

PROPOSED SASAE 3502 ASSURANCE ENGAGEMENTS ON B-BBEE VERIFICATION CERTIFICATES - PROPOSED CHANGES TO APPENDIX C ILLUSTRATIVE ENGAGEMENT LETTER

[Client Representative]

[Client]

[Address]

[Date]

Dear Sir/Madam,

Engagement letter to provide Broad-Based Black Economic Empowerment (“B-BBEE”) Verification Assurance Services in respect of the [Generic / Adjusted Generic / Qualifying Small Enterprise / Sector Specific / Contractual Scorecard]

Introduction

You have requested that weAt your request <Insert Firm Full Name> (“<insert shortened firm name, if applicable>”) will perform the B-BBEE Verification Certificate assurance engagement to determine the individual scorecard elements for the [Qualifying Small Enterprise (“QSE”) / Generic/ Sector specific/ Contractual] B-BBEE Scorecard (“the Scorecard”) of [name of client] at and for the twelve-month period ended [date of Scorecard period] in terms of the following:

- Broad-based Black Economic Empowerment (“B-BBEE”) Act 53 of 2003 and amendments thereto;
- [(QSE/ Generic) Scorecards of the Codes of Good Practice on B-BBEE (further referred to as “the Codes of good practice”) or [Sector codes gazette in terms of Section 9 of the B-BBEE Act] or [the requirements of the {insert name of agreement} between {insert name of party A} and {insert name of party B}]; and
- Other applicable guidelines issued by the Department of Trade and Industry (“DTI”) or other legislation as provided for in the Codes.

We are pleased to confirm our acceptance and our understanding of this engagement by means of this letter. Our procedures will be conducted with the objective of us expressing a <reasonable / limited> assurance conclusion on the B-BBEE Status reflected in the Certificate.

Directors’ responsibility

The directors of [name of client] are responsible for the preparation and presentation of the Scorecard in accordance with the Codes of Good Practice. This responsibility includes:

- Designing, implementing and maintaining such internal control as is necessary to enable the preparation of the B-BBEE scores for individual Scorecard Elements and determination of the B-BBEE status reflected on the B-BBEE Verification Certificate that is free from material misstatement, whether due to fronting, fraud or errorDesigning, implementing and maintaining internal controls relevant to the preparation and presentation of the Scorecard that ensures that the data and information meets the requirements prescribed by the B-BBEE Codes of Good Practice;
- Clearly identifying the relevant B-BBEE Codes or relevant Sector Codes that will comprise the criteria applicable to the engagement and reaching agreement with the B-BBEE approved registered auditor regarding any differences in interpretation to be applied;
- The preparation of the detailed information and supporting documentation applicable to the calculation of all relevant Individual Scorecard Elements based on underlying information selected by management from the components comprising the measured entity, as permitted by the Codes of Good Practice, and in accordance with information extracted from the audited or unaudited financial statements and underlying records of the measured entity for the measurement period;
- Identifying significant events subsequent to the financial year end of the measured entity that might affect the determination of the scores;

Comment [NK1]: This should be consistent with the responsibilities communicated in the assurance report and paragraph 21 of the standard

- Ensuring access by the B-BBEE approved registered auditor and engagement team to internal parties responsible for the preparation of the underlying information and supporting evidence needed for determining the scores for individual Scorecard Elements and the B-BBEE Status; and
- Facilitating access to external third parties and internal parties for the purposes of obtaining supporting evidence as may be required,
- ~~Assessing the adequacy of policies applied in determining the scores and ensuring they are consistently applied between measurement periods;~~
- ~~Completing each section of the Scorecard so that it contains all relevant disclosures that could materially affect any of the conclusions to be drawn from the content of the Scorecard such that it is free from material misstatement, whether due to fronting, fraud and error; and~~
- Obtaining all required information in support of the scores determined for the purposes of the Scorecard for <Insert Firm Name> at the commencement of the verification engagement which is scheduled to commence on [insert commencement date] including providing a management representation letter at the conclusion of the engagement.

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Comment [NK2]: It came across that the management representation letter should be available at the commencement of the engagement. We disagree with this since the representation letter should be provided at the completion of the engagement to confirm responses that have been provided during the course of the engagement. Also separate from providing other types of information.

B-BBEE approved registered auditor's responsibility

Our responsibility is to express a <reasonable / limited> assurance conclusion on the B-BBEE Status reflected in the Certificate based on the procedures we have performed. We will conduct our <reasonable/limited> assurance engagement in accordance with the *South African Standard on Assurance Engagements (SASAE) 3502: Assurance Engagements on Broad Based Black Economic Empowerment (B-BBEE) Verification Certificates (SASAE 3502)*. This standard requires us to comply with ethical requirements contained in the Independent Regulatory Board of Auditors *Code of Professional Conduct for Registered Auditors* and to plan and perform this engagement to obtain <reasonable / limited> assurance about whether the Certificate is free from material misstatement.

[A reasonable assurance engagement with respect to a B-BBEE Verification Certificate involves performing procedures to obtain evidence regarding the Scorecard elements and B-BBEE Status of the measured entity based on the criteria and requirements contained in the relevant Codes. The procedures selected depend on the assurance provider's judgement, including the assessment of the risks of material misstatement, whether due to fraud or error. In making those risk assessments we considered internal control relevant to the preparation of the Scorecard and the determination of the B-BBEE Status.]

OR:

[A limited assurance engagement with respect to a B-BBEE Verification Certificate involves performing procedures regarding the Scorecard and B-BBEE Status of the measured entity based on the criteria and requirements contained in the relevant Codes. The procedures performed depend on the assurance provider's judgement. The nature of those procedures is different from and the extent is substantially less than in a reasonable assurance engagement, and consequently they do not enable us to obtain the assurance necessary to become aware of all significant matters that might be identified in a reasonable assurance engagement.]

Because of the inherent limitations of a <reasonable / limited> assurance engagement, together with the inherent limitations of internal control, there is an unavoidable risk that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with the SASAE 3502.

Our engagement does not constitute an audit or an independent review of financial statements performed in accordance with *International Standards on Auditing* or *International Standards on Review Engagements* and consequently an audit or independent review opinion will not be expressed.

Scope of Work

We will plan and perform our work to obtain all the information and explanations that we consider necessary to provide a basis for our conclusions on the score awarded to each element of the Scorecard.

Comment [NK3]: Discussion that procedures depend on the judgement is already included above under auditor's responsibilities

~~The procedures we will select depend on our judgement, including the assessment of the risks of material misstatement of the subject matter and the purpose of our engagement. In making these assessments, we will consider internal controls relevant to the entity's preparation and presentation of each element of the Scorecard.~~

[As the auditors of [name of client], we have obtained an understanding of the entity and its environment, including its internal control, as part of our audit of the financial statements for the year ended [financial year end]. We have relied on information obtained during the course of our audit of these financial statements to assess the risks of material misstatement of the Scorecard in order to design procedures appropriate for gathering sufficient appropriate evidence to determine that the elements of the Scorecard are not materially misstated or misleading. Our assessment of relevant internal controls will not, however, be for the purpose of expressing a conclusion on the effectiveness of the entity's internal controls.]

OR

[As we are not the auditors of [name of client] / [name of client] has not been subject to an audit for the applicable period], we will perform such procedures as we consider necessary to obtain an understanding of the entity and its environment, including its internal control, sufficient to identify and assess the risks of material misstatement of the Scorecard in order to design procedures appropriate for gathering sufficient appropriate evidence to determine that the elements of the Scorecard are not materially misstated or misleading. Our assessment of relevant internal controls will not, however, be for the purpose of expressing a conclusion on the effectiveness of the entity's internal controls.]

We have no responsibility to update our B-BBEE Verification Certificate ("the Certificate") for events and circumstances occurring after the date of our report, nor will we perform any work in this regard.

Summary of work to be performed

Set out below is a summary of the procedures we will perform for each element of the Scorecard in order to obtain sufficient appropriate evidence regarding the content and presentation in accordance with the B-BBEE Codes of Good Practice:

- We will obtain sufficient appropriate evidence that each element of the Scorecard and the Scorecard overall has been calculated in all material respects in accordance with the bases and formula's set out in the gazetted B-BBEE Codes of Good Practice; and
- We will perform the procedures required by the SASAE 3502 and such other procedures as we consider necessary, on a sample basis, including the comparison of selected Scorecard information to the underlying financial records and other source documentation from which the information has been derived and making inquiries of the management or employees responsible for preparing the Scorecard.

Reporting to a regulatory body or other person

Where we have a statutory obligation to report matters to a regulatory oversight body or other person, such as the Independent Regulatory Board for Auditors (IRBA) or the Companies and Intellectual Property Commission (CIPC), we need to adhere to the statutory requirements imposed on us. Where permissible we shall bring such circumstances to your attention.

Comment [NK4]: Regulation 20(2) of the proposed B-BBEE Amendment Bill also seems to impose a reporting obligation, however it is extremely unclear as to who the matter must be reported to and the process to be followed. Once clarified, this obligation to report should also be included in the illustrative engagement letter.

WHERE WE ARE THE AUDITOR OF THE CLIENT

As required by the IRBA, we set out below a brief overview of the reporting obligations imposed by the Auditing Professions Act (APA).

Section 45 of APA places a legal requirement on the person responsible for the audit to report to the IRBA, without delay, details of any reportable irregularity which comes to his or her attention, which he or she is satisfied or has reason to believe has taken place or is taking place.

The APA defines a reportable irregularity as “any unlawful act or omission committed by any person responsible for the management of an entity, which:

- Has caused or is likely to cause material financial loss to the entity or to any partner, member, shareholder, creditor or investor of the entity in respect of his, her or its dealings with that entity; or
- Is fraudulent or amounts to theft; or
- Represents a material breach of any fiduciary duty owed by such person to the entity or any partner, member, shareholder, creditor or investor of the entity under any law applying to the entity or the conduct or management thereof.”

WHERE WE ARE THE INDEPENDENT REVIEWER OF THE CLIENT

As required by the CIPC, we set out below a brief overview of the reporting obligations imposed by the Companies Act.

Regulation 29 of the Companies Act places a legal requirement on the person responsible for the independent review to report to the CIPC, without delay, details of any reportable irregularity which comes to his or her attention, which he or she is satisfied or has reason to believe has taken place or is taking place.

The Companies Act defines a reportable irregularity as “any act or omission committed by any person responsible for the management of an entity, which:

- Unlawfully has caused or is likely to cause material financial loss to the company or to any member, shareholder, creditor or investor of the company in respect of his, her or its dealings with that entity; or
- Is fraudulent or amounts to theft; or
- Causes or has caused the company to trade under insolvent circumstances.”

Access to information

We understand that all records, documentation and information we request in connection with our engagement will be made available to us in accordance with the dates specified in the prepared by client (“PBC”) listing, and that we will receive full co-operation from management and staff. In this regard, management agrees to facilitate and/or obtain any external supporting documentation, records and/or information that we may request to enable us to perform the services.

In the event that we are not provided with sufficient appropriate evidence in support of any of the elements of the Scorecard, we would be unable to allocate a score for that element of the Scorecard.

Timing

The engagement will span a period of *{insert time}* weeks and will not commence before completion of our engagement acceptance procedures and signing of the engagement letter. This time span relies on the timely collation of data by the entity.

Date of issuance and period of validity

We will compile a draft of the Certificate and our Assurance Report (“Report”) with our Detailed Analysis of scores determined for each scorecard element for discussion on *[date of draft]*. We will allow a period

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of [review period i.e. number of days/ weeks] for review by yourselves and comments to be provided to us, after which we intend to issue our final Certificate and Report on [final certificate date], being the date of which we expect all evidence requested to have been provided to us for inspection.

For the purposes of clarity, the Certificate is valid for a period of twelve months from the date of issue.

Deliverables

The following will be delivered by <Insert Firm Name> to the client at the end of the engagement:

- The Certificate indicating the score on each elements for the [Generic Scorecard/ Adjusted Generic Scorecard / Sector Specific Scorecard / chosen four elements of the QSE Scorecard as detailed below:
 - Element 1 – {name of selected QSE element}
 - Element 2 – {name of selected QSE element}
 - Element 3 – {name of selected QSE element}
 - Element 4 – {name of selected QSE element}44]
- The Report on the findings and scores of each element

As a consequence of our assurance work performed and evidence obtained, the scores determined per element may differ from management's expectations.

Restriction on use of our report

Our Certificate will be prepared in accordance with the B-BBEE Codes of Good Practice.

Our Certificate and full assurance Report with Detailed Analysis of scores determined for each scorecard element and/or any other product of our services will be made solely for the benefit and information of [name of client] in accordance with the terms of our engagement and should not be used for any other purpose, copied, referred to, or disclosed to any person or entity (save for your own internal purposes) without our prior written consent.

The Certificate may be disclosed to DTI (or any other third party) requiring the Certificate on the proviso that, to the fullest extent permitted by law, we do not accept or assume any responsibility or liability to the DTI (or any other party) and neither do we owe them any duty of care in connection with the Certificate and/or the services provided to you, and disclosure by the DTI (save for their own internal purposes) is not permitted without our prior written consent.

Comment [NK5]: Please see our comments regarding the restriction of liability on the commentary letter.

Further, our Certificate may not be used in a misleading manner or in a manner which would bring our reputation or Certificate in disrepute. Our Certificate may only be reproduced in full and may not be altered or amended in any manner whatsoever. In the event of such occurring, we have the right to withdraw our rating and Certificate, having given 7 days' notice to you thereof. We are required to inform the DTI of the withdrawal of our rating and Certificate within 30 days thereof.

Fees

Our fee, plus expenses, will be billed at completion of the work and payment is due by you on presentation of our invoice. Our fee estimate is [value of fee], excluding disbursements and VAT.

Our fee estimate is determined on the basis of the information currently available to us and our understanding of your requirements and the following assumptions with regards to the cost of the work to be undertaken:

- We have applied the standard <Insert Firm Name> daily charge out rates;
- The level of resource allocated to the engagement is based on the level of technical skill and experience required for each elements;
- The initial Scorecard and all supporting documentation thereto should be available for our purposes by [date of start of engagement]; and

- A revised draft Scorecard and report will be subject to review for a period of [state review period] ending on [cut off date] (“cut off date”) after which the final Scorecard and report will be prepared and issued.

All required information is supplied to <Insert Firm Name> by the [dates specified in the prepared by client (“PBC”) listing/ by the cut off date]. Any valid additional information provided after that date, which requires amendment to the Certificate and our Report, will result in additional time incurred and therefore additional fees being billed.

Confidentiality

We are likely to acquire sensitive and confidential information concerning your business and affairs during the engagement. We confirm that we will take the same due care and steps to protect the confidentiality of this information as we do for our own confidential information. In terms of our statutory and professional responsibilities, this confidential information will not be divulged to any third party other than when we are obliged to do so to our insurers, legal advisors or in compliance with any law or professional standards. Once information enters the public domain, it will no longer be regarded as confidential information.

Agreement of terms

This engagement letter should be read in conjunction with the <Insert Firm Name> standard terms and conditions which are attached to this letter which will be applicable to all work undertaken by <Insert Firm Name> prior to and pursuant to this engagement letter.

All references in or to this letter include <Insert Firm Name> standard terms and conditions and any other appendices attached hereto, all of which together form an integral part of this engagement letter and are referred to as the “Agreement” or the “engagement letter”.

We are available to discuss this letter with you at any time. Please confirm your agreement to the terms of this letter by signing the enclosed copy and initialling each page of the engagement letter and the attached standard terms and conditions and returning them to us, or let us know if the terms of our engagement are not in accordance with your understanding.

We appreciate the opportunity of [being/ continuing to be] of service to [name of client]. We are committed to providing you with quality service in an efficient and timely manner.

On completion of the engagement, as part of our commitment to the quality of our service, we would welcome the opportunity to receive your views on the work carried out by ourselves and the service delivered.

Yours sincerely

<Insert Firm Name, if not on letterhead>

Per <Full Name of B-BBEE approved registered auditor>

<B-BBEE approved registered auditor Registration No.>

<Director / Partner / Sole B-BBEE approved registered auditor45>

Enclosure:

<Insert Firm Name> Standard Terms and Conditions

Client Acceptance

The terms of engagement set out are agreed to by:

Full name of measured entity

Date

Full name of individual responsible

Authorised Signature

Designation

who warrants [*his/ her*] authority to bind the measured entity.

