

ANNEXURE B

GAUTRAIN

SCHEDULE 15

SOCIO-ECONOMIC DEVELOPMENT OBLIGATIONS

between

GAUTENG PROVINCIAL GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
(Province)

and

SIHAMBA SONKE MOBILITY PROPRIETARY LIMITED
(To be renamed *SIHAMBA SONKE MOBILITY (RF) PROPRIETARY LIMITED*)
(Concessionaire)

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1. INTERPRETATION AND DEFINITIONS

- 1.1 For the avoidance of doubt, terms defined in the Concession Agreement shall have the same meaning in this Schedule 15 (*Socio-Economic Development Obligations*).
- 1.2 References in this Schedule 15 (*Socio-Economic Development Obligations*) to clauses shall be construed as references to the clauses of this Schedule 15 (*Socio-Economic Development Obligations*), unless the context indicates otherwise.
- 1.3 The following words and phrases shall, when used in this Schedule 15 (*Socio-Economic Development Obligations*), have the meanings assigned to them hereunder, and cognate expressions shall have corresponding meaning, namely:

1.3.1 **Actual Total Quantum** means:

- 1.3.1.1 In respect of Local Content (SED01.1, SED01.2, SED01.3.1, SED01.3.2, SED01.3.3, SED01.4.1, SED01.4.2, SED01.4.3, SED01.5, SED01.6 and SED01.7), Procurement and Subcontracting (SED03.1, SED03.2, SED03.3, SED03.3.1, SED03.4 and SED03.5), Enterprise Development (SED06.1, SED06.1.1 and SED06.1.2), Skills Development (SED07.1, SED07.1.1 and SED07.1.2) and Social Investment (SED08.1 and SED08.1.1) the actual amount spent in Rand terms by a Measured Entity;
- 1.3.1.2 in respect of Ownership (SED02.1, SED02.1.1 and SED02.2) the actual percentage Shareholding in the relevant Measured Entity; and
- 1.3.1.3 in respect of Local Employment Equity (SED04.1, SED04.2, SED04.3, SED04.4, SED04.5 and SED04.6) and Management Control (including SED05.1, SED05.2, SED05.3, SED05.4, SED05.5, SED05.6, SED05.7, SED05.8, SED05.9, SED05.10, SED05.11 and SED05.12) the actual number of Person Months,

as the case may be, relevant to the measurement parameters for the Socio-Economic Development Performance Elements, in a specific Contract Year in which the Socio-Economic Development Obligations are being measured or determined;

- 1.3.2 **Administration Costs** means:
- 1.3.2.1 the costs incurred by a Measured Entity in order to pay suitably qualified and experienced Employees and or third parties to undertake Skills Development initiatives on the Measured Entity's behalf; and
 - 1.3.2.2 other costs related to the organisation of the Skills Development, such as the cost of training facilities, catering, accommodation and travel;
- 1.3.3 **Amended B-BBEE Codes** means the amended B-BBEE Codes of Good Practice issued under Government Gazette No. 36928 on 11 October 2013 in terms of section 9(1) of the B-BBEE Act;
- 1.3.4 **B-BBEE** means Broad-Based Black Economic Empowerment as defined in the B-BBEE Act;
- 1.3.5 **B-BBEE Act** means the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended;
- 1.3.6 **B-BBEE Compliant Company** means a juristic person, that conforms to sub-minimums for a compliant entity as defined in the B-BBEE Act;
- 1.3.7 **B-BBEE Recognised Spend** means the spend on procurement multiplied by the B-BBEE Recognition Level of the respective Local Supplier;
- 1.3.8 **B-BBEE Recognition Level** means the recognition level of an entity which is based on the overall performance of that entity, in respect of B-BBEE, measured in terms of any applicable Sector Code and or the Amended B-BBEE Codes and demonstrated by the submission of a valid B-BBEE Verification Certificate;
- 1.3.9 **B-BBEE Verification Certificate** means:
- 1.3.9.1 the B-BBEE status level verification certificate to be issued by a South African national accreditation system, accredited verification agency or professional in terms of any applicable Sector Code and or the Amended B-BBEE Codes, as applicable; and

- 1.3.9.2 in the case of QSEs and EMEs, a sworn affidavit as contemplated in paragraphs 4 and 5 of Statement 000: General Principles and the Generic Scorecard of the Amended B-BBEE Codes;
- 1.3.10 **Black Designated Groups** means Black People, women and people with disabilities who are Citizens of South Africa as prescribed by the Amended B-BBEE Codes;
- 1.3.11 **Black Owned Companies** means an enterprise that is at least fifty-one percent (51%) owned by Black People;
- 1.3.12 **Black Person** means African, Coloured or Indians (i) who are Citizens of the Republic of South Africa by birth or descent or (ii) who became Citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date, **Black People** and **Black Persons** shall have a corresponding meaning;
- 1.3.13 **Black Women** means Black Persons of the female gender and **Black Woman** shall have a corresponding meaning;
- 1.3.14 **Black Women Owned Companies** means an enterprise that is at least fifty-one percent (51%) owned by Black Women;
- 1.3.15 **Black Women Ownership** means Ownership by Black Women in a Measured Entity;
- 1.3.16 **Black Youth** means a Black Person who is classified as youth. For purposes of the Project, youth has been limited to individuals who have a majority status in the Republic of South Africa, being between the ages of eighteen (18) and thirty-five (35) years, when entering Project;
- 1.3.17 **Board of Directors** means a group of elected people who represent the interests of a Measured Entity's shareholders as defined in the Amended B-BBEE Codes;
- 1.3.18 **Board Position(s)** means the occupation held by a member of the Board of Directors;

- 1.3.19 **Bridges and Tunnels** means the activities and material related to providing Rail Permanent Way Components, including bridges, structures and tunnels;
- 1.3.20 **Citizens** means people who have obtained South African citizenship by birth, descent or naturalisation in terms of the South African Citizenship Act, No. 88 of 1995;
- 1.3.21 **Committed Obligation** means the Socio-Economic Development Obligations committed by the Concessionaire and agreed to in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*) of this Schedule 15 (*Socio-Economic Development Obligations*);
- 1.3.22 **Component** means, in respect of:
- 1.3.22.1 Parts of an EMU, those components and or activities stipulated in clause 1 (*SED01.1 – Local Content for EMUs*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.2 Parts of a Bus or Midi Bus, those components and or activities stipulated in clause 2 (*SED01.2 – Local Content for Buses and Midi Buses*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.3 Parts of Track Work, those components and or activities stipulated in clause 3 (*SED01.3.1 – Local Content for Track Work in relation to Rail Permanent Way*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.4 Parts of Earthworks, those components and or activities stipulated in clause 4 (*SED01.3.2 – Local Content for Earthworks in relation to Rail Permanent Way*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.5 Parts of Bridges and Tunnels, those components and or activities stipulated in clause 5 (*SED01.3.3 – Local Content for Bridges and Tunnels in relation to Rail Permanent Way*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);

- 1.3.22.6 Parts of Signalling, those components and or activities stipulated in clause 6 (*SED01.4.1 – Local Content for Signalling in relation to TACT systems*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.7 Parts of Telecommunications, those components and or activities stipulated in clause 7 (*SED01.4.2 – Local Content for Telecommunications in relation to TACT systems*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.8 Parts of Radio, those components and or activities stipulated in clause 8 (*SED01.4.3 – Local Content for Radio in relation to TACT systems*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.9 Parts of Power Supply and Distribution, those components and or activities stipulated in clause 9 (*SED01.5 – Local Content for Power Supply and Distribution*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.10 Parts of Automatic Fare Collection, those components and or activities stipulated in clause 10 (*SED01.6 – Local Content for Automatic Fare Collection*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.22.11 Parts of Infrastructure and Buildings, those components and or activities stipulated in clause 11 (*SED01.7 – Local Content for Infrastructure and Buildings*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.23 **Component Price** means the price offered by the Concessionaire for each Component in respect of:
- 1.3.23.1 EMUs;
- 1.3.23.2 Buses and Midi Buses;
- 1.3.23.3 Track Work;
- 1.3.23.4 Earthworks;

- 1.3.23.5 Bridges and Tunnels;
- 1.3.23.6 Signalling;
- 1.3.23.7 Telecommunications;
- 1.3.23.8 Radio;
- 1.3.23.9 Power Supply and Distribution;
- 1.3.23.10 Automatic Fare Collection; and
- 1.3.23.11 Infrastructure and Buildings,

indicated in Annexure 2 (*Quarterly Obligations*) excluding VAT;
- 1.3.24 **Content Price** for purposes of calculating Local Content, means the price offered by the Concessionaire in respect of all Components in the Project indicated in Annexure 2 (*Quarterly Obligations*) excluding VAT;
- 1.3.25 **Contract Price** or **Total Contract Price** means the sum total of the annual Unitary Price over the 15-year term, escalated CPI;
- 1.3.26 **Contractors** means the collection of consortium members that have a vested interest in the Project Company;
- 1.3.27 **Earthworks** means the activities and materials related to providing Rail Permanent Way and Infrastructure and Buildings Components being bulk earthworks;
- 1.3.28 **Economic Interest** means a claim against a Measured Entity representing a return on Ownership of the Measured Entity similar in nature to a dividend right, measured in accordance with the Flow Through Principle;
- 1.3.29 **EME** means an Exempted Micro Enterprise, a business with a turnover of lower than ten million rand (R 10 000 000);
- 1.3.30 **Employee** means a Concession Employee and **Employment** and or **Employed** shall have a corresponding meaning;

- 1.3.31 **Employees with Disabilities** means an Employee who is a person living with disabilities, who is considered as qualifying for protection in terms of the Employment Equity Act;
- 1.3.32 **Employment Equity Act** means the Employment Equity Act, 1998 (Act No. 55 of 1998);
- 1.3.33 **EMU** means electric multiple units, which is a class of rail rolling stock systems/subsystems and components that have been designated for local production and content;
- 1.3.34 **Enterprise Development** means the monetary and non-monetary enterprise and supplier development contributions / spend carried out to EMEs and QSEs that are at least fifty-one percent (51%) Black Owned Companies or Black Women Owned Companies with the objective of contributing to the development, sustainability and financial and operational independence of those entities as defined in the Amended B-BBEE Codes;
- 1.3.35 **Executive Director** means a Top Management employee that also occupies a Board Position;
- 1.3.36 **Executive Manager** means a Top Management employee that does not occupy a Board Position and **Executive Management** shall have the corresponding meaning;
- 1.3.37 **Exercisable Voting Rights** means a voting right attaching to an equity instrument measured using the Flow Through Principle, that is not subject to any limit other than limitations that may be subject to financing arrangements imposed by lenders providing financing for such equity instruments;
- 1.3.38 **Flow Through Principle** means the measurement of Ownership in terms of which only rights held by Participants are considered for such measurement and, in respect of the rights of Ownership held in a Measured Entity through a juristic person, then the rights of Ownership held by Participants in the juristic person are considered for measurement. The measurement of Ownership shall have regard to every tier of the Ownership in a multi-tiered chain of Ownership until that chain ends with a Participant holding rights of Ownership;

- 1.3.39 **Fronting Practices** means an act seeking to directly or indirect undermine the SED objectives as defined in the B-BBEE Act;
- 1.3.40 **Government** means the Government of the Republic of South Africa, and any of its departments, agencies or other entities that it manages or controls including all state-owned companies;
- 1.3.41 **Imported Content** means that portion of the Price or Component Price represented by the price of imported components and the cost of parts or materials which have been or are still to be imported, the cost of which are inclusive of the costs abroad, plus freight and other direct importation costs (such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at a South African port of entry), excluding VAT;
- 1.3.42 **Independent Socio-Economic Monitor** or **ISEM** means an independent person or entity appointed by the GMA to monitor and report on the Socio-Economic Development achievements of the Concessionaire, whose functions are more fully described in clause 3 (*Method of Performance of Independent Socio-Economic Monitor's Duties*) of Schedule 21 (*Form of Appointment of Independent Socio-Economic Monitor*) to the Concession Agreement;
- 1.3.43 **Infrastructure and Buildings** means the activity of improvement or restoration to good working order of fixed assets set out in clause 11 (*SED01.7 – Local Content for Infrastructure and Buildings*) of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.44 **Junior Management** means Employees of a Measured Entity who are:
- 1.3.44.1 members of the occupation category of Junior Management as determined using the Regulations to the Employment Equity Act; and
- 1.3.44.2 appointed to undertake supervisory functions in the Measured Entity;
- 1.3.45 **Learnership** means a workplace education and training programme comprising both structural practical workplace (on-the-job) experience and structured theoretical training;

- 1.3.46 **Learning Programme** means any learning programme set out in the Learning Programmes Matrix;
- 1.3.47 **Learning Programme Matrix** means the Learning Programme Matrix annexed as Annexe 300(A) of the Amended B-BBEE Codes;
- 1.3.48 **Local Content** means that portion of the Price or Component Price that is not included in the Imported Content, pertaining to actual spend on local manufacturing, and is calculated in accordance with Local Content formulae set out in Table 4 (*SED Penalties, weighting and Point Thresholds*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement;
- 1.3.49 **Local Employment Equity** means those measures that a Measured Entity can account for as being implemented to achieve the Employment of Citizens through the Project in adherence to employment equity as contemplated in the Employment Equity Act;
- 1.3.50 **Local Jobs** means the Employment created for, or to be held by Citizens in relation to the Project, each of which shall be for a minimum period of twelve (12) months;
- 1.3.51 **Local Supplier** means a supplier to the:
- 1.3.51.1 Concessionaire; or
- 1.3.51.2 a Contractor,
- which is registered and trading in the Republic of South Africa;
- 1.3.52 **Maintenance and Refurbishment** shall have the corresponding meaning as **Maintenance** as defined in the Concession Agreement;
- 1.3.53 **Management Control** means the effective control of the management of the Concessionaire by reference to Top Management and Senior Management occupational levels specified in Form EEA9 gazetted as a regulation under the Employment Equity Act;

- 1.3.54 **Manufacture and Supply** means the activity of sourcing and availing of new assets in accordance with the requirements of the Concession Agreement for use in the System;
- 1.3.55 **Measured Entity** means an entity which is subject to measurement in respect of any one or more of the Socio-Economic Development Performance Elements, and includes the Concessionaire, the Direct Subcontractors and the Indirect Subcontractors;
- 1.3.56 **Middle Management** means Employees of a Measured Entity who are:
- 1.3.56.1 members of the occupation category of Middle Management as determined using the Regulations to the Employment Equity Act; and
- 1.3.56.2 appointed to undertake the implementation of departmental/team plans that will support the business plans;
- 1.3.57 **Ownership** means the effective rights of ownership of shares in a Measured Entity specifically the Exercisable Voting Rights and Economic Interest in a Measured Entity;
- 1.3.58 **Participant** means a natural person holding rights of Ownership in a Measured Entity;
- 1.3.59 **Penalty Proportion** means five percent (5%), which is the maximum penalty as a percentage of the Reference Value that can accrue due to the Concessionaire failing to adhere to all of its Socio-Economic Development Obligations;
- 1.3.60 **Persistent Poor Performance** has the meaning ascribed to it in clause 7.2.1;
- 1.3.61 **Persistent Poor Performance Penalties** or **PPPs** has the meaning ascribed to it in clause 7.2.2;
- 1.3.62 **Person** means a natural person engaged on the various levels in the Project and **Persons** shall have a corresponding meaning;
- 1.3.63 **Person Month** means an Employee working at least eight (8) hours per day and five (5) days per week per Contract Month;

- 1.3.64 **Poor Performance** means the occurrence where the Concessionaire's achievement of Socio-Economic Development Obligations for any of the Socio-Economic Development Performance Elements is below the committed levels indicated in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*) and Annexure 2 (*Quarterly Obligations*);
- 1.3.65 **PPP Amount** has the meaning ascribed to it in clause 7.2.2;
- 1.3.66 **Procurement and Subcontracting** means the extent to which a Measured Entity procures or subcontracts for goods and services from suppliers which are EMEs, QSEs, B-BBEE Compliant Companies, Black Owned Companies, companies owned by Black Designated Groups, Black Women Owned Companies and Township Enterprises;
- 1.3.67 **QSE** means a Qualifying Small Enterprise, a business with turnover between ten million Rands (R10 000 000) and fifty million Rands (R 50 000 000);
- 1.3.68 **Quarterly Obligation** means the Committed Obligations for each Contract Year, monitored on a Quarterly basis denoted in Annexure 2 (*Quarterly Obligations*) of this Schedule 15 (*Socio-Economic Development Obligations*), as updated from time to time in accordance with clause 3.3 or 3.7;
- 1.3.69 **Quarterly Report** means the compilation of information by the Concessionaire regarding its performance and compliance with the Committed Obligations in a relevant quarter, that is taken into account in the compilation of the Quarterly SED Reports;
- 1.3.70 **Quarterly SED Reports** means the reports prepared by the Independent Socio-Economic Monitor in respect of a relevant quarter, regarding its monitoring, and/or review and/or verification and work otherwise carried out by it and the findings of the Independent Socio-Economic Monitor regarding its activities as set out in the Independent Socio-Economic Monitor Agreement;
- 1.3.71 **Radio** means the activities and materials related to providing TACT Components including axel fibre fed solution, supervisory control and data acquisition, fibre optic communication system, closed circuit television,

telephone, network time server and public address and public information system;

- 1.3.72 **Rail Industry Enterprise Development** means Enterprise Development contributions made toward enterprises that produce goods and services that are utilised in the rail industry;
- 1.3.73 **Rail Industry Skills Development** means Skills Development Expenditure spend on individuals with the purpose of enhancing the skills and capabilities of the rail industry;
- 1.3.74 **Rail Permanent Way** means the systems/ subsystems and components that have been designated for local production and content listed in clause 5.2.3 of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.75 **Reference Value** means the equivalent Unitary Price payable to the Concessionaire over a Contract Quarter for successfully carrying out obligations identified in the Concession Agreement;
- 1.3.76 **Reporting Obligation** means the obligations of the Concessionaire pertaining to the submission of reports as stated in clause 41 (*Socio-Economic Development Reports*) of Schedule 14 (*Records and Reports*) to the Concession Agreement;
- 1.3.77 **SABS** means the South African Bureau of Standards, a bureau established in terms of the Standards Act, 1945 (Act No. 24 of 1945), and which continues to operate in terms of the Standards Act, 2008 (Act No. 8 of 2008);
- 1.3.78 **Sector Code** means a code designated as such and issued in terms of section 9(1) of the B-BBEE Act, developed by major stakeholders in a particular industry;
- 1.3.79 **Senior Management** means Employees of a Measured Entity who are:
- 1.3.79.1 members of the occupation category of Senior Management as determined using the Regulations to the Employment Equity Act; and
- 1.3.79.2 appointed to undertake the day-to-day management of that Measured Entity;

- 1.3.80 **Shareholding** means the effective Ownership of shares in a Measured Entity, which shall be determined with reference to the Exercisable Voting Rights and Economic Interest in such entity;
- 1.3.81 **Signalling** means the activities and material related to providing TACT Components including Centralised traffic control equipment, cabinets, LED light signal, level crossing components, auxiliary power suppliers, point machines, axle counter, track circuits, electronic interlocking, relay interlocking, automatic train protection and assembly and testing of fully built units;
- 1.3.82 **Skills Development** means those skills development initiatives set out in the Learning Programme Matrix or identified by the Province;
- 1.3.83 **Skills Development Expenditure** means costs incurred by a Measured Entity on Skills Development but excludes the skills development levy payable by the Measured Entity under the Skills Development Levies Act, 1999 (Act No. 9 of 1999);
- 1.3.84 **SMMEs** means small enterprises, which satisfy any of the criteria listed in the National Small Enterprise Act, 1996 (Act No. 102 of 1996) for a small, micro, very small or medium enterprise, based on the economic sector in which the activities undertaken by such an enterprise in relation to the Project falls;
- 1.3.85 **Social Investment** means the monetary and non-monetary contributions made to support the upliftment of the social and economic conditions of people in various communities;
- 1.3.86 **Socio-Economic Development Action Plan** means an addendum to the Socio-Economic Development Plan, where the Concessionaire commits to resolving underperformance in any of the Socio-Economic Development Obligations and confirming how the remedial action may impact the undertaking of the Socio-Economic Development Plan;
- 1.3.87 **Socio-Economic Development** or **SED** means the initiatives carried out towards the promotion of access to the economy by previously disadvantaged individuals and, for purposes of this Schedule 15 (*Socio-Economic Development*

Obligations), to advance the Socio-Economic Development Performance Elements;

- 1.3.88 **Socio-Economic Development Maximum Performance Deduction** or **PD_{max}** means the maximum penalty deductions imposed in a Contract Quarter which is calculated as the multiplication of the Penalty Proportion by the Reference Value;
- 1.3.89 **Socio-Economic Development Obligations** means the Socio-Economic Development obligations set out in this Schedule 15 (*Socio-Economic Development Obligations*);
- 1.3.90 **Socio-Economic Development Performance Elements** with regards to Socio-Economic Development for purposes of this Schedule 15 (*Socio-Economic Development Obligations*), is a collective term for the following elements:
- 1.3.90.1 Local Content for EMUs;
 - 1.3.90.2 Local Content for Buses and Midi Buses;
 - 1.3.90.3 Local Content for Track Work in relation to Rail Permanent Way;
 - 1.3.90.4 Local Content for Earthworks in relation to Rail Permanent Way;
 - 1.3.90.5 Local Content for Bridges and Tunnels in relation to Rail Permanent Way;
 - 1.3.90.6 Local Content for Signalling in relation to TACT systems;
 - 1.3.90.7 Local Content for Telecommunication in relation to TACT systems;
 - 1.3.90.8 Local Content for Radio in relation to TACT systems;
 - 1.3.90.9 Local Content for Power Supply and Distribution;
 - 1.3.90.10 Local Content for Automatic Fare Collection;
 - 1.3.90.11 Local Content for Infrastructure and Buildings;
 - 1.3.90.12 Ownership by Black People;
 - 1.3.90.13 Ownership by Black Women;

- 1.3.90.14 Procurement from or Subcontracting to B-BBEE Compliant Companies;
- 1.3.90.15 Procurement from or Subcontracting to EMEs and QSEs;
- 1.3.90.16 Procurement from or Subcontracting to Black Owned Companies;
- 1.3.90.17 Procurement from or Subcontracting to Black Women Owned Companies;
- 1.3.90.18 Procurement from or Subcontracting to Township Suppliers;
- 1.3.90.19 Local Employment;
- 1.3.90.20 Black People Employed;
- 1.3.90.21 Black Women Employed;
- 1.3.90.22 Black Youth Employed;
- 1.3.90.23 Black Employees with Disabilities;
- 1.3.90.24 Township Employment;
- 1.3.90.25 Black People in Board Positions;
- 1.3.90.26 Black Women in Board Positions;
- 1.3.90.27 Black People in Executive Director positions;
- 1.3.90.28 Black Women in Executive Director positions;
- 1.3.90.29 Black People in Executive Management positions;
- 1.3.90.30 Black Women in Executive Management positions;
- 1.3.90.31 Black People in Senior Management positions;
- 1.3.90.32 Black Women in Senior Management positions;
- 1.3.90.33 Black People in Middle Management positions;
- 1.3.90.34 Black Women in Middle Management positions;
- 1.3.90.35 Black People in Junior Management positions;
- 1.3.90.36 Black Women in Junior Management positions;

- 1.3.90.37 Enterprise Development;
- 1.3.90.38 Rail Industry Enterprise Development;
- 1.3.90.39 Township Enterprise Incubation Contributions;
- 1.3.90.40 Skills Development;
- 1.3.90.41 Rail Industry Skills Development;
- 1.3.90.42 Township Skills Development;
- 1.3.90.43 Social Investment;
- 1.3.90.44 Township Social Investment Contributions; and
- 1.3.90.45 B-BBEE Status Level;

- 1.3.91 **Socio-Economic Development Performance Penalties** or **P_{SED}** means those performance penalties calculated in terms of clause 7.1 (*Socio-Economic Development Performance Penalties*);

- 1.3.92 **Socio-Economic Development Performance Target** means the Committed Obligations set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);

- 1.3.93 **Socio-Economic Development Plan** means the plan to be submitted by the Concessionaire in accordance with the requirements set out in clause 41 (*Socio-Economic Development Reports*) of Schedule 14 (*Records and Reports*) to the Concession Agreement, setting out the activities and measures that the Concessionaire undertakes will be implemented in a Contract Year, to achieve its Socio-Economic Development Obligations, the form of which is attached as Annexure 3 (*Form of Socio-Economic Development Plan*);

- 1.3.94 **Socio-Economic Development Quarterly Action Plan** means a report submitted by the Concessionaire where the Concessionaire commits to resolving underperformance in any of the Socio-Economic Development Obligations within the subsequent quarter;

- 1.3.95 **Socio-Economic Development Scorecard** means the scorecard containing the Committed Obligations set out as part of Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*);
- 1.3.96 **Socio-Economic Development Termination Points** means the value allocated an event where the Concessionaire failed to adhere to its Committed Obligations as described in clause 7.4.1;
- 1.3.97 **Socio-Economic Development Termination Points Threshold** means the minimum required achievement by the Concessionaire for the relevant Socio-Economic Development Performance Element indicated in Table 4 (*SED Penalties, weighting and Point Thresholds*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement, failure of which would result in the accumulation of Socio-Economic Development Termination Points;
- 1.3.98 **TACT** means Train Authorisation, Control and Telecommunications, which has the corresponding meaning to **TACS** (as defined in the Concession Agreement);
- 1.3.99 **Top Management** means Employees of a Measured Entity who are:
- 1.3.99.1 members of the occupation category of Top Management as determined using the Regulations to the Employment Equity Act; and
- 1.3.99.2 appointed to undertake the day-to-day management of that Measured Entity;
- 1.3.1 **Total Employment Cost** means the total expenditure an entity incurs for the employment of staff;
- 1.3.2 **Total Procurement Spend** means the monetary spend on the procurement of goods and services for purposes of undertaking the Project (without double counting), excluding costs of taxation, salaries and wages;

- 1.3.3 **Township** means a suburb or city of the Gauteng province of the Republic of South Africa which, prior to 1994, was formerly designated for occupation by Black People under apartheid legislation and or any new settlement in the Gauteng province of the Republic of South Africa established after 1994 that is predominantly occupied by Black People, including informal settlements and hostels;
- 1.3.4 **Township Enterprise** means a business or company with primary business operations located in Townships;
- 1.3.5 **Township Enterprise Incubation Contribution** means the Enterprise Development contribution allocated to enterprises with primary business operations in Townships;
- 1.3.6 **Township Skills Development** means Skills Development Expenditure spent on Township residents;
- 1.3.7 **Township Supplier** means an enterprise that is supplying goods, services or materials for the Services, in which Black People enjoy a right to Exercisable Voting Rights and Economic Interest that are at least fifty-one percent (51%) of such rights and interest, whose primary place of business is located within a Township's boundaries;
- 1.3.8 **Track Work** means the activities and materials related to providing Rail Permanent Way Components including rails, rail points, ballasts, turnouts, switches and crossings, railway sleepers and rail fastening and accessories;
- 1.3.9 **VAT** means the standard rate that may be applicable in terms of the Value Added-Tax Act, 1991 (Act No. 98 of 1991); and
- 1.3.10 **Vendors** means entities that supply goods or services to the Concessionaire and entities that supply goods or services to the Contractors but no more than two (2) tiers below the Contractors.

2. CONCESSIONAIRE'S COMMITTED OBLIGATIONS

- 2.1 In undertaking the Project, the Concessionaire undertakes to meet, comply and, where applicable, procure from Vendors in compliance with the Socio-Economic Development levels indicated in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*) in relation to the Social Economic Development Performance Elements.
- 2.2 The Committed Obligations shall be implemented in accordance with the Quarterly Obligations.
- 2.3 The Concessionaire shall allow the Independent Socio-Economic Monitor and/or its representatives or agents access to all information, unless to the extent that such information is considered commercially sensitive by the Concessionaire, acting reasonably in doing so, on which the Concessionaire's Quarterly Socio-Economic Development achievements were based.

3. CONCESSIONAIRE'S GENERAL OBLIGATIONS

- 3.1 The Concessionaire undertakes that, in undertaking the Project, it will:
 - 3.1.1 without derogating from any of the obligations contained in this Schedule 15 (*Socio-Economic Development Obligations*), carry out its obligations in relation to Socio-Economic Development;
 - 3.1.2 meet or exceed the Quarterly Obligations;
 - 3.1.3 comply with its Reporting Obligations;
 - 3.1.4 bring to the attention of the Province any non-compliance with the Committed Obligations by the Concessionaire, or any change in the Concessionaire's circumstances or Project implementation by the Concessionaire that may impact on the Concessionaire's ability to meet its Committed Obligations;
 - 3.1.5 not do, or cause to be done, anything that could result in non-compliance with the Committed Obligations;

- 3.1.6 ensure that its chief executive officer or a person with appropriate delegated authority from the chief executive officer reports to the Independent Socio-Economic Monitor (either directly or indirectly through the Province) as part of its Reporting Obligations, on the progress made in performing the Committed Obligations and Quarterly Obligations;
 - 3.1.7 meet its Committed Obligations within each Contract Year and refrain from sculpting its Socio-Economic Development Obligations in such a manner that it results in the back-ending of its Committed Obligations and/or a significant discrepancy between the spending pattern on the Project and the achievement of the Committed Obligations in the relevant Contract Year; and
 - 3.1.8 keep a record of all activities undertaken on the Project in respect of Socio-Economic Development and make such a record available, in a form acceptable to the Province or such other format as from time to time is in common usage, to the Province, the Independent Socio-Economic Monitor and their representatives and or auditors on request.
- 3.2 The Concessionaire will:
- 3.2.1 be measured for compliance with its Committed Obligations;
 - 3.2.2 be monitored for compliance with the Quarterly Obligations;
 - 3.2.3 have Socio-Economic Development Performance Penalties accrue for failure to adhere to its Quarterly Obligations in a Contract Year; and
 - 3.2.4 have Persistent Poor Performance Penalties accrue for Persistent Poor Performance as contemplated in clause 7.2 (*Persistent Poor Performance*).
- 3.3 In the event of there being an anticipated change in the committed spending pattern in the Quarterly Obligations, the Concessionaire shall, without unreasonable delay:
- 3.3.1 notify the Province and the Independent Socio-Economic Monitor in writing of that fact as well as the nature of the change and the reasons;
 - 3.3.2 indicate how the Committed Obligations during the relevant period and in the following periods will be complied with; and

3.3.3 submit proposed updates to the Quarterly Obligations and an updated Socio-Economic Development Plan for the relevant Contract Year, where applicable.

3.4 In relation to the proposed updates to the Quarterly Obligations:

3.4.1 the Province shall, without unreasonable delay, or within such time frame as agreed by the Parties, following the receipt of the proposed updates to the Quarterly Obligations and updated Socio-Economic Development Plan, notify the Concessionaire whether the proposed updated Quarterly Obligations are acceptable to the Province, upon consideration thereof;

3.4.2 in the event of the Province accepting the proposed updates to the Quarterly Obligations and updated Socio-Economic Development Plan, compliance with the Committed Obligations for purposes of clause 7 (*Socio-Economic Development Performance Measurement*) will be measured against the accepted updated Quarterly Obligations;

3.4.3 in the event of the Province not accepting the proposed updates to the Quarterly Obligations and updated Socio-Economic Development Plan, compliance with the Committed Obligations for purposes of clause 7 (*Socio-Economic Development Performance Measurement*) will be measured against the Quarterly Obligations and Socio-Economic Development Plan applicable and in existence at that time; and

3.4.4 during the period between the submission of the proposed updates to the Quarterly Obligations and updated Socio-Economic Development Plan and the acceptance or rejection thereof by the Province, the Concessionaire shall continue to report on its performance in relation to the Quarterly Obligations applicable and in existence at that time.

3.5 Subject to clause 3.1.7, a proposed update to the Quarterly Obligations contemplated in clauses 3.3 and 3.4 may include a proposed change in the timing of an activity or initiative from one Contract Quarter to another Contract Quarter. Any such proposed update shall not reduce or otherwise vary the applicable Committed Obligations and shall only take effect upon acceptance by the Province in accordance with clause 3.4. Where such proposed update is accepted by the Province, the Concessionaire's performance in respect of the affected Quarterly Obligations shall be measured against the accepted updated Quarterly Obligations.

3.6 The Concessionaire acknowledges that the:

3.6.1 Administration Costs of undertaking any initiatives relating to Skills Development, shall not exceed fifteen percent (15%) of the total Skills Development Expenditure in each Contract Year; and

3.6.2 portion of the Skills Development Expenditure set aside for informal and work-place Learning Programmes, shall not exceed twenty-five percent (25%) of the total Skills Development Expenditure in each Contract Year.

3.7 **Annual Review of Quarterly Obligations**

3.7.1 Without limiting the Concessionaire's rights provided under clause 3.3, the Quarterly Obligations shall be reviewed on an annual basis in conjunction with the preparation and submission of the Socio-Economic Development Plan for the following Contract Year, for the purpose of reflecting the Concessionaire's updated implementation programme for the relevant Contract Year.

3.7.2 As part of the annual review contemplated in this clause 3.7, the Concessionaire may propose updates to the Quarterly Obligations to reflect changes to the timing or sequencing of individual Socio-Economic Development initiatives, provided that no such proposed update shall reduce, or have the effect of reducing:

3.7.2.1 the Concessionaire's Committed Obligations in respect of any Socio-Economic Development Performance Element over the remaining Contract Term; or

- 3.7.2.2 the Concessionaire's Committed Obligations for the Contract Year in which the proposed update is submitted, save to the extent that the shortfall in that Contract Year is redistributed to an earlier or later Contract Quarter within the same Contract Year.
- 3.7.3 The Concessionaire shall submit any proposed updates to the Quarterly Obligations arising from the annual review contemplated in this clause 3.7 to the Province together with each Socio-Economic Development Plan.
- 3.7.4 Proposed updates submitted under this clause 3.7 shall be dealt with in accordance with clause 3.4 (including the Province's right to accept or reject such proposed updates, and the Concessionaire's obligation to continue reporting against the Quarterly Obligations applicable and in existence pending the Province's decision).
- 3.7.5 For the avoidance of doubt, nothing in this clause 3.7 derogates from the Concessionaire's obligations under clause 3.1.7 to meet its Committed Obligations within each Contract Year and to refrain from sculpting its Socio-Economic Development Obligations in a manner that results in the back-ending of its Committed Obligations and/or a significant discrepancy between the spending pattern on the Project and the achievement of the Committed Obligations in the relevant Contract Year.
- 3.7.6 An annual review under this clause 3.7 that does not result in any proposed update to the Quarterly Obligations shall not require any submission to the Province beyond the Socio-Economic Development Plan itself.

4. **SOCIO-ECONOMIC DEVELOPMENT MEASUREMENT INDICATORS**

In relation to the Committed Obligations, the measurement parameters for the Socio-Economic Development Performance Elements, in a specific Contract Year in which the Committed Obligations are being measured or determined are as indicated in the table below:

Reference and Socio-Economic Development Performance Element	Measurement Indicator
	Local Content

Reference and Socio-Economic Development Performance Element		Measurement Indicator
SED01.1	Local Content for EMUs	Rand value of actual money spent by a Measured Entity
SED01.2	Local Content for Buses and Midi Buses	Rand value of actual money spent by a Measured Entity
SED01.3.1	Local Content for Track work in relation to Rail Permanent Way	Rand value of actual money spent by a Measured Entity
SED01.3.2	Local Content for Earthworks in relation to Rail Permanent Way	Rand value of actual money spent by a Measured Entity
SED01.3.3	Local Content for Bridges and Tunnels in relation to Rail Permanent Way	Rand value of actual money spent by a Measured Entity
SED01.4.1	Local Content for Signalling in relation to TACT systems	Rand value of actual money spent by a Measured Entity
SED01.4.2	Local Content for Telecommunications in relation to TACT systems	Rand value of actual money spent by a Measured Entity
SED01.4.3	Local Content for Radio in relation to TACT systems	Rand value of actual money spent by a Measured Entity
SED01.5	Local Content for Power Supply and Distribution	Rand value of actual money spent by a Measured Entity
SED01.6	Local Content for Automatic Fare Collection	Rand value of actual money spent by a Measured Entity
SED01.7	Local Content for Infrastructure and Buildings	Rand value of actual money spent by a Measured Entity
	Ownership	
SED02.1	Ownership by Black People	Percentage Shareholding in the Measured Entity
SED02.1.1	Ownership by Black Designated Groups	Percentage Shareholding in the Measured Entity
SED02.2	Ownership by Black Women	Percentage Shareholding in the Measured Entity
	Procurement and Subcontracting	

Reference and Socio-Economic Development Performance Element		Measurement Indicator
SED03.1	Procurement from, or Subcontracting to B-BBEE Compliant Companies	Rand value of actual money spent by a Measured Entity
SED03.2	Procurement from, or Subcontracting to EMEs and QSEs	Rand value of actual money spent by a Measured Entity
SED03.3	Procurement from, or Subcontracting to Black Owned Companies	Rand value of actual money spent by a Measured Entity
SED3.3.1	Procurement from, or Subcontracting to companies owned by Black Designated Groups	Rand value of actual money spent by a Measured Entity
SED03.4	Procurement from, or Subcontracting to Black Women Owned Companies	Rand value of actual money spent by a Measured Entity
SED03.5	Procurement from, or Subcontracting to Township Suppliers	Rand value of actual money spent by a Measured Entity
	Local Employment Equity	
SED04.1	Local Employment	Number of Actual Person Months of a Measured Entity
SED04.2	Black People Employed	Number of Actual Person Months of a Measured Entity
SED04.3	Black Women Employed	Number of Actual Person Months of a Measured Entity
SED04.4	Black Youth Employed	Number of Actual Person Months of a Measured Entity
SED04.5	Black Employees with Disabilities	Number of Actual Person Months of a Measured Entity
SED04.6	Township Employment	Number of Actual Person Months of a Measured Entity
	Management Control	
SED05.1	Black Board Members with voting rights as a percentage of total Board Members	Number of actual Person Months of a Measured Entity

Reference and Socio-Economic Development Performance Element		Measurement Indicator
SED05.2	Black female Board Members with voting rights as a percentage of total Board Members	Number of actual Person Months of a Measured Entity
SED05.3	Black Executive Directors as a percentage of total Executive Directors	Number of actual Person Months of a Measured Entity
SED05.4	Black female Executive Directors as a percentage of total Executive Directors	Number of actual Person Months of a Measured Entity
SED05.5	Black Executive Managers as a percentage of total Executive Managers	Number of actual Person Months of a Measured Entity
SED05.6	Black female Executive Managers as a percentage of total Executive Managers	Number of actual Person Months of a Measured Entity
SED05.7	Black People in Senior Management Positions	Number of actual Person Months of a Measured Entity
SED05.8	Black Women in Senior Management Positions	Number of actual Person Months of a Measured Entity
SED05.9	Black People in Middle Management Positions	Number of actual Person Months of a Measured Entity
SED05.10	Black Women in Middle Management Positions	Number of actual Person Months of a Measured Entity
SED05.11	Black People in Junior Management Positions	Number of actual Person Months of a Measured Entity
SED05.12	Black Women in Junior Management Positions	Number of actual Person Months of a Measured Entity
	Enterprise Development	
SED06.1	Enterprise Development	Rand value of actual money spent by a Measured Entity

Reference and Socio-Economic Development Performance Element		Measurement Indicator
SED06.1.1	Rail Industry Enterprise Development	Rand value of actual money spent by a Measured Entity
SED06.1.2	Township Enterprise Incubation Contribution	Rand value of actual money spent by a Measured Entity
	Skills Development	
SED07.1	Skills Development	Rand value of actual money spent by a Measured Entity
SED07.1.1	Rail Industry Skills Development	Rand value of actual money spent by a Measured Entity
SED07.1.2	Township Skills Development	Rand value of actual money spent by a Measured Entity
	Social Investment	
SED08.1	Social Investment Contributions	Rand value of actual money spent by a Measured Entity
SED08.1.1	Township Social Investment Contributions	Rand value of actual money spent by a Measured Entity
	B-BBEE Status Level	
SED09.1	B-BBEE Status Level	B-BBEE status level of the Measured Entity as stated on a B-BBEE status level verification certificate or sworn affidavit

5. CONCESSIONAIRE'S UNDERTAKINGS

The Concessionaire undertakes to meet, comply, and procure compliance with its Committed Obligations as set out in the Socio-Economic Development Scorecard, in addition, to meet the following commitments in relation to the Project:

5.1 Local Content

5.1.1 The Concessionaire undertakes that it will comply with the Committed Obligations with regards to Local Content in respect of the:

- 5.1.1.1 EMUs;
- 5.1.1.2 Buses and Midi Buses;
- 5.1.1.3 Track Work;
- 5.1.1.4 Earthworks;
- 5.1.1.5 Bridges and Tunnels;
- 5.1.1.6 Signalling;
- 5.1.1.7 Telecommunications;
- 5.1.1.8 Radio;
- 5.1.1.9 Power Supply and Distribution;
- 5.1.1.10 Automatic Fare Collection; and
- 5.1.1.11 Infrastructure and Buildings;

as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

5.1.2 The Concessionaire undertakes that, in undertaking the Project and complying with the Committed Obligations in relation to Local Content, it will meet or exceed the Quarterly Obligations as contained in Annexure 2 (*Quarterly Obligations*).

5.2 Ownership

5.2.1 The Concessionaire undertakes that it will comply with the Committed Obligations with regard to Ownership as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*), where at least fifty percent (50%) of the

shareholding in the hands of Black Women is held by an individual or vehicle that will have input in decision making and effective participation.

5.2.2 The Concessionaire undertakes that it shall procure that, at all times, the Exercisable Voting Rights and Economic Interest in the Concessionaire reflect a participation and Control by Black People, Black Designated Groups and/or Black Women no less than the Ownership percentage required to be held by Black People in the Concessionaire pursuant to the provisions of this Schedule 15 (*Socio-Economic Development Obligations*).

5.2.3 The Quarterly Obligations in respect of Ownership, are contained in Annexure 2 (*Quarterly Obligations*) of this Schedule 15 (*Socio-Economic Development Obligations*).

5.3 **Procurement and Subcontracting**

5.3.1 The Concessionaire undertakes that it will comply with the Committed Obligations in relation to Procurement and Subcontracting, as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

5.3.2 The Concessionaire undertakes that it shall ensure that, at all times, the Procurement and Subcontracting spend levels in the Concessionaire towards B-BBEE Compliant Companies, EMEs, QSEs, Black Owned Companies, companies owned by Black Designated Groups, Black Women Owned Companies and Township Suppliers are not less than the percentages required to be spent in accordance with the provisions of this Schedule 15 (*Socio-Economic Development Obligations*).

5.3.3 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Procurement and Subcontracting, are attained or exceeded.

5.3.4 The Concessionaire undertakes that its Procurement and Subcontracting activities with Vendors shall not be fulfilled using Fronting Practices. Accordingly:

5.3.4.1 Procurement and Subcontracting will only be measured where Vendors have been sourced to provide goods or services in relation to the Project.

5.3.4.2 Procurement and Subcontracting commitments and spend occurring through Fronting Practices will not be considered.

5.3.5 For purposes of SED03.2, where a Vendor qualifies as an EME or QSE at the time of contracting in relation to the Project, procurement from or subcontracting to that Vendor shall continue to be recognised under SED03.2 for the duration of the original contract period, notwithstanding any subsequent change in the Vendor's turnover or EME/QSE status.

5.4 **Local Employment Equity**

5.4.1 The Concessionaire undertakes that the Employment of Employees will comply with the Committed Obligations set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

5.4.2 The tables detailing the Committed Obligations in relation to Local Employment Equity are set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

5.4.3 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Local Employment Equity, are attained or exceeded.

5.5 **Management Control**

5.5.1 The Concessionaire undertakes that it will comply with its obligations with regards to Management Control in the Concessionaire, as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

5.5.2 The Concessionaire undertakes that it shall procure that, at all times, the Management Control levels in the Concessionaire and each Measured Entity reflect participation and Control by Black People and Black Women in Board Positions, Executive Director positions, Executive Management positions, Senior Management positions, Middle Management positions and Junior Management positions that are no less than the percentages required to be held by Black People and Black Women in Board Positions, Executive Director

positions, Executive Management positions, Senior Management positions, Middle Management positions and Junior Management positions in the Concessionaire in accordance with the provisions of this Schedule 15 (*Socio-Economic Development Obligations*).

- 5.5.3 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Management Control, are attained or exceeded by it in the applicable periods.

5.6 Enterprise Development

- 5.6.1 The Concessionaire undertakes that it will comply with its Committed Obligations in relation to Enterprise Development, as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.6.2 The tables detailing the Committed Obligations in relation to Enterprise Development are set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.6.3 The Concessionaire undertakes that for the duration of the Contract Term, it shall continuously and consistently implement Enterprise Development initiatives aimed at ensuring compliance with its Committed Obligations in relation to Enterprise Development for each Contract Year.
- 5.6.4 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Enterprise Development, are attained or exceeded.

5.7 Skills Development

- 5.7.1 The Concessionaire undertakes that it will carry out its procurement in compliance with its Committed Obligations in relation to Skills Development, as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.7.2 The tables detailing the Committed Obligations in relation to Skills Development are set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.7.3 The Concessionaire undertakes that for the duration of the Contract Term, it shall continuously and consistently implement Skills Development initiatives aimed at ensuring compliance with its Committed Obligations in relation to Skills Development for each Contract Year.
- 5.7.4 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Skills Development, are attained or exceeded.

5.8 Social Investment

- 5.8.1 The Concessionaire undertakes that it will carry out its procurement in compliance with its Committed Obligations in relation to Social Investment, as set out in clause 2 (*Concessionaire's Committed Obligations*) and Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.8.2 The tables detailing the Committed Obligations in relation to Social Investment are set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).
- 5.8.3 The Concessionaire undertakes that for the duration of the Contract Term, it shall continuously and consistently implement Social Investment initiatives aimed at ensuring compliance with its Committed Obligations in relation to Social Investment for each Contract Year.

- 5.8.4 The Concessionaire shall procure that the Quarterly Obligations referred to in Annexure 2 (*Quarterly Obligations*) with regard to Social Investment, are attained or exceeded.

6. MONITORING COMMENCEMENT

- 6.1 The Concessionaire shall record and maintain all information and supporting evidence relating to its performance against the Committed Obligations and Quarterly Obligations from the Effective Date. Formal monitoring and verification by the Independent Socio-Economic Monitor shall commence following the first Contract Quarter, and the first Quarterly SED Report shall be prepared in accordance with clause 7.1.4.
- 6.2 The monitoring of Management Control with regards to (SED05.1, SED05.2, SED05.3, SED05.4, SED05.5, SED05.6, SED05.7, SED05.8, SED05.9, SED05.10, SED05.11, SED05.12) will commence following the first Contract Quarter in the second Contract Year.
- 6.3 For the first twelve (12) Contract Quarters, Local Employment Equity (SED04.3, SED04.4, SED04.5) will be monitored on the Local Employment Equity levels achieved from the transfer of Concession Employees as contemplated in Schedule 8 (*Obligations between Signature Date and Effective Date*) to the Concession Agreement. From the thirteenth (13th) Contract Quarter, Local Employment Equity will be monitored at the level of the Concessionaire's Committed Obligations in relation to Local Employment Equity as set out in Annexure 1 (*Concessionaire's Committed Socio-Economic Development Obligations*).

7. SOCIO-ECONOMIC DEVELOPMENT PERFORMANCE MEASUREMENT

7.1 Socio-Economic Development Performance Penalties

- 7.1.1 The Concessionaire will be subject to Socio-Economic Development Penalties (**P_{SED}**) which are set out in clause 11 (*SED Performance Penalties Sum*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement, that will accrue for Poor Performance.
- 7.1.2 If the "Performance of Concessionaire" calculation as contemplated in clause 11.1 of Schedule 12 (*Penalty Regime*) to the Concession Agreement

results in a positive value, the Rand amount of the Performance of Concessionaire will be the P_{SED} .

- 7.1.3 The Concessionaire shall provide the Independent Socio-Economic Monitor with a Quarterly Report which will, following the assessment of the Independent Socio-Economic Monitor, result in a Quarterly SED Report which will be provided to the Province and the Concessionaire by the Independent Socio-Economic Monitor on a quarterly basis.
- 7.1.4 Notwithstanding clause 7.1.3, no separate Quarterly Report or Quarterly SED Report shall be required in respect of the first Contract Quarter of the first Contract Year. The first Quarterly Report submitted by the Concessionaire shall cover the first and second Contract Quarters and shall be submitted following the end of the Second Quarter, within the period prescribed in clause 41.11 of Schedule 14 (*Records and Reports*). From the third Contract Quarter onwards, the Quarterly Report and Quarterly SED Report shall be prepared and submitted in respect of each Contract Quarter in accordance with clause 7.1.3.
- 7.1.5 The Quarterly SED Report will form the basis for the calculation of accrued P_{SED} in accordance with clause 11.1 in Schedule 12 (*Penalty Regime*) to the Concession Agreement.
- 7.1.6 Upon receipt of the Quarterly SED Report, the Province will Notify the Concessionaire of (i) the Socio-Economic Development Performance Penalties which have accrued during the relevant period; and (ii) the net amount, if any, of Socio-Economic Development Performance Penalties accrued in respect of the relevant period.
- 7.1.6.1 If, in respect of any Socio-Economic Development Performance Element, in any Contract Quarter, the Concessionaire is found by the Province or Independent Socio-Economic Monitor to have submitted incorrect and or misleading reporting information or documentation, the Concessionaire will be subject to inaccurate information penalty as set out in clause 6.5 (*Penalisable inaccurate information*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement.

- 7.1.7 The Socio-Economic Development Performance Penalties shall be deducted in accordance with clause 3 (*Determination of Penalty Deductions*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement.
- 7.1.8 A Quarterly SED Report shall be *prima facie* proof of the matters to which it relates and any Socio-Economic Development Performance Penalties referred to in such report shall immediately accrue in accordance with the provisions of this Schedule 15 (*Socio-Economic Development Obligations*).
- 7.1.9 For purposes of the calculation of the Socio-Economic Development Performance Penalties for the last Contract Quarter of the Concession Agreement, the Concessionaire shall be entitled to count any amounts actually spent by the Concessionaire in relation to activities that were carried out for the duration of the Concession Agreement, but which are paid after the date of termination of the Concession Agreement, as Actual Total Quantum in the final Contract Quarter of the Concession Agreement.

7.2 **Persistent Poor Performance**

- 7.2.1 For the purposes of this Schedule 15 (*Socio-Economic Development Obligations*), Persistent Poor Performance occurs when the Concessionaire does not comply with its Committed Obligation such that:
- 7.2.1.1 the performance of the Concessionaire for any individual Socio-Economic Development Performance Element is below the respective SED Termination Point Threshold set-out in Table 4 (*SED Penalties, weighting and Point Thresholds*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement for two (2) consecutive Contract Quarters; or
- 7.2.1.2 the performance of the Concessionaire, in respect of any four (4) or more Socio-Economic Development Performance Elements, is below the respective Committed Obligations for any two (2) consecutive Contract Quarters; or
- 7.2.1.3 in any Contract Year, the Concessionaire incurs Socio-Economic Development Performance Penalties which in value are equal to or greater than twenty five percent (25%) of the annual value of PD_{max} (save that in respect of the first and last Contract Years, the annual value of PD_{max} shall be

pro rated by reference to a six-month value), as the case may be, in the formula referred to in clause 11.1 of Schedule 12 (*Penalty Regime*) to the Concession Agreement.

7.2.2 If the Concessionaire's performance in relation to Socio-Economic Development results in Persistent Poor Performance, a Persistent Poor Performance Penalty (**PPP**) will accrue and, will in terms of:

7.2.2.1 clause 7.2.1.1 and 7.2.1.2, respectively be equal to the sum total value of the Socio-Economic Development Performance Penalties from each of the two (2) Contract Quarters;

7.2.2.2 clause 7.2.1.3, be equal to twenty-five percent (25%) of the P_{SED} in the formula referred to in clause 11.1 of Schedule 12 (*Penalty Regime*) to the Concession Agreement,

(the **PPP Amount**).

7.2.3 The PPP Amount shall be indicated in the relevant Quarterly SED Report and shall immediately accrue in accordance with the provisions of this Schedule 15 (*Socio-Economic Development Obligations*).

7.2.4 The PPP Amount set out in the Quarterly SED Report shall be deducted in accordance with clause 3 (*Determination of Penalty Deductions*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement.

7.3 **Action Plan**

7.3.1 The Concessionaire undertakes to submit a Socio-Economic Development Action Plan in such form as may reasonably be required by the Province and or the Independent Socio-Economic Monitor having displayed Poor Performance or Persistent Poor Performance in a Contract Year. The Socio-Economic Development Action Plan shall:

7.3.1.1 detail the remedial action steps of Socio-Economic Development Performance Elements to be permanently remediated within one (1) Contract Year;

- 7.3.1.2 become the annexure to the overall Socio-Economic Development Plan in such cases where the successful remediation of the Socio-Economic Development Performance Elements would take longer than a Contract year; and
- 7.3.1.3 be provided in conjunction with the Annual Report provided by the Concessionaire within twenty (20) Business Days after the end of each Contract Year during the Contract Term.
- 7.3.2 The Concessionaire shall within ten (10) Business Days after the end of each Contract Quarter, deliver a Socio-Economic Development Quarterly Action Plan in conjunction with the Quarterly Report, which sets out in respect of that Contract Quarter:
 - 7.3.2.1 details of the non-adhered Socio-Economic Development Performance Elements Actual Total Quantum achieved in the Contract Quarter and reason for non-adherence; and
 - 7.3.2.2 the proposed steps to be taken within the subsequent Contract Quarter that will result in the successful and permanent remediation of the Socio-Economic Development Performance Element at the end of the Contract Quarter.
 - 7.3.2.3 Notwithstanding the provisions of clause 7.3.2, any Socio-Economic Development Quarterly Action Plan required in respect of the first Contract Quarter of the first Contract Year shall be submitted together with the consolidated Quarterly Report covering the first and second Contract Quarters.
- 7.3.3 The Concessionaire acknowledges and accepts that the successful remediation of Socio-Economic Development Performance Elements shall not constitute the reversal or reimbursement of Persistent Poor Performance Penalties indicated in clause 7.2.2 that have accrued during the respective Contract Year.

7.4 Termination for Persistent Poor Performance

7.4.1 The Concessionaire shall incur Socio-Economic Development Termination Points for Poor Performance and Persistent Poor Performance throughout the Contract Term where:

7.4.1.1 each event where PPPs have accrued in respect of clause 7.2.2.1, shall constitute the accumulation of one (1) SED Termination Point;

7.4.1.2 each event where PPPs have accrued in respect of clause 7.2.2.2, shall constitute the accumulation of two (2) SED Termination Points; and

7.4.1.3 the Concessionaire does not implement activities described in clause 7.3.2.2 in accordance with the Socio-Economic Development Action Plan, shall constitute the accumulation of one (1) SED Termination Point.

7.4.2 Where Persistent Poor Performance by the Concessionaire results in the accumulation of ten (10) SED Termination Points, the Province shall be entitled to exercise its rights in accordance with clause 29 (*Default, Early Termination and Voluntary Termination of Concession*) to the Concession Agreement.

8. DISPUTE RESOLUTION

All Penalty Disputes arising from this Schedule 15 (*Socio-Economic Development Obligations*) shall be resolved in accordance with clause 3.9 (*Penalty Dispute*) of Schedule 12 (*Penalty Regime*) to the Concession Agreement.

ANNEXURE 1

CONCESSIONAIRE'S COMMITTED SOCIO-ECONOMIC DEVELOPMENT OBLIGATIONS

In undertaking the Project, the Concessionaire undertakes to meet, comply and procure compliance by its suppliers and subcontractors with the Socio-Economic Development obligations indicated herein:

1. SED01.1 – Local Content for EMUs

1.1 Table 1.1: Local Content for EMUs Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for EMUs	30.14%	69.04%

For purposes of the Table 1.1 (*Local Content for EMUs Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 1.1.1 Thirty point one four percent (**30.14%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of EMUs; and
- 1.1.2 Sixty nine point zero four percent (**69.04%**) of the Content Price that will be spent on Local

2. SED01.2 – Local Content for Buses and Midi Buses

2.1 Table 2.1: Local Content for Buses and Midi Buses Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Buses and Midi Buses	85.00%	93.65%

For purposes of the Table 2.1 (*Local Content for Buses and Midi Buses Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 2.1.1 Eighty five point zero percent (**85.00%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Buses and Midi Buses; and
- 2.1.2 Ninety three point six five percent (**93.65%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment of Buses and Midi Buses.

3. **SED01.3.1 Local Content for Track work in relation to Rail Permanent Way**

3.1 Table 3.1: Local Content for Track Work Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Track work in relation to Rail Permanent Way	100.00%	85.97%

For purposes of the Table 3.1 (*Local Content for Track Work Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 3.1.1 One hundred percent (**100.00%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Track Work; and
- 3.1.2 Eighty five point nine seven percent (**85.97%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Track Work.

4. SED01.3.2 Local Content for Earthworks in relation to Rail Permanent Way

4.1 Table 4.1: Local Content for Earthworks Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Earthworks in relation to Rail Permanent Way	100.00%	94.00%

For purposes of the Table 4.1 (*Local Content for Earthworks Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 4.1.1 One hundred percent (**100%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Earthworks; and
- 4.1.2 Ninety four point zero percent (**94.00%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Earthworks.

5. SED01.3.3 Local Content for Bridges and Tunnels in relation to Rail Permanent Way

5.1 Table 5.1: Local Content for Bridges and Tunnels Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Bridges and Tunnels in relation to Rail Permanent Way	0%	87.00%

For purposes of the Table 5.1 (*Local Content for Bridges and Tunnels Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 5.1.1 zero percent (0%) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Bridges and Tunnels; and
- 5.1.2 Eighty seven point zero percent (**87.00%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Bridges and Tunnels.

6. **SED01.4.1 Local Content for Signalling in relation to TACT systems**

6.1 **Table 6.1: Local Content for Signalling Committed Obligation**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Signalling in relation to TACT systems	65.30%	90.74%

For purposes of the Table 6.1 (*Local Content for Signalling Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 6.1.1 Sixty five point three zero percent (**65.30%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Signalling; and
- 6.1.2 Ninety point seven four percent (**90.74%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Signalling.

7. SED01.4.2 Local Content for Telecommunications in relation to TACT systems

7.1 Table 7.1: Local Content for Telecommunications Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Telecommunications in relation to TACT systems	70.29%	90.18%

For purposes of the Table 7.1 (*Local Content for Telecommunications Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 7.1.1 Seventy point two nine percent (**70.29%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Telecommunications; and
- 7.1.2 Ninety point one eight percent (**90.18%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Telecommunications.

8. SED01.4.3 Local Content for Radio in relation to TACT systems

8.1 Table 8.1: Local Content for Radio Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Radio in relation to TACT systems	100.00%	90.18%

For purposes of the Table 8.1 (*Local Content for Radio Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 8.1.1 One hundred percent (**100.00%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Radio; and
- 8.1.2 Ninety point one eight percent (**90.18%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Radio.

9. **SED01.5 Local Content for Power Supply and Distribution**

9.1 **Table 9.1: Local Content for Power Supply and Distribution Committed Obligation**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Power Supply and Distribution	66.44%	86.65%

For purposes of the Table 9.1 (*Local Content for Power Supply and Distribution Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 9.1.1 Sixty six point four four percent (66.44%) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Power Supply and Distribution; and
- 9.1.2 Eighty six point six five percent (**86.65%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Power Supply and Distribution.

10. SED01.6 Local Content for Automatic Fare Collection

10.1 Table 10.1: Local Content for Automatic Fare Collection Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Automatic Fare Collection	1.07%	80.11%

For purposes of the Table 10.1 (*Local Content for Automatic Fare Collection Committed Obligations*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 10.1.1 One point zero seven percent (**1.07%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Automatic Fare Collection; and
- 10.1.2 Eighty point one one percent (**80.11%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Automatic Fare Collection.

11. SED01.7 Local Content for Infrastructure and Buildings

11.1 Table 11.1: Local Content for Infrastructure and Buildings Committed Obligation

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation	
	Manufacture & Supply	Maintenance & Refurbishment
Local Content for Infrastructure and Buildings	100.00%	100.00%

For purposes of the Table 11.1 (*Local Content for Infrastructure and Buildings Committed Obligations*) above, reference to Committed Obligations shall refer to

the Concessionaire's undertaking and commitment in respect of the Refurbishment:

- 11.1.1 One hundred percent (**100.00%**) of the Content Price that will be spent on Local Content for the Manufacture and Supply of Infrastructure and Buildings; and
- 11.1.2 One hundred percent (**100.00%**) of the Content Price that will be spent on Local Content for the Maintenance and Refurbishment Infrastructure and Buildings.

12. SED02.1, SED02.1.1 and SED02.2 – Ownership

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Ownership by Black People	53.21%
<i>Exercisable Voting Rights held by Black People</i>	53.21%
<i>Economic Interest to Black People</i>	53.21%
Ownership by Black Designated Groups	6.21%
<i>Exercisable Voting Rights held by Black People</i>	6.21%
<i>Economic Interest to Black People</i>	6.21%
Ownership by Black Women	34.66%
<i>Exercisable Voting Rights held by Black Women</i>	34.66%
<i>Economic Interest to Black Women</i>	34.66%

For purposes of paragraph 12 (*SED02.1, SED02.1.1 and SED02.2 - Ownership*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project:

- 12.1 Fifty three point two one percent (**53.21%**) of the Total Ownership in the Concessionaire that will be held by Black People;
- 12.2 Six point two one percent (**6.21%**) of the Total Ownership in the Concessionaire that will be held by Black Designated Groups; and
- 12.3 Thirty four point six six percent (**34.66%**) of the Total Ownership in the Concessionaire that will be held by Black Women.

13. **SED03.1, SED03.2, SED03.3, SED03.3.1, SED03.4 and SED03.5 – Procurement and Subcontracting**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Procurement from, or Subcontracting to B-BBEE Compliant Companies	78.64%
Procurement from, or Subcontracting to EME and QSE companies	20.98%
Procurement from, or Subcontracting to Black Owned Companies	30.72%
Procurement from, or Subcontracting to companies owned by Black Designated Groups	1.52%

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Procurement from, or Subcontracting to Black Women Owned Companies	19.85%
Procurement from, or Subcontracting to Township Suppliers	7.14%

For purposes of paragraph 13 (SED03.1, SED03.2, SED03.3, SED03.3.1, SED03.4 and SED03.5 - *Procurement and Subcontracting*) above, reference to Committed Obligations shall refer to the Concessionaire's, and where applicable, its suppliers' and or subcontractors' undertaking and commitment in respect of the Project:

- 13.1 Seventy eight point six four percent (78.64%) of the Total Procurement Spend that will be spent on procurement from or subcontracting to B-BBEE Compliant Companies;
- 13.2 Twenty point nine eight percent (**20.98%**) of the Total Procurement Spend that will be spent on procurement from and subcontracting to EMEs/ QSEs, including Vendors recognised as EMEs/QSEs in accordance with clause 5.3.5;
- 13.3 Thirty point seven two percent (**30.72%**) of the Total Procurement Spend that will be spent on procurement from or subcontracting to Black Owned Companies;
- 13.4 One point five two percent (1.52%) of the Total Procurement Spend that will be spent on procurement from or subcontracting to companies owned by Black Designated Groups;
- 13.5 Nineteen point eight five percent (19.85%) of the Total Procurement Spend that will be spent on procurement from or subcontracting to Black Women Owned Companies; and
- 13.6 Seven point one four percent (**7.14%**) of the Total Procurement Spend that will be spent on procurement from or subcontracting to Township Suppliers.

14. **SED04.1, SED04.2, SED04.3, SED04.4, SED04.5 and SED04.6 – Local Employment Equity**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Local employment	98%
Black People Employed	91%
Black Women Employed	45%
Black Youth Employed	36%
Black Employees with Disabilities	4%
Township Employment	44%

For purposes of paragraph 14(SED04.1, SED04.2, SED04.3, SED04.4, SED04.5 and SED04.6 – *Local Employment Equity*) above, reference to Committed Obligations shall refer to the Concessionaire's, and where applicable, its suppliers' and or subcontractors' undertaking and commitment in respect of the Project:

- 14.1 ninety eight percent (**98%**) of the total number of Employed that will be Citizens Employed;
- 14.2 ninety one percent (**91%**) of the total number of Employees in respect of Black People Employed;
- 14.3 forty five percent (**45%**) of the total number of Employees in respect of Black Women Employed;
- 14.4 thirty six percent (**36%**) of the total number of Employees in respect of Black Youth Employed;
- 14.5 four percent (**4%**) of the total number of Employees in respect of Employees with Disabilities; and
- 14.6 forty four percent (**44%**) of the total number of Employed that will be Township residents.

15. **SED05.1, SED05.2, SED05.3, SED05.4, SED05.5, SED05.6, SED05.7, SED05.8, SED05.9, SED05.10, SED05.11 and SED05.12 – Management Control**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Black People in Board Positions;	64%
Black Women in Board Positions;	39%
Black People in Executive Director positions;	97%
Black Women in Executive Director positions;	86%
Black People in Executive Management positions;	77%
Black Women in Executive Management positions;	58%
Black People in Senior Management positions;	75%
Black Women in Senior Management positions	75%
Black People in Middle Management positions;	78%
Black Women in Middle Management positions;	43%
Black People in Junior Management positions;	91%
Black Women in Junior Management positions	49%

For purposes of paragraph 15 (SED05.1, SED05.2, SED05.3, SED05.4, SED05.5, SED05.6, SED05.7, SED05.8, SED05.9, SED05.10, SED05.11 and SED05.12 – Management Control)

above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project.

- 15.1 Sixty four percent (**64%**) of the total number of Board positions in respect of Black People in Board Positions;
- 15.2 Thirty nine percent (**39%**) of the total number of Board positions in respect of Black Women in Board Positions;
- 15.3 ninety seven percent (**97%**) of the total number of Executive Director positions in respect of Black People in Executive Director positions;
- 15.4 eighty six percent (**86%**) of the total number of Executive Director positions in respect of Black Women in Executive Director positions;
- 15.5 seventy seven percent (**77%**) of the total number of Executive Management positions in respect of Black People in Executive Management positions;
- 15.6 Fifty eight percent (**58%**) of the total number of Executive Management positions in respect of Black Women in Executive Management positions;
- 15.7 Seventy five percent (**75%**) of the total number of Management positions in respect of Black People in Senior Management positions;
- 15.8 Seventy five percent (**75%**) of the total number of Management positions in respect of Black Women in Senior Management positions;
- 15.9 Seventy eight percent (**78%**) of the total number of Management positions in respect of Black People in Middle Management positions;
- 15.10 Forty three percent (**43%**) of the total number of Management positions in respect of Black Women in Middle Management positions;
- 15.11 Ninety one percent (**91%**) of the total number of Management positions in respect of Black People in Junior Management positions; and
- 15.12 Forty nine percent (**49%**) of the total number of Management positions in respect of Black Women in Junior Management positions.

16. **SED06.1, SED06.1.1 and SED06.1.2 – Enterprise Development**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Enterprise Development	1.24%
Rail Industry Enterprise Development	0.72%
Township Enterprise Incubation Contribution	0.52%

For purposes of paragraph 16 (SED06.1, SED06.1.1 and SED06.1.2 – *Enterprise Development*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project:

- 16.1 One point two four percent (**1.24%**) of the Contract Price contributed to Enterprise Development expenditure;
- 16.2 Zero point seven two percent (**0.72%**) of the Contract Price is contributed to Rail Industry Development Expenditure; and
- 16.3 Zero point five two percent (**0.52%**) of the Contract Price is contributed to Township Enterprise Incubation Contribution.

17. SED07.1, SED07.1.1 and SED07.1.2 – Skills Development

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Skills Development	4.09%
Rail Industry Skills Development	2.05%
Township Skills Development	2.04%

For purposes of paragraph 17 (SED07.1, SED07.1.1 and SED07.1.2 – *Skills Development*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project:

- 17.1 Four point zero nine percent (**4.09%**) of the Total Employment Cost contributed to Skills Development expenditure on Citizens;
- 17.2 Two point zero five percent (**2.05%**) of Total Employment Cost is contributed to Rail Industry Skills Development on Citizens; and
- 17.3 Two point zero four percent (**2.04%**) of Total Employment Cost is contributed to Township Skills Development on Citizens.

18. **SED08.1, SED08.1.1 – Social Investment**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
Social Investment	2.79%
Township Social Investment Contributions	1.40%

For purposes of paragraph 18 (SED08.1, SED08.1.1 – *Social Investment*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project:

- 18.1 Two point seven nine percent (**2.79%**) of the Net Profit After Tax and Social Investment contributed to Skills Development expenditure on Citizens; and
- 18.2 One point four percent (**1.40%**) of Net Profit After Tax and Social Investment contributed to Township Social Investment expenditure on Citizens.

19. **SED09.1 – B-BBEE Status Level**

Socio-Economic Development Performance Element	Concessionaire's Committed Obligation
B-BBEE Status Level	L3

For purposes of paragraph 19 (*SED09.1 – B-BBEE Status Level*) above, reference to Committed Obligations shall refer to the Concessionaire's undertaking and commitment in respect of the Project.

ANNEXURE 2
QUARTERLY OBLIGATIONS

NOT ANNEXED AT SIGNATURE DATE

ANNEXURE TO BE INCORPORATED FROM FINANCIAL CLOSE DATA SHEET

ANNEXURE 3

FORM OF SOCIO-ECONOMIC DEVELOPMENT PLAN¹

1. Recordal

- 1.1 [Insert Name of Concessionaire] (the **Concessionaire**) has concluded the Concession Agreement with the Province on [insert date of] pertaining to the supply of the Project, which the Concession Agreement provides for Socio-Economic Development Obligations in its Schedule 15 (*Socio-Economic Development Obligations*).
- 1.2 In terms of clause 7 (*Socio-Economic Development Plan*) of Section C (*Records*) of Schedule 14 (*Records and Reports*) the Concessionaire is required to submit a Socio-Economic Development Plan detailing the measures that the Concessionaire will implement in a relevant Contract Year and subsequent Contract Year, where applicable, to achieve the Committed Obligations.
- 1.3 The Concessionaire, in order to comply with its obligations in clause 7 (*Socio-Economic Development Plan*) of Section C (*Records*) of Schedule 14 (*Records and Reports*), has prepared and submits for the Contract Year [●]² this Socio-Economic Development Plan.

2. Interpretation

- 2.1 In this Socio-Economic Development Plan, unless the context otherwise requires, words and expressions defined in the Concession Agreement and in Schedule 15 (*Socio-Economic Development Obligations*) shall have the same meaning when used herein.
- 2.2 The following words and phrases shall, when used in this Plan, have the meanings assigned to them hereunder, and cognate expressions shall have corresponding meaning, namely:

2.2.1 [●]³

¹ **Drafting Note:** The Province expects the Concessionaire to provide as much detail as reasonably possible in relation to their Quarterly Socio-Economic Development Plans.

² **Drafting Note:** Concessionaire to insert the relevant Contract Year in respect of which the Socio-Economic Development Plan is submitted.

³ **Drafting Note:** The Concessionaire to provide for any words that may bear a special meaning, otherwise this paragraph can be deleted in the final Socio-Economic Development Plan. To the extent that words and phrases are defined in the Concessionaire Agreements and its Appendices, such definitions are to be used.

3. Introduction

3.1 [●]⁴

3.2 A summary of the Socio-Economic Development Obligations to be achieved over the duration of the Concession Agreement, is as provided for in this table below⁵:

Reference and Socio-Economic Development Performance Element			Concessionaire's Committed Obligation
Local Content (Manufacture & Supply)	SED01.1	Local content for EMUs	30.14%
	SED01.2	Local content for Buses and Midi Buses	85.00%
	SED01.3.1	Local Content for Track work in relation to Rail Permanent Way	100.00%
	SED01.3.2	Local Content for Earthworks in relation to Rail Permanent Way	100.00%
	SED01.3.3	Local Content for Bridges and Tunnels in relation to Rail Permanent Way	0%
	SED01.4.1	Local Content for Signalling in relation to TACT systems	65.30%
	SED01.4.2	Local Content for Telecommunications in relation to TACT systems	70.29%
	SED01.4.3	Local Content for Radio in relation to TACT systems	100.00%
	SED01.5	Local Content for Power Supply and Distribution	66.44%
	SED01.6	Local Content for Automatic Fare Collection	1.07%

⁴ **Drafting Note:** The Concessionaire should in this section provide an overview of the general information about the Project.

⁵ **Drafting Note:** To be populated based on the Concessionaire's SED Obligations as at the Effective Date in accordance with Annex 2

Reference and Socio-Economic Development Performance Element			Concessionaire's Committed Obligation
	SED01.7	Local Content for Infrastructure and Buildings	100.00%
Local Content	SED01.1	Local content for EMUs	69.04%
	SED01.2	Local content for Buses and Midi Buses	93.65%
	SED01.3.1	Local Content for Track work in relation to Rail Permanent Way	85.97%
	SED01.3.2	Local Content for Earthworks in relation to Rail Permanent Way	94.00%
	SED01.3.3	Local Content for Bridges and Tunnels in relation to Rail Permanent Way	87.00%
	SED01.4.1	Local Content for Signalling in relation to TACT systems	90.74%
	SED01.4.2	Local Content for Telecommunications in relation to TACT systems	90.18%
	SED01.4.3	Local Content for Radio in relation to TACT systems	90.18%
	SED01.5	Local Content for Power Supply and Distribution	86.65%
	SED01.6	Local Content for Automatic Fare Collection	80.11%
	SED01.7	Local Content for Infrastructure and Buildings	100.00%
Ownership	SED02.1	Shareholding by Black People	53.21%

Reference and Socio-Economic Development Performance Element			Concessionaire's Committed Obligation
	SED02.1.1	Shareholding held by Black Designated Groups	6.21%
	SED02.2	Shareholding by Black Women	34.66%
Procurement and Subcontracting	SED03.1	Procurement from, or Subcontracting to B-BBEE Compliant Companies	78.64%
	SED03.2	Procurement from, or Subcontracting to EME and QSE companies	20.98%
	SED03.3	Procurement from, or Subcontracting to Black Owned Companies	30.72%
	SED03.3.1	Procurement from, or Subcontracting to Black Designated Group Owned companies	1.52%
	SED03.4	Procurement from, or Subcontracting to Black Women Owned Companies	19.85%
	SED03.5	Procurement from, or Subcontracting to Township Suppliers	7.14%
Local Employment Equity	SED04.1	Local Employment	98.39%
	SED04.2	Black People Employed	91.19%
	SED04.3	Black Women Employed	44.98%
	SED04.4	Black Youth Employed	35.57%
	SED04.5	Black Employees with Disabilities	3.55%

Reference and Socio-Economic Development Performance Element			Concessionaire's Committed Obligation
	SED04.6	Township Employment	44.04%
Management Control	SED05.1	Black Board Members with voting rights as a percentage of total Board Members	63.80%
	SED05.2	Black female Board Members with voting rights as a percentage of total Board Members	38.73%
	SED05.3	Black Executive Directors as a percentage of total Executive Directors	96.55%
	SED05.4	Black female Executive Directors as a percentage of total Executive Directors	86.21%
	SED05.5	Black Executive Managers as a percentage of total Executive Managers	77.06%
	SED05.6	Black female Executive Managers as a percentage of total Executive Managers	57.65%
	SED05.7	Black People in Senior Management Positions	75.30%
	SED05.8	Black Women in Senior Management Positions	75.30%
	SED05.9	Black People in Middle Management Positions	78.33%
	SED05.10	Black Women in Middle Management Positions	42.76%
	SED05.11	Black People in Junior	91.47%

Reference and Socio-Economic Development Performance Element			Concessionaire's Committed Obligation
		Management Positions	
	SED05.12	Black Women in Junior Management Positions	49.38%
Enterprise Development	SED06.1	Enterprise Development	1.24%
	SED06.1.1	Rail Industry Enterprise Development	0.72%
	SED06.1.2	Township Enterprise Incubation Contribution	0.52%
Skills Development	SED07.1	Skills Development	4.09%
	SED07.1.1	Rail Industry Skills Development	2.05%
	SED07.1.2	Township Skills Development	2.04%
Social Investment	SED08.1	Social Investment Contributions	2.79%
	SED08.1.1	Township Social Investment Contributions	1.40%
B-BBEE	SED09.1	B-BBEE Status Level	3

4. The Concessionaire's Vision⁶

5. Socio-Economic Development Plan Strategy

5.1 What follows below are the Concessionaire's objectives in respect of each of the Socio-Economic Development Performance Elements:

5.1.1 Local Content

⁶ **Drafting Note:** In this section the Concessionaire describes its vision, mission and objectives pertaining to Socio-Economic Development, covering (in summary form) such objectives for each of the Socio-Economic Development Elements.

5.1.1.1 [●]⁷

5.1.2 Ownership

5.1.2.1 [●]⁸

5.1.3 Procurement and Subcontracting

5.1.3.1 [●]⁹

⁷ **Drafting Note:** The Concessionaire to cover in this section, without limitation the following, -

- describe in broad terms, the opportunities presented by the implementation of the Project for the use of locally manufactured/produced Components and identify the corresponding Project that would relate to the use of such Components;
- identification of the specific targets that the Concessionaire aims to achieve in relation to procurement of goods and services that are not imported products for the relevant Contract Years;
- a list of anticipated Components that are Imported Content and those that are not Imported Content for the relevant Contract Years;
- a list of items and Services, which the Concessionaire will rely on to evidence value of Local Content spend for the relevant Contract Years;
- a cost breakdown in respect of the Concessionaire's expenditure in relation to the items and Services identified by the Concessionaire for evidencing Local Content;
- Key measurements – ("the how") covering, amongst others, the following, -
 - the Concessionaire's policies, procurement strategies and incentives that have been applied and those that will be applied for the relevant Contract Years, to acquire Components that are not imported and generally to achieve the Concessionaire's commitments in relation to Local Content;
 - explanation on how the Concessionaire will source the Components from the Local market;
 - reporting and verification tools or mechanisms to be used by the Concessionaire to trace, monitor and account for Components that are imported on the one hand and those that are not imported on the other hand;
 - any planned initiatives to develop the capability and capacity of the local supplier base in order to supply components, parts or materials to the Project;
 - any performance management measures implemented to date (including the outcomes thereof) and those that are planned for the relevant Contract Years in respect of Local Content; and
 - corrective measures to be implemented in the event of performance below the committed levels.

⁸ **Drafting Note:** The Concessionaire to report on, -

- Shareholding and provide a corresponding organogram on the Concessionaire Project Company indicating Ownership in the hands of Black People, Black Women ("Ownership Target Groups") and Black Designated Groups;
- planned or anticipated dividends for the relevant Contract Years and, in the case of shareholding by Ownership Target Groups, what portion of such dividends will be allocated to debt reduction and the balance remaining for the benefit of such Ownership Target Groups;
- any planned programmes and or transactions that will advance or facilitate equity participation by any of the Ownership Target Groups in the relevant Contract Years;
- details of any security over the shares held by the Ownership Target Groups, and the impact of such security on the Exercisable Voting Rights and Economic Interest pertaining to such shares; and
- reporting and verification tools or mechanisms to be used by the Concessionaire to trace, monitor and account for Economic Interest and Exercisable Voting Rights by the Ownership Target Groups in the relevant Contract Years.

⁹ **Drafting Note:** The Concessionaire to report on, -

- the specific targets that the Concessionaire aims to achieve in relation to procurement of goods and services from B-BBEE Compliant Companies, EMEs, QSEs, Black Owned companies, Black Woman owned companies, companies owned by black designated groups and Township Suppliers ("Procurement and Subcontracting Target Groups") for the relevant Contract Years; including their qualifying status at the time of contracting and the applicable original contract period.
- details of any investigation or surveys conducted by the Concessionaire or any market assessment to determine available Procurement and Subcontracting Target Groups to procure from or subcontract to for the relevant Contract Years;
- describe in broad terms the opportunities presented by the implementation of the Project, for the Concessionaire to procure goods and services from Procurement and Subcontracting Target Groups in the relevant Contract Years;
- describe the identified potential suppliers or subcontractors, indicating in each instance the type of Project that they would be engaged in and the B-BBEE Status Levels of the suppliers or subcontractors, the extent of shareholding by Black People and Black Women and the value to be procured from or subcontracted to the suppliers or subcontractors;
- which entities in their supply chain the Concessionaire will be relying on to account for its achievement of the Procurement and Subcontracting obligations, and the corresponding Services in respect of which such procurement or subcontracting will be made;
- a cost breakdown in respect of the Concessionaire's anticipated expenditure in relation to the items and Services identified by the Concessionaire for evidencing Procurement and Subcontracting, which shall include, without limitation, the following -
 - the Total Procurement Spend to date, indicating the goods, services that the expenditure relates to;
 - the planned Total Procurement Spend for the relevant Contract Years, indicating the goods and services that the expenditure relates to;
 - planned expenditure by the Concessionaire in respect of procurement of goods and services from Procurement and Subcontracting Target Groups;

5.1.4 Local Employment Equity

5.1.4.1 [●]¹⁰

5.1.5 Management Control

5.1.5.1 [●]¹¹

5.1.6 Enterprise Development

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- Key measurements – (*the how*) covering, amongst others, the following -
 - the Concessionaire's procurement plan, strategy or policies and preference mechanisms, indicating the extent to which such entities will aim to procure from the Procurement and Subcontracting Target Groups;
 - any performance management measures implemented to date (including outcomes thereof) and those that are planned to be implemented for the relevant Contract Years;
 - reporting and verification tools or mechanisms to be used by the Concessionaire to trace, monitor and account for Procurement and Subcontracting to the Procurement and Subcontracting Target Groups, in the Relevant Contract Years; and
 - corrective measures to be implemented in the event of performance below the committed level.

¹⁰ **Drafting Note:** The Concessionaire's to cover in this section, without limitation the following -

- the Local Employment Equity opportunities presented by the implementation of the Project as well as the activities which will contribute to Local Employment;
- the specific targets that the Concessionaire aims to achieve in relation to Local Employment Equity for the relevant Contract Years;
- the entities in the Concessionaire's supply chain that the Concessionaire will be relying on to account for its achievement of the Concessionaire obligations;
- details of the measures that Concessionaire will implement to achieve the Concessionaire's obligations in relation to Local Employment Equity;
- details of the Concessionaire's human resource environment indicating the various jobs created to date, levels occupied by Citizens, PServices carried out by Citizens and their Person Months;
- the monitoring mechanisms used by the Project Company to monitor the creation of Jobs;
- Key measurements – (*"the how"*), covering in each case the following -
 - targets that the Concessionaire aims to achieve for the relevant Contract Years;
 - the Concessionaire's policies, recruitment plans and selection criteria for new personnel and replacement of vacancies for the relevant Contract Years;
 - training and skills transfer strategy and programmes to be implemented in respect of the Project with focus on Citizens;
 - aspects of each of the Concessionaire's policies, recruitment plans and selection criteria for new personnel and replacement of Management (Black People and Women) and Employees (Black People, Women and Employees with Disabilities) in the relevant target groups for the relevant Contract Years;
 - reporting and verification tools or mechanisms to be used by the Concessionaire to account for the Jobs created for the relevant Contract Years, indicating in each case the achievement indicators that the Concessionaire will use to verify achievement of the Local Employment obligations;
 - any performance management measures implemented to date (including the outcomes thereof) and those that are planned for the relevant Contract Years in respect of Local Employment; and
 - corrective measures to be implemented in the event of performance below the committed levels.

¹¹ **Drafting Note:** The Concessionaire to report on, -

- the current management structure in the Concessionaire, indicating in each one of them all Top and Senior Management positions. The Concessionaire should provide an appropriate organogram;
- an account of the total number of people in Management positions, those that are Black People and Women;
- an account of the total number of people Employed, those that are Black People, Women, Black Youth and Employees with Disabilities;
- the specific targets that the Concessionaire aims to achieve in relation to Management Control for the relevant Contract Years;
- aspects of the Concessionaire's recruitment plans for Management Control for the relevant Contract Years.
- Key measurements – (*"the how"*), covering in each case the following -
 - any performance management measures implemented to date (including the outcomes thereof) and those that are planned for the relevant Contract Years;
 - aspects of each of the Concessionaire's policies, recruitment plans and selection criteria for new personnel and replacement of Management (Black People and Women) and Employees (Black People, Women and Employees with Disabilities) in the relevant target groups for the relevant Contract Years;
 - training, skills transfer strategy or development programmes implemented and those that are planned to be implemented in respect of the Project, directed at advancing occupation of Executive Director, Executive Management, Senior Management, Middle Management and Junior Management positions by Black People and Black Women;
 - aspects of the reporting and verification tools or mechanisms to be used by the Concessionaire to account for the Jobs created and those created in Management positions for the relevant Contract Years, indicating in each case the achievement indicators that the Concessionaire will use to verify achievement of the Management Control targets;
 - corrective measures to be implemented in the event of performance below the committed levels.

5.1.6.1 [●]¹²

5.1.7 Skills Development

5.1.7.1 [●]¹³

5.1.8 Social Investment

5.1.8.1 [●]¹⁴

5.1.9 B-BBEE Status Level

5.1.9.1 [●]¹⁵

¹² **Drafting Note:** The Concessionaire to report on, -

- the Enterprise Development opportunities presented by the implementation of the Project;
- the specific targets that the Concessionaire aims to achieve in relation to Enterprise Development for the relevant Contract Years;
 - indication of the mechanisms to achieve the Rail Industry and Township enterprise incubation contribution;
- the areas within the Rail Industry and subsequently a list of potential entities that the Concessionaire will target in relation to execution of its Enterprise Development initiatives
- the Townships identified for Enterprise Development;
- the manner of Enterprise Development support initiatives to be implemented during the Project which includes
 - Management support initiatives;
 - Financial support initiatives;
 - Technical support initiatives; and
 - Market access support initiatives;
- details of the measures that Concessionaire will implement to achieve the Concessionaire's obligations in relation to Enterprise Development;
- Key measurements – (“the how”) covering, amongst others, the following, -
 - Targets and indicators;
 - reporting and verification tools or mechanisms to be used by the Concessionaire to trace, monitor and account for Enterprise Development in the relevant Contract Years; and
 - any performance management measures implemented to date (including outcomes thereof) and those that are planned to be implemented for the relevant Contract Years.

¹³ **Drafting Note:** The Concessionaire to report on, -

- the Skills Development opportunities presented by the implementation of the Project;
- the specific targets that the Concessionaire aims to achieve in relation to Skills Development for the relevant Contract Years;
- the types of initiatives and programmes that the Concessionaire will implement to achieve the Skills Development obligations and estimated administrative costs of such activities;
- training and skills transfer strategy to be implemented in respect of the Project;
- details of the measures that Concessionaire will implement to achieve the Concessionaire's obligations in relation to Skills Development; and
- Key measurements – (“the how”) covering, amongst others, the following, -
 - Targets and indicators;
 - reporting and verification tools or mechanisms to be used by the Concessionaire to trace, monitor and account for Skills Development in the relevant Contract Years; and
 - any performance management measures implemented to date (including outcomes thereof) and those that are planned to be implemented for the relevant Contract Years.

¹⁴ **Drafting Note:** The Concessionaire to report on, -

- the Social Investment opportunities presented by the implementation of the Project;
- the specific targets that the Concessionaire aims to achieve in relation to Social Investment for the relevant Contract Years;
 - indication of the mechanisms to achieve the Township Investment Social Contributions indicating the particular categories identified in the Socio-Economic Development Detailed Response Template; and
- the areas within social development and subsequently a list of potential programmes that the Concessionaire will target in relation to execution of its Social Investment initiatives.

¹⁵ **Drafting Note:** The Concessionaire to report on, -

- the expected B-BBEE Status Level expected to be achieved by the Concessionaire at the Effective date; and
- the targeted B-BBEE Status Level the Concessionaire will aim to achieve and maintain throughout the Project.