



NSFAS

National Student Financial Aid Scheme

Request for Proposal

PANEL FOR THE PROVISION OF LEGAL SERVICES FOR A PERIOD FIVE (5) YEARS.

Date issued	20 April 2026	RFP number:	RFP: SCMN003/2026-27
Closing Date:	15 May 2026	Closing Time:	11H00

INVITATION TO BID (SBD1)

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE NATIONAL STUDENT FINANCIAL AID SCHEME (NSFAS)					
BID NUMBER:	SCMN003/2026-27	CLOSING DATE:	15 MAY 2026	CLOSING TIME:	11:00AM
DESCRIPTION	PANEL FOR THE PROVISION OF LEGAL SERVICES FOR A PERIOD FIVE (5) YEARS				
BID RESPONSE DOCUMENTS MUST BE PHYSICALLY DEPOSITED IN THE TENDER BOX SITUATED AT THE ADDRESS BELOW:					
The Halyard Building, Ground floor, 4 Christiaan Barnard Street, City Centre, Cape Town, 8001					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	SCM		CONTACT PERSON	SCM	
TELEPHONE NUMBER	087 5009 380		TELEPHONE NUMBER	087 5009 380	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	SCM@NSFAS.ORG.ZA		E-MAIL ADDRESS	SCM@NSFAS.ORG.ZA	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	



National Student Financial Aid Scheme

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

YES NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

YES NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3.	THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g., company resolution)

DATE:

1. Purpose

The National Student Financial Aid Scheme (NSFAS) invites firms of attorneys to respond to this RFP to participate in a panel to provide professional legal services to NSFAS in a wide range of legal matters.

2. Background

The National Student Financial Aid Scheme (NSFAS) is a schedule 3A public entity as defined in the Public Finance Management Act (PFMA) (Act number 1 of 1999). NSFAS provides financial assistance to eligible students at public universities and at Technical Vocational Education and Training (TVET) colleges throughout South Africa. NSFAS is located at 4 Christiaan Barnard Street, City Centre, Cape Town.

3. Functional specification

The bidders must indicate in the last bidder of the table below which category of law/s they are bidding for.

Area of Law	Details of service (But not limited to)	Bidder to indicate by using a X which area of law/ specialisation
Administrative Law	<ul style="list-style-type: none"> • Advise on all legislation and regulations pertinent to NSFAS, the NSFAS Act and its business processes, which shall include drafting legislation, regulations and policy guidelines and related matters. • Provide advice and guidance on matters related to the higher education sector and matters related to NSFAS' relationship with and obligations to the Department of Higher Education and Training. • Provide advice and guidance on legislation applicable to NSFAS. Draft and comment on agreements between organs of state. • Provide litigation services in all areas of administrative law; and • Advise on matters relating to the public sector. • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise. 	

<p>Constitutional Law</p>	<ul style="list-style-type: none"> • Advise on the constitutionality of legislation, policies, etc. • Provide litigation services in all areas of constitutional law; and • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise. 	
<p>Labour Law</p>	<ul style="list-style-type: none"> • General advice on all aspects of labour law, including but not limited to, breach of contract, mediation with Trade Unions and other related disputes that arise out of the employment relationship. • Draft and vet contracts of employment, policies and procedures. • Appear on behalf of NSFAS in employment related forums, such as the CCMA, Labour Court, etc. • General advice on all aspects of labour law. • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise; and • Chair and or support disciplinary processes. 	
<p>Technology Law</p>	<ul style="list-style-type: none"> • Advise on all legislation and regulation pertinent to the area of technology. • Advise on all legal issues arising from the development, procurement and use of technology by NSFAS. • Provide advice in the development of standard operating procedures in terms of the ISO 9000 standards • Advise on matters relating to the Electronic Communications Act 25 of 2002. • Advise on matters relating to NSFAS disbursement model and other related platforms. • Draft and negotiate information technology agreements and assist in resolving or mediating disputes between NSFAS and the Service Provider(s) • Advising on co-source and outsource arrangements, and drafting any related agreements to enable these arrangements, including penalty clauses and the enforcement thereof. • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise. 	

<p>Commercial Law</p>	<ul style="list-style-type: none"> • Provide litigation services and representation in all areas of commercial law, including litigation in civil and criminal proceedings, as they may arise. • Providing general commercial advice, furnish opinions and commercial legal drafting services. • Provide advice on the procurement of services by NSFAS as it pertains to the NSFAS Operations Unit, Supply Chain Management and other NSFAS business units. • Provide advice and guidance in relation to NSFAS' obligations to the South African Revenue Service, National Credit Regulator, National Treasury, PFMA and other legislative and oversight bodies applicable to the NSFAS Act and mandate. • • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise. • Provide advice and guidance on legislation applicable to NSFAS. 	
<p>Governance and compliance</p>	<ul style="list-style-type: none"> • Advise on all aspects of governance and compliance matters, including but not limited to the King IV Code. • Advise and assist with the implementation of compliance management processes and systems and assist with compliance assessments. • Provide advice and guidance in relation to NSFAS' obligations to the South African Revenue Service, National Credit Regulator, National Treasury, PFMA, Auditor General of South Africa (AGSA) and other legislative and oversight bodies applicable to the NSFAS Act and mandate. • Provide general ongoing legal advice with respect to the matters and provide legal assistance in any other similar matters that may arise; and • Provide advice and guidance the implementation of compliance measures e.g. POPI and applicable legislation as it relates to NSFAS and the NSFAS Act. 	
<p>Other</p>	<ul style="list-style-type: none"> • Internal reviews • Legal support • Arbitration • Investigations 	

4. Evaluation Method

4.1. The table below summarizes the steps that NSFAS will follow to evaluate bidders' proposals.

Phase	Description
Phase 1: Administrative Screening	The bidding proposal will be screened for compliance with administrative requirements as indicated below. Bidders are required to submit the administrative documents
Phase 2: Mandatory requirements evaluation	All bids must comply with the mandatory requirements and failure to comply with any of these requirements will immediately disqualify the bid. Bidders who pass the mandatory requirements evaluation will proceed to be evaluated for the functional evaluation.
Phase 3: Functional evaluation criteria	Bidders are required to achieve a combined minimum score of 70% for the evaluation criteria to be evaluated further.
Phase 4: Objective Criteria	<p>Preferential procurement policy framework act, 2000 award of contracts to tenderers not scoring highest points.</p> <p>Please refer to 4.5 for objective criteria applicable to this bid. The objective criteria may only be applied under certain conditions as stipulated in 4.5 of this bid.</p>

4.2. Phase 1: Administration

- 4.2.1. The bidding proposal will be screened for compliance with administrative requirements as indicated below. Bidders are required to submit the administrative documents.

Item No.	Administrative Requirements	Check/Compliance
1	SCM - SBD 1 - Invitation to Bid	Completed and signed
2	SCM - Tax Clearance Certificate Requirements	CSD registration number/SARS PIN and CSD summary report
3	SCM - Pricing Schedule	Completed and signed
4	SCM – NEW SBD 4 - Declaration of Interest	Completed and signed
5	Letter from Bank confirming banking details (not older than 3 months from date of closing date of tender)	Letter from the bank submitted

4.3. Phase 2: Mandatory requirement evaluation

- 4.3.1. It is recommended that the following table must be completed by the bidder for each survey by answering YES OR NO and attach proof.
- 4.3.2. Only bidders who achieve a “Yes” for all mandatory requirements will proceed for evaluation on Phase 3: Technical - Functional evaluation criteria

REQUIREMENT	REQUIRED PROOF TO BE SUBMITTED WITH BID	COMPLY: YES OR NO
A Fidelity Fund Certificate in the name of the legal/law firm accordance with section 41 of the Attorneys Act 53 of 1979, as amended, which must be valid at the date of submission. In addition, at least one director/ partner/ attorney/s to attend to NSFAS matters must provide a certified copy of a valid Fidelity	Certified copy of a valid Fidelity Fund Certificate to be provided. The document must be certified by independent party.	

Fund Certificate to be provided.		
The Firm of Attorneys must provide proof of the Fidelity Fund Insurance Cover. The insurance must be active.	Proof of the insurance agreement.	
Legal/law firm to be registered with a law society issued by the Legal Practice Counsel.	Proof of registration from the relevant Law Society must be provided.	
A valid letter of good standing in the name of the legal partitioners (individual director/ partner/ attorney/s), issued by the Legal Practice Counsel.	A valid letter of good standing issued by the Law Society for the partner, director.	
<p>Case studies submitted for each of the law area specifications must be submitted (as per the areas selected).</p> <p>Case study includes:</p> <ul style="list-style-type: none"> a) Details of matter at hand b) Opinion provided c) Timelines of the case and the related costs to date d) The legal team and the roles e) Status of the case and decision of presiding officer/s f) Contactable reference to verify the context of the case. <p>Each case study may be verified by NSFAS during the bid evaluation phase.</p>	<p>AREAS OF EXPERTISE: The bidder must submit case studies for each of the law area specifications must be submitted (as per the areas selected).</p> <p>The case study must meet all the elements indicated from A to F</p>	

4.4 Phase 3: Functional Evaluation

- 4.4.1. Only bid proposals that meets phase one (1) and phase two (2) will be evaluated on technical-functional evaluation criteria
- 4.4.2. The bidder must score a minimum average of 70% (49 points) during Phase 3 (technical-functional) of the evaluation to qualify for Phase 4 of the evaluation will be considered. Should a bidder score less than 70% (49 points) on functionality criteria, the bidder will be disqualified.
- 4.4.3. The following values / indicators will be applicable when evaluating functionality:

ELEMENT	CRITERIA	TOTAL POINTS	ACTUAL SCORE
COMPANY EXPERIENCE: REFERENCE LETTERS (PROOF OF EXPERIENCE)		40	
The bidders are required to provide contactable client reference letters where their services can be verified (on completed cases or ongoing projects). References should be presented in the form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than seven (7) years from the date of contract termination. The reference letters will be assessed based on experience of similar work done as required by the TOR. No appointment letters from clients will be accepted as reference letters. Bidders should note that multiple reference letters from the same company/client will be regarded as one. Letters of appointment to panels will not be considered.			
COMPANY EXPERIENCE	Four (4) Relevant Reference Letter	40	
	Three (3) Relevant Reference Letter	30	
	Two (2) Relevant Reference Letter	20	
	One (1) Relevant Reference Letter	10	
	Non-Submission, Irrelevant or Non-compliant Information	00	
SKILLS AND RESOURCES		30	
The CVs of individual team members submitted for the Senior director/ partner, and Senior associate displaying their experience. Bidder must submit certified copies of qualifications and CV with relevant experience			
SKILLS AND RESOURCES	Senior director/ partner must have a minimum of 10 years post-articles law experience	20	
	Senior Associate must have a minimum of 5 years post-articles law experience	10	
TOTAL POINTS AWARDED		70	

4.5. Phase 4: Objective Criteria

In terms of Preferential Procurement Regulation 11 and section 2(1)(f) of the Preferential Procurement Policy Framework Act, the following are the objective criteria and NSFAS will apply the criteria to avoid risk based on the following instances:

- 4.5.1. Bidder submitted abnormally low bid. This apply when the bidder submit significant low bid compare to the marketing offering obtained by NSFAS during market analysis;

- 4.5.2. The NSFAS have proof of bidder's poor project and contract management on previous or existing project(s) with NSFAS and other current and previous Client(s);
- 4.5.3. NSFAS become in the position of past and current fraudulent, criminal or any unethical act by the bidder during bidding process;
- 4.5.4. They is significant risk of fruitless and wasteful expenditure to NSFAS should bid awarded to the bidder;
- 4.5.5. They is significant risk of Irregular expenditure to NSFAS should bid awarded to the bidder;
- 4.5.6. NFSAS has identified risks of bidder's potential or existing company insolvency and potential existence challenges such as deregistration process with statutory and professional bodies as well as key health and safety compliance legislations.
- 4.5.7. Any other risks deemed legal and procedural justifiable that may expose NSFAS to any financial, legislative or operational risks.
- 4.5.8. If it appears that a bidder meets the evaluation criteria but not the operational requirements, NSFAS reserves the right not to award to the bidder for failing to meet those operational requirements.

4.6. Price and Specific Goals (*Not for the purpose of evaluating who will be part of the panel but will be used when deciding who will be appointed for each request*)

- 4.6.1. All RFP proposals received that achieves the RFP requirements will be evaluated further in terms of the 80/20 Price and Specific Goals. A maximum of 80 points will be allocated for Price, and a maximum of 20 points will be allocated for Specific Goals.
- 4.6.2. Bidders must complete the SBD6.1 form in full and provide the requisite evidence to claim the allocated points for the specific goals.
- 4.6.3. **Calculation of points for price** - The Preferential Procurement Policy Framework Act (PPPFA) prescribes that the lowest acceptable bid will score 80 points (for tenders under R50m) or 90 points (for tenders above R50m) for price. Suppliers that quoted higher prices will score lower points for price on a pro-rata basis. Where functionality is set as criteria, only bid proposals that meets functionality requirements will be considered for evaluation on price and specific goals preference points.
- 4.6.4. The following formula for Price and Specific Goals will apply in the evaluation process:

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

P_s = Points scored for comparative price of proposal under consideration

P_t = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable proposal

Calculating of points for Specific Goals.

- 4.6.5. Points will be awarded to a supplier for specific goals. Bidders are required to submit the original and valid proof for preference points claimed or certified copies thereof; to substantiate their preference points claims. SBD 6.1 must also be duly completed, signed, and submitted alongside the bid to claim preference points. Failure to do so will result in Specific Goals preference points being forfeited.
- 4.6.6. Points will be awarded to a supplier for specific goals in accordance with the table below.

A.	PRICE	80
B.	Specific Goal	Number of points (20)
	The entity must be 100% black owned	10
	The entity must be a minimum of 40% black female owned	10

5. Implementation of the Panel (Work allocation method)

- 5.1. When services of the members of the panel are required, a request for quotation (RFQ) will be sent to minimum of 10% of the appointed suppliers. If the appointed members of the panel are fewer than 10, the RFQ will be sent to ALL the members of the panel. SCM Unit will rotate the suppliers to ensure that all members of the panel get a fair and equal opportunity to submit proposals.
- 5.2. Preference Points (prince and specific goals points) will be used to award each request, except for special cases mentioned in paragraph 5.5 below where only one (1) proposal to be considered.
- 5.3. Bidders will be ranked in the panel based on number of functionalities scored and, in an event, bidders obtained same number of points.
- 5.4. Members of the panel will be given a minimum of three (3) working days to respond to the RFQ.
- 5.5. In exceptional cases, SCM Unit may directly allocate work to a member of the panel without going through RFQ process and such allocation must be approved by the delegation of authority.

- 5.6. The exceptional cases, mentioned above may include capacity constraints of the firm, conflict of interest, area of expertise in similar cases and other justifiable instances that may trigger direct appointment member of panel.
- 5.7. Upon confirmation of the allocation NSFAS and the allocated firm, will decide the scope of work/ job card of the case and the resources that will perform activities on the case before the work is initiated. This must be done within reasonable time after the allocation.
- 5.8. Rates indicated in paragraph 7 below, will be used for all exceptional cases.

6. Contract Period

The contract will be on an “as-and-when required basis”, for a period of **60 (sixty) months**.

The envisaged legal services shall be provided to NSFAS on an “as and when required” basis with no guarantee of work. Successful bidders must be willing to enter into a Service Level Agreement with NSFAS and NSFAS reserves the right to, at its absolute discretion, terminate the services of the appointed firm should that firm fail to meet the performance standards expected by NSFAS.

7. Pricing Schedule

Please consider the inevitable Consumer Price Index (CPI) increases year on year on the pricing upon the duration of the contract period being in excess of a 36-month period. The pricing must be inclusive of all costs including disbursements (travel, accommodation etc) where applicable. The bidder must complete the pricing schedule and not attach a schedule in a format different to the one below. ***The pricing schedule will not be applicable during the evaluation of this panel, however it will be applied during work allocating as and when the services are required and on exceptional cases in section 5.5 to 5.8 above.***

No.	Description	Rate per hour (VAT and disbursements included)
1.	Director/Partner	
2.	Senior Associate	
3.	Associate	
4.	Candidate attorney	

No.	Description	Rate per hour (VAT and disbursements included)
5.	Cost of calls made and received (please indicate unit of measure here)	
6.	Sending and responding to email	
7	Cost of printing per page	

Notes:

1. NSFAS reserves the right to negotiate the rates and prices provided
2. NSFAS will determine the resource from the table above to handle activities in a case
3. NSFAS will decide which communication/enquiries/updates will be required, when they will be required and the manner in which those updates will be provided for all request/cases.

8. Submission

Bidders are required to submit their proposals together with documents required in phase 3 and 4 of these documents and any other documents that may be needed to evaluate the proposals.

Bidders are requested to provide a soft copy version of their proposal in a USB, when submitting their hard copy proposal. Whenever there is a conflict between the hard copy and USB proposal, the hard copy will prevail.

9. Validity period

Any RFP submitted shall remain valid, irrevocable, and open for written acceptance by NSFAS for a period of 120 days. A RFP submitted shall further be deemed to remain valid after the expiry of the above-mentioned 120-day period until formal acceptance by NSFAS, unless NSFAS is notified in writing by the bidder of anything to the contrary (including any further conditions the RFP may introduce. Any further conditions that the bidder may introduce will be considered at the sole discretion of NSFAS.

10. Clarification

Any clarification required by a bidder regarding the meaning or interpretation of the Request for Proposal or any other aspect concerning the request for proposal, are to be requested in writing by email from scm@nsfas.org.za. The request for proposal number should be mentioned in all correspondence. Telephonic requests for clarification will not be accepted. If appropriate, the clarifying information will be made available to all bidders by e-mail only.

To ensure transparency and for record purposes, all correspondence between NSFAS's Supply Chain Management (SCM) officials and bidders, will only be done via the official NSFAS SCM email address: scm@nsfas.org.za.

Bidders are reminded that NSFAS SCM officials will never contact bidders telephonically or by other method other than through the official SCM email address listed above.

During the evaluation of the bids, additional information may be requested in writing from bidders, for clarity. Replies to such requests must be submitted, within the prescribed timeframe as determined by NSFAS. Failure to comply, may lead to your bid being disregarded.

11. Reason for Rejection

NSFAS will reject a quotation for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.

NSFAS will disregard the bid of any bidder if that bidder, or any of its directors or employees:

- Has abused the Supply Chain Management system of NSFAS.
- Is listed on the National Treasury list of restricted suppliers or tender defaulters.
- Has committed proven fraud or any other improper conduct in relation to such system; or
- Has failed to perform on any previous contract and the proof exists.

Any effort or attempt by a bidder to influence the award decision in any matter will result in the rejection of the bid.

12. Disclaimer

NSFAS will apply their Supply Chain Management Policy and where Policy is silent, will apply National Treasury Regulations. All costs incurred in drafting the proposal are those of the service provider.

Where reference has been made to a brand/trademark, an equivalent may be proposed by the bidder.

By providing a proposal to NSFAS, the service providers accept the following:

NSFAS will issue a purchase order to the appointed service provider. NSFAS will not pay (and not be held liable) the service provider any amounts over and above the purchase order value and will not pay the service provider for any work performed outside the original bid specification document that was issued and advertised by NSFAS. Should you receive any instruction from NSFAS that does not come from the SCM unit to perform any work outside of the original bid specification, NSFAS will not be held liable for this payment.

13. Fraud and corruption

All providers are to take note of the implications of contravening the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and any other Act applicable. The National Student Financial Aid Scheme is committed to conducting business ethically and is constantly introducing proactive measures to ensure that we identify and appropriately respond to any unlawful and unethical business practices. All NSFAS tenders are subject to certain

audit processes and limited due diligence checks with the intend to identify any possible unlawful or unethical practices.

Reporting of any unlawful or unethical incidents to NSFAS

Should any bidder, potential or current supplier of NSFAS or any other third party:

- receive any irregular contact or correspondence from anyone presenting themselves as an employee or representative of NSFAS
- receive any contact or correspondence from anyone soliciting any bribe of any form
- become aware of any irregular or illegal conduct by any party who has a relationship with NSFAS or any NSFAS official

You are requested to immediately report it to NSFAS's Governance, Risk and Compliance (GRC) Department. All information provided to the NSFAS GRC department will be treated with utmost confidentiality and in terms of the Protected Disclosures Act, Act 26 of 2000.

For any unlawful or unethical incidents, please email: forensics@nsfas.org.za

All SCM related queries and submissions of RFP proposals must be submitted to scm@nsfas.org.za

NSFAS will not accept any RFP submission if not submitted to scm@nsfas.org.za

Reporting of any unlawful or unethical incidents to the South African Police

Bidders, current or potential NSFAS suppliers or any other third party who become aware of any unlawful and unethical conduct are encouraged to report the matter to the South African Police. NSFAS request that details of such reports made to the SAP be shared with NSFAS official listed above to enable consolidation of possible related investigations.

14. NSFAS rights

The following rights are reserved:

- 1) NSFAS reserves the right to appoint more than one (1) service provider.
- 2) NSFAS reserves the right to reject a bid if the bidder has submitted a proposal that is not according to the specifications/terms of reference.
- 3) NSFAS reserves the right to reject a bid if the standard bidding document (s) have not been submitted or not completed in full.
- 4) NSFAS reserves the right to not award the bid if the bid price is not market related.
- 5) NSFAS further reserves the right to engage with the short-listed bidders for price negotiation and a site inspection where necessary.
- 6) NSFAS reserves the right to invite the shortlisted for a presentation as part of the bid process.

- 7) NSFAS reserves the right to not select the lowest price and/or lowest price only, provided that justifiable objective criteria are applied during the awarding process. These advertised objective criteria include the following:
 - 4.1) Timelines for delivery of the solution whereby the solution is required urgently.
 - 4.2) Part and parcel of risk mitigation to not be solely dependent on one (1) supplier.
 - 4.3) Capacity and/or presence/reach considerations of the supplier.
- 8) NSFAS reserves the right to not award the tender to the shortlisted bidder should any risk arise from any NSFAS due diligence assessment performed and/or any underperformance was identified in a previous and/or current contract held with the bidder and/or any risk arising from the completed standard bidding form number four (4).
- 9) NSFAS reserves the right to award the contract in whole or in parts.
- 10) NSFAS reserves to cancel this RFP advertisement at any time during the advertisement period.

15. Closing date

The bid proposal must be submitted by no later than **15 May 2026 at 11h00** and **MUST BE PHYSICALLY DEPOSITED IN THE TENDER BOX** situated at **The Halyard Building, Ground Floor, 4 Christiaan Barnard Street, City Centre, Cape Town, 8001**. No emailed /faxed copies will be accepted. The proposals must not be submitted to any individual at NSFAS. If the RFP proposal is received after 11h00 on the closing date, it will not be accepted.

SBD4- BIDDER’S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder’s declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.



National Student Financial Aid Scheme

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

3.1 I have read, and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect.

- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



National Student Financial Aid Scheme

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

GENERAL CONDITIONS OF CONTRACT (GCC)

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices



- 32. Taxes and duties
- 33. National Industrial Participation Programme (NIPP)
- 34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 “Day” means calendar day.
 - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
 - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 " Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in

its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

- 1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 “GCC” means the General Conditions of Contract.
- 1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 “Project site,” where applicable, means the place indicated in bidding documents.
- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillaries to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3 General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection.

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so, required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so, required by the purchaser.

6. Patent rights

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.

- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the supplier's cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and

precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. Transportation

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

17. Prices

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

18. Contract amendments

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. Assignment

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the Supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered,

and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction
 - (iii) the period of restriction; and
 - (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti- dumping and countervailing duties and rights

- 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation; it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
 - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable Law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. National Industrial Participation (NIP) Programme

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. Prohibition of Restrictive Practices

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.