majority of its Employees are from.
- 2.4 The word '*overall*' as used above in relation to 'national' or 'provincial' EAP statistics refers to the EAP of the labour force as a whole, whether nationally or for a particular province, whichever the case may be. Therefore, even though the Commissioner for Employment Equity Report also reports on the EAP breakdown nationally and provincially per Senior, Middle and Junior management the term '*overall*' is used to indicate that this further breakdown per employment category, should not be used.

ANNEXE FSC300 (D)**EXAMPLE FOR DETERMINING LIMITATION OF AM, CM, IM, AF, CF and IF**

The example below illustrates how the limitation of the Target for each of the race sub-categories is determined with respect to the Black People indicator of Skills Development Expenditure (par. 2.1.1.1):

Step 1: Determine the profile of the overall national EAP distribution per race and gender as per the CEE Report*

	African Male	Coloured Male	Indian Male	White Male	African Female	Coloured Female	Indian Female	White Female	Total
National EAP distribution by race and gender as per CEE Report	40.70%	5.80%	1.90%	6.40%	34.20%	5.00%	1.10%	4.90%	100%

* In this example the overall national EAP statistics are used. It could just as well have been the overall provincial EAP statistics if the Measured entity selected so in terms of paragraph 2.2 of Annexe FSC300 (C).

Step 2: Calculate the total Black People component of the EAP as per the CEE Report in step 1

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Black People Component
Black People component of national EAP	40.70%	5.80%	1.90%	34.20%	5.00%	1.10%	88.70%

Step 3: Calculate the proportion each Black race and gender sub-group constitutes of the total Black People component determined as per Step 2

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Total
Proportion of each race and gender sub-group of Black People component of EAP	45.89%	6.54%	2.14%	38.56%	5.64%	1.24%	100%

Step 4: Apply the proportion calculated in step 3 to the Target for Skills Development Expenditure on Black People (par. 2.1.1.1) i.e. 6%

	African Male	Coloured Male	Indian Male	African Female	Coloured Female	Indian Female	Target for par. 2.1.1.1
Limit each race and gender sub-group of Black People may contribute to Senior Management's Target	2.75%	0.40%	0.13%	2.31%	0.34%	0.07%	6%

For calculating the score for par. 2.1.1.1 of the Skills Development scorecard **AM, CM, IM, AF, CF** and **IF** are therefore limited to the percentages as calculated per Step 4 above.

**AMENDED CODE SERIES FSC400: MEASUREMENT OF THE ENTERPRISE AND
SUPPLIER DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC
EMPOWERMENT**

**STATEMENT FSC400: THE GENERAL PRINCIPLES FOR MEASURING ENTERPRISE
AND SUPPLIER DEVELOPMENT**

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003 as amended by Act 46 of 2013

Arrangement of this statement

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1 OBJECTIVES OF THIS STATEMENT.

- 1.1 Specify the scorecard for measuring Qualifying Enterprise and Supplier Development Contributions;
- 1.2 Specify the key measurement principles applicable to calculating Preferential Procurement contributions; Qualifying Enterprise Development and Supplier Development Contributions;
- 1.3 Define the principles applicable when calculating B-BBEE Procurement Spend and Enterprise Development and Supplier Development Spend; and
- 1.4 Indicate the formula for calculating the individual criteria specified in the Enterprise and Supplier Development scorecard.

2 ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

The following table represents the criteria for deriving a score for Enterprise and Supplier Development under this statement

Criteria	Weighting Points	Compliance targets
2.1 PREFERENTIAL PROCUREMENT		
2.1.1 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%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	2	15%
2.1.3 B-BBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	15%
2.1.4 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black Owned based on the	9	40%

	applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend		
2.1.5	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	2	10%
2.1.6	B-BBEE Procurement Spend from Suppliers that are at least 51% Black Owned and 51% owned by Black Designated Groups.	2	2%
Bonus points			
2.1.7	Compliance with Industry Codes of Contracting <i>(these points can only be earned if the Measured Entity has earned 9.2 points in aggregate for indicators 2.1.1 to 2.1.6)</i>	2	Yes
2.2 SUPPLIER DEVELOPMENT			
2.2.1	Annual value of all Qualifying Supplier Development Contributions made by the Measured Entity as a percentage of the Target	10	2% of NPAT
2.3 ENTERPRISE DEVELOPMENT			
2.3.1	Annual value of all Qualifying Enterprise Development Contributions made by the Measured Entity as a percentage of the Target.	10 or 7*	1% of NPAT
2.3.2	Annual sale of logs & sawtimber (as a percentage of total sales in terms of tonnage) to enterprises based on their B-BBEE Procurement Recognition Levels	0 or 2*	0 or 20%*
2.3.3	Annual sale of logs and sawtimber (as a percentage of total sales in terms of tonnage) to enterprises (regardless of their B-BBEE Procurement Recognition Level) that are: - 51% Black Owned; or - 30% Black Women Owned	0 or 1*	0 or 5%*
<i>*These weightings and targets are only applicable where the Measured Entity is a Grower or a Sawmiller</i>			

2.4 Bonus Points			
2.4.1	Bonus point for graduation of one or more Qualifying Enterprise Development Beneficiaries to graduate to the Supplier Development level.	1	Yes
2.4.2	Bonus point for creating one or more jobs directly as a result of Qualifying Supplier Development and Enterprise Development Contributions by the Measured Entity.	1	Yes
2.4.3	Annual value of Supplier and/or Enterprise Development sector approved contributions in partnership with Government.	1	0.5% of NPAT (over and above the 3% NPAT combined ESD Target)
2.4.4	Annual Value of Supplier and/or Enterprise Development Contributions to 30% Black Women Owned QSE's and EME's.	1	0.5% of NPAT (over and above the 3% NPAT combined ESD Target)

3 KEY MEASUREMENT PRINCIPLES.

3.1 The Enterprise and Supplier Development scorecard consists of:

3.1.1 Preferential Procurement; and

3.1.2 Supplier Development and Enterprise Development

3.2 Qualifying Enterprise Development and Supplier Development Contributions will be recognised as a percentage of the annual Net Profit After Tax (NPAT) of the Measured Entity. For the avoidance of doubt, if the Measured Entity does not make a profit then Qualifying Enterprise Development and Supplier Development Contributions of nominal value will use the principle in the Generic Codes.

3.3 Sub-Minimum and Discounting Principle:

3.3.1 A Measured Entity must achieve a minimum of 40% of the total weighting points (excluding bonus points) of each of the three broad categories, within the Enterprise and Supplier Development element, namely Preferential Procurement; Supplier Development and Enterprise Development. For the avoidance of doubt this means that the Measured Entity must achieve at least:

- (i) 9.2 points under the Preferential Procurement category;
 - (ii) 4 points under the Supplier Development category;
 - (iii) 4 points under the Enterprise Development category;
- 3.3.2 Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.6.3 of statement FSC000.
- 3.3.3 Non-compliance to the threshold target as per paragraph 3.3.1(i) above will result in the Measured Entity being disqualified from earning any of the 2 bonus points in paragraph 2.1.7.
- 3.3.4 Non-compliance to the threshold targets as per paragraph 3.3.1 (ii) and (iii) above will result in the Measured Entity being disqualified from earning any of the 4 bonus points in paragraph 2.4.
- 3.4 Exempted Micro Enterprises and Start-ups are automatically recognized as Empowering Suppliers.
- 3.5 The Weighting points in the Enterprise and Supplier Development scorecard represent the maximum number of points possible for each of the criteria.
- 3.6 If a Measured Entity procures goods and services from a Supplier that is:
- 3.6.1 a recipient of Qualifying Supplier Development Contributions from a Measured Entity under Code series 400 that has a minimum 3 year contract with the Measured Entity, the recognizable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;
 - 3.6.2 a 51% Black Owned QSE or EME which is not a supplier development beneficiary but that has a minimum 3 year contract with the Measured Entity, the recognizable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;
 - 3.6.3 a first time Supplier to the Measured Entity, the recognizable B-BBEE Procurement Spend that can be attributed to that Supplier is multiplied by a factor of 1.2;
- 3.7 Procurement of goods and services and any other activities that fall under 2.1 will not qualify for scoring under 2.2 and 2.3 and vice versa.

- 3.8 Beneficiaries of Qualifying Supplier Development and Enterprise Development Contributions are EMEs and QSEs which are at least 51% Black Owned or at least 51% Black Woman Owned.

4. GENERAL PRINCIPLES

- 4.1 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 labor-intensive industries.
- 4.2 To increase local procurement through capacity building achieved by incentivizing appropriate local supplier development programmes by businesses supplying imported goods and services.
- 4.3 The imports provisions do not apply to the designated sectors and products for local production, as and when published.
- 4.4 To actively support procurement from 51% Black Owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.
- 4.5 To support procurement from 51% Black Owned and 30% Black Woman owned businesses in order to increase the participation of these businesses in the mainstream economy.
- 4.6 To promote the use of the 51% Black Owned professional service providers and Entrepreneurs as Suppliers.
- 4.7 Measured Entities receive recognition for any Qualifying Enterprise Development and Supplier Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 4.8 Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with the designated sectors of government's localization and value adding programmes.
- 4.9 Measured Entities are encouraged to align their Enterprise Development and Supplier Development initiatives with their supply chain requirements thereby linking Enterprise Development and Supplier Development with Preferential Procurement.
- 4.10 Qualifying Enterprise Development and Supplier Development Contributions of any Measured Entity are recognizable on an annual basis.

- 4.10.1 notwithstanding the foregoing portions of Qualifying Enterprise Development and Supplier Development Contributions made annually that exceed the Targets of indicators 2.2.1 and 2.3.1 respectively for the current Measurement Period may carry forward to the following Measurement Period for recognition. The portion carried forward may only be carried forward once; also
- 4.10.2 where contributions, programmes and/or initiatives span over multiple years, the total contribution amount may be divided by the number of years, and the average per year is then to be utilised for the annual contribution.
- 4.11 Measured Entities are encouraged to develop and implemented an Enterprise Development plan and Supplier Development plan for a beneficiary of their Qualifying Enterprise Development and Supplier Development Contributions. The plan should include.
- 4.11.1 Clear Objectives
- 4.11.2 Priority interventions
- 4.11.3 Key performance indicators; and
- 4.11.4 A concise implementation plan with clearly articulated milestones.
- 4.12 Measured Entities will not get recognition for the same activities undertaken under 2.2 and 2.3, they will only get recognition for one of the two i.e. 2.2 or 2.3.
- 4.13 No portion of the value of any Qualifying Enterprise Development and Supplier Development Contribution that is payable to the beneficiary after the last day of the Measurement Period can form part of any calculation under this statement.

5 TOTAL MEASURED PROCUREMENT SPEND

The following procurement is measurable within Total Measured Procurement Spend;

- 5.1 Cost of sales: all goods and services procured that comprise the cost of the sales of the Measured Entity,
- 5.2 Operational expenditure: all goods and services procured that comprise the operational expenditure of the Measured Entity,
- 5.3 Capital expenditure: all capital expenditure incurred by the Measured Entity.

- 5.4 Public sector procurement:
- 5.4.1 all goods and services procured from organs of state and public entities. Despite this, procurement by a Measured Entity from a local government authority, which is a reseller of that service, is measurable at the B-BBEE Recognition Level of the primary Supplier of the service; and
 - 5.4.2 in any event, any procurement of any goods or services from any organ of state or public entity that enjoys a statutory or regulated monopoly in the supply of such goods or services is excluded.
- 5.5 Monopolistic procurement: all goods and services procured from Suppliers that enjoy a monopolistic position,
- 5.6 Third-party procurement: all procurement for a third-party or a client, where the cost of that procurement is an expense recorded in the Measured Entity's annual financial statements,
- 5.7 Labor brokers and independent contractors: any procurement of the Measured Entity that is Outsourced Labor Expenditure,
- 5.8 Pension and medical aid contributions: payments made to any post retirement funding scheme or to a medical aid or similar medical insurer by a Measured Entity for its Employees, excluding any portions of such payments which are a contribution to a capital investment of the Employee. The scheme or insurer must issue a certificate dividing payments between the capital investment portion and the balance to establish the amount that is measurable within Total Measured Procurement Spend,
- 5.9 Trade commissions: any commission or similar payments payable by a Measured Entity to any other person pursuant to the business or trade of the Measured Entity,
- 5.10 Empowerment related expenditure: all goods and services procured in carrying out B-BBEE. The Total Measured Procurement Spend does not include the actual contribution portion recognized under section 2.2 and 2.3 of this statement and Code series 500 but does include any expenditure incurred in facilitating those contributions,
- 5.11 Imports: all goods and services that are imported or procured from a non-South African source, and
- 5.12 Intra-group procurement: all goods and services procured from subsidiaries or holding companies of the Measured Entity (BEE credentials of the entity supplying goods and/or services must be confirmed by way of a valid BEE certificate).

6 EXCLUSIONS FROM TOTAL MEASURED PROCUREMENT SPEND

The following list provides permissible exclusions from Total Measured Procurement Spend recognizable in terms of paragraph 5:

- 6.1 Taxation: any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorised to impose such tax or levy, including rates imposed by a municipality or other local government,
- 6.2 Salaries, wages, remunerations, and emoluments: any amount payable to an Employee as an element of their salary or wage and any emolument or similar payment paid to a director of a Measured Entity,
- 6.3 Pass-through third-party procurement: all procurement for a third-party or a client that is recorded as an expense in the third-party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements,
- 6.4 Empowerment related procurement:
 - 6.4.1 Investments in or loans to an Associated Enterprise;
 - 6.4.2 Investments, loans or donations qualifying for recognition under any statement under Code series FSC400 or FSC500;
- 6.5 Imports: the following imported goods and services:
 - 6.5.1 imported capital goods or components for value-added production in South Africa provided that:
 - 6.5.1.1 there is not sufficient existing local production of such capital goods or components; and
 - 6.5.1.2 importing those capital goods or components promotes further value-added production within South Africa;
 - 6.5.2 imported goods and services other than those listed in paragraph 6.5.1 if there is not sufficient local production of those goods or services including, but not limited to, imported goods or services that -
 - 6.5.2.1 carry a brand different to the local produced goods or services; or
 - 6.5.2.2 have different technical specifications to the locally produced goods or services.
 - 6.5.3 The exclusion of imports listed under 6.5.2 are subject to the Measured

Entity having developed and implemented an Enterprise Development or Supplier Development plan for supporting qualifying Empowering Suppliers that manufacture goods and services locally that are otherwise normally imported. The plan does not need to relate to the specific goods or services that the Measured Entity imports. This plan should include:

6.5.3.1 Clear Objectives

6.5.3.2 Priority interventions

6.5.3.3 Key performance indicators; and

6.5.3.4 A concise implementation plan with clearly articulated milestones

6.5.4 The Department of Trade and Industry will from time to time consult with the industry and issue practice notes with regard to the provisions on import exclusions.

6.6 Intra-group procurement: where the Measured Entity is conducting a consolidated verification of itself as holding entity together with its subsidiaries, then all intra-group procurement of goods and services amongst the group entities forming part of the consolidated verification are excluded.

6.7 Because SAFCOL is incapable of having black ownership, procurement from SAFCOL may be excluded from the calculation of the Total Measured Procurement Spend for purposes of calculating the measured Entity's score under indicators 2.1.4, 2.1.5 and 2.1.6, all of which relates to procurement from black owned entities. The following conditions apply:

6.7.1 this exclusion is not available for the calculation of the other indicators of the Preferential Procurement component of the scorecard.

6.7.2 the availability of this exclusion will fall away upon the awarding of 'BEE Facilitator Status' to SAFCOL.

7. MEASUREMENT OF B-BBEE PROCUREMENT SPEND

7.1 B-BBEE Procurement Spend is the value of the procurement falling within paragraph 5 and not excluded by paragraph 6. If a supplier falls within a category of Supplier listed in paragraph 3.6, the value of procurement from that Supplier is multiplied by the applicable factor listed in that paragraph.

7.2 B-BBEE Procurement Spend can be measured in terms of formula "A" in Annexe FSC400 (A).

- 7.3 The B-BBEE Procurement Spend for a Measured Entity in respect of a Supplier is calculated by multiplying the spend contemplated by paragraph 5 (and not excluded in paragraph 6) in respect of that Supplier by the Supplier's B-BBEE Recognition Level.
- 7.4 A Measured Entity's Total Procurement Spend is the total of all amounts calculated in terms of paragraph 7.3.

8. THE CALCULATION OF PREFERENTIAL PROCUREMENT CONTRIBUTIONS TO B-BBEE

- 8.1 A measured Entity receives a score for procurement in proportion to the extent that it meets the compliance Target.
- 8.2 The Measured Entity's score for Preferential Procurement contributions to B-BBEE under the preferential procurement scorecard can be calculated in terms of Formula "B" in Annex FSC400 (A).

9 ENTERPRISE DEVELOPMENT AND SUPPLIER DEVELOPMENT CONTRIBUTIONS

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

- 9.1 investments in Qualifying Beneficiary Entities;
- 9.2 loans made to Qualifying Beneficiary Entities;
- 9.3 guarantees given or security provided on behalf of Qualifying Beneficiary Entities;
- 9.4 credit facilities made available to Qualifying Beneficiary Entities;
- 9.5 grant contributions to Qualifying Beneficiary Entities;
- 9.6 direct costs incurred by a Measured Entity in assisting and hastening development of Qualifying Beneficiary Entities;
- 9.7 overhead costs of a Measured Entity directly attributable to Qualifying Enterprise Development and Supplier Development Contributions;
- 9.8 preferential credit terms granted by a Measured Entity to Qualifying Beneficiary Entities;
- 9.9 preferential terms granted by a Measured Entity in respect of its supply of goods and services to Qualifying Beneficiary Entities;

- 9.10 contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Beneficiary Entity including, without limitation:
- 9.10.1 professional and consulting services;
 - 9.10.2 licensing and/or registration fees;
 - 9.10.3 industry specific levies and/or other such fees; and
 - 9.10.4 IT services;
- 9.11 discounts given to Qualifying Beneficiary Entities in relation to the acquisition and maintenance costs associated with the grant to those Qualifying Beneficiary Entities of franchise, licence, agency, distribution or other similar business rights.
- 9.12 the creation or development of capacity and expertise for Qualifying Beneficiary Entities needed to manufacture or produce goods or service previously not manufactured, produced or provided in the Republic of South Africa as provided for in Government's economic growth and local supplier development policies and initiatives.
- 9.13 the creation or development of new projects promoting beneficiation by the Measured Entity for the benefit of Qualifying Beneficiary Entities.
- 9.14 facilitating access to credit for Qualifying Beneficiary Entities without access to traditional credit facilities owing to a lack of credit history, high-risk or lack of collateral on the part of the Qualifying Beneficiary Entity.
- 9.15 provision by the Measured Entity, of preferential credit facilities to a Qualifying Beneficiary Entity. Examples of such contributions include without limitation:
- 9.15.1 provisions of finance to Qualifying Beneficiary Entities at lower than commercial rates of interest. 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;
 - 9.15.2 relaxed security requirements or absence of security requirements for Qualifying 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
 - 9.15.3 settlement of accounts with Qualifying 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 after date of invoice. Preferential payment terms that extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier

Development Contributions;

- 9.16 the provision of seed or development capital to Qualifying Beneficiary Entities.
- 9.17 provision of training or mentoring by suitably qualified entities or individuals to Qualifying Beneficiary Entities which will assist such Entities to increase their operational or financial capacity; and
- 9.18 provision of training or mentoring to Qualifying Beneficiary Entities by the Measured Entity itself;
- 9.18.1 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;
- 9.18.2 a clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs occurred;
- 9.19 Training or mentoring provided as per 9.17 and 9.18 above may not be double counted under the Skills Development scorecard once claimed as Qualifying Enterprise and Supplier Development Contribution and *vice versa*.
- 9.20 the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of Qualifying Beneficiary Entities or candidate beneficiary entities.
- 9.20.1 only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses that relates to, promoting or implementing Qualifying Enterprise and Supplier Development Contributions, qualify for recognition.
- 9.21 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.
- 9.21.1 for the avoidance of doubt such contributions are regarded as having been initiated and implemented once they become payable to the third party;

10 MEASUREMENT OF ENTERPRISE DEVELOPMENT AND SUPPLIER DEVELOPMENT CONTRIBUTIONS

- 10.1 A measured Entity receives a score for Enterprise Development and Supplier Development in proportion to the extent that it meets the compliance target.
- 10.2 Qualifying Contributions are measurable using the Formula "A" in Annexe FSC400 (C) read together with Annexe FSC400 (B).

ANNEXE FSC400 (A)**A: B-BBEE PROCUREMENT SPEND:**

A = the sum of (B x C)

Where

A is the calculated total B-BBEE Procurement Spend for the Measured Entity. It is equal to the sum of the result of the product of B and C for each Supplier of the Measured Entity not excluded under the exclusion from Total Measured Procurement Spend;

B is the value of procurement falling within Total Measured Procurement Spend and not excluded under the exclusion from Total Measured Procurement Spend from each Supplier of the Measured Entity for the Measurement Period;

C is the latest B-BBEE Procurement Recognition Level of each Supplier of the Measured Entity that can be supported by a B-BBEE verification certificate (or sworn affidavit in the case of 51% or 100% Black Owned EME's and QSE's), that was valid at any time from the commencement of the Measurement Period up to the issuing of the Measured Entity's B-BBEE verification certificate.

B: THE CALCULATION OF PREFERENTIAL PROCUREMENT CONTRIBUTIONS TO B-BBEE:

$$A = \frac{B}{C} \times D$$

Where

A is the calculated preferential procurement score for 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 2.1.6 respectively in the Preferential Procurement scorecard under statement FSC400 for the Measured Entity;

B is the total B-BBEE Procurement Spend of the Measured Entity calculated for each of the indicators of the Preferential Procurement scorecard (par 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 2.1.6) respectively, expressed as a percentage of the Total Measured Procurement Spend of that Measured Entity;

C for par 2.1.1 is the compliance Target for this indicator of the Preferential Procurement scorecard;

C for par 2.1.2; 2.1.3; 2.1.4; 2.1.5 and 2.1.6 is the adjusted Target for these indicators of the Preferential Procurement Scorecard adjusted as per section 'C' of Annexe FSC400 (A) below;

D is the Weighting points allocated to each of the indicators of the Preferential Procurement scorecard (par 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5 and 2.1.6) respectively.

C: THE ADJUSTMENT OF THE TARGETS FOR PARAGRAPH 2.1.2 to 2.1.6 OF THE PREFERENTIAL PROCUREMENT SECTION OF THE SCORECARD:

1. In line with the Sector Specific Principle of Accountability as per FSC000 it is agreed that the commitments in terms of the scorecard is the collective responsibility of Industry and Government. The scorecard therefore needs to hold both Industry and Government accountable.
2. The sector has therefor agreed that 50% of the Targets in these indicators are the direct responsibility of Industry. Industry's target can therefore never be less than half the Target of each of the indicators in 2.1.2 to 2.1.6 respectively. The remaining 50% of the Target is dependent on Government's ability to perform in terms of the following commitments in terms of the previous Forest Sector Code which is also incorporated herein:
 - 2.1 Expediting restitution claims on forest land (see paragraph 8.1.7 of Schedule 2); and
 - 2.2 Government's commitments to Enterprise Development initiatives (see paragraph 2.1 (c) of Schedule 2) as further expanded upon by:
 - 2.2.1 Paragraph 6.1 of Schedule 2: "*Access to funds and financial services for emerging black entrepreneurs*";
 - 2.2.2 Paragraph 6.3 of Schedule 2: "*Expedite the authorisation process for afforestation and paper and sawmilling facilities*" as read together with the section "*Streamline and expedite afforestation licensing procedures*" in Schedule 3;
 - 2.2.3 Restructuring of State forest assets (see paragraph 2.3 of Schedule 2).
3. The Targets in indicators 2.1.2 to 2.1.6, and more specifically the 50% which is Government's responsibility, must therefore be adjusted annually with a completeness ratio which is indicative of the progress that Government has made with respect to its commitments referenced in paragraph 2 above. The more completeness Government achieves in respect of its commitments the higher the Target will become for Industry up to a maximum of the actual Target stated in indicators 2.1.2 to 2.1.6.
4. Government must submit a report annually to the Forest Sector Council, conducted by an Independent Competent Person on the progression of Government with respect to its commitments referenced in paragraph 2 above. This report must determine a single combined completeness ratio based on Government's commitments in 2.1 and 2.2 above.

The Forest Sector Charter Council is to agree a formula in terms of which the completeness ratio is to be determined.

5. The adjusted Target will be applicable to Measurement Periods that commences after the publication of the adjusted Targets for each year.
6. The following serves as an example of how the adjustments will be made by the Forest Sector Charter Council on an annual basis based on the Independent Competent Person's Report for indicator 2.1.2 of the scorecard relating to procurement from QSE's:
 - 6.1 the stated Target for 2.1.2 is 15%. This now need to be adjusted as follows;
 - 6.2 half of the 15% represents Industry's responsibility (i.e. 7.5%). This 7.5% is fixed and Industry's Target for procurement from QSE's will never be less than 7.5%;
 - 6.3 the other half of the Target represents Government's commitment (i.e. 7.5%). The 7.5% for Government's commitment is then multiplied by the completeness ratio;
 - 6.4 If the Independent Competent Person's Report indicates that the percentage of Government's commitment that has been completed is 80% (e.g. 80,000 ha of 100,000 ha committed have been transferred etc.) then the completeness ratio is 0.8. Government's part of the Target (i.e.7.5%) must therefore be multiplied with 0.8 which equals 6%;
 - 6.5 The Target for that year is then sum of Industry's part of the Target i.e. 7% plus the 6% which equals a 13.5% Target for the year rather than the 15% per indicator 2.1.2.

ANNEXE FSC400 (B)

Annexe FSC400B – Enterprise Development and Supplier Development 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 Enterprise Development and Supplier Development	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting Enterprise Development and Supplier Development	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting Enterprise Development and Supplier Development (including people appointed in Enterprise Development and Supplier Development)	Verifiable Cost (including both monetary and non-monetary)	70%
Loans and Related Contributions		
Interest-Free Loan with no security requirements supporting Enterprise Development and Supplier Development	Outstanding Loan Amount	70%
Standard Loan to Enterprise Development and Supplier Development Beneficiaries	Outstanding Loan Amount	50%
Guarantees provided on behalf of a beneficiary entity	Guarantee Amount	3%
Lower Interest Rate	Outstanding loan amount	Prime Rate – Actual Rate
Equity Investments and Related Contributions		
Minority Investment in Enterprise Development and Supplier Development Beneficiaries	Investment Amount	100%

Enterprise Development and Supplier Development Investment with lower dividend to financier	Investment Amount	Dividend Rate of Ordinary Shareholders – Actual Dividend Rate of Contributor
Contributions made in the form of human resource capacity		
Professional services rendered at no cost and supporting Enterprise Development and Supplier Development	Commercial hourly rate of professional	60%
Professional services rendered at discount and supporting Enterprise Development and Supplier Development	Value of discount based on commercial hourly rate of professional	60%
Time of employees of Measured Entity productively deployed in assisting beneficiaries	Monthly salary divided by 160	60%
Other Contributions		
Shorter payment periods for 2.2 of this statement (Supplier Development)	Percentage of invoiced amount multiplied by 15% (being an approximation of the cost of short term funding)	Percentage being 15 days less the number of days from invoice to payment. The Maximum points that can be scored is 15% of 10 points

ANNEXE FSC400 (C)

A: Qualifying Enterprise and Supplier Development Contributions are measurable on the following basis:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved for the Enterprise and Supplier Development indicators (paragraph 2.2; 2.3.1; 2.3.2; 2.3.3; and the bonus point indicators 2.4.3 and 2.4.4) in respect of Qualifying Enterprise or Supplier Development Contributions made by the Measured Entity.

B in the case of 2.2 and 2.3.1 is the annual value of all Qualifying Enterprise or Supplier Development Contributions, whichever the case may be, that have become payable by the Measured Entity during the Measurement Period.

B in the case of 2.3.2 is the annual sale of logs & sawtimber (as a percentage of total sales in terms of tonnage) weighted according to the buyers' B-BBEE Procurement Recognition Levels.

B in the case of 2.3.3 is the unweighted annual sale of logs & sawtimber (as a percentage of total sales in terms of tonnage) to 51% Black Owned and 30% Black Women owned QSE's and EME's.

B in the case of 2.4.3 and 2.4.4 is the qualifying spend under these indicators as a percentage of NPAT that is over and above the 3% NPAT which has already been spend under 2.2 and 2.3.1 collectively.

C is the compliance Targets for the Enterprise and Supplier Development indicators (paragraph 2.2; 2.3.1; 2.3.2; 2.3.3; and the bonus point indicators 2.4.3 and 2.4.4) respectively.

D is the Weighting points allocated to the Enterprise and Supplier Development indicators (paragraph 2.2; 2.3.1; 2.3.2; 2.3.3; and the bonus point indicators 2.4.3 and 2.4.4) respectively.

**CODE SERIES FSC500: MEASUREMENT OF THE SOCIO-ECONOMIC DEVELOPMENT
ELEMENTS OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT FSC500: THE GENERAL PRINCIPLES FOR MEASURING THE SOCIO-
ECONOMIC DEVELOPMENT ELEMENT**

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003 as amended by Act 46 of 2013

Arrangement of this statement

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1 OBJECTIVES OF THIS STATEMENT

The objectives of this statement are to specify:

- 1.1 the Socio-Economic Development (SED) and Sector Specific Contributions scorecard;
- 1.2 the key measurement principles applicable when calculating Qualifying Socio-Economic Contributions; and
- 1.3 the formula for calculating the individual criteria specified in the SED scorecard.

2 THE SED SCORECARD

- 2.1 The Targets of 1% and 0.75% of NPAT for the indicators on the SED scorecard is based on the Net Profit After Tax (NPAT) of the Measured Entity for the Measurement Period unless:
 - 2.1.1 the Measured Entity did not make a profit during the Measurement Period;
or
 - 2.1.2 the net profit margin (NPAT/Revenue) of the Measured Entity for the Measurement Period, was less than a quarter of the industry norm during the Measurement Period.
- 2.2 Where either of the factors in 2.1.1 or 2.1.2 is present then the average NPAT of the Measured Entity over the last five years will be the basis for determining the Targets unless:
 - 2.2.1 the Measured Entity did not make a profit on average over the last five years; or
 - 2.2.2 the average net profit margin of the Measured Entity over the last five years was less than a quarter of the industry norm for the net profit margin during the Measurement Period.
- 2.3 Where either of the factors in 2.1.1 to 2.1.2 are present concurrently with either of the factors in 2.2.1 to 2.2.2 then the Indicative NPAT of the Measured Entity for the Measurement Period, will be the basis for determining the Targets.

2.3.1 the Indicative NPAT is the Revenue of the Measured Entity for the Measurement Period, multiplied by a quarter of the industry norm net profit margin for the Measurement Period.

2.3.2 the industry norm net profit margin must be determined with reference to the quarterly statistics supplied by Stats SA or such other verifiable data that might be available for the particular industry the Measured Entity operates within.

2.4 The following table represents the criteria and method used for deriving a score for Socio-Economic Development under this statement:

Criteria	Weighting Points	Compliance Target
2.4.1 Annual value of all Qualifying Socio-Economic Contributions by the Measured Entity as a percentage of the Target	5	1% of NPAT
Bonus Points		
2.4.2 Bonus points for Sector Specific Contributions or Qualifying Socio-Economic Contributions in excess of the 1% Target in indicator 2.4.1	3	0.75% of NPAT (over and above the 1% Target)

2.5 The weighting points in the SED scorecard represent the maximum number of points possible for each of the criteria.

3 KEY MEASUREMENT PRINCIPLES

3.1 General principles:

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

3.1.2 Qualifying Socio-Economic Contributions of any Measured Entity are recognisable annually;

3.1.2.1 notwithstanding paragraph 3.1.2 portions of Qualifying Socio-Economic Contributions made annually that exceeds the combined Targets of indicators 2.4.1 and 2.4.2 for the current Measurement Period may carry forward to the following Measurement Period for recognition. The portion carried forward may only be carried forward once;

- 3.1.2.2 where Qualifying Socio-Economic Contributions and/or initiatives span over multiple years, the total contribution amount must be divided by the number of years, and the average per year is then to be utilised for the annual contribution.
- 3.1.3 No portion of the value of any Qualifying Socio-Economic Contribution that is payable to the beneficiary after the last day of the Measurement Period can form part of any calculation under this statement.

3.2 Socio-Economic Development Contributions:

- 3.2.1 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 sustainable access to the economy for targeted beneficiaries.
- 3.2.2 The full value of Socio-Economic Development Contribution made to beneficiaries is recognisable if at least 75% of the value directly benefits Black People.
- 3.2.3 If less than 75% 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 Black People, is recognisable.
- 3.2.4 The following is a non-exhaustive list of Socio-Economic Development Contributions:
- 3.2.4.1 grant contributions to beneficiaries of Socio-Economic Development Contributions;
 - 3.2.4.2 guarantees given or security provided for beneficiaries;
 - 3.2.4.3 direct costs incurred by a Measured Entity in assisting beneficiaries;
 - 3.2.4.4 overhead costs of a Measured Entity directly attributable to Socio-Economic Development Contributions;
 - 3.2.4.5 developmental capital advanced to beneficiary communities;
 - 3.2.4.6 preferential terms grants by a Measured Entity for its supply of goods or services to beneficiary communities;

3.2.4.7 contributions made by the Measured Entity to third parties to perform Socio-economic development on the Measured Entity's behalf;

3.2.4.7.1 for the avoidance of doubt such contributions are regarded as having been initiated and implemented once they become payable to the third party;

3.2.4.8 provision of training or mentoring to beneficiary communities which will assist them to increase their financial capacity;

3.2.4.8.1 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;

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

3.2.4.9 the maintenance by the Measured Entity of a socio-economic development unit which focuses only on support of beneficiaries and beneficiary communities;

3.2.4.9.1 only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting and implementing socio-economic development, constitute contributions.

4 MEASUREMENT OF SOCIO-ECONOMIC DEVELOPMENT CONTRIBUTIONS

Qualifying Socio-Economic Contributions are measurable using the Formula in Annexe FSC500 (B) read together with Annexe FSC500 (A).

5 THE BENEFIT FACTOR MATRIX

The Minister may from time to time, by notice in the gazette, revise or substitute the Benefit Factor Matrix. Any changes will only be applicable to compliance reports prepared for Measured Entities for Measurement Periods that commences after the gazetting of the adjustment.

Annexe FSC500 (A) – 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 initiatives or Qualifying Socio-Economic Contributions	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Contributions	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Contributions	Verifiable Cost (including both monetary and non-monetary)	80%
Contributions made in the form of human resource capacity		
Professional services rendered at no cost supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Contributions	Commercial hourly rate of professional	80%
Professional services rendered at a discount supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Contributions	Value of discount based on commercial hourly rate professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Contributions	Monthly salary divided by 160	80%

ANNEXE FSC500 (B)

A: Qualifying contributions of indicators 2.4.1 and 2.4.2 are measurable on the following basis:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved in respect of the indicator in 2.4.1 or 2.4.2, whichever the case may be, of the Socio-Economic Development scorecard.

B is the value of all Qualifying Socio-Economic Contributions of the Measured Entity relevant to that indicator that have become payable during the Measurement Period.

C is the compliance Target in respect of the Qualifying Socio-Economic Contributions as specified in the SED scorecard for indicator 2.4.1 or 2.4.2, whichever the case may be, (see paragraph 2.1 to 2.3).

D is the Weighting points allocated to the indicators under the Socio Economic Development scorecard in Statement FSC500.

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT
SECTION 9(5)- DRAFT AMENDED FOREST SECTOR CODE OF GOOD PRACTICE

SCHEDULE 1

INTERPRETATION AND DEFINITIONS

Part 1: Interpretation

The Forest Sector Code must be interpreted according to the following provisions unless the context requires a different meaning:

- 1 In interpreting the provisions of the Forest Sector Code any reasonable interpretation consistent with the objectives of the Act and the B-BBEE Strategy must take precedence.
- 2 Words importing persons shall where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisation having legal capacity.
- 3 The Schedules and Annexes to the Draft Amended Forest Sector Code are an integral part of the Forest Sector Code and a reference to the Forest Sector Code includes a reference to the Schedules.
 - 3.1 The commitments embodied in Schedule 2 and 3 were agreed upon in terms of the Old Forest Sector Code and Charter. They have been incorporated into this Revised Forest Sector Code and therefore remain applicable.
 - 3.2 To the extent that the commitments contained in them refer to deadlines for implementation, those deadlines remain applicable notwithstanding the fact that most of them may have expired.
 - 3.3 The stakeholders must annually submit a report, compiled by an independent Competent Person, on the progress they have made with respect to their commitments in terms of this Forest Sector Code and its Schedules.

- 4 Further background information and explanatory notes on the Forest Sector Code are contained in the Companion to the Charter. Only the extract from the Companion document that is contained in Schedule 3 of this Forest Sector Code forms part of the Forest Sector Code unless, and then only to the extent, particular reference is made to other parts of the Companion document in the Forest Sector Code or Schedules.

Part 2: Acronyms

The acronyms used in the Forest Sector Code and its Schedules shall have the following meanings:

ABET	Adult Basic Education and Training
ASGI-SA	Accelerated and Shared Growth Initiative for South Africa
B-BBEE	Broad-Based Black Economic Empowerment
CRLR	Commission on Restitution of Land Rights
DAFF	Department of Agriculture, Forestry and Fisheries
DPE	Department of Public Enterprise
DRDLR	Department of Rural Development and Land Reform
DTI	Department of Trade and Industry
DWAE	Department of Water and Environmental Affairs
EAP	Economically Active Population
EME's	Exempted Micro-Enterprises
FP&M	Fibre Processing and Manufacturing Seta
FSA	Forestry South Africa
FSC	Forest Sector Code
IDC	Industrial Development Corporation
IDP	Integrated Development Plan
ITAC	International Trade Administration Commission
MLE's	Medium and Large Enterprises

NFA	National Forests Act No. 84 of 1998
NPAT	Net Profit after Tax
NSDS	National Skills Development Strategy
NSF	National Skills Fund
PAMSA	Paper Manufactures Association of South Africa
PGDS	Provincial Growth and Development Strategy
QSE's	Qualifying Small Enterprises
R&D	Research and Development
SAFCA	South African Forestry Contractors Association
SAFCOL	South African Forestry Company Ltd
SALGA	South African Local Government Association
SAQA	South African Qualifications Authority
SAUPA	South African Utility Pole Associations
SAWPA	South African Wood Preservers Association
SMME	Small, Medium and Micro Enterprise
SSP	Sector Skills Plan
WfW	Working for Water Programme

Part 3: Definitions

In this Forest Sector Code unless the context otherwise requires:

Expressions, definitions and qualifications used in the Forest Sector Code have the meaning assigned to them in the Forest Sector Code gazetted under section 9(1) of the Broad-based Black Economic Empowerment Act of 2003, unless otherwise specified hereunder.

“Absorbed”	means a measure of the Measured Entity’s ability to have successfully secured formal permanent or long-term contract employment for the Learner or to assist the Learner’s proceed with further education and training. Where the Learner was already employed by the Measured Entity when he commenced the Learnership and merely continues
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	with his/her existing employment after the Learnership, it will not qualify as Absorption.
“Acquisition Debt”	means the debts of: <ul style="list-style-type: none"> (a) Black Participants incurred in financing their purchase of their equity instruments in the Measured Entity; and (b) Juristic persons or trusts found in the chain of ownership between the eventual Black Participants and the Measured Entity for the same purpose as those in (a). (c) Debt that substitutes or replaces the debt in (a) and (b) above is still Acquisition Debt notwithstanding the fact that it may be owed to a different financier.
“Act”	means the Broad-Based Black Economic Empowerment Act 53 of 2003 as amended. The terms “B-BBEE Act” has a corresponding meaning.
“Apprenticeship”	means an agreement between an apprentice and an employer for a set period of time during which the apprentice works and receives training in the workplace.
“Associated Enterprise”	means an Entity with which a Seller has concluded a Qualifying Transaction.
“B-BBEE”	means Broad-Based Black Economic Empowerment.
“B-BBEE Compliant Entity”	means a Measured Entity that has achieved at least a Level 1 to Level 8 B-BBEE Status Level as per statement 000;
“B-BBEE Controlled Company”	means for Entities measureable in terms of this forest Sector Code, a juristic person (including a trust), having shareholding or similar members interest, in which black participants enjoy a right to Exercisable Voting Rights that is more than 50% of the total such rights measured using the Flow Through Principle.
“B-BBEE Owned Company”	means for Entities measureable in terms of this forest Sector Code, a juristic person (including a trust), having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is more than 50% of the total such rights measured using the Flow Through Principle.
“B-BBEE Recognition Level”	means the percentage B-BBEE recognition Levels as determined: <ul style="list-style-type: none"> (a) For Entities that are neither Qualifying Small Enterprises not Exempted Micro-Enterprises, using statement 000; (b) For Qualifying Small Enterprises, using the

	statement 000; and (c) For Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000.
“B-BBEE Status”	means the B-BBEE status of a Measured Entity as determined under statement 000.
“B-BBEE Strategy”	means the B-BBEE Strategy as contemplated in section 11 of the B-BBEE Act 53 of 2003 as amended.
“B-BBEE Verification Professional Regulator”	means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals.
“Benefit Factor”	means a factor specified in the Benefit Factor Matrix applicable to fixing the monetary value of Enterprise Development and Supplier Development and Socio Economic Development Contributions claimable under statement FSC400 and FSC500.
“Benefit Matrix Factor”	means the Benefit Factor Matrix for Enterprise Development and Supplier Development and Socio Economic Development Contributions claimable under statement FSC400 and FSC500.
“Black Designated Groups”	means: (a) Unemployed Black People not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black People who are youth as defined in the National Youth Commission Act of 1996; (c) Black People who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black People living in rural and under developed areas; (e) Black military veterans who qualify to be called a military veteran in terms of the Military Veterans Act 18 of 2011.
“Black New Entrants”	means Black participants who hold rights of ownership in a Measured Entity and who, before holding Equity Instruments in other Entities which has a total value of more than R50,000,000, measured using a Standard Valuation Method.
“Black People”	Is a generic term which means African, Coloureds and Indians (a) Who are citizens of the Republic of South Africa by birth or decent; or (b) Who became citizens of the Republic of South Africa by naturalisation- (i) Before 27 April 1994; or

	(ii) On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to the date.
“Broad-Based Ownership Scheme”	means an ownership scheme which meets the rules set out in Annexe FSC100 (B).
“Certified Learning Programme”	means any Learning Programme for which the Measured Entity has: <ul style="list-style-type: none"> (a) Any form of independent written certification as referred to in the “Learning Achievements” column of the Learning Programme Matrix; or if it does not have such certification; (b) An enrolment certificate issued by the independent person responsible for the issue of the certification referred in statement FSC300 confirming the employee has: <ul style="list-style-type: none"> (i) Enrolled for, is attending and is making satisfactory progress in the Learning Programme; or (ii) Enrolled for but not attended the Learning; or Attended the Training Programme but has failed an evaluation of their learning progress.
“Charter”	means the Forest Sector Charter as gazetted under section 12 of the Act.
“Codes of Good Practice”	means the Broad-Based Black Economic Empowerment Codes of Good Practice, 11 October 2013 (Gazette nr.32698) as amended. The term ‘General Codes’ or ‘Revised Codes’ has a corresponding meaning.
“Companies Act”	means the Companies Act, No. 71 of 2008 as amended or substituted.
“Competent Person”	means a person who has acquired through training, qualification and experience the knowledge and skills necessary for undertaking any task assigned to them under the codes.
“Core Skills”	means skills that are: <ul style="list-style-type: none"> (a) Value-adding to the activities of the Measured Entity in line with its core business; (b) In areas the Measured Entity cannot outsource; or (c) Within the production/operational part of the Measured Entity’s value-chain; as opposed to the supply side; services or downstream operations.
“Critical Skills”	means those skills identified as being critical by any SETA.

“Current Equity Interest Date”	means the later occurring of the date of commencement of the old forest sector code (Gazette 32320, 12 June 2009) and the date upon which the earliest of all still operative transactions undertaken by the Measured Entity in order to achieve black rights of ownership, became effective and unconditional.
“EAP”	the national or provincial, whichever the case may be, Economically Active Population as determined by Stats SA and annually published in the Commission for Employment Equity Report in terms of the employment Equity Regulations from time to time. The operative EAP for the purposes of any calculation under the Codes will be the annual EAP statistics published in the Commission for Employment Equity Report immediately preceding the Measurement Period being measured.
“Economic Interest”	means a claim against an Entity representing a return on ownership of the Entity similar in nature to a dividend right, measured using the Flow Through and, where applicable, the Modified Through Principles.
“Employment Equity Act”	means the Employment Equity Act No. 55 of 1998, as amended.
“Employment Equity Regulations”	means the regulations under the Employment Equity Act.
“Elements”	means the measurable quantitative or qualitative elements of B-BBEE compliance in the Generic Scorecard and the Codes.
“Employed Learner”	In terms of section 18(1) of the Skills Development Act it means a learner that was in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The learner’s contract of employment is therefore not affected by the agreement.
“Employee with a Disability”	has the meaning defined in the Code of Good Practice on Key Aspects of Disability in the Workplace issued under section 54 of the Employment Equity Act; align with the Employment Equity Act.
“Employee”	bears the meaning as defined in the Employment Equity Act.
“Employee Share Ownership Programme”;	means a worker or employee scheme as per Annexe FSC100(C).
“Empowering Supplier”	means a B-BBEE Compliant Entity, which complies with all regulatory requirements of the Employment Equity Act, Skills Development Act, and Skills Development Levies Act and which meets at least four if it is a large enterprise or two if it is a QSE of

	<p>the following criteria:</p> <ul style="list-style-type: none"> (a) At least 25% of cost of sales excluding Total Labour Cost and depreciation must be procured from local producers or local supplier in SA, for service industry Total Labour Cost are however included. (b) Job creation – 50% of jobs created are for Black People provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained. (c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging. (d) Skills transfer – at least spend 12 days per annum of productivity deployed in assisting 51% Black Owned EMEs and QSEs to increase their operational or financial capacity. (e) Certification by a recognised international or domestic forestry or processing certification authority such as FSC, PEFC or ISO. (f) At least 85% of the labour force of the Measured Entity are South African citizens. (g) Compliance with the Basic Conditions of Employment Act and Labour Relations Act. An Independent Competent Person's Report must be provided as proof hereof.
“Enterprise Development Contributions”	means monetary or non-monetary contributions as per Statement FSC400 read together with Annexe FSC400 (B) carried out for the benefit of any Entity, with the objective of contributing to the development, sustainability and financial and operational independence of that Entity.
“Entity”	means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa.
“Entrepreneur”	means a person who starts and/ or operates a business which includes identifying opportunities in the market, taking risks with a view of being rewarded with profits.
“Equity Equivalent Contribution”	means an equity equivalent contribution made by a Multinational under an Equity Equivalent Investment Programme.
“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 as an Equity Equivalent Investment Programme.
“Equity Instrument”	means the instrument by which a Participant holds

	rights of ownership in an Entity.
“Equivalency Percentage”	means a percentage ownership performance for all the indicator in the Associated Enterprise’s Ownership Scorecard arising from a Qualifying Transaction included in the Ownership Scorecard of the beneficiary entity.
“Exclusion Principle”	<p>is a measurement principle used when calculating the points for the various indicators of the Ownership scorecard that allows for the deduction of a number of rights of ownership (whether it be voting rights or economic interest), from the total of such rights issued by the Measured Entity, before expressing those rights of ownership held by black Participants, as a percentage of all such rights of ownership issued. Code FSC100 and its statements allows, as directed by those statements, for the exclusion of four categories of rights of ownership:</p> <ul style="list-style-type: none"> a) those held by Organs of State and Public Entities; b) those held as Mandated Investments; c) those held by Non-Profit Companies or Public Benefit Organisations; d) rights of ownership that equates to the value of the foreign operations of a Multinational Business operating in South Africa or a South African Multinational Business; <p>The exclusions of Ownership held through the entities in (a) to (c) above is to be effected before any exclusion in terms of (d) is to be applied.</p>
“Executive Directors”	means those members of the Board who are executive directors as defined in the King III Report, as amended from time to time.
“Exempted Micro Enterprise”	means an Entity with a total annual Revenue of R10 (ten) millions or less.
“Exercisable Voting Rights”	meaning a voting right of a Participant that is not subject to any limit.
“Forest Sector”	means the enterprises that operate within, the government departments that regulate and the organised labour and communities that are directly impacted by the commercial forestry and first level processing of wood products as set out in par 3.1 and 3.2 of this sector code.
“Forest Sector Code”	means this revised forest sector code issued in terms of section 9(1) of the Act. The abbreviation “FSC” has a corresponding meaning.
“Global Practice”	means a globally and informally applied practice of a Multinational, restricting alienation of equity in or the sale of businesses in its regional operations. The practice must have existed before the promulgation of the Act.
“Grant Contribution”	means the monetary value of Qualifying Contributions

	made by the Measured Entity to a beneficiary in the form of grants, donations, discounts and other similar quantifiable benefits which are not recoverable by the Measured Entity.
“Group Structure”	means an ownership arrangement whereby one or more Measured Entities that are juristic persons are subsidiaries of another Measured Entity that would qualify as a holding company.
“Higher Education Institution”	means a higher education institution as defined under the higher Education Act of 1997.
“Indicator Percentage”	means the percentage compliance of the Associated Entity for all the indicators of the Associated Enterprises ownership Scorecard. The calculation of indicator Percentages follows the rules in statement FSC100 using the actual percentage compliance for each indicator and not the resulting scores.
“Industry”	Collective term for enterprises that operate within the Forest Sector as outlined in par. 3.1 and 3.2 of the FSC.
“Industry Codes of Conduct”	Codes of Conduct provided for under par. 5 of Schedule 2.
“Industry Specific Initiatives”	means the qualifying contributions that are unique to the industry in which the enterprises operate. For the purposes of the Codes an industry may be grouped in major divisions in accordance with the Standard Industrial Classification Coding System used by Statistic South Africa.
“Internship”	means an opportunity to integrate career related experience into an undergraduate education by participating in planned, supervised work.
“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.
“Learnership”	means a work-based route to a qualification. It is a workplace education and training programme comprising both structured practical workplace (on-the-job) experience and structured theoretical training.
“Learning Programmes”	means any learning programme set out in the learning Programme Matrix.
“Learning Programme Matrix”	means the Learning Programme Matrix annexed as Annexe FSC300 (A) in statement FSC300.
“Leviable Amount”	bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act.
“Management Fees”	means the total Economic Interest received by a Broad-Based Ownership Scheme or Black participants in any year less the amounts distributed or applied to beneficiaries and the amounts reserved

	for the future distribution or application.
“Mandated Investment”	means any investments made by or through any third party regulated by South African legislation on behalf of the actual owner of the funds, pursuant to a mandate given by the owner to a third party, which mandate is governed by that legislation. Some examples of domestic mandated investments and the portions of those investments subject to the exclusion principle are contained in Annexe FSC100A attached to statement FSC100.
“Measured Entity”	means an Entity as well as an organ of state or public entity subject to measurement under the Codes.
“Measurement Period”	<p>means, subject to the following, the financial period of the Measured Entity:</p> <ul style="list-style-type: none"> (a) The financial period of a Measured Entity is a period of 12 consecutive calendar months; (b) Where however the Measured Entity amended its financial reporting period from one year to another the financial period may, for that particular year in question, be more or less than 12 consecutive months. In such exceptional cases the Measured Entity may at its discretion elect to be measured for the amended financial period (however many months it may include) or the 12 months ending on the last day of the amended financial period. For purposes of determining its classification as an EME, QSE or Generic enterprise the Measured Entity must however, irrespective of the election it exercises above, do so with reference to the 12 months ending on the last day of the amended financial period; (c) Measured Entities for which verification is required may not be measured for a Measurement Period that has ended more than 12 months prior to the commencement of the verification thereof; (d) For EME’s and QSE’s that are allowed to merely make an affidavit, the Measurement Period must be the 12 consecutive calendar months that immediately precedes the last day of the most recently completed financial period; (e) The Measurement Period is the period over which the ‘Skills Development’, ‘Enterprise and Supplier Development’ and ‘Socio Economic Development’ elements must be measured.
“Measurement Date”	means the last day of the Measurement Period or such later date agreed upon with the Measured Entity that is as close as practically possible to the commencement of the verification or to the making of the affidavit which ever the case may be. The term ‘Date of Measurement’ has a corresponding

meaning.

(The 'Ownership' and 'Management Control' elements must be measured as at the Measurement Date. For the avoidance of doubt - these two elements may not be measured on different dates.)

“51% Black Owned”	<p>means, subject to paragraph (d) below, an Entity in which :</p> <p>(a) Black People hold at least 51% of the exercisable voting rights as determined under indicator 2.1.1 of Code series FSC100;</p> <p>(b) Black People hold at least 51% of the economic interest as determined under indicator 2.2.1 of Code series FSC100; and</p> <p>(c) Has earned all the points for Net Value under statement FSC100;</p> <p>(d) for Entities that are measureable in terms of this Forest Sector Code, any reference in paragraph (a) and (b) above to “<i>at least 51%</i>” must be replaced with the phrase “<i>more than 50%</i>” in as far as it relates to that Forest Entity’s own measurement.</p>
“100% Black Owned”	<p>means an Entity in which :</p> <p>(a) Black People hold 100% of the exercisable voting rights as determined under indicator 2.1.1 of Code series FSC100;</p> <p>(b) Black People hold at least 100% of the economic interest as determined under indicator 2.2.1 of Code series FSC100; and</p> <p>(c) Has earned all the points for Net Value under statement FSC100.</p>
“51% Black Women Owned”	<p>means, subject to paragraph (d) below, an Entity in which:</p> <p>(a) Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;</p> <p>(b) Black women hold at least 51% of the economic interest as determined under Code series FSC100; and</p> <p>(c) Has earned all the points for Net Value under statement FSC100</p> <p>(d) for Entities that are measureable in terms of this Forest Sector Code, any reference in paragraph (a) and (b) above to “<i>at least 51%</i>” must be replaced with the phrase “<i>more than 50%</i>” in as far as it relates to that Forest Entity’s own measurement.</p>
“30% Black Women Owned”	<p>means an Entity in which:</p> <p>(a) Black women hold more than 30% of the exercisable voting rights determined under Code series FSC100</p> <p>(b) Black women hold more than 30% of the</p>

	economic interest as determined under Code series FSC100; and (c) Has earning all the points for Net Value under statement FSC100.
“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.
“Multinational Business”	means a Measured Entity with a business in the Republic of South African and elsewhere which maintains its international headquarters outside the Republic. The term ‘ South African Multinational ’ has a similar meaning except that it has its international headquarters inside the Republic.
“National Skills Development Strategy”	means the national skills development strategy referred to in section 5(1) (a) (ii) of the Skills Development Act.
“Net Profit After Tax”	means the operating profit of a measured entity after tax. It incorporated both the equity / loss figures and abnormal items, but excluded extra ordinary items as determined by the International Financial Reporting Standard (<i>IFRIS</i>) as amended from time to time.
“Net Profit Before Tax”	means the operating profit of a measured entity before tax. It incorporated both the equity / loss figures and abnormal items, but excluded extra ordinary items as determined by the International Financial Reporting Standard (<i>IFRIS</i>) as amended from time to time.
“Net Value”	means the points resulting from the application of paragraph 4 of Annexe FSC100 (E) of statement FSC100.
“New Enterprise”	means an early stage business which is similar to a start-up. However, an early stage business is typically 3 years old or less.
“Non-Profit Company”	means a non-profit company as defined by the Companies Act 71 of 2008. The term also includes Section 21 Companies and Companies Limited by Guarantee as per the previous Companies Act.
“Non-Profit Organisation”	means a non-profit organisation registered under the Non-Profit Organisation Act of 1997.
“Old Codes”	means the Broad-Based Black Economic Empowerment Codes of Good Practice, 9 February 2009 (Gazette no.29617).
“Old Forest Sector Code”	means the Forest Sector Code, 12 June 2009 (Gazette no. 32320). The term ‘Old FSC’ has a corresponding meaning.
“Organ of State”	has the meaning assigned to it in the Preferential Procurement Policy Framework Act 5 of 2000.
“Outsourced Labour Expenditure”	means any expenditure incurred in: (a) Procuring the services of or from a labour broker;

	and (b) Procuring the services of any person who received any remuneration or to whom any remuneration accrues because of any services rendered by such person to or behalf of a labour broker.
“Participant”	means a natural person holding rights of ownership in a Measure Entity.
“Pivotal Report”	means a report on ‘Professional, Vocational, Technical and Academic Learning’ programmes that meet the critical needs for economic growth and social development, generally combining course work at universities, universities of technology and colleges with structured learning at work.
“Priority Skills”	means Core, Critical and Scarce Skills as well as any skills specifically identified: (a) In a Sector Skills Plan issued by the Department of Higher Education and Training of the Republic of South Africa (b) National Skills Development Strategy (c) New Growth Path; and (d) National Development Plan
“Private Equity Fund”	means a third party fund through which investments are made on behalf of the actual owner of the funds pursuant to a mandate given by that person to the private equity fund.
“Public Entity”	has the meaning assigned to it in the Public Finance Management Act no.1 of 1999.
“Public Benefit Organisation”	means an entity as defined in section 30 of the Income Tax Act of 1962.
“Qualifying Beneficiary Entities”	means recipients of Qualifying Enterprise and Supplier Development Contributions.
“Qualifying Enterprise and Supplier Development Contributions”	means a collective term describing Enterprise Development and Supplier Development Contributions targeting EME’s and QSE’s which are at least 51% Black Owned or at least 51% Black Women Owned. For Entities that are measureable in terms of this Forest Sector Code, the reference to “ <i>at least 51%</i> ” must be replaced with the phrase “ <i>more than 50%</i> ” in as far as it relates to that Forest Entity’s own recognition as a Qualifying Beneficiary Entity.
“Qualifying Small Enterprise”	means an Entity that qualifies for measurement under the Qualifying Small Enterprise scorecard with a total annual Revenue of more than R10 million but less than R50 million. The abbreviation ‘QSE’ has a corresponding meaning.
“Qualifying Socio-Economic Contributions”	is a collective term for Socio-Economic Project Contributions and Socio-Economic Development Contributions.

“Qualifying Transaction”	means a sale of business, valuable business assets or shares that results in the creation of specialised skills or productive capacity to Black People.
“Related Enterprise”	means an Entity controlled by a Measured Entity whether directly or indirect control over that Measured Entity or the immediate family of those natural persons.
“Revenue”	has the meaning ascribed to it in the International Financial Reporting Standard (<i>IFRIS, International Accounting Standard 18</i>) as amended from time to time.
“Rights of Ownership”	is a collective term for the right of Economic Interest and the right to Exercisable Voting Rights.
“Scarce Skills”	are those skills identified as being scarce by any SETA.
“Sector Code”	means a code in series 003 which is applicable to a particular sector.
“Sector Specific Contributions”	Qualifying Socio-Economic Contributions and/or initiatives approved by the Forest Sector Charter Council for the sub-sector in which the Measured Entity operates. Such contributions are extraneous to the Measured Entity’s regular business activities and do not form part of any legal obligation upon the enterprise.
“Seller”	means the Entity or the person concluding a Qualifying Transaction with the Associated Enterprise.
“Senior Management”	means an employee of the Measured Entity who is a member of the occupational category of “Senior Management” as determined using the Employment Equity Regulations.
“Skills Development Expenditure”	comprises the legitimate training expenses that a Measured Entity incurs on skills development. It excludes the skills development levy payable by the Measured Entity under the Skills Development Levies Act.

“Socio-Economic Development Contributions”	<p>means monetary or non-monetary contribution implemented for communities, natural persons or groups of natural persons that are Black People. The objective of Socio-Economic Development Contributions is the promotion of sustainable access for the beneficiaries to the economy. Socio-Economic Development Contributions commonly take the following forms:</p> <ul style="list-style-type: none"> (a) Development programmes for women, youth, people with disabilities, people living in rural areas; (b) Support of healthcare and HIV/AIDS programmes; (c) Support for education programmes, resources and materials at primary, secondary and tertiary education level, as well as bursaries and scholarships; (d) Community training skills development for unemployed people and adult basic education and training; or (e) Support of arts, cultural or sporting development programmes.
“Socio-Economic Project Contributions”	<p>means monetary or non-monetary contributions carried out for the benefit of any projects approved for this purpose by any organ of state or sectors including without limitation:</p> <ul style="list-style-type: none"> (a) Projects focusing on environmental conservation, awareness, education and waste management; (b) Projects targeting infrastructural development or reconstruction in underdeveloped areas; rural communities or geographical areas identified in the government’s integrated sustainable rural development or urban renewal programmes; and (c) New projects promoting beneficiation.
“Standard Valuation Method”	<p>means a standard valuation method for an asset, an Economic Interest, or any other instrument or right relevant to measurement under Code FSC100, undertaken using normal valuation methods that represent standard market practice.</p>
“Start-up Enterprise”	<p>means a recently formed or incorporated Entity that has been in operation for less than 1 year. An entity that was formed and incorporated some time ago but which has been dormant (non-operational), will qualify as a start-up enterprise for the first year after it commences operations. A start-up enterprise does not include any newly constituted enterprise which is merely a continuation of a pre-existing enterprise.</p>

“Subsidiary”	has a meaning defined in section 1(3) of the Companies Act.
“Suitable Evidence or Documentation”	<p>means, notwithstanding any provisions to the contrary in the Verification Manual (Gazetted 31255, 18 July 2008) as amended from time to time, evidence or documentation that includes without limiting the generality of the term:</p> <p>(a) representations by the Measured Entity regarding its B-BBEE Status that can be substantiated out of audited or reviewed financial statements, an independent Competent Person’s report, other third party confirmation or where appropriate having regard to available evidence, in the absence of third party confirmation, a representation by management of the Measured Entity attesting to the facts.</p> <p>(i) a verification professional considering aforementioned evidence or documentation in support of any representation must apply professional judgement in evaluating the appropriateness thereof;</p> <p>(ii) cannot dissolve itself of its responsibility to conduct a thorough verification by relying only on this type of evidence or documentation where in fact other evidence, as is required by the Verification Manual, is readily available; and</p> <p>(iii) In evaluating the appropriateness of evidence it must achieve a reasonable level of comfort with respect to any conclusion it reaches.</p> <p>(b) in the case of 51% or 100% Black Owned Exempted Micro-Enterprise and 51% or 100% Black Owned Qualifying Small Enterprise an affidavit attesting to its B-BBEE status. This is the minimum level of evidence required for these entities.</p> <p>(c) in the case of Broad-Based Ownership Schemes, Employee Share Ownership Programmes and Trusts, Verification Professionals may rely on interviews with fiduciaries (where available, independent fiduciaries) of these schemes instead of the individual Participants of these schemes to achieve a reasonable level of comfort with regard to the Rights of Ownership that flow through them.</p>

“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.
“Supplier Development Contributions”	means monetary or non-monetary contributions as per Statement FSC400 read together with Annexe FSC400(B) carried out for the benefit of Empowering Suppliers who are Suppliers of the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those Empowering Suppliers.
“Target”	means the targets for the various Elements in the Generic and QSE Scorecard.
“the Act”	means the Broad-Based Black Economic Empowerment Act 53 of 2003 as amended.
“the Codes”	means the Codes of Good Practice including all statements as issued under section 9 of the Act.
“the Generic Scorecard”	means the balanced B-BBEE scorecard as contained in statement 000.
“the PFMA”	means the Public Financial Management Act 1 of 1999 as amended.
“the QSE Scorecard”	means the QSE scorecard referred to in statement 000.
“the Skills Development Act”	means the Skills Development Act of 1998.
“the Skills Development Levies Act”	means the Skills Development Levies Act of 1999.
“the Strategy Document”	means the document entitled “South Africa’s Economic Transformation – A Strategy for Broad-Based Black Economic Empowerment” published by the Department of Trade and Industry in March 2003 as amended or substituted under section 11 of the Act.
“Third Party Rights”	<p>means third party legal or commercial rights that restrict withhold or defer any benefit associated with ownership of any Equity Instrument. Third party rights include only those rights:</p> <ul style="list-style-type: none"> (a) Created against a black participant to secure, for a lender, repayment of a loan advanced to that Participant for financing their purchase of their equity instrument in the Measured Entity; (b) Held against a juristic person or trust that is in the chain of ownership between the Measured Entity and that the eventual black participant serving the same purpose mentioned in (a) above.
“Total Labour Cost”	means the total amount of remuneration paid by an Entity to its employees determined using section 3(4) of the Skills Development Levies Act of 1999 and the Forth Scheduled of the Income Tax Act of 1962.

“Transformation Charters”	means the sectoral transformation charters referred to in section 12 of the Act.
“Unemployed Learner”	means a learner that was not in the employment of the employer party to the Learnership, Apprenticeship or Internship concerned when the Learnership, Apprenticeship or Internship commenced. The employer and learner must therefore enter into a contract of employment. For the avoidance of doubt, the employer is not necessarily the Measured Entity. Refer to the Skills Development Act.
“Unincorporated Joint Venture”	means a joint venture between two or more Measured Entities effected by agreement without incorporation.
“Voting Right”	means a voting right attaching to an Equity Instrument owned by or held for a participant measured using the Flow through Principle or the Control Principle.
“Weighting”	means the weightings applied to various Elements in the Generic Scorecard and QSE Scorecard.
“Workplace Skills Plan”	means the training plan of a Measured Entity approved by the relevant SETA.

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT**SECTION 9(1) FOREST SECTOR CODE OF GOOD PRACTICE AS AMENDED****SCHEDULE 2****ADDITIONAL INSTRUMENTS AGREED UPON IN FIRST FOREST SECTOR CODE****(GAZETTE 32320, 12 JUNE 2009)****1. INTRODUCTION**

The implementation of the B-BBEE targets for the Forest Sector requires the application of a set of business, training, financial, regulatory and institutional support instruments. Many of these instruments are already in place, while some need to be established or strengthened under the Code. The additional instruments identified and agreed to under the framework of this Code are outlined in the relevant sections below.

2. OWNERSHIP

2.1 The sector aims to attain a weighted black ownership profile of 30% for the industry as a whole within 10-years. The industry and government are committed to working together in pursuing this target, inter alia, as follows:

- (a) The transfer of equity ownership and sale of business assets to achieve 25% ownership by black people in existing forest enterprises. A bonus point incentive to further increase this target to 30% has been set for medium and large forest enterprises.
- (b) The restructuring of state forest assets to support black ownership in the forestry sub-sector and, through log supply, in the forest product sectors.
- (c) The entrance of significant numbers of new black owned enterprises into the sector through enterprise development support initiatives by industry and government. This includes opportunities for new afforestation on land already owned by black people as well as growth in black owned forestry value adding enterprises.

2.2 Funding facility for B-BBEE transactions

Access to funding is required to finance BEE transactions involving both the sale of ownership equity and business assets in existing enterprises. The mechanisms used by corporate companies to fund large-scale empowerment deals are well known and the greatest challenge lies with finding the appropriate funding mechanisms to meet the

sector- specific requirements to fund empowerment transactions for smaller enterprises. The initiatives to be undertaken in this regard are outlined in par. 13.2.1 below.

2.3 Restructuring of State forest assets

- (a) **Government, through DPE**, will ensure that the transaction structure in the sale of Komati Land Forests will facilitate and encourage economic empowerment, taking into account the surrounding communities.
- (b) **Government, through DAFF**, undertakes to restructure the remaining (Category B and C) state forest plantations still under the jurisdiction of the Department of Agriculture, Forestry and Fisheries in accordance with the pro-poor development agenda of the government, and ensure that opportunities are opened to the broad-based black group this charter seeks to empower.

A plan for the restructuring of these plantations will be operational within one year of the signing of the Charter.

3. MANAGEMENT CONTROL

In addition to the Management Control targets, Forest Sector enterprises will report to the Charter Council on interventions undertaken to improve working conditions in the Forest Sector. Industry Codes of Conduct will be established for this purpose as outlined in par. 5 below.

4. SKILLS DEVELOPMENT

4.1 Sector Skills Plan (SSP) for the Forest Sector

Meeting the targets outlined in this Code requires a concerted and coordinated effort involving different role players in government (Departments of Labour & Agriculture, Forestry and Fisheries), statutory bodies (Fibre Processing and Manufacturing Seta (FPM Seta) and the South African Qualifications Authority – SAQA), industry and labour in addressing the bottlenecks in the delivery of accredited skills. This includes steps to ensure the effective utilisation of available skills development and training resources.

To this end:

- (a) **Government, industry and labour, through FPM Seta and its Forestry, Paper and Pulp and Timber Chambers**, jointly undertake to develop and implement a Sector Skills Plan for the Forest Sector that:
 - a. Includes targets and timelines to:
 - Strengthen the national framework for skills development.
 - Strengthen sector capacity for skills development delivery.

- Promote skills development opportunities for youth, women and new entrants in the Forest Sector.
 - Empower beneficiaries of the land reform process to sustainably develop and manage forest enterprises.
- b. Is based on a clearly defined transformation and growth strategy for the Forest Sector.
- c. Links with the various provincial government's Provincial Growth and Development Strategies (PGDS) and National Skills Fund (NSF) funded projects supporting the PGDS.
- d. Presents programmes and mechanisms through which enterprises can spend the additional skills development spend provided for in this Charter.
- e. Identify specific skills development projects for which business plans will be developed and submitted to the NSF for funding.

This measure will be operational within one year of the signing of the Charter.

- (b) **Government, through DAFF**, undertakes to fully participate as a contributing stakeholder in all FP & M SETA activities. This measure will be operational within six months of the effective date of the Charter.
- (c) **Government through the Department of Higher Education and Training** undertakes to ensure that when the National Skills Development Strategy (NSDS) is updated, special attention is given to skills development requirements to support B-BBEE sector targets for the South African economy.

5. PREFERENTIAL PROCUREMENT

5.1 Industry Codes of Conduct for the Forest Sector

To ensure equitable and sustainable contracting and employment practices in the Forest Sector, **industry** (through its representative associations), in consultation with **labour**, undertakes to establish Industry Codes of Conduct for the Forest Sector that will cover the following elements:

- (a) Codes for forestry contracting: These Codes will control and direct the relationship between contracting companies and contractors, and between contractors and sub-contractors. The Codes will provide for larger and longer-term contracts enabling contractors to improve margins and invest in their businesses and staff. It will also provide for transparent and accessible tendering systems and fair pricing that will support good governance and fair labour practices.
- (b) Codes for emerging forest grower schemes: These Codes will control and direct contracts with emerging growers in company-affiliated schemes. The Codes will ensure transparency in the costing of support services and market related pricing

arrangements for timber that will support sustainable business practices, good governance and fair labour practices.

- (c) Codes for charcoal contracting: These Codes will control and direct the relationship between small black charcoal producers and the brand name producers and industrial users of charcoal. The Codes will provide for partnership ventures between small scale suppliers and large scale buyers of charcoal and a fair, transparent and stable pricing system that will support sustainable business practices, good governance and fair labour practices.
- (d) Codes for employment practices: These Codes will give practical effect and weight to fair labour practices as provided for under the Basic Conditions of Employment Act, 1997, and other labour legislation as it applies to employees, including contract workers, in the forest sector. Government also undertakes to ensure that enterprises that procure timber and other forest products from state forests shall sign a commitment of compliance with these Codes. Failure to do so or to comply with these Codes will disqualify enterprises from procuring state timber and other forest products.

This measure will be operational within one year of the signing of the Charter.

6. ENTERPRISE & SUPPLIER DEVELOPMENT

6.1 Access to funds and financial services for emerging black entrepreneurs

New afforestation and forest enterprise development requires capital investment and access to financial services. To this end:

Industry undertakes to:

- (a) Support the development and implementation of a diversity of enterprise ownership and financing models.
- (b) Through its representative associations, negotiate framework agreements with banks and other private sector funding agencies that meet the particular funding requirements of the sector. Government will use its influence to assist the industry in this regard.
- (c) Through its representative associations, promote the development of accessible and cost-effective fire insurance schemes for emerging growers.

Government, through DAFF, undertakes to:

- (d) Initiate a process, with timeframes, for negotiating with the Department of Rural Development and Land Reform (DRDLR), Land Bank, Industrial Development Corporation (IDC) and other public funding and donor institutions the establishment of framework agreements to access funding facilities available within these institutions.

- (e) Implement, after consultation with Treasury, the establishment of a Forest Enterprise Development Fund that provides for:
- a. A Forestry Grant aimed at increasing the tempo of forest enterprise development, particularly given the long timeframes involved in growing trees; and
 - b. Seed funding for the development of fire insurance schemes for emerging growers, where the ownership of such schemes vest with the participants.

DAFF will also facilitate framework agreements with existing enterprise development agencies for the implementation of such a fund.

These measures will be operational within one year of the signing of the Charter.

6.2 Capacity building and business support for emerging black entrepreneurs

Access to community facilitation services, extension support and training services needs to be improved to enable emerging enterprises and new entrants to decide on, plan and implement afforestation and enterprise development projects. To this end:

Industry undertakes to:

- (a) Through cooperatives and companies, continue its key role in providing services linked to the supply of raw material and services, and as part of their commitment to enterprise development.

Government, through DAFF, and in consultation with Industry undertakes to:

- (b) Provide forest enterprise development support services to small, micro and medium enterprises throughout the forestry value chain.

An implementation plan with service delivery agreements and funding mechanisms will be in place for three key forestry areas in the country within 18 months of the signing of the Charter.

6.3 Expedite the authorisation process for afforestation & paper and sawmilling facilities

The successful implementation of the Forest Sector Charter requires an afforestation authorisation process that is accessible and affordable to new entrants to the forestry industry. B-BBEE in the fiber-processing sub-sector also depends on the expeditious processing of applications for water use licenses.

To this end **Government, through DAFF**, undertakes to implement a co-operative governance initiative between authorising government departments and levels of government that aims to:

- (a) Streamline and expedite afforestation licensing procedures to facilitate the establishment of a minimum of 100 000ha net increase in planted area over ten years, based on a target average of 10 000ha per annum, while at the same time ensuring

that forestry's water use is considered and weighted fully against competing proponents for water allocation in licensing decisions. The measures to be implemented are detailed in the Companion to the Charter (refer to Schedule 3).

This measure will be operational within one year of the signing of the Charter.

- (b) Publish procedures for mill licensing applications and authorisations that will indicate what information is required to make a decision on issuing a license and the time frames in which they will make those decisions. This will include developing sector-specific guidelines for the compilation of information in support of water use license applications by paper and pulp mills.

This measure will be operational within six months of the signing of the Charter.

- (c) Apply the licensing and permit system under the National Water Act of 1998 and the National Forests Act of 1998 to promote the objectives of this Charter, as provided for under these Acts. Preferences will be given to enterprises that comply with the B-BBEE Forest Sector Scorecard. Guidelines will be issued by DAFF in this regard.

This measure will be operational from the effective date of the Charter.

6.4 Securing land rights and land holding structures for new afforestation and the restructuring of State forest assets

The implementation of B-BBEE through (1) new afforestation on communal land and (2) the transfer of ownership and lease rentals on state forest plantations to be transferred in ownership to communities, require the confirmation of tenure rights and the establishment of institutional structures to undertake and manage forestry projects. This must be implemented within the framework of the Interim Protection of Informal Land Rights Act (Act 31 Of 1996) and Communal Land Rights Act (Act 11 of 2004)¹. Arrangements are also necessary to ensure the continued use of existing state forest land for timber production.

To this end **Government** undertakes to implement a cooperative governance initiative involving the Departments of Rural development and Land Reform & Agriculture, Forestry and Fisheries, as well as Provincial and Municipal Governments to:

- (a) Establish a Memorandum of Understanding between parties to ensure the continued and sustainable use of existing state plantation areas for timber production, and to provide for post-settlement support to the new owners of such land. This measure will be operational within one year of the signing of the Charter.
- (b) Ensure that the necessary legislative framework, budget and programme is established to enable communities to confirm their tenure rights and establish land holding structures for the transfer of existing state forest land and communal land earmarked for afforestation. This measure will be operational within one year of the signing of the Charter.

¹ Some of the land claims on State forest land are to be dealt with in terms of the Restitution of Land Rights Act. Instruments to deal with these restitution claims are discussed in par. 8.2.7 below.

- (c) The programme will secure tenure rights and establish land-holding structures for 50% of all new afforestation projects in the Eastern Cape and 90% of all state forest land transfers within 5 years of the signing of the Charter.

6.5 Small grower certification

Small grower certification is important to improve access to markets for emerging black growers.

To this end, the forestry **Industry** (through its representative structures) and **Government (through DAFF)** undertake to continue to develop and implement appropriate forestry certification methodologies for emerging growers.

This measure will be operational within 18 months of the signing of the Charter.

6.6 Access to raw material supply for small scale charcoal production and domestic fuel wood

Continued access to raw material supply is necessary to ensure sustainability of small-scale charcoal production. It is recognised that the Working for Water (WfW) Programme has an important role to play in supporting access to raw material through the removal of invasive alien plants and in creating black enterprise development opportunities associated therewith. At the same time, many poor rural communities in energy poor areas of the country are reliant on alien species for the bulk of their fuel wood needs.

Therefore, **Government, through DAFF**, undertakes to:

- (a) Implement the WfW programme under policies that will ensure a sustainable, albeit reduced, supply of plant material for fuel wood and charcoal production.
- (b) Disseminate information on the availability of raw material sources as an initiative under the WfW programme.
- (c) Promote the development of B-BBEE enterprises linked to the utilisation of wood products from the clearing of invasive alien trees.
- (d) Supporting additional enterprise development opportunities based on the effective and sustainable utilization of invasive alien species. This will be done by developing alternative forest products from such species and developing the business case for such projects.
- (e) Implement a programme aimed at transforming selected accessible (dense) stands of invasive alien trees to managed woodlots in order to improve the productive potential of land.

These measures will be operational within one year of the signing of the Charter.

7. SOCIO ECONOMIC DEVELOPMENT

Most forest enterprises are located in rural areas where the majority of the country's poor live. The Forest Sector is well placed to advance B-BBEE by undertaking socio-economic development initiatives that benefit local communities. This entails the provision of services and amenities to the rural poor, such as housing provision for workers and their families, support to health and HIV/AIDS programmes, provision of community education facilities, environmental conservation programmes, community training in fire prevention and conservation, and support with rural road maintenance. The industry is also aware of the important role of forests in providing livelihood opportunities for poor rural households and commits to ensuring regulated access to non-commercial forest products such as firewood, building poles, medicinal plants and edible fruits by local communities.

8. INDUSTRY SPECIFIC INITIATIVES

8.1 Additional Instruments

The scope and sustainability of B-BBEE in the forest industry will depend in large measure on growth in the sector and the optimal use of the country's limited timber resources. **Sector stakeholders** commit to implementing the following additional instrument in meeting these requirements.

8.1.1 Integrated planning for Forest Sector development

To secure broad-based support for the development of the sector, it is necessary that opportunities for the forest development be incorporated into the national, provincial and municipal plans.

Steps are underway to develop a sector growth strategy and action plan for the forestry, pulp and paper and furniture industries in South Africa. This forms part of the National Industrial Policy Framework and the Industrial Policy Action Plan for the country. The sector growth strategy and action plan needs to be completed to support the implementation of this Charter.

Steps have also been taken to ensure that Forest Sector development initiatives are included in Provincial Growth and Development Strategies (PGDS's) and Municipal Integrated Development Plans (IDP's) for forestry regions in the country. However, more work has to be done to ensure that this is done for all forestry regions and that Forest Sector inputs are continually updated.

To this end:

- (a) **Government, through the DTI and DAFF**, undertake to finalise and implement the sector growth strategy and action plan for the forestry, pulp and paper and furniture industries.

This measure will be in place within 6 months of the signing of the Charter.

- (b) **Government, through DAFF**, undertakes to ensure that forest development needs and opportunities are adequately incorporated in provincial and municipal planning processes, namely Provincial Growth and Development Strategies and Municipal Integrated Development Plans (with budgets), for all forestry regions of the country.

This measure will be in place within 1 year of the signing of the Charter.

- (c) **Industry**, in turn, undertakes to participate in provincial and municipal planning processes through the Department of Trade and Industry supported Regional Industry Strategies and Wood Clusters initiative.

This measure will be in place in the Eastern Cape, KwaZulu-Natal and Limpopo within two years of the signing of the Charter and in other key forestry areas within three years thereafter.

8.1.2 Sawlog growing strategy and programme for South Africa

The country is facing severe shortages in sawlogs and measures are required to ensure a sustained and increased production of sawlogs.

To this end **Government, through DAFF**, and the **Industry** will work together in developing and implementing a sawlog growing strategy and programme, the details of which are included in the Companion to the Charter (refer to Schedule 3). This measure will be in place within one year of the signing of the Charter.

8.1.3 Forest protection services

To help offset supply shortages it is not only imperative to expand the plantation area, but also to reduce the currently escalating losses being experienced through fires, pests and disease.

To this end the **Government, through DAFF**, and the **Industry** undertake to implement integrated strategies to:

- (a) Manage, control, reduce and where possible eradicate the threats and infestation levels of pests and diseases in timber plantations.
- (b) Manage, control and reduce the risks posed to forests through the incidence of fires.

The requirements of these strategies are detailed in the Companion to the Charter (refer to Schedule 3) and these measures are to be in place within 1 year of the signing of the Charter.

8.1.4 Transport infrastructure development in support of forestry

Transport of timber to markets represents a large cost component in timber production. Poor rail and rural road infrastructure within and too many forestry areas of the country negatively impact on the profitability of emerging grower operations.

To this end **Government, through DAFF**, undertakes to:

- (a) Ensure that forestry development needs and opportunities are adequately incorporated in provincial and municipal planning processes (refer to par. 8.1.1 above).
- (b) Work with the forest industry in defining the transport infrastructure needs for forest development, for inclusion in the relevant Provincial Freight Transport Plans and Local Integrated Transport Plans for municipalities.

This measure will be in place for the Eastern Cape, KwaZulu-Natal and Limpopo within two years of the effective date of the Charter and for other key forestry areas within three years thereafter.

Industry, in turn, undertakes to:

- (c) Actively participate in provincial Freight Task Groups and Corridor Freight Committees to ensure that the transport needs of the forest industry receive the required attention from stakeholders and decision-makers in the transport sector.
- (d) Work through the Department of Trade and Industry supported Regional Industry Strategies and Wood Clusters initiative in developing road infrastructure and the development of business plans for key forest areas in the country.

This measure will be in place in the Eastern Cape, KwaZulu-Natal and Limpopo within two years of the effective date of the Charter and in other key forestry areas within three years thereafter.

8.1.5 Anti-dumping measures

The paper industry worldwide has surplus production capacity in many grades of paper, and many producers resort to selling their surplus production in foreign markets at prices significantly lower than in their domestic markets. This can and has caused local producers to go out of business. South Africa has anti-dumping procedures in line with international agreements, but the application of these procedures has proven to be cumbersome and slow. This is a constraint to black enterprise development in the fibre sub-sector.

Therefore, **Government undertakes** to request the ITAC to commit to do more, within its legal constraints, to provide greater protection for South African producers from foreign dumpers.

8.1.6 Strategy and programme for Forest Sector R&D in South Africa

Greater attention needs to be given to Forest Sector innovation, research and development to ensure that the sector has access to information, appropriate technology and innovation to support B-BBEE and enterprise development.

To this end **Government, through DAFF**, undertakes to drive the process to develop a Forest Sector research and development strategy with clearly outlined responsibilities, funding mechanisms and timelines.

This measure will be operational within six months of the effective date of the Charter.

8.1.7 Expediting restitution claims on forest land

The completion of the restitution process will facilitate the transfer of a substantial portion of state and private forestry land to previously disadvantaged communities and will bring greater stability to the forest industry. In the interest of the economy steps need to be taken to ensure the continued and sustainable use of such plantation areas for timber production.

To this end:

Government, through DAFF, and **other sector stakeholders** undertake to:

- (a) Work together with the Commission on Restitution of Land Rights (CRLR) in developing a national framework for the settlement of land claims to ensure the continued and sustainable use of existing plantation areas for timber production, and to provide for post-settlement support to the new owners of such land.

CRLR undertakes to:

- (b) Expedite the settlement of land claims on forest land, with 90% of all land claims settled within 5 years of the signing of the Charter.

8.1.8 Industry structures

Well-functioning structures that represent and work on behalf of the various interest groups within the forest industry are required for sustainable transformation and growth in the sector.

To this end:

All sub-sectors of the forest industry undertake to:

- (a) Strengthen sub-sector organisations where they exist to increase representivity, effectively lobby on behalf of members, facilitate access to support services particularly for small and emerging enterprises.
- (b) Establish sub-sector organisations where there are none.

- (c) Enhance co-operation between the sub-sector organisations.
- (d) Respect and promote the right of all workers to join organisations of their choice and to create an enabling environment for the establishment and growth of worker organisations.

Trade Unions undertake to:

- (e) Improve levels of organisation and representation of workers throughout the sector. In particular, they undertake to find appropriate and effective ways to organise forestry workers in the context of widespread casualisation and outsourcing.

These measures will be operational within two years of the signing of the Charter.

8.1.9 Review of levying of property rates in forest areas

The levying of property rates by municipalities on forestry areas where the imposition of such rates is not clearly justified (for example, where no viable alternative land use exists or where the services rendered to the forestry operation do not justify the rates) severely compromises the economics of growing timber.

DAFF undertakes to engage with SALGA and municipalities in an attempt to provide relief from property rates where this negatively impacts on the sustainability of timber growing.

This measure will be operational within two years of the signing of the Charter.

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT**SECTION 9(1) FOREST SECTOR CODE OF GOOD PRACTICE AS AMENDED****SCHEDULE 3****EXTRACT FROM THE COMPANION TO THE CHARTER LISTING DETAILED
UNDERTAKINGS IN THE CHARTER****Streamline and expedite afforestation licensing procedures**

Par. 6.3 (a) of Schedule 2 contains the undertaking to streamline and expedite afforestation licensing procedures to facilitate the establishment of a minimum of 100 000ha net increase in planted area over ten years, based on a target average of 10 000ha per annum, while at the same time ensuring that forestry's water use is considered and weighted fully against competing proponents for water allocation in licensing decisions. This will comprise the following measures:

- (a) Create an enabling regulatory environment that renders the costs of the water use license application process affordable to emerging growers.
- (b) Support and advise emerging growers in the water licensing application process, in compliance with environmental and other afforestation authorisation requirements.
- (c) Take steps to ensure that legislative and regulatory requirements do not result in forestry and the planting of trees for commercial and subsistence use being disadvantaged in relation to other forms of land use.
- (d) Ensure that all applications for afforestation are processed expeditiously by developing a Memorandum of Understanding (MoU) with and ratified by other pertinent authorising regulatory authorities. The MoU should ensure strict enforcement of the Stream Flow Reduction Activity (SFRA) application procedures and adherence by all participating parties to the laid down time frames prescribed for relevant interventions, such as inspecting sites, receiving and attending to comments, and processing applications.
- (e) Implement a proactive approach to forestry development in areas that have substantial opportunities for afforestation, namely a co-operative government initiative to authorise swift afforestation licensing in areas that have been identified and demarcated as being suitable for afforestation in the Eastern Cape and KwaZulu-Natal. This will be provided for in the Memorandum of Understanding referred to in par (d) above.
- (f) Develop a protocol to be included in the Memorandum of Understanding referred to in par. (d) above to facilitate lawful conversion of tree genus or species, specified as a permit or license condition, where this change should be informed by forestry practice or economics.

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The key principle governing such change will be the water use condition of the applicable authorisation.

- (g) Make provision for water use by subsistence and homestead woodlots by providing for the consideration of a Schedule 1 provision and/or General Authorisation for such small-scale woodlots.
- (h) Facilitate the transfer or trade of a water use allocation or existing lawful use of water, and the issuing of licenses in the event of conversion of a land use from irrigated cropping (including sugarcane) to timber plantations.
- (i) Allow water use by dry land sugarcane to be allocated to timber plantations, based on an equitable water use exchange ratio for these crops, provided that such dry land sugarcane has been an existing land use practice for at least five years, and that this does not compromise the availability of water to the Reserve and other lawful water users.
- (j) Allow the water use attributed to wattle, pine and eucalyptus jungles that are rehabilitated or converted and correctly managed as commercial timber plantations, to be allocated through an SFRA water use license to such timber plantations. General Authorisations will be considered in catchments where there is sufficient available water to allow such conversion.
- (k) Develop an efficient and effective framework to authorise the re-allocation of water, where timber as an existing lawful water use in a riparian zone is excised, to alternative plantation areas within the same quaternary catchments or elsewhere within the wider catchment.
- (l) Ensure that emerging timber growers who have lawfully licensed timber plantations are included in DAFF's definition of "resource poor farmers" and subject to the same benefits as others so classified.

Sawlog growing strategy and programme for South Africa

Par. 8.1.2 of Schedule 2 contains the undertaking to develop a sawlog growing strategy and programme. This strategy and programme will include the following measures:

- (a) Ensure that emerging timber growers who have lawfully licensed timber plantations are included in DAFF's definition of "resource poor farmers" and subject to the same benefits as others so classified.
- (b) Review the State Forest Exit Strategy in Southern and Western Cape.
- (c) Create incentives for emerging black growers to invest in long rotation sawtimber crops.
- (d) Develop government conditions on lease of state forestland to ensure the continued production of sawlogs.
- (e) Promote greater investment by the sawmilling industry in raw material supply.
- (f) Create land dedication schemes for long rotation crops linked to, inter alia, tax incentives.
- (g) Develop sector programmes involving government and the industry to combat softwood plantation losses.

- (h) Develop appropriate species selection, growing and harvesting strategies that meet the structured market requirements for a diversity of saw-timber products in the country.

Forest protection services

Par. 8.1.3 of Schedule 2 contains the undertaking to develop a forest protection strategy to reduce the currently escalating losses being experienced through fires, pest and disease. This strategy and programme will include the following measures:

(a) Pests and diseases

- a. Government, through DAFF, and the Industry undertake to:
- b. Profile pest and disease issues as a Government priority.
- c. Compile a risk analysis of the current and potential threats facing timber plantations and to make recommendations as to the best way to mitigate these.
- d. Develop and agree upon an integrated strategy to implement the recommendations, including providing for increased levels of support through infrastructure, human resource capacity and funding.
- e. Prioritise pest and disease research aspects in the Forest Sector R&D strategy.
- f. Negotiate with the national Department of Agriculture, Forestry and fisheries to expedite the procedures for importation of Biological Control Agents to assist in the control of pest and disease outbreaks.
- g. Enhance phytosanitary monitoring and control at ports of entry into South Africa.
- h. Enhance public awareness about the threats posed by forest pest and diseases.

(b) Forest fires

Government, through DAFF, undertakes to:

- a. Ensure that policies and strategies are in place to ensure compliance by land owners with the provisions of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) as amended.
- b. Ensure that capacity exists to enforce the provisions of the NVFFA.
- c. Ensure that measures are in place to encourage enrolment and participation in Fire Protection Associations.
- d. Encourage the provision of resources to Fire Protection Associations, particularly those servicing communal areas, to enable them to provide improved levels of service.
- e. Assist Industry through the provision of 'seed funding' to implement emerging grower fire insurance cover as outlined in par. 6.1 of Schedule 2 of the Forest Sector Code.
- f. Implement, on an ongoing basis, National Fire Awareness campaigns with particular emphasis on high fire risk areas.

- g. Support resource-poor Fire Protection Associations.
- h. Enhance capacity of Working on Fire programme to fight veld and forest fires.

Industry, in turn, undertakes to:

- i. Increase enrolment and participation in Fire Protection Associations.
- j. Increase collective support of equipment, personnel and training for Fire Protection Associations.
- k. Enhance cooperation and support to the Working on Fire programme.
- l. Provide access to firefighting training for emerging growers.
- m. Implement an emerging grower fire insurance scheme as outlined in par. 6.1 of Schedule 2 of the Forest Sector Code.
- n. Implement fire awareness programmes in forest areas.

Charter Council

Par. 16.1 of the Charter contains the undertaking to establish a Forest Sector Charter Council that will oversee and facilitate the implementation of the FSC. The functions, composition, constitution and funding arrangements for the Council are outlined hereunder:

(a) Functions

- a. Monitor the implementation of the FSC and review the FSC as outlined in par. 16.2 of the FSC.
- b. Provide interpretation and guidance with respect to the FSC. This may be done in the form of the issuing of best practice notes or such other format as the Council may decide from time to time.
- c. Facilitate the communication and popularisation of the FSC.
- d. Facilitate cross-industry and government negotiations to promote the application and implementation of the FSC.
- e. Provide guidance on sector-specific matters affecting B-BBEE in entities within the Sector.
- f. Share information with the national monitoring mechanism and approved accreditation agencies that are relevant to the Sector.
- g. Issue guidelines for sector-specific enterprise development and socio-economic development contributions under the Scorecard.

(b) Composition

- a. The Council shall consist of 19 members, with the following composition:

- A Chairperson, who shall be an independent person, appointed by the Minister of Agriculture, Forestry and Fisheries in consultation with stakeholder constituencies.
 - An Executive Director, who shall be responsible for the daily administration and operations of the Council and serve on the Council in an ex-officio capacity.
 - Nine (9) members representing industry, appointed from the various sub-sectors in the Forest Sector.
 - Two (2) members representing organised labour.
 - Three (3) members representing broader stakeholders assigned by the Minister of Agriculture, Forestry and Fisheries in consultation with the stakeholder constituencies.
 - Three (3) members representing government, one each from the Departments of Agriculture, Forestry and Fisheries, Trade and Industry, and Rural Development and Land Reform.
- b. The composition of the Council shall fairly reflect the stakeholders in the Sector and be racially and gender representative.
- c. The terms of office for members of the Council shall be 3 years, and members shall be eligible for re-appointment.
- d. The Executive Director shall be appointed jointly by the parties that fund the Charter Council as outlined in par. (d) below.
- e. The Executive Director shall make other staff appointments.

(c) Constitution

- a. The Council shall be guided by the following five basic principles:
- Transparency
 - Fairness
 - Corporate Governance
 - Consultation and inclusivity
 - Socio-economic transformation
- b. Decisions of the Council shall be taken on a consensus basis. If on any issue the Council is unable to achieve consensus, there will be a dispute breaking mechanism as specified in the Constitution referred to in par. e. below.
- c. The Council may create sub-committees to deal with specific matters as and when required.
- d. The Council may co-opt experts to serve on or advise sub-committees as contemplated above.

- e. A Constitution of the Council shall be tabled for adoption at the first meeting of the Council and must be adopted by a two-third majority within 60 working days after the gazetting of this Charter.
- f. The Council may amend the Constitution of the Council from time to time.
- g. The Council shall, in consultation with the BEE Advisory Council and by resolution, formulate rules to further regulate its proceedings.

(d) Funding

- a. The Forest Industry and Government shall fund the Council jointly, with Government contributing 60% and Industry 40% of the budget requirements.
- b. The funding arrangement as outlined in par. a. above is subject to agreement between these parties on the initial budget requirements for the Council and an annual escalation of the budget based on the South African Consumer Price Index, unless otherwise agreed to by the parties.
- c. The Council shall prepare an annual business plan that will include a budget for the work of the Council.

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT
SECTION 9(1) FOREST SECTOR CODE OF GOOD PRACTICE AS AMENDED

SCHEDULE 4

SIGNATORIES TO THE CHARTER AND FOREST SECTOR CODE

We the undersigned:

- Representative organisations of major stakeholders and stakeholder groups in the Forest sub-sectors;
- Major non-affiliated enterprises in the various Forest Sub-Sectors, and
- Persons having been mandated to sign the Charter on behalf of non-affiliated stakeholder groups at regional meetings,

And having participated in the process of developing this Charter, hereby adopt the Charter and commit ourselves to the implementation of the Charter within the timeframes jointly agreed upon and set out in this Charter.

GROWERS SUB-SECTOR:

FSA

FORESTRY CONTRACTORS

SAFCA

Amahlathi Entrepreneurs Forum

FIBRE SUB SECTOR:

PAMSA	Kap
Masonite	Sonae Nova Board
Chipboard Industries	NCT
NTE Ltd	Union Co-op
TWK	Magna Board

SAWMILLING SUB-SECTOR

Sawmilling South Africa	Global Forest Products
Hans Merensky	Lion Match
SAFCOL	Yorkcor
Cape Timber Resources	

POLE PRODUCTION SUB-SECTOR

SAWPA

SAUPA (South African Utility Pole Associations)

CHARCOAL PRODUCTION SUB-SECTOR

Suiderland Charka Ltd

E&C Charcoal

Braai and Barbeque International

GOVERNMENT

Department of Agriculture, Forestry and Fisheries

Department of Rural Development and Land Reform

Department of Labour

Department of Water and Environmental Affairs

Department of Public Enterprises

LABOUR

FAWU

CEPPWAWU

COSATU

STATUTORY BODIES

FP&M Seta

National Skills Authority

Commission on Restitution of Land Rights

National Forests Advisory Council

SANPARKS

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To all suppliers and potential suppliers of goods to the Government Printing Works

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

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To confirm the legitimacy of purchase orders, please contact:

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Anna-Marie du Toit (012) 748-6292 (Anna-Marie.DuToit@gpw.gov.za) and

Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

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

Please take note of these guidelines when completing your form.

GPW Business Rules

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

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

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

