



# AMC HUNTER INC

Attorneys, Notaries & Conveyancers

69 Florida Road, Morningside  
■ DURBAN ■

## PROPERTY SECTOR TRANSFORMATION CHARTER

Draft 4

### 1 PREAMBLE

- 1.1 The Property sector commits itself to the implementation of a Transformation Charter, this commitment was made noting that:
  - 1.1.1 Despite significant progress since the establishment of a democratic government in 1994, South African society, including the Property sector, remains characterised by racially based income and social services inequalities. This is not only unjust, but inhibits South Africa's ability to achieve its full economic potential;
  - 1.1.2 A positive and proactive response from the sector through the implementation of broad-based black economic empowerment (BBBEE) would address inequalities and unlock the sector's potential;
  - 1.1.3 The Constitution of the Republic of South Africa, Act 108 of 1996, in inter alia section 9 on equality (and unfair discrimination) in the Bill of Rights, states the imperative of redressing historical and social inequalities;
  - 1.1.4 BBBEE is a mechanism aimed at addressing inequalities and mobilising the potential of all South Africans. It will contribute towards sustained economic growth, development and social transformation in South Africa.
- 1.2 We, the parties to this charter, commit to strive for transformed property relations in South Africa and to promote a vibrant and growing property sector that reflects the South African nation as a whole, contributes towards development and the establishment of an equitable society.
- 1.3 The Property charter:
  - 1.3.1 Constitutes a framework and establishes the principles upon which BBBEE will be implemented in the sector;
  - 1.3.2 Is a transformation charter as contemplated in the Broad-Based BEE Act (No 53 of 2003) and the dti BEE Codes of Good Practice and lays the basis for the development of a code of good practice for the Property sector, as envisioned in the BBBEE Act;
  - 1.3.3 Establishes targets and qualitative undertakings in respect of each element of BBBEE;
  - 1.3.4 Outlines processes for implementing the commitments contained in the charter, as well as mechanisms to monitor and report on progress; and
  - 1.3.5 Applies to all stakeholders within the sector.

PO. Box 50641, Musgrave, 4062 : Docex 274, Durban

|                      |   |   |
|----------------------|---|---|
| HEAD OFFICE - DURBAN | 69 Florida Road, MORNINGSSIDE                       | Tel: (031) 303 4001<br>Fax: (031) 303 4010 / 303 4011 |
| HILLCREST OFFICE     | 4A Burnside Office Park, 1 Builder's Way, HILLCREST | Tel: (031) 765 8442<br>Fax: (031) 765 8412            |
| BALLITO OFFICE       | Shop 1, 27 Sandra Road, BALLITO                     | Tel: (032) 946 2337<br>Fax: (032) 946 1805            |
| AMANZIMTOTI OFFICE   | First floor, 419 Kingsway, AMANZIMTOTI              | Tel: (031) 903 1707<br>Fax: (031) 903 1711            |

## **2 THE CHALLENGES FACING THE PROPERTY SECTOR**

- 2.1 Property ownership and the complex system that has evolved around it is the foundation of wealth creation in the world today. Historically, property has been viewed as a right. In South Africa however, black people were denied access to productive land through the Native Land Act of 1913 and subsequent discriminatory policy and legislation.
- 2.2 Black people could not own property nor could they effectively trade on properties. In many cases land was held by Tribal Trusts, which precluded people living on tribal land from obtaining title deeds. These laws affected the ability of black people to create or accumulate wealth.
- 2.3 Consequently, significant numbers of South Africans have never in the history of their families experienced formal property ownership and its wealth creation benefits. This has had a fundamental impact on the economic potential of South Africa and black people in particular.
- 2.4 Despite legislative and policy interventions to eradicate these inequalities, in practice skewed patterns of ownership, participation and benefit remain.
- 2.5 Black people continue to be significantly under-represented in ownership of property, whilst administrative, legal and financial constraints restrict the ability of black people to participate in the property market.
- 2.6 Commercially, direct property ownership is dominated by institutional investors, collective investment schemes, property loan stocks and listed property entities, with Government being the largest commercial player. There is limited participation of black people, women and black women in particular, in ownership and control of these entities. The commercially driven activities surrounding property, including development, management and sales, rests largely in white-owned hands.
- 2.7 Enterprises in the sector have inadequately addressed employment equity with the result that the sector continues to be under-represented in terms of race and gender.
- 2.8 There is little investment in skills development and limited commitment to workplace training.
- 2.9 At tertiary education level, property is inadequately supported as a profession, combined with limited appreciation of property as a career.
- 2.10 There is a lack of black representivity on bodies such as the Sector Education and Training Authority (SETA), the South African Qualifications Authority (SAQA) and the Standards Generating Bodies (SGBs).
- 2.11 Preferential procurement has been implemented inadequately with few enterprises being able to demonstrate any progress in increasing spend from targeted suppliers or implementing preferential procurement policies.
- 2.12 The sector has not effectively addressed gender equality with women, particularly black women, under-represented in ownership, control, management and in professional skills in the sector.
- 2.13 The sector does little to promote the growth of sustainable enterprises and there is almost no enterprise development support.
- 2.14 There is a lack of investment and property development in under-resourced areas, perpetuating service inequalities and exacerbating the limited tradability of these properties.
- 2.15 There is insufficient financing available to address the skewed patterns of ownership. This situation is exacerbated by legal and administrative obstacles to property ownership.

### **3 OBJECTIVES OF THE CHARTER**

The charter aims to:

- 3.1 Unlock obstacles to property ownership and participation in the property market by black people;
- 3.2 Promote property development and investment in under-resourced areas;
- 3.3 Achieve a substantial change in the racial and gender composition of ownership, control and management and enhance the participation of black people, including black women and designated groups in the property sector;
- 3.4 Promote employment equity in the property sector and encourage diverse organisational cultures;
- 3.5 Increase the pool of intellectual capital in the sector by focusing on attracting new entrants and developing appropriate curricula;
- 3.6 Contribute towards increased investment in the skills development and training of existing and new black professionals, and black women leadership;
- 3.7 Enhance entrepreneurial development and increase the number and expertise of BBBEE firms and SMMEs providing services and products to the sector;
- 3.8 Increase the procurement of goods and services from BBBEE suppliers;
- 3.9 Increase the accessibility of finance for property development;
- 3.10 Encourage good corporate citizenship amongst enterprises in the sector, including participation in corporate social investment projects and adherence to triple bottom line accountability; and
- 3.11 Promote investment in the property sector and contribute to the positive growth of the property industry.

### **4 APPLICATION AND GOVERNANCE**

- 4.1 This charter applies to the South African property sector, including but not limited to all property owning and property services enterprises.
- 4.2 The sector Charter Council will be established to oversee and monitor the implementation of the charter. It shall be constituted as a representative structure with executive capacity.
- 4.3 Each enterprise will submit a BBBEE report annually to the sector Charter Council. The report, which will be publicly accessible, must contain the enterprise's scorecard, verified by an accredited BEE verification agency and an account of progress in achieving the qualitative undertakings outlined in the charter.
- 4.4 The first annual report will be for the year ending 31 December 2006, and must be submitted to the sector charter council by 31 March 2007. Thereafter each enterprise will report as at 31 December each year thereafter and submit the report by 31 March of the following year.
- 4.5 Between the effective date of the charter and the first reporting date, enterprises will be measured on provisional verifications, provided by the verification agencies.
- 4.6 The targets contained in the charter will be valid for five years.

- 4.7 After three years the sector Charter Council will comprehensively review progress the implementation of the charter.
- 4.8 All the provisions of the charter are to be achieved in a manner consistent with sound business practice.
- 4.9 The charter will be applicable to enterprises, which fall within a group that is bound by another charter, if the primary business of the subsidiary within the group is in property.
- 4.10 Micro and very small enterprises will be exempt from fulfilling the requirements of the charter and awarded a BBBEE status of Level 2 or 3 depending on their level of black ownership.
- 4.11 Small enterprises will be measured in terms of a generic small enterprise scorecard which will be published by the dti.
- 4.12 All other enterprises wishing to claim exemption from any clause in the charter will be required to justify the specific exemption, together with supporting documentary evidence, to the Charter Council with their annual BBBEE reports. Where enterprises are exempt from certain elements or indicators of the charter, their performance will be calculated after subtracting the points which are allocated to that element or indicator.

## **5 EMPLOYMENT EQUITY**

- 5.1 Despite the introduction of the Employment Equity Act, No. 55 of 1998, racial and gender representivity in the property sector, especially in the various management categories, is not representative of the demographics of the country.
- 5.2 Consequently, each property sector enterprise undertakes to:
  - 5.2.1 Implement transformation programmes in its workplace and eradicate inequalities and disparities;
  - 5.2.2 Promote a non-racial, non-sexist environment and enhance cultural diversity and gender sensitivity; and
  - 5.2.3 Ensure reasonable accommodation and access for applicants and employees with disabilities.
- 5.3 In addition to obligations in terms of employment equity, enterprises in the sector commit to achieve the following within five years from the effective date of the charter:
  - 30% black people in Senior Management;
  - 10% black women in Senior Management;
  - 35% black people in Middle Management;
  - 12% black women in Middle Management;
  - 50% black people in Junior Management; and
  - 20% black women in Junior Management.
  - 30% black practitioners in estate agents;
  - 15% black women as practitioners in estate agents;

## **6 SKILLS DEVELOPMENT**

- 6.1 Enterprises in the sector are not adequately investing in skills development and consequently there are limited levels of workplace development and continued professional training. There are also an insufficient number of structured and accredited training programmes or curricula in property related professions.
- 6.2 The parties to the charter commit that within six months of the effective date of the charter a programme which outlines key actions to address the backlog in structured skills development for the sector will be developed. This programme will be designed in partnership with the sector, the SETA, academic institutions and government.

- 6.3 Enterprises in the sector commit to achieve the following targets:
- 1.5% of payroll per annum on skills development of black people;
  - 2.5% of staff in learnerships; and
  - 2.5 % of staff in mentorships.
- 6.4 In addition to the above, enterprises in the sector will:
- Implement internships whereby academically qualified individuals are working under supervision of qualified professionals to upgrade the professionalism in the sector;
  - Focus on recognition of prior learning to determine the level of competency in the sector and promote further development and training to improve the level of competency in the sector; and
  - Promote continuous professional development in the sector.
- 6.5 Each enterprise will submit, in compliance with the Skills Development Act No. 97 of 1998, a workplace skills plan.

## **7 PROCUREMENT**

- 7.1 To date there has been limited implementation of targeted procurement practices in the sector. The parties to the charter therefore commit to:
- Achieve a target of 70% of total procurement spend from BBBEE enterprises in five years; and
  - Achieve a target of 40% of total procurement spend on property services enterprises with a BBBEE status of Level One to Level Four in five years.
- 7.2 Three years after the effective date of the charter, the Charter Council will review the achievement of the procurement targets against the general level of adherence to BBBEE in the sectors from which it procures and make a ruling accordingly.
- 7.3 Spend on suppliers will be calculated according to the BBBEE status matrix in this charter.
- 7.4 In addition to achieving the minimum targets, each enterprise in the sector will implement targeted procurement policies which will include the following:
- 7.4.1 Evaluation of all suppliers by accredited verification agencies;
  - 7.4.2 SMME supply-side interventions;
  - 7.4.3 Early payment policies; and
  - 7.4.4 Targeting of micro and small businesses from local communities.

## **8 ENTERPRISE DEVELOPMENT**

- 8.1 There are numerous micro and small businesses in the sector; however few of these have significant levels of black ownership and control. There has been limited support by the sector of entrepreneurial development and both public and private sector disposal strategies have in general inadequately incorporated BBBEE objectives.
- 8.2 The property sector commits itself to invest in, support, facilitate and foster new and existing small and micro enterprises possessing Level One to Level Four BBBEE status, through the implementation of comprehensive enterprise development programmes and the disposal of property assets.
- 8.3 Consequently each enterprise in the sector commits to achieve the following target::
- 3% of gross profit on monetary related enterprise development; and
  - 2% of gross profit on non-monetary related enterprise development.

- 8.4 Enterprise development programmes may include any or all of the following:
- Management, business development and technical skills transfer;
  - Technology transfer, establishment of administrative systems, cost control systems and infrastructure support;
  - Development of entity credit resources with suppliers; and
  - Development of entity financial capacity and/or financial assistance.
- 8.5 Enterprise development plans should promote sustainability and must measure enterprise growth.
- 8.6 The sector commits to utilise property disposals to increase property ownership amongst black people and to contribute towards the growth of sustainable enterprises. In pursuit of this commitment:
- 8.6.1 Enterprises in the sector commit to target 35% of disposals to Level One to Level Four BBBEE enterprises over a five year period; and
- 8.6.2 The public sector commits to target 70% of disposals to Level One to Level Four BBBEE enterprises over a five year period.
- 8.7 Enterprises to be targeted for enterprise development will be determined in accordance with the BBBEE status matrix in this charter.

## **9 OWNERSHIP**

- 9.1 To date the commercial activities surrounding property continue to reflect inequalities in ownership, with little transformation having taken place. The situation is further exacerbated by skewed ownership patterns of property in general.
- 9.2 The charter aims to address the low levels of black ownership in property owning enterprises and in property services, as well as unlock obstacles to ownership by black people of property assets.
- 9.3 Each Property sector enterprise commits to achieve the following targets within five years:
- 25% economic interest held by black people and 25% plus one vote participation by black people in voting rights;
  - 10% economic interest held by black women and 10% participation by black women in voting rights; and
  - 2.5% participation in ownership by broad-based owners and or designated groups;
- 9.4 Black people, women and designated groups who are already involved in the sector, should be preferenced in case of any competitive bids for equity and ownership opportunities.
- 9.5 The funding structures should facilitate the transfer of full economic interest to the black partners and longer-term shareholder-type relationships.
- 9.6 Ownership will be measured applying the principles of Code 100 of the Codes of Good Practice issued in terms of the Broad-Based BEE Act. (Legal opinion required on whether collective investment schemes fall into excluded equity).
- 9.7 Multinational enterprises that are bound by a global policy, can apply for exemption from the ownership element of the charter.

- 9.8 The parties to the charter commit to devise mechanisms to unlock obstacles that restrict the ability of black people to own property and to participate in the property market. These would include but not be limited to the following:
- 9.8.1 Address administrative and legal constraints to ownership, in partnership with the relevant government departments at national, provincial and local level;
  - 9.8.2 Design partnerships with the financial sector and government to enhance access to finance for property ownership and property development; and
  - 9.8.3 Meet asset disposal targets as outlined in the enterprise development section of this charter.

## **10 CONTROL**

- 10.1 Black people, black women and designated groups continue to be under-represented at board level and in executive management in the sector.
- 10.2 Enterprises in the sector therefore commit to achieve the following targets over five years:
- 40% black people at board level;
  - 20% black women at board level;
  - 40% black people at executive management level; and
  - 13% black women at executive management level.

## **11 DEVELOPMENT**

- 11.1 There is a lack of investment and property development in under-resourced areas, perpetuating service inequalities and exacerbating the limited tradability of properties in these areas.
- 11.2 The parties to the charter acknowledge their role in directing investment into under-resourced areas. Consequently, property enterprises will participate in property development and transformational infrastructure projects that support development, empower micro and small enterprises and contribute towards equitable access to economic resources in under-resourced areas.
- 11.3 The sector charter council will set guidelines, against which these property sector investments will be measured, within three months after signing the charter.
- 11.4 Enterprises in the sector consequently commit to spend 10% of total annual investments in property development and in transformational infrastructure cumulatively over a five-year period.
- 11.5 As part of the process, the parties will design appropriate risk mitigating measures and risk sharing arrangements with Government and its development finance institutions and the Financial Sector Charter Council.
- 11.6 National, provincial and local government will identify property for development purposes in line with integrated development plans and combine zoning rights with development requirements.

## **12 CORPORATE SOCIAL INVESTMENT (CSI)**

- 12.1 The Property sector has to date not effectively implemented Corporate Social Investment (CSI).
- 12.2 The parties to this charter commit to utilising the resources at their disposal to initiate and contribute to CSI projects that benefit black groups, communities and individuals and that promote transformation and development.
- 12.3 In the planning of CSI projects, the parties undertake to consult with beneficiary communities to ensure that their developmental needs will be met.

- 12.4 The parties commit to ensuring that projects go beyond the financial contribution by including monitoring and evaluation of impact in their CSI.
- 12.5 The parties undertake to form partnerships with their private sector counterparts, within and outside the property sector, and with government structures to enhance assistance and support to communities.
- 12.6 CSI projects may include but will not be limited to:
- 12.6.1 Support for community education facilities; programmes at secondary and tertiary education which promote the sector; bursaries and scholarships, which are oriented towards property professions;
  - 12.6.2 Consumer education and information on property ownership;
  - 12.6.3 Training: community training; building related trades and skills development for unemployed school leavers; adult basic education and training in communities;
  - 12.6.4 Development Programmes for black youth and other black designated groups;
  - 12.6.5 Environment : support of conservation projects; community clean up projects; urban agriculture and food security garden initiatives; environmental preservation of flora and fauna in areas where the biodiversity is put at risk due to property development;
  - 12.6.6 Arts & Culture: support of development programmes for new talent and provision of more public culture centres;
  - 12.6.7 Health: HIV and AIDS awareness, support of community clinics and access to health care;
  - 12.6.8 Sport: support of developmental programmes;
  - 12.6.9 Tourism: support of tourism development in rural areas; and
  - 12.6.10 Job creation;
- 12.7 Parties to this charter will target 1% of post-tax operating profits per annum on CSI.
- 12.8 Contributions in kind (e.g. employee time spent on CSI projects) will be recognised in the calculation of CSI spend.

### **13 REGULATORY ISSUES**

- 13.1 The parties to the charter commit to review on an ongoing basis any legislation, policy and standards, which may have a direct impact on the empowerment outcomes of the charter.
- 13.2 This could include, but would not be limited to government's regulatory framework in respect of property transactions where and whenever they have to apply for rights or ask for consent from government. Including, access to development land and rights, zoning rights and transactions.

### **14 GENDER TRANSFORMATION**

- 14.1 The sector continues to reflect vast inequalities in representation of women in general and black women in particular in ownership, control, management and in skilled professions in the sector.
- 14.2 In acknowledging the cross-cutting nature of gender across all elements of BBBEE and its integral nature to transformation of the sector the parties to this charter commit to:
- Enhance gender awareness in the workplace and promote a conducive and empowering environment for women in general;
  - Strengthen gender equality training, gender-based violence awareness and the dissemination of gender-disaggregated and gender-relevant information;
  - Target skills development and employment equity for women particularly in areas that are presently male dominated;
  - Design targeted procurement and enterprise development programmes which increase the participation of women as owners of property assets and business in the sector;

- Identify barriers for black women advancement and design targeted programmes to increase the representivity and the empowerment of black women in the sector as outlined in all elements of this charter; and
- All enterprises will design policies on gender which address the above objectives and submit the policies together with a report progress in implementing the policies annually to the Charter Council.

## **15 THE SCORECARD**

- 15.1 The scorecard provides an objective and broad-based set of measurement indicators for purposes of measuring BBBEE progress in and between property enterprises, in different sub-sectors and in the property sector as a whole.
- 15.2 The scorecard contains the following:
- 15.2.1 Elements: The core elements of the charter, derived from the BBBEE Act and Codes of Good Practice issued in terms of the Act;
  - 15.2.2 Indicators: The area of measurement pertaining to an element of BBBEE;
  - 15.2.3 Targets: Quantifiable measurement of transformational initiatives;
  - 15.2.4 Weightings: A number on the scorecard against which an enterprise's performance in terms of a particular target will be calculated; and
  - 15.2.5 Bonus points: It is possible to earn bonus points. In all instances these bonus points are aimed at incentivising enterprises to broaden the effect of their transformation programmes.
- 15.3 Where an enterprise is exempt from an indicator in the scorecard it will calculate its overall performance based on 100 points minus the weighting allocated to the indicator from which it is exempt.
- 15.4 The BBBEE status of a property sector enterprise, after calculating its score in terms of this scorecard, will be classified as per the BEE Status Matrix in this charter.

## PROPERTY SECTOR SCORECARD

| Element   | Indicators  | Proposed Weighting                               | Proposed Target |
|---|---|--|-----------------|
| <b>OWNERSHIP</b><br>(the ownership component will be aligned to the codes, save for the fact that disposals will be measured as part of enterprise development) |   |  |                 |
| Voting Rights   | Voting Rights in the enterprise in the hands of black people            | 6  | 25% plus 1 vote |
|   | Voting Rights in the enterprise in the hands of black women             | 3  | 10%             |
| Economic Interest   | Economic interest to which black people are entitled                    | 7  | 25%             |
|   | Economic interest to which black women are entitled                     | 3  | 10%             |
|   | Economic interest to which Broad-Based groups / designated are entitled | 1  | 2.5             |
| Realisation Points  | Ownership fulfilment  |  |                 |
|   | Net equity value  |  |                 |
| <b>CONTROL</b>  |   |  |                 |
|   | Members of the Board who are black people as a % of the board           | 3  | 40%             |
|   | Members of the Board who are black women as a % of the board            | 2  | 20%             |
|   | Executive Management who are black people as % of Executive Management  | 4  | 40%             |
|   | Executive Management who are black women as % of Executive Management   | 1  | 13%             |
| <b>EMPLOYMENT EQUITY</b>  |   |  |                 |
| Senior Management   | Black Senior Management as % of total Senior Management                 | 2  | 30%             |
|   | Black women in Senior Management as % of total Senior Management        | 1  | 10%             |
| Middle Management   | Black Middle Management as % of total Middle Management                 | 2  | 35%             |
|   | Black women in Middle Management as % of total Middle Management        | 1  | 12%             |
| Practitioners   | Black people as practitioners (estate agents only)                      | 4  | 30%             |
|   | Black women as practitioners(estate agents only)                        | 2  | 15%             |
| Junior Management   | Black Junior Management as % of total Junior Management                 | 2  | 50%             |
|   | Black women in Junior Management as % of total Junior Management        | 1  | 20%             |
|   | Compliance  | 1  | Yes             |
| <b>SKILLS DEVELOPMENT</b>   |   |  |                 |
| % of Skills Spend on black people as a % of payroll over and above the Skills Development levy  |   | 7  | 1.50%           |
| Learnerships – Learnership positions (as % of employee) (18.1 and 18.2)   |   | 4  | 2.50%           |
| Mentorships – staff on Mentorships programmes as a % of total staff (adult Learnerships) subject to verification  |   | 4  | 2.50%           |
| <b>PROCUREMENT</b>  |   |  |                 |
| Procurement from BBBEE suppliers  |   | 15 for 60 %<br>2 for 70%<br>(incl 1 bonus point) | 70%             |
| % Spend on Property Services Enterprises (Level 1-4) of total Property Services spend   |   | 3  | 40%             |
| Preferential procurement policies in place & mechanisms, which verify BEE status of suppliers including the use of DTI approved verification agencies.          |   | 2 (incl 1bonus point)                            | Yes             |

## PROPERTY SECTOR SCORECARD

| Element  | Proposed Weighting | Proposed Target     |
|--|--------------------|---------------------|
| <b>ENTERPRISE DEVELOPMENT</b>  |                    |                     |
| Proof of enterprise development programme in place   | 1                  | Yes                 |
| Disposal of assets to BBBEE enterprises (level 1-4) as a % of total asset disposal (private) | 9                  | 35%                 |
| Monetary support to and investment in BBBEE SMMEs (level 1-4)                                | 2                  | 3% of gross profit  |
| Quantifiable non monetary support to BBBEE SMMEs (level 1-4)                                 | 1                  | 2 % of gross profit |
| <b>RESIDUAL</b>  |                    |                     |
| CSI as a % of annual profit after tax  | 2                  | 1%                  |
| Development Investment in under-resourced areas as a % of total annual investments           | 8                  | 10%                 |
| Gender transformation Policy in place  | 2                  | Yes                 |

## BBBEE STATUS MATRIX

| BBBEE Status | Qualification                                 | Weightings |
|--------------|---|------------|
| 1            | ≥ 100 points on the Generic Scorecard         | 135%       |
| 2            | ≥ 85 but <100 points on the Generic Scorecard | 125%       |
| 3            | ≥ 75 but <85 on the Generic Scorecard         | 110%       |
| 4            | ≥ 65 but <75 on the Generic Scorecard         | 100%       |
| 5            | ≥ 55 but <65 on the Generic Scorecard         | 80%        |
| 6            | ≥ 45 but <55 on the Generic Scorecard         | 60%        |
| 7            | ≥ 40 but <45 on the Generic                   | 50%        |
| 8            | ≥ 30 but <40 on the Generic Scorecard         | 10%        |
| 9            | < 30 on the Generic Scorecard                 | 0%         |

Where any enterprise is in excess of 50% owned by black people, the BBBEE Status of that enterprise will be at the level immediately above the level at which its actual score is evaluated

## 16 DEFINITIONS

|  |  |
|--|--|
| Accredited BEE Verification Agencies   | Enterprises that have been accredited by SANAS on behalf of the dti to provide an independent opinion on the broad-based economic empowerment status of enterprises.   |
| BBBEE enterprises                      | Enterprises whose BBBEE score in terms of a sector scorecard which has been issued as a code of practice or in terms of the dti's generic scorecard has been verified by an accredited verification agency.  |
| Black people / Blacks                  | Africans, Coloureds and Indians, who are South African citizens.   |
| Black Designated Groups                | Black workers, black unemployed people, black youth, black aged people, black disabled people and black people living in rural areas.  |
| Black New Entrant                      | A black participant(s) (which includes without limitation, black participants in broad-based ownership schemes) holding in aggregate in excess of 5% of the total voting rights and economic interest in a measured enterprises who has not, prior to their acquisition of their equity interest in a measured enterprise, concluded similar transactions in respect of any other enterprise, which in aggregate have a cumulative value of R20 million measured in accordance with an acceptable valuation standard.  |
| Broad-based Black Economic Empowerment | The economic empowerment of all black people including women, workers, Youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to – Increasing the number of black people that manage, own and control enterprises and productive assets;<br>Facilitating Ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;<br>Targeted procurement; and investment in enterprises that are owned or managed by black people<br>Human resources and skills development;<br>Achieving equitable representation in all occupational categories and levels in the workforce;<br>Facilitating the provision of additional skills to black employees at all levels in the workforce. |

## 16 DEFINITIONS

|                                   |   |
|-----------------------------------|---|
| Broad-based ownership scheme      | A juristic person, a trust or a common law association of persons constituted with the view to facilitating the participation of specified natural persons in the benefit flowing from the ownership by that scheme or its fiduciaries of an Equity Interest in an Enterprises(s). In relation to this definition, the following additional definitions of Ownership Scheme are provided:<br>Distribution Scheme” means a Broad-Based Ownership Scheme whereby a broad base of natural person (such as a community or a broad-based group of natural persons including, without limitation, black women and black designated groups) are intended to receive distributions from the Scheme payable from Economic Interest received by the scheme or the fiduciaries of the scheme; and<br>“Benefit Scheme” means a Broad-Based Ownership Scheme whereby a broad base of more than 50 natural persons (such as a community or a broad-based group of natural persons including, without limitation black women and black designated groups) are intended to benefit from Economic Interest received by the scheme or the fiduciaries of the scheme without their actually receiving distributions payable from such Economic Interest. |
| Corporate Social Investment (CSI) | CSI means projects aimed primarily at black groups, communities and individuals that contribute towards transformation.   |
| Disabled person                   | An individual who has a disability and as a result suffers from loss or limitation of opportunity to take part equally with others or to contribute in equivalent measure to such opportunity, in the context of any activity relating to the execution of a Contract or the Services to be provided there under.   |
| Effective Date                    | The date on which the charter is issued as a code of practice or the first of January 2006, whichever ever comes first.   |
| Eligible Procurement              | All expenditure on goods and services excluding procurement on items where the supplier is a state-owned monopoly (subject to further guidance for the Codes of Good Practice on measuring state owned enterprises) and where the expenditure is on municipal rates and taxes or part of payroll.   |
| Employment Equity                 | As defined in the Employment Equity Act 1998 means to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination and the implementation of affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels of the workforce. It obliges employers with over 50 employees to prepare Employment Equity plans and report on a yearly or bi-yearly basis to the Department of Labour (DoL).  |
| Enterprise                        | The person(s) conducting a business, trade or profession in the Republic of South Africa  |
| Enterprise development            | Monetary and non-monetary support to develop and foster new or existing small and micro enterprises with a BBBEE status level of One to Four.   |
| Fronting                          | Any entity, mechanism or structure established in order to circumvent the BEE requirements as required under various policy instruments. Fronting structures generally claim a higher BBBEE status than the actual substantive economic benefits flowing to black beneficiaries would suggest.  |
| Global Policy                     | Globally applied restriction or regulation to which an enterprise is bound, which inhibits the enterprise from selling equity.  |
| Gross profit                      | Gains and losses arising from a change in the fair value of financial instruments included in the net profit or loss in the period in which changes arise are excluded from the calculation of gross profit. Likewise asset value adjustments as a result of revaluations included in the net profit or loss in the period in which changes arise are excluded from the calculation of gross profit. Furthermore any gains or losses from changes in the fair value of hedging instruments included in the net profit or loss in the period in which changes arise are excluded from the calculation of gross profit.   |
| Internships                       | A process whereby an academically qualified individual performs work for a specified period under the supervision of a qualified professional, with the end result of qualifying as a professional.   |
| Joint venture                     | Normally, unincorporated bodies, regarded in law as partnerships in which the partners are jointly and severally liable for the acts, neglects and omissions of the partnership. A Joint venture is a venture normally formed ad-hoc for a specific project, in which two or more parties share obligations, risks and rewards. Joint ventures in the Procurement context are formed to realise commercial opportunities made available through the award of contracts  |
| Learnership                       | A mechanism to facilitate the linkage between structured learning and work experience in order to obtain a registered qualification which signifies work readiness.   |
| Executive Management              | Managers who have a significant leadership role in the enterprises, have control over day-to-day operations, have decision-making powers and report directly to the Chief Executive Officer and/or equivalent or the board of directors. The CEO and board members in an executive role form part of Executive Management.  |
| Senior Management                 | Managers who plan, direct and co-ordinate the activities of a business and who have the authority to hire, discipline and dismiss employees and have a cost to company package (excluding bonuses) to the employer of R400 000 per annum or more (to be reviewed on an annual basis in line with inflation), but excludes all employees who fall within the definition of Executive Management. The salary bands will be increased in line with the consumer price index (“CPIX”) on the 1st of January each year.  |
| Middle Management                 | The level of management below Senior Management and includes people who possess a high level of professional knowledge and experience in their chosen field with a cost to company package (excluding bonuses) to the employer of between R200 000 and R399 000 per annum (to be reviewed on an annual basis in line with inflation). The salary bands will be increased in line with the consumer price index (“CPIX”) on the 1st of January each year.  |

## 16 DEFINITIONS

|   |  |             |     |               |
|---|--|-------------|-----|---------------|
| Junior Management                             | The level of management below Middle Management and includes academically qualified workers who possess technical knowledge and experience in their chosen field and have a cost to company package (excluding bonuses) to the employer of between R150 000 and R199 000 per annum (to be reviewed on an annual basis in line with inflation). The salary bands will be increased in line with the consumer price index (CPIX) on the 1st of January each year.  |             |     |               |
| Mentorship                                    | The process of assisting others to gain further knowledge, experience and skills; it is an activity that can be successfully used where senior employees develop people within a company to enhance their job development.   |             |     |               |
| Ownership                                     | Ownership of an equity interest together with control over all of the voting rights attaching to that equity interest.   |             |     |               |
| Payroll                                       | All expenditure related to compensation of employees, including temporary employees and contract workers, excluding commissioned agents.   |             |     |               |
| Post tax operating profit                     | Deferred taxation of fair value adjustments of remaining investment properties included in post-tax operating profit, must be counter-adjusted to nullify such deferred taxation impact on the post-tax operating profit. Interest distributions to linked unitholders (as applicable in the case of PLS-companies) must be added to post-tax operating profit as such interest distributions are effectively the same as dividend distributions. Gains and losses arising from a change in the fair value of financial instruments included in post-tax operating profit in the period in which changes arises are excluded from the calculation of post-tax operating profit. Likewise asset value adjustments as a result of revaluations included in the post-tax operating profit in the period in which changes arises are excluded from the calculation of post-tax operating profit. Furthermore any gains or losses from changes in the fair value of hedging instruments included in the post-tax operating profit in the period in which changes arises are excluded from the calculation of post-tax operating profit. |             |     |               |
| Procurement                                   | Process of acquiring and administering or disposing all goods and services including expenditure on capital assets as required in the course of executing normal business, which process shall exclude the expenditure on non-discretionary items.   |             |     |               |
| Practitioners                                 | Practicing estate agents   |             |     |               |
| Property                                      | Refers to real rights to land and buildings  |             |     |               |
| Property Ownership                            | Refers to Ownership of a title either in the form of a unit, land or building, where the owner derives economic benefit.   |             |     |               |
| Property sector                               | For the purposes of this charter the property sector refers to all enterprises that participate in Property Ownership including but not limited to all Property owning enterprises (and/or the assets themselves) and Property Services enterprises.   |             |     |               |
| Property development                          | Commercial letting enterprises and commercial development  |             |     |               |
| Property Services Enterprises                 | Facilities management; Property management<br>Asset Management; Valuers; Conveyancers; other professional service providers (Brokerage – special mechanisms tbd)   |             |     |               |
| Scarce Skills                                 | Skills identified through environmental factors in occupations or specialisations resulting in an insufficient supply of skills in relation to the overall demand for workers with such skills.  |             |     |               |
| Separate and Distinct business (inter entity) | Where an enterprise is part of a group refers to an “independent supplier” as a separate entity from the entity procuring the service.   |             |     |               |
| Services                                      | The provision of labour and/or work or professional Services, including advisory Services not necessarily remunerated on a unit of time basis, i.e. transaction basis as a commission, retainer or other instrument of compensation of any kind carried out by hand, or with the assistance of equipment and plant and including the input, as necessary, of knowledge-based expertise;  |             |     |               |
| SETA  | Means a Sector Education and Training Authority established in terms of section 9(1) of the Skills Development Act 97 of 1998.   |             |     |               |
| Micro and very small enterprises              |  | ASSET BASED |     | SERVICE BASED |
|   | GROSS ASSETS   | 30,000,000  |     | 3,000,000     |
|   | GROSS INCOME OR TURNOVER   | 4,200,000   | 14% | 4,200,000     |
|   | NET PROFIT BEFORE TAX  | 3,000,000   | 10% | 3,000,000     |
|   | NUMBER OF EMPLOYEES  | 20          |     | 20            |
| SMME  | For the purposes of this charter micro and very small enterprises are defined as per the Small Business Act and using the table indicated above.   |             |     |               |
| Skills Development                            | The process of enhancing individuals' specialised capabilities in order to provide them with career advancement opportunities;   |             |     |               |
| SOE   | State-owned enterprise, an enterprise, often a corporation, owned by government.   |             |     |               |
| Staff   | Includes all employees and the purposes of this charter commissioned agents.   |             |     |               |
| Spend   | The previous 12 months orders placed at the time of measurement. All expenditure should be counted at the time of placing the order.   |             |     |               |

## 16 DEFINITIONS

|                                 |  |
|---------------------------------|--|
| Superannuation scheme           | A "provident fund", a "pension fund" and a "retirement annuity fund" as defined in Schedule 2 of the Tax Act 58 of 1962.   |
| Transformational infrastructure | Such infrastructure projects in transport; telecommunications; water, waste water and solid waste; energy; social infrastructure such as access to parks, health, education, and correctional services facilities and municipal infrastructure and services. |
| Under-resourced areas           | Areas, which never received adequate infrastructure development investment or attention from the previous dispensation or the private sector. Includes rural areas and those areas that were previously referred to as "homelands", and "black townships".   |
| Triple bottom line              | A business concept that refers to corporate attainment of balanced and integrated economic, social and environmental performance.  |
| Voting rights                   | The level of control exercised by a member over the affairs of the enterprise, the voting right of a member expressed as a percentage of the votes to which that member is entitled of the total.  |
| Youth                           | Refers to black Youth between the ages of 18 and 35 inclusive.   |