



## Terms & Conditions: Authorisation:

I hereby acknowledge that any reference made to "MSCT BEE Services" or "B-BBEE Rating Agency" pertains to the registered entity with registration number 2011/109066/07. I have requested MSCT BEE Services (Pty) Ltd to commence the BEE verification process.

I accept that I will be liable to pay the required fee as per the quotation before any work is carried out by MSCT BEE Services even if I decide not to continue with BEE verification and regardless of the BEE score calculated.

By signing acceptance of the quotation and these Terms and Conditions, the signatories acknowledge that he/she has the required authority to bind the entity to the terms and conditions as specified below.

### 1. Obligations of the client

The client undertakes and / or agrees to the following, namely that:

- 1.1. It requested MSCT BEE Services to perform a Black Economic Empowerment verification audit to certify the BEE status of the client organisation.
- 1.2. This agreement cancels and supersedes all prior negotiations and agreements entered into between the Parties relation to the matters set forth herein.
- 1.3. The fees quoted per the indicative quotation value within this document will, within 14 days, be paid directly to MSCT BEE Services by [Company]. MSCT BEE Services shall specify the deposit component required, and upon payment thereof, the verification will be undertaken.
  - Any outstanding fees as quoted per this agreement shall be paid directly to MSCT BEE Services by [Company] upon the scheduling of the onsite verification.
  - Any postponements of the agreed onsite verification date effected by [Company], will attract an additional 5% of invoice value penalty fee. Outstanding balances on overdue statements will attract 10% interest per month. All payments will be made directly by [Company] into the following bank account:  
  
*Bank: Standard Bank  
Account number: 060558180  
Branch Code: 020909*
- 1.4. Proof of payment will be submitted to MSCT BEE Services via e-mail: [bbbee@msctbee.co.za](mailto:bbbee@msctbee.co.za)
- 1.5. The client shall not publish the certificate issued by MSCT BEE Services in any instance other than to reflect on the measured entity's final BEE status.
- 1.6. The client shall promptly provide the B-BBEE Rating Agency with access to all relevant information and interviews with staff of the client organisation which the B-BBEE Rating Agency may request at any stage during its conduct of the verification. (BEE points will only be awarded on the basis of appropriate and relevant evidence). Should the measured entity fail to submit their completed verification schedules along with the core supporting documentation requested within a maximum allowable period of 3 months from the date of engagement (signature of this document), then the verification engagement will be suspended & attract a 30% surcharge in addition to the initial invoice value to re-open. If no information is provided in a further 3 months post surcharge (total of 6 months from initial contact), the engagement will lapse, & the Client will forfeit any fees paid and will need to re-engage with MSCT to be verified. In the event of the Client deciding to proceed & re-engage the verification, a new application will have to be submitted and the relevant fees paid.
- 1.7. The client hereby warrants that all dealings, as well as any and all information supplied to the B-BBEE Rating Agency in terms of this Agreement, will be done so directly by [Company] unless a third-party consultant has been issued with a legally binding Special Power of Attorney (SPOA), authorising them to partake in such verification dealings on behalf of [Company]. For avoidance of doubt, this MF21 Verification Agreement will be signed by [Company], and never a third party, irrespective of any such SPOA in effect. It is further agreed that [Company] has the authority to revoke any SPOA issued by them to such a third-party at any point in time and acknowledges that such an SPOA shall thus remain in effect up until revoked by [Company] and notifying MSCT BEE Services thereof in writing.
- 1.8. With reference to the use of the BEE B-BBEE Rating Agency logo and certificate the client undertakes:
  - a) To conform to the requirements of MSCT BEE Services when referring to its verification status in communication media such as the internet, documents, brochures or advertising.
  - b) Not to make or permit any misleading statements regarding its BEE score.
  - c) Not to use or permit the use of a certificate or any part thereof in a misleading manner.
  - d) Not to use its verification status in such a manner that would bring MSCT BEE Services into disrepute and lose public trust.



## 2. Obligations of the B-BBEE Rating Agency

- 2.1. Subject to payment referred to above, the B-BBEE Rating Agency shall conduct a BEE Verification of the client organisation within a time period mutually agreed to between the Parties in writing, which time period shall afford the B-BBEE Rating Agency sufficient time within which to conduct such evaluation, and which time period shall afford the client sufficient time to prepare the evidence for such a BEE verification audit.
- 2.2. Upon completion of the BEE verification audit the B-BBEE Rating Agency shall issue the client with a BEE verification certificate according to the prescriptions of SANAS and the Department of Trade, Industry & Competition.
- 2.3. The B-BBEE Rating Agency shall, in its provision of the BEE Verification, comply with any policy documents and / or Codes of Good Practice which may be issued by the Department of Trade, Industry & Competition from time to time.

## 3. Policies and Procedures

The B-BBEE Rating Agency carries out all verification activities in line with our internal policies, procedures and quality standards ("Policies and Procedures"), which are updated from time to time to meet legal, B-BBEE, SANAS and best practice requirements. These Policies and Procedures are incorporated into these Terms and Conditions by reference. The current versions are available on our website or may be provided to the Client on request. In the event of any inconsistency between these Terms and Conditions and the Policies and Procedures, these Terms and Conditions shall prevail to the extent of such inconsistency.

## 4. Termination

- 4.1. Termination shall be without prejudice to all rights which may have accrued to either Party prior to the termination thereof. The Client shall be liable to settle the required fee(s) as per the quotation accepted by them, even if the Client decides to discontinue their BEE verification engagement and regardless of the BEE score calculated.

## 5. Reservation of Ownership

- 5.1. The B-BBEE Rating Agency shall remain owner at all times of all copyright, design, trademark and any other intellectual property right, whether registered, pending or unregistered which may attach to the Logo or anything else produced by the B-BBEE Rating Agency (such report, BEE software and BEE certificate) during the provision of the evaluations.
- 5.2. The B-BBEE Rating Agency shall at all times remain owner of all working papers used in the provision of the Evaluations.

## 6. Confidentiality

- 6.1. During the provision of the verification audit by the B-BBEE Rating Agency to the client, the B-BBEE Rating Agency may acquire knowledge, related to the verification audit, of certain information, documents, material, knowledge, know-how, trade secrets and proprietary interests concerning the Measured Enterprise, including but not limited to its business and strategic plans, adherence to BEE, financial information, technology, computer systems, licensing arrangements, and other technical information concerning its customers, financiers and suppliers, its methods of carrying on business and other confidential information which is not in the public domain and not readily available to a competitor of the client (hereinafter collectively referred as "the confidential information").
- 6.2. The B-BBEE Rating Agency undertakes to and in favour of the client that:
  - 6.2.1. It shall maintain and uphold the confidentiality and good faith in relation to the confidential information.
  - 6.2.2. It shall not divulge, publish or disclose to any person, firm, company corporation, trust, or other entity whatsoever ("third party") any of the confidential information.
  - 6.2.3. It shall not at any time use any of the confidential information or any part or extract thereof for its own benefit or for the benefit of any third party.
  - 6.2.4. The undertakings given by the B-BBEE Rating Agency herein shall not preclude it from disclosing the confidential information:
    - 6.2.4.1. To the extent that it may be obliged to do so in law, including, without limitation, any disclosure to the Department of Trade, Industry & Competition or SANAS
    - 6.2.4.2. In so far as such disclosure is necessary for the purpose of the provision of the verification audit, to its officers, employees and professional advisors.
- 6.3. The undertakings given by the B-BBEE Rating Agency shall not apply to any part of the confidential information which is public knowledge at the time of its disclosure.
- 6.4. The B-BBEE Rating Agency and the Measured Enterprise will sign a Non-Disclosure Agreement (Document: MF22) contemporaneously with the Quotation.

## 7. Impartiality

The client declares that:

- 7.1. MSCT BEE Services' management or staff or their immediate family have no direct or indirect economic interest in the measured entity.



- 7.2. It is not aware of any relationship that might constitute a conflict of interest between MSCT BEE Services and the measured entity during the previous 4 years.
- 7.3. MSCT BEE Services' management or staff have no decision-making powers in or serve as director on the management of the measured entity.
- 7.4. MSCT BEE Services' management or staff have no financial interest, shareholding or loans in the measured entity.
- 7.5. All dealings with MSCT BEE Services will relate to the verification only and no financial or other benefit will accrue to MSCT BEE Services, its directors, personnel or analyst or any contractors as a result of conducting verification or being allocated a more favourable B-BBEE compliance level.
- 7.6. It will always be objective and will not pressurise or influence any of MSCT BEE Services' management or personnel during the verification process.
- 7.7. It will not solicit money, gifts or favours from any MSCT BEE Services' Management or personnel member and shall not accept or offer gifts in the form of cash or any other gifts.
- 7.8. It will disclose any personal relationship, or prior association with MSCT BEE Services that creates the potential for any real or apparent conflict of interest.
- 7.9. It undertakes to report any conduct that constitutes a breach of the MSCT BEE Services Impartiality Policy, applicable law or codes of conduct to the Managing Director of MSCT BEE Services.

## 8. Exclusion & Limitation of Liability

- 8.1. The Measured Enterprise hereby indemnifies and holds harmless the B-BBEE Rating Agency against all and any liability which may arise as a result of:
  - 8.1.1. Any loss or damage suffered by the client pertaining to the decision referred to or any of the Evaluations provided by the B-BBEE Rating Agency in terms of this Agreement.
  - 8.1.2. The factual inaccuracy of any information supplied by the client or by any person who represents the Measured Enterprise or by any person whom the B- BBEE Rating Agency may reasonably believe to represent the Measured Entity.
  - 8.1.3. Any act performed by the B-BBEE Rating Agency or any representative thereof which is in accordance with the BEE Codes of Good Practice and which act may diverge from the provisions of this agreement.
  - 8.1.4. Any breach of this agreement by the client including, without limitation, the provision of inaccurate factual information by the client to the B-BBEE Rating Agency.
- 8.2. Notwithstanding anything to the contrary contained in this agreement, the Liability of the B-BBEE Rating Agency in respect of any claim arising out of this agreement or in connection with the Evaluations provided to the measured entity in terms of this agreement, shall be limited to the fees paid by the Client to MSCT BEE Services, and shall not include any liability for any indirect or consequential loss or damages incurred by the measured entity or any other person arising from what cause whatsoever including but not limited to incorrect calculation of BEE status. Any Claims submitted in terms of this liability must be submitted within 3 months in writing to MSCT BEE Services, failing which shall not be deemed valid.

## 9. Sub-Contractors

- 9.1. Notwithstanding anything to the contrary contained in this agreement, the B-BBEE Rating Agency shall be entitled to appoint sub-contractors from time to time and to the extent necessary to assist it in the provision of the verification audit. The appointment of such sub-contractors shall be in the sole discretion of the B- BBEE Rating Agency.

## 10. Solicitation of Employees

- 10.1. The client undertakes to and in favour of the B-BBEE Rating Agency that it shall not solicit for employment, either for itself or for any third party, any employees of the B-BBEE Rating Agency who are in the employment of the B-BBEE Rating Agency as at the date of the execution of this agreement and at any time during the provision of the verification audit.

## 11. Force Majeure

- 11.1. If any Party is prevented or restricted directly or indirectly from performing all or any of its obligations under this agreement by reason of strike, lock-out, fire, explosion, riot, war, accident, act of God, embargo, legislation, shortage of or a breakdown in transportation facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control, or any other cause or contingency beyond the control of that Party, the Part so affected shall be relieved of its obligations hereunder during the period that such event and its consequences continue but only to the extent so prevented and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damages which the other Party may suffer due to or resulting from such delay or failure.

## 12. Prohibition of Assignment

- 12.1. The client shall not cede, delegate or assign any or all of its rights or obligations in terms of this agreement without obtaining the prior written consent of the B- BBEE Rating Agency.



### 13. Breach

13.1. If either of the Parties commits a breach of this agreement (the defaulting party), and/or fails to comply with any of the provisions hereof, then the other Party against whom the breach is committed (the innocent party) shall be entitled to give the defaulting party 14 days' notice in writing to remedy such breach and/or failure and if the defaulting party fails to comply with such notice, then the innocent party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the innocent party may have in law, including the right to claim damages:

13.1.1. To cancel this agreement

13.1.2. To claim immediate performance and/or payment of all the obligations of the defaulting party in terms hereof.

### 14. Dispute Resolution

Should any dispute, disagreement or claim arise between the Parties (the dispute) concerning this agreement, the parties shall endeavour to resolve the dispute by negotiation.

14.1. This entails one of the Parties inviting the other in writing to meet and to attempt to resolve the dispute within 7 days from date of written invitation.

14.2. If the dispute has not been resolved by such negotiation within 7 days of the commencement thereof, then the Parties shall:

14.2.1. Submit the dispute to mediation to be administered by the Arbitration Foundation of South Africa ("AFSA").

14.2.2. If the Parties fail to reach agreement within 7 days of the dispute being submitted to mediation, the Parties shall refer the dispute to arbitration, to be determined by an arbitrator appointed by the Parties. Failing agreement between the Parties on the appointment of the arbitrator within 7 days of request by one Party, either Party may approach AFSA to request the appointment of an arbitrator.

14.3. The decision of the arbitrator shall become final and binding within 7 days of delivery thereof to the Parties, unless one or either of the Parties disputes the arbitrator's decision by written notice to the other Party within the aforesaid 7-day period.

14.4. Unless otherwise agreed in writing by all the Parties, any such negotiation, mediation or arbitration shall be held in the area where the B-BBEE Rating Agency office rendering the service, resides.

### 15. Governing Law & Consent to Jurisdiction

15.1. This agreement shall be governed in accordance with the Republic of South Africa. The Parties consent to the jurisdiction of the Magistrates Court, notwithstanding that the claim by either Party may exceed the normal monetary jurisdiction of the Magistrates Court.

### 16. Notices & Domicilia

Each of the Parties chooses domicilium citandi et executandi (domicilium) for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this agreement at their respective addresses:

16.1. The B-BBEE Rating Agency: the address set forth on the first page of the quotation.

16.2. The Client: the address set forth on the Second page of the quotation.

### 17. Investment through another equity and/or debt Instrument

17.1. Both parties hereby agree that under no circumstances shall the B-BBEE Rating Agency be a party to a debt-creating agreement between itself and the measured entity to be verified, as these agreements may potentially encumber the Agency in the execution of its professional discretion and objectivity towards the BEE assessment for the measured entity.

### 18. Ownership

18.1. Both parties hereby acknowledge that the directors and shareholders of MSCT BEE Services do not hold an equity share in the measured entity and have no voting rights in the measured entity, directly or indirectly.

### 19. General

19.1. No extension of time or indulgence granted by either Party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such Party in any respect under this agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this agreement.

19.2. No alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by both the Parties and their duly authorised representatives.

19.3. This document contains the entire agreement between the Parties and neither Party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.



- 19.4. All the provision of this agreement shall be severable, and no provision shall be affected by the invalidity of any other provisions of this agreement.
- 19.5. Nothing in this agreement shall constitute a partnership, joint venture or agency agreement between the Parties in any shape or form; or entitle or authorise either Party to incur liability on behalf of the other.
- 19.6. In the implementation of this agreement, the Parties undertake to observe good faith and they warrant in their dealings with each other that they shall neither do nor refrain from doing anything which might prejudice the rights, assets or interests of the other of them.