
Property Sector Transformation Charter

Final Draft

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) (BBBEE Act) and the dti Codes of Good Practice on BBBEE and lays the basis for the development of a code of good practice for the *property sector*, as envisioned in Section 9(1) of the BBBEE Act;

- 1.3.3 Establishes targets and qualitative undertakings in respect of each element of BBBEE; and
- 1.3.4 Outlines processes for implementing the commitments contained in the charter, as well as mechanisms to monitor and report on progress.

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, large private owners, *collective* investment schemes, *property* loan stocks and listed *property* entities, with Government being the largest commercial player. There is limited participation of *black people*, particularly women, 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 a lack of appreciation of *property* as a career.
- 2.10 Preferential *procurement* has been implemented insufficiently with few *enterprises* being able to demonstrate any progress in increasing *spend* from targeted suppliers or implementing preferential *procurement* policies.
- 2.11 The sector has not effectively addressed gender equality and particularly black women are under-represented in *ownership*, control, management and in professional skills in the sector.
- 2.12 The sector does little to promote the growth of sustainable *enterprises* and there is almost no *enterprise development* support.
- 2.13 There is a lack of investment and *property* development in *under-resourced areas*, perpetuating service inequalities, exacerbating the limited tradability of these properties and consequently the wealth and capital creation potential of properties.
- 2.14 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 promote the objectives contained in section 2 of the Broad-Based Black Economic Empowerment Act 53 of 2003 as these relate to the Property Sector and in particular, but without limitation:

- 3.1 Promote economic transformation in the *Property Sector* in order to enable meaningful participation of *black people* including *women*;
- 3.2 Unlock obstacles to *property ownership* and participation in the *property* market by *black people*;
- 3.3 Promote *property* development and investment in *under-resourced areas* which enhances basic infrastructure, encourages investment and supports micro and small enterprises;
- 3.4 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*;

- 3.5 Promote *employment equity* in the *property sector* and encourage diverse organisational cultures;
- 3.6 Increase the pool of intellectual capital amongst black people, particularly women, in the sector by focusing on attracting new entrants and developing appropriate curricula;
- 3.7 Contribute towards increased investment in the *skills development* and training of existing and new *black* professionals, particularly women.
- 3.8 Enhance entrepreneurial development and increase the number and expertise of *BBBEE* firms and *SMMEs* providing *services* and products to the sector;
- 3.9 Increase the *procurement* of goods and *services* from *BBBEE* suppliers;
- 3.10 Facilitate the accessibility of finance for property ownership and *property* development;
- 3.11 Encourage good corporate citizenship amongst *enterprises* in the sector, including participation in *corporate social investment* projects and adherence to triple bottom line accountability;
- 3.12 Promote investment in the *property sector* and contribute to growth of the *sector*, and
- 3.13 Enhance uniformity and consistency in the application of the principles contained in the charter.

4 Application and Governance

- 4.1 This charter applies to the South African *property sector*, and in particular to all enterprises engaged in property ownership or the provision of property services, and includes without limitation, practitioners and enterprises engaging in property development.
- 4.2 The stakeholders all acknowledge that the scope defined in paragraph 4.1 represents a basis for delineation of the property sector based upon common commercial characteristics.
- 4.3 The sector Charter Council will be established representing all stakeholders. The mandate of the Charter Council will include:
 - 4.3.1 To constitute an executive structure with adequate capacity;
 - 4.3.2 To oversee and monitor the implementation of the charter;
 - 4.3.3 To receive, consider and approve enterprise annual BBBEE reports;

- 4.3.4 To issue guidance notes on the interpretation and application of the charter;
 - 4.3.5 To prepare an annual report on progress in implementing the Charter; and
 - 4.3.6 To liaise with and report to the BEE Advisory Council on transformation of the sector.
- 4.4 Each *enterprise* will submit a BBBEE report annually to the 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.
- 4.5 The first annual report will be for the enterprises first full financial year after the effective date of the charter and must be submitted to the sector charter council within three months after the financial year end.
- 4.6 Between the *effective date* of the charter and the first reporting date, enterprises will be measured on provisional verifications based on the charter, provided by dti accredited verification agencies.
- 4.7 After three years the sector Charter Council will comprehensively review progress on the implementation of the charter.
- 4.8 The targets contained in the charter will be valid for five years. After that period a comprehensive review will be undertaken and further targets may be set.
- 4.9 Subject to any provisions to the contrary contained in any applicable code of good practice to be issued under the Broad-Based Black Economic Empowerment Act 53 of 2003:
- 4.9.1 This charter will be applicable to *enterprises*, which fall within a group that is bound by another charter, if the primary business of the subsidiary, division or business unit within the group is in *property*.
 - 4.9.2 *Micro and very small enterprises* will be exempt from obtaining a BBBEE verification and awarded a BBBEE recognition level of 4. In the event that their black ownership exceeds 50%, they will be awarded a BBBEE recognition level of 3.
 - 4.9.3 The performance of *small enterprises* will be measured out of 70 points on the scorecard.

- 4.10 All enterprises wishing to claim exemption from any specific 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 certain elements or indicators of the charter, are not applicable to an enterprise, that element will be excluded from the numerator and the denominator. Further to this, the Charter Council will be guided by the Codes of Good Practice to be issued under the Broad-Based Black Economic Empowerment Act 53 of 2003 in determining the qualification criteria for allowing of exemptions.
- 4.11 The BBBEE recognition level of a property sector enterprise, after calculating its score in terms of this scorecard, will be classified as follows:

<i>BBBEE Recognition Level</i>	<i>Qualification</i>	<i>BBBEE spend multiplier</i>
1	≥ 100 points	135%
2	≥ 85 but < 100	125%
3	≥ 75 but < 85	110%
4	≥ 65 but < 75 or any micro enterprises	100%
5	≥ 55 but < 65	80%
6	≥ 45 but < 55	60%
7	≥ 40 but < 45	50%
8	≥ 30 but < 40	10%
<i>Non-compliant contributor</i>	< 30	0%
<p><i>The BEE Status of a measured enterprise will be at the level immediately above the level at which its actual score is evaluated if: black people hold more than 50% of the exercisable voting rights and more than 50% of the economic interest in that enterprise; and that enterprise has achieved the full points under the net equity interest component of the ownership scorecard.</i></p>		

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 targets within five years from the effective date of the charter:
 - 5.3.1 30% black people in Senior Management;
 - 5.3.2 10% black women in Senior Management;
 - 5.3.3 35% black people in Middle Management;
 - 5.3.4 12% black women in Middle Management;
 - 5.3.5 50% black people in Junior Management;
 - 5.3.6 20% black women in Junior Management.
- 5.4 Recognising that property brokerages and residential estate agencies do not differentiate various management levels, property brokers and residential estate agents in the sector commit to achieve the following targets within five years from the effective date of the charter.
 - 5.4.1 30% black people at management level;
 - 5.4.2 15% black women at management level;
 - 5.4.3 30% black practitioners;
 - 5.4.4 15% black women practitioners.
- 5.5 The stakeholders acknowledge that, on the issuing of the Code of Good Practice 300 on Employment Equity, the charter council will:
 - 5.5.1 Consider the extent to which the targets or weightings in respect of employment equity in Code 300 exceed those specified in this charter, the lower targets and/or weightings in this charter will need to be justified on the basis of sound economic principles; and
 - 5.5.2 Consider the extent that the targets or weightings in respect of employment equity in Code 300 do not exceed those specified in this charter, the higher targets and/or weightings in this charter represent the consensus of all stakeholders.

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 is 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, the Estate Agency Affairs Board (EAAB) and any other sector regulatory body, academic institutions and government.
- 6.3 *Enterprises* in the sector commit to achieve the following targets:
- 6.3.1 1.5% of payroll per annum, in addition to the skills development levy, on skills development of black people;
 - 6.3.2 2.5% of staff in learnerships for black people; and
 - 6.3.3 2.5 % of staff in mentorships for black people.
- 6.4 In addition to the above, enterprises in the sector will:
- 6.4.1 Implement internships whereby academically qualified individuals are working under supervision of qualified professionals to upgrade the professionalism in the sector;
 - 6.4.2 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
 - 6.4.3 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 preferential *procurement* practices in the sector. The parties to the charter therefore commit to achieve the following targets within five years from the effective date of the charter:
- 7.1.1 70% of eligible procurement spend from BBBEE enterprises; and
 - 7.1.2 40% of eligible procurement spend on property services enterprises with a BBBEE status of Level One to Level Four.
- 7.2 Spend on suppliers will be calculated according to the BBBEE status matrix in this charter.
- 7.3 In addition to achieving the minimum targets, each *enterprise* in the sector will implement preferential *procurement* policies which promote procurement from BBBEE enterprises and small and micro enterprises.

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 targets over five years:
- 8.3.1 3% of net profit before taxation on monetary enterprise development; and
 - 8.3.2 2% of net profit before taxation on non-monetary enterprise development.

- 8.4 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, enterprises in the sector commit to target 35% of disposals to Level One to Level Four BBBEE enterprises over a five year period.
- 8.5 A sale of fixed property as contemplated in paragraph 8.4 may not be simultaneously counted towards the ownership score, regardless of the fact that an actual business unit may have been sold.
- 8.6 *Enterprise development* programmes may include any or all of the following:
- 8.6.1 Management, business development and technical skills transfer;
 - 8.6.2 Technology transfer, establishment of administrative systems, cost control systems and infrastructure support;
 - 8.6.3 Development of entity credit resources with suppliers; and
 - 8.6.4 Development of entity financial capacity and/or financial assistance.
- 8.7 *Enterprise development* plans should promote sustainability and must provide for the measurement of *enterprise* growth.
- 8.8 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:
- 9.3.1 25% economic interest held by black people and 25% plus one vote participation by black people in voting rights;

- 9.3.2 10% economic interest held by black women and 10% participation by black women in voting rights; and
- 9.3.3 2.5% participation in ownership by broad-based ownership schemes 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 Any provisions in Code 100 relating to the recognition of ownership contributions arising from the sale of businesses or assets by enterprises, shall apply to enterprises in the Property Sector, provided that the sale itself is not counted under enterprise development.
- 9.7 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:
 - 9.7.1 Address administrative and legal constraints to *ownership*, in partnership with the relevant government departments at national, provincial and local level;
 - 9.7.2 Design partnerships with the financial sector and government to enhance access to finance for *property ownership* and *property* development; and
 - 9.7.3 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:
 - 10.2.1 40% black people at board level;
 - 10.2.2 20% black women at board level;
 - 10.2.3 40% black people at Top management level; and

10.2.4 13% black women at Top 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 that meet the above objectives, against which 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 their total new annual acquisition of property or new property development in property development or transformational infrastructure cumulatively over a five-year period in under-resourced areas.
- 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.
- 11.7 Noting that not all property sector enterprises participate in investment, the charter council will, within one year, formulate mechanisms to measure the participation and contribution of all property sector enterprises in development.

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 level which promote the sector; bursaries and scholarships, which are oriented towards property professions;
 - 12.6.2 Consumer education and information on property ownership and property practice ;
 - 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; and
 - 12.6.9 Job creation.
- 12.7 Parties to this charter will target 1% of net profit after tax 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 Gender Transformation

- 13.1 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.
- 13.2 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:
- 13.2.1 Enhance gender awareness in the workplace and promote a conducive and empowering environment for women in general;
 - 13.2.2 Strengthen gender equality training, gender-based violence awareness and the dissemination of gender-disaggregated and gender-relevant information;
 - 13.2.3 Target *skills development* and *employment equity* for women particularly in areas that are presently male dominated;
 - 13.2.4 Design targeted *procurement* and *enterprise development* programmes which increase the participation of women as owners of *property* assets and business in the sector;
 - 13.2.5 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
 - 13.2.6 Devise policies on gender that address the above objectives and submit the policies together with a report of progress in implementing the policies annually to the Charter Council.

14 Regulatory Issues

- 14.1 It is acknowledged that the Codes of Good Practice to be issued under the BBBEE Act will govern the measurement of BBBEE. In this regard the stakeholders acknowledge that to the extent that the measurement principles contained in the Codes differ materially from those in the charter, the measurement principles in the Codes, will take precedence over the content of this charter.
- 14.2 To the extent that any of the Codes of Good Practice to be issued under the Broad-Based Black Economic Empowerment Act 53 of 2003 specify further measurable elements of BEE, the stakeholders commit to apply the utmost good faith in seeking to ensure that such elements are integrated into this charter.
- 14.3 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 and any sector code gazetted pursuant to this charter, to ensure that the *property sector* remains committed to the attainment of the national BEE objectives and priorities.
- 14.4 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 and zoning rights and transactions.

15 Compliance with the provisions of Code 000, Statement 010 of the Codes of Good Practice

- 15.1 It is specifically recorded that this charter is intended to be submitted to the Minister of Trade and Industry for gazetting as a sector code as contemplated in Code 000 Statement 010 read in conjunction with section 9 of the BBBEE Act.
- 15.2 The following arrangements are envisaged in order to facilitate the passage of this charter into a sector code:
- 15.2.1 The Charter Council is authorised to commission the preparation of an independent third party analysis of this charter as required as an initial step towards the gazetting of a sector code;

- 15.2.2 The Charter Council, upon receipt of that independent third party analysis of this charter shall be authorised to submit this charter unamended to the Minister of Trade Industry with a view to it being gazetted as a sector code;
- 15.2.3 To the extent that the independent third party analysis of this charter identifies material impediments in the content of this charter which may have the effect of precluding its passage into a sector code, the Charter Council shall be authorised to prepare an amended version of this charter or a draft sector code based upon this charter, which document shall be distributed to all of the stakeholders that participated in the development of this charter.
- 15.2.4 A general meeting of the stakeholders shall thereafter be convened by the Charter Council to approve the draft document (with or without amendments) or to reject same.
- 15.2.5 To the extent that a general meeting of stakeholders approve the draft document (with or without amendments), the Charter Council shall be authorised to do all things necessary to apply for the gazetting of that approved draft document as a sector code.
- 15.2.6 To the extent that a general meeting of stakeholders rejects the draft document, this charter will be submitted to the Minister of Trade and Industry for gazetting under section 12 of the Broad-Based Black Economic Empowerment Act 53 of 2003, only and any further attempts to seek recognition of the content of this charter as a Sector Code shall be dealt with in accordance with the governance processes for this charter.
- 15.3 Notwithstanding anything to the contrary, the Charter Council is required to seek gazetting of this charter under section 12 of the Broad-Based Black Economic Empowerment Act 53 of 2003 as soon as may be possible following the publication hereof.

- 15.4 It is a general principle agreed to by all stakeholders that the primacy of the Codes of Good Practice (including without limitation sector codes) under the Broad-Based Black Economic Empowerment Act 53 of 2003 is acknowledged. Accordingly, all stakeholders agree to act in the utmost good faith to facilitate the passage of this charter into a sector code. Stakeholders further acknowledge that where the Codes of Good Practice limit the extent to which measurement principles, targets, weightings and elements of BEE may be varied in a sector code that such limitations must be respected and should inform decisions as to any further amendments required in order to facilitate the gazetting of a sector code.
- 15.5 To the extent that the passage of this charter into a sector code is contingent upon the submission of further information extraneous to the content of this charter or to the incurring of reasonable expenses in undertaking sectoral research as contemplated in Code 000, Statement 010, the Charter Council will be authorised to supply such information or commission such research.

16 The Scorecard

- 16.1 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.
- 16.2 The scorecard contains the following:
- 16.2.1 Elements: The core elements of the charter, derived from the BBBEE Act and Codes of Good Practice issued in terms of the Act;
 - 16.2.2 Indicators: The area of measurement pertaining to an element of BBBEE;
 - 16.2.3 Targets: Quantifiable measurement of transformational initiatives;
 - 16.2.4 Weightings: A number on the scorecard against which an *enterprise's* performance in terms of a particular target will be calculated; and
 - 16.2.5 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.

- 16.3 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. Any enterprise that does not own properties which it could dispose of or make investments in property related developments, will be exempt from performing under those categories of the scorecard and consequently scored out of commensurately less.
- 16.4 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.

17 Signed

South African Institute of Black Practitioners (SAIBPP)

South African Property Owners Property Association (SAPOA)

Association of Property Unit Trust Management Companies (APUTMC)

Property Loan Stock Association (PLSA)

Women's Property Network (WPN)

Association of Women in Property (AWIP)

Estate Agencies Affairs Board (EAAB)

South African Black Technical and Allied Career Organisation (SABTACO)

SA Council of Shopping Centres (SACSC)

Institute of Estate Agents of South Africa (IEASA)

SA Institute of Valuers (SAIV)

SA Facilities Managers Association (SAFMA)

National Department of Public Works (NDPW)

18 Property Sector Scorecard

<i>Element</i>	<i>Indicators</i>	<i>Proposed Weighting</i>	<i>5 Year Target</i>
OWNERSHIP (20 points)			
<i>Voting Rights</i>	<i>Voting Rights in the enterprise in the hands of black people</i>	5	25% plus 1vote
	<i>Voting Rights in the enterprise in the hands of black women</i>	2	10%
<i>Economic interest</i>	<i>Economic interest to which black people are entitled</i>	5	25%
	<i>Economic interest to which black women are entitled</i>	2	10%
	<i>Economic interest to which broad-based / designated groups are entitled</i>	1	2.5
<i>Realisation points</i>	<i>Ownership fulfilment</i>	1	No restriction
	<i>Net equity value</i>	4	10%-year 1 20%-year 2 40%-year 3&4 60%-year 5&6 80%-year 7&8 100%-year 9&10
CONTROL (10 points)			
	<i>Members of the Board who are black people as a % of the board</i>	3	40%
	<i>Members of the Board who are black women as a % of the board</i>	2	20%
	<i>Executive Management who are black people as % of Executive Management</i>	4	40%
	<i>Executive Management who are black women as % of Executive Management</i>	1	13%
EMPLOYMENT EQUITY (10 points)			
<i>Senior Management</i>	<i>Black Senior Management as % of total Senior Management</i>	2	30%
	<i>Black women in Senior Management as % of total Senior Management</i>	1	15%
<i>Middle Management</i>	<i>Black Middle Management as % of total Middle Management</i>	2	37.5%
	<i>Black women in Middle Management as % of total Middle Management</i>	1	20 %
<i>Junior Management</i>	<i>Black Junior Management as % of total Junior Management</i>	2	40%
	<i>Black women in Junior Management as % of total Junior Management</i>	1	20 %
<i>property brokers/estate agents</i>	<i>Black practitioners as % of total practitioners used</i>	3	37.5%
	<i>Black women practitioners as % of total practitioners used</i>	1.5	20%

	<i>Black people in Management as % of total Management</i>	3	30%
	<i>Black women in Management as % of total Management</i>	1.5	15%
	<i>Compliance</i>	1	Yes
SKILLS DEVELOPMENT (15 points)			
	<i>% of Skills Spend on black people as a % of payroll over and above the Skills Development levy</i>	7	1.5 %
	<i>Learnerships – Black learnership positions (as % of employees) (18.1 and 18.2)</i>	4	2.5 %
	<i>Mentorships – Black staff on mentorships programmes as a % of total staff (adult learnerships) subject to verification</i>	4	2.5%
PROCUREMENT(20 points + 2 bonus points)			
	<i>Procurement from BBBEE suppliers</i>	15 for 60 % 2 for 70% (incl 1 bonus point)	70%
	<i>% Spend on Property Services Enterprises (Level 1-4) of total Property Services spend</i>	3	40 %
	<i>Preferential procurement policies in place & mechanisms, which verify BEE status of suppliers including the use of dti-approved verification agencies.</i>	2 (incl 1bonus point)	Yes
ENTERPRISE DEVELOPMENT (15 points)			
	<i>Proof of enterprise development programme in place</i>	1	Yes
	<i>Disposal of assets to BBBEE enterprises (level 1-4) as a % of total asset disposal (private)</i>	9	35%
	<i>Monetary support to and investment in BBBEE SMMEs (level 1-4) over 5 years</i>	3	3% of net profit before tax
	<i>Quantifiable non-monetary support to BBBEE SMMEs (level 1-4) over 5 years</i>	2	2 % of net profit before tax
RESIDUAL (10 points)			
	<i>CSI as a % of net profit after tax</i>	2	1%
	<i>Development Investment in under-resourced areas as a % of total annual investments</i>	8	10 %
	<i>Total</i>	102 points	

19 Definitions

<i>Acceptable Valuation Standard</i>	<i>Valuation of an asset, an economic interest, an enterprise or any other instrument or right relevant to measurement under Statement 100 of the Codes. All such valuations shall be undertaken in accordance with normal valuation methods that represent standard market practice.</i>
<i>Accredited BEE Verification Agencies</i>	<i>An enterprise that has been accredited by SANAS, or any other body authorised by the Minister to undertake accreditation of verification agencies, on behalf of the dti, who meet the minimum technical and black economic empowerment criteria for rating agencies and whose main role is to provide an independent opinion on the BBBEE status of an enterprise.</i>
<i>BBBEE enterprises</i>	<i>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 is greater than or equal to 30% and has been verified by an accredited verification agency.</i>
<i>Benefit scheme</i>	<i>A Broad-Based Ownership Scheme in which more than 50 natural persons:</i> <ul style="list-style-type: none"> <i>• are intended to benefit from an Economic Interest received by the scheme or by the fiduciaries of the scheme; and</i> <i>• the economic benefits paid from the Economic Interest received is not distributed but rather applied to the benefit of the scheme's Deemed Participants.</i>
<i>Black Aged People</i>	<i>Black people who are also aged people as defined in the Aged Persons Act 81 of 1967, as amended or substituted.</i>
<i>Black disabled people</i>	<i>Black people who also satisfy the criteria in the definition of 'persons with disabilities' set forth in paragraph 5.1 of the "code of good practice on the employment of people with disabilities" (as amended or substituted from time to time) issued in terms of section 54(1)(a) of the Employment Equity Act;</i>
<i>Black people / Blacks</i>	<i>Africans, Coloureds and Indians in terms of the BBBEE Act, 53 of 2003. In terms of the dti Codes of Good Practice persons who are also:</i> <ul style="list-style-type: none"> <i>• Citizens of the Republic of South Africa by birth or descent; or</i> <i>• Citizens of the Republic of South Africa by naturalisation before the commencement date of the Constitution of the Republic of South Africa Act of 1993; or</i> <i>• Became citizens of the Republic of South Africa after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, but for the Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalisation prior to that date.</i>
<i>Black Designated Groups</i>	<i>Black workers, black unemployed people, black youth, black aged people, black disabled people and black people living in rural areas.</i>
<i>Black New Entrant</i>	<i>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 enterprise 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.</i>
<i>Black Unemployed People</i>	<i>Black people who are unemployed, are not attending or are not required by law to attend an educational institution and who are not awaiting admission to an educational institution.</i>
<i>Black Women</i>	<i>Black people who are women.</i>
<i>Black Youth</i>	<i>Black persons who are also youth as defined in the National Youth Commission Act 19 of 1996, as amended or substituted;</i>

<i>Broad-based Black Economic Empowerment</i>	<p>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 –</p> <ul style="list-style-type: none"> • Increasing the number of black people that manage, own and control enterprises and productive assets; • Facilitating Ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises; • Targeted procurement; and investment in enterprises that are owned or managed by black people • Human resources and skills development; • Achieving equitable representation in all occupational categories and levels in the workforce; • Facilitating the provision of additional skills to black employees at all levels in the workforce.
<i>Broad-based ownership scheme</i>	A collective ownership scheme constituted with the view to facilitating the participation of specified natural persons in the benefits flowing from the ownership by that scheme or by its fiduciaries of an Equity Interest in an Enterprise
<i>Commissioned agent</i>	A person who only earns commission, receives no salary.
<i>Corporate Social Investment (CSI)</i>	CSI means projects aimed primarily at black groups, communities and individuals that contribute towards transformation.
<i>Deemed current value</i>	The result of the formula in paragraph 17.6 of dti Code 100, Statement 100. The formula is: the value of the instrument(s) to which a black Participant's Economic Interest attaches minus the carrying value of any third party rights or claims that may exist against that black Participant as a result of the financing of the acquisition of the instrument(s) divided by the current value of the Measured Enterprise. All values to be upon the date of measurement.
<i>Deemed participant</i>	A natural person entitled to receive a distribution or benefit from a broad-based ownership scheme.
<i>Distribution scheme</i>	A Broad-Based Ownership Scheme in which more than 50 natural persons are intended to receive distributions from the scheme that are payable from the Economic Interest received by the scheme or by the fiduciaries of the scheme.
<i>Economic Interest</i>	<p>A Participant's Claim against the Enterprise representing a return on ownership of the Enterprise, measured in accordance with the Flow-Through and Modified Flow-Through Principles. In this regard, a Participant's entitlement to receive any payment or part payment on the Participant's Claim from a Measured Enterprise that is not in the nature of a return on ownership in that Measured Enterprise, will be treated as an Economic Interest if such payment is:</p> <ul style="list-style-type: none"> • not arms-length; • not market-related; • mala fide; or • without a commercial rationale; or • intended to circumvent the provisions of this statement or the objectives of the Act.
<i>Effective Date</i>	The date on which the charter is issued as a code of practice or the first day of January 2006, whichever comes first.
<i>Element</i>	The measurable quantitative or qualitative elements of BEE compliance specified in Code 000, Statement 000 of the dti Codes of Good Practice

<i>Eligible Procurement</i>	<i>All expenditure to acquire goods and/or services, including capital expenditure, but excluding: procurement spending where there is a monopoly as a result of government regulation; all salaries and wages; investments in or loans to enterprises supported in terms of enterprise development initiatives claimed in a BBBEE scorecard; donation through initiatives measured in terms of the residual element of the scorecard; and importation of all goods and services, including capital goods, provided that it can be demonstrated there is no local production of the specific imported goods or services.</i>
<i>Employee scheme</i>	<i>A Broad-Based Ownership Scheme in which a group of employees representing more than 90% of the employees of an Enterprise or 90% of the employees in a particular occupational category(ies) (as referred to in form EEA9 the Employment Equity Act) within an Enterprise. Employee Schemes may have the characteristics of Benefits Schemes or Distribution Schemes or hybrids of both.</i>
<i>Employment Equity</i>	<i>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).</i>
<i>Enterprise</i>	<i>The person(s) conducting a business, trade or profession in the Republic of South Africa</i>
<i>Enterprise development</i>	<i>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.</i>
<i>Equity Interest</i>	<i>The entitlement of a participant to receive an economic interest and to exercise a voting right in an Enterprise.</i>
<i>Exercisable Voting Right</i>	<i>A voting right of a participant that is not subject to any limitation.</i>
<i>Fronting</i>	<i>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.</i>
<i>Generic Scorecard</i>	<i>The balanced BEE scorecard included in the dti Code 000 Statement 000.</i>
<i>Global Policy</i>	<i>Globally applied restriction or regulation to which an enterprise is bound, which inhibits the enterprise from selling equity.</i>
<i>Net profit before taxation</i>	<i>Net Profit before tax according to Generally Accepted Accounting Practice but which Shall exclude :</i> <i>*Interest distributions paid to “linked” unit holders</i> <i>*Adjustments to arrive at the fair value of financial or hedging instruments</i> <i>*Adjustments to arrive at the fair value of property assets</i> <i>*Adjustments arising from the straight-lining of lease rentals in terms of International Accounting Standard IAS 17</i>
<i>Internships</i>	<i>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</i>
<i>Joint venture</i>	<i>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</i>

<i>Learnership</i>	<i>As defined in the Skills Development Act, a structured learning component which: includes practical work experience of a specified nature and duration; would lead to a qualification registered by the South African Qualifications Authority and related to an occupation; and would be registered with the Director-General in the prescribed manner.</i>		
<i>Management (estate agencies only)</i>	<i>For the purposes of this charter, in the case of estate agencies, anyone earning more than R360,000 a year and possessing a level of authority. This salary threshold will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>		
<i>Top Management</i>	<i>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.</i>		
<i>Senior Management</i>	<i>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, 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 first day of January each year.</i>		
<i>Middle Management</i>	<i>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. The salary bands will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>		
<i>Junior Management</i>	<i>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. The salary bands will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>		
<i>Mentorship</i>	<i>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.</i>		
<i>Micro and very small enterprises ... whichever is higher</i>		<i>ASSET BASED</i>	<i>SERVICE BASED</i>
	<i>GROSS ASSETS</i>	<i>30,000,000</i>	<i>3,000,000</i>
	<i>GROSS INCOME OR TURNOVER</i>	<i>4,200,000</i>	<i>4,200,000/ 1,000,000 (estate agents/property brokerages)</i>
	<i>NUMBER OF EMPLOYEES</i>	<i>20</i>	<i>20/5(estate agents/property brokerages)</i>
<i>Net equity interest</i>	<i>The result of formula A or B in paragraph 17.1 of dti Code 100, Statement 100 whichever is the lower. Formula A is "deemed current value" of instruments held by black people multiplied by (1 divided by 25% of the graduation factor) multiplied by 7. Formula B is the percentage economic interest of black participants divided by the target for economic interest of black participants multiplied by 7.</i>		
<i>Payroll</i>	<i>Means salary & wages or similar remuneration payable by an employer to an employee, but does not include any bonus, incentive or commission.</i>		
<i>Net Profit after Taxation</i>	<i>Net Profit as defined after normal taxation but before deferred taxation.</i>		
<i>Practitioners</i>	<i>Practicing commercial property brokers /estate agents</i>		
<i>Property</i>	<i>Land and/or improvements</i>		
<i>Property brokerages</i>	<i>Enterprises participating in the sale and leasing of commercial property.</i>		

<i>Property development</i>	<i>Development of commercial or residential property.</i>
<i>Property ownership</i>	<i>A right or title, in part or whole, either in the form of a unit, land or building, where the owner derives economic benefit. It may include, but is not limited to, freehold title, sectional title, shares, leasehold property.</i>
<i>Property sector</i>	<i>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), property services enterprises and residential property enterprises.</i>
<i>Property services enterprises</i>	<i>Facilities management, Property management, Asset Management, Valuers, Conveyancers and other professional service providers in the property sector</i>
<i>Residential property enterprises</i>	<i>Any enterprise involved in facilitating the selling, renting or managing of residential property.</i>
<i>SETA</i>	<i>Means a Sector Education and Training Authority established in terms of section 9(1) of the Skills Development Act 97 of 1998.</i>
<i>Skills Development</i>	<i>The transfer or gaining of technical knowledge, related skills, values and attitudes in order to develop proficiency and to develop a person's natural aptitudes and other abilities to improve his/her capabilities as a worker. Training, which generally takes place outside formal educational institutions, is more often than not directed towards the needs of a specific employer or group of employers. Skills development spend refers to the direct cost, excluding peripheral costs, incurred by a company for accredited or sector acknowledged training and development including costs related to learnerships and bursaries and excluding the skills levy as per the skills development legislation.</i>
<i>Small enterprise</i>	<i>As per the Small Business Act or as defined in the dti Codes of Good Practice.</i>
<i>SOE</i>	<i>State-owned enterprise, an enterprise, often a corporation, owned by government.</i>
<i>Spend</i>	<i>The previous 12 months orders at the time of measurement. All expenditure should be counted at the time of invoicing.</i>
<i>Staff</i>	<i>Includes all employees and for the purposes of this charter commissioned agents.</i>
<i>Subsidiary</i>	<i>A company controlled by another usually a large corporation. When that control or ownership is not shared, it is termed a wholly-owned subsidiary. Subsidiaries are distinct legal entities for purposes of taxation and other forms of regulation.</i>
<i>Superannuation scheme</i>	<i>A "provident fund", a "pension fund" and a "retirement annuity fund" as defined in Schedule 2 of the Tax Act 58 of 1962.</i>
<i>Under-resourced areas</i>	<i>Areas, which did not receive 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".</i>
<i>Transformational infrastructure</i>	<i>Projects that support economic development in under-resourced areas and contribute towards equitable access to economic resources. Such infrastructure projects could be in the following sectors:</i> <ul style="list-style-type: none"> <i>• transport;</i> <i>• telecommunications;</i> <i>• water, waste water and solid waste;</i> <i>• energy;</i> <i>• social infrastructure such as health, education, and correctional services facilities; and</i> <i>• municipal infrastructure and services</i>

<i>Triple bottom line</i>	<i>A business concept that refers to corporate attainment of balanced and integrated economic, social and environmental performance.</i>
<i>Voting right</i>	<i>A voting right attaching to an instrument owned by or held on behalf of a Participant, that may be exercised at a general meeting of the shareholders of a company having share capital or any similar rights in any other form of Enterprise measured in accordance with the Flow-Through Principle or the Control Principle.</i>