



ACCOUNTING STANDARDS BOARD

240 Madiba Street  
Pretoria  
0002  
Tel. 011 697 0660  
Fax. 011 697 0666  
[www.asb.co.za](http://www.asb.co.za)

## INVITATION TO BID

Invitation to Bid	The ASB requires a service provider to develop educational material for the users of the financial statement.
Bid Number	ASB17/01/2025
Date of issue	19 January 2025
Closing Date and Time	10 February 2025 16:00
Contact details	For submission of quotations or any other enquiries: Email <a href="mailto:shereenp@asb.co.za">shereenp@asb.co.za</a> or <a href="mailto:juliannev@asb.co.za">juliannev@asb.co.za</a> <b>(Please use BID No. as subject reference)</b>

Board Members: Mr A van der Burgh (Chair), Ms A Carstens, Mr A Hardien, Ms W de Jager,  
Mr D Dlamini, Mr S Gcwabe, Mr S Khan, Ms A Muller, Prof R Small  
Chief Executive Officer: Mrs J Poggiolini

## **1. ABOUT THE ASB**

### **About the ASB**

- 1.1 The ASB is a public entity listed in schedule 3A to the Public Finance Management Act, as amended.
- 1.2 The ASB's mandate is governed by sections 88 to 91 of the PFMA and the ASB's Regulations. The ASB's mandate is to set Standards of GRAP for public sector entities. The ASB is required by the Public Finance Management Act (PFMA) to set Standards of GRAP for the following entities:
- departments (including national, provincial and government components);
  - public entities;
  - trading entities (as defined in the PFMA);
  - constitutional institutions;
  - municipalities, municipal entities, or any other entities under the ownership control of a municipality and, boards, commissions, companies, corporations, and funds; and
  - Parliament and the provincial legislatures.
- 1.3 The ASB can also perform any activity incidental to advancing financial reporting in the public sector.
- 1.4 A few key facts about the ASB:
- The Minister of Finance is the ASB's Executive Authority.
  - The ASB's Accounting Authority is the Board, which comprises a maximum of eight independent, non-executive members; and representatives of the National Treasury and Auditor-General South Africa.
  - There are two Board sub-committees: (a) an Operations Committee and (b) a Technical Committee.
  - The internal audit function and the Audit Committee are shared with the National Treasury.
  - The ASB has seven employees.
  - The ASB operates solely in a virtual work environment, i.e. there is no physical office. The ASB uses the domicile of the Accountant General at National Treasury.
  - The sole funding of the ASB is a transfer from the National Treasury. The ASB's financial statements are available on the website and can be accessed by following this [link](#).
- 1.5 For more information about the ASB, please visit our website [www.asb.co.za](http://www.asb.co.za).

## **2. INVITATION FOR BID**

### **Required services**

- 2.1 The ASB requires a service provider to develop educational material for the users of the financial statements. The purpose of the material is to explain to users how they could use financial statements to hold government and its organisations accountable, and to make a range of financial, economic and policy decisions.

## **Activities and scope of work**

### Key activity

- 2.2 The service provider will be tasked with developing education material for a wide range of users. The intended users are discussed separately below.
- 2.3 The material should be in English and produced in a written, digital format.
- 2.4 The level of language used in the material should be between 70-90 using the Flesch Reading Ease scale. As a result, the material should be easy to understand, simple, concise, and relatable to everyday scenarios rather than using jargon and being technical in nature.

### Topics to be included in the material

- 2.5 The material should explain, at a minimum, the following:
- The role and importance of financial statements in the broader public financial management eco-system. For example, the role of financial statements in strengthening democracy when combined with other information such as the budget, planned service delivery, actual service delivery, and finally the audited financial statements.
  - Key components of the financial statements and what they depict, i.e. the statements of financial position and financial performance, cash flow statement, comparison of budget and actual information and the notes.
  - The key information areas of each statement. For example, for non-current assets, provide an explanation of non-current assets and what this means; an explanation of each line item that could be presented on the face of the statements or the notes (linked to the Standards of GRAP that could be non-current assets). Using heritage assets as an example, the expectation is to explain what the line item represents, how this classification is useful to users in decision-making, and describe key recognition and measurement attributes.
  - How the financial statements – individual line items and disclosures - can be used to make financial, policy and economic decisions and hold entities accountable. This is currently not well understood in the market, and will be a key focus area of the material.
  - The link to other reports, such as the budget and non-financial information. The intention is not to make complex connections for every line item, but to enable broad decisions to be made by users.

### Target audience

- 2.6 The intended users of the material are “citizens” who are represented by members of Parliament, legislatures, municipal councils, and civil society organisations (or similar). Citizens could also include taxpayers, ratepayers, and similar providers of resources to government.

## **Required expertise and how they will be assessed**

- 2.7 The table in paragraph 3.3 outlines the specific criteria required to perform this work for the ASB.
- 2.8 Individuals or organisations are eligible to submit bids. Where organisations submit bids, the individual(s) who will work on this project should be members of the Professional Editors’ Guild and meet the other requirements listed in paragraph 3.3.

## **Attendance of briefing session**

- 2.9 A briefing session will be held on the date and time stipulated below. Bidders who intend submitting bids, must be present at the briefing session. Bids from potential bidders who did not attend the briefing session will not be considered.

Details of briefing session:

Date: 24 January 2025

Time: 12:00 to 13:00

Webinar link: [Register and attend webinar](#)

**3. PROCUREMENT PRINCIPLES TO BE APPLIED**

3.1 The procurement principles to be applied are as follows:

**Phase I - Functional requirements**

3.2 Bids will be assessed against these functional criteria, using the points outlined in Table 1. Bidders must score at least 70/100 to move to the second phase of the assessment. The ASB reserves the right to hold interviews with, or receive presentations from, eligible bidders.

3.3 To enable the ASB to evaluate the qualitative criteria, the evidence described in Table 1 must accompany the bidding documents. Bids will not be considered if supporting evidence is not provided for all the criteria.

*Table 1 – Criteria, supporting evidence and points for scoring functional criteria*

	<b>Criteria</b>	<b>Supporting evidence</b>	<b>Points to be awarded</b>
<b>1</b>	Proposal and project plan	Submission of a detailed proposal and project plan outlining: <ul style="list-style-type: none"><li>• The approach to developing the material. [5 points]</li><li>• Staff involved in developing the material and their experience.[5 points]Note the requirement below in criterion #3- at least one person must be a member of the Professional Editors' Guild</li><li>• Indicative project plan outlining high-level timelines for the project. [5 points]</li></ul>	15
<b>2</b>	Experience in finance and accounting field	Evidence demonstrating expertise in either writing or editing finance documents/material.  The evidence could include (but not limited to) submissions of articles in industry publications, newspapers, online media, financial journals; publications such as books, guides, etc (or extracts thereof), presentations, or other material of a financial nature.  Each item of evidence is worth 15 points.	45
<b>3</b>	Membership of the Professional Editors' Guild	Proof of membership (see criterion #1 above)	20
<b>4</b>	Sample of potential content	Produce sample content explaining the role and importance of the financial statements (no longer than a page).	20

## Phase 2 - Points awarded for price

3.4 The second phase assesses price and B-BBEE. The ASB will use the 80/20 preference points system as outlined below.

3.5 The 80/20 preference point systems

(a) A maximum of 80 points is allocated for price on the following basis:

Where

Ps = Points scored for price of quotation under consideration

Pt = Price of quotation under consideration

Pmin = Price of lowest acceptable quotation

(b) A maximum of 20 points may be awarded to a tenderer for the empowerment goals specified for the bid using paragraph 3.6.

(c) The points scored for the empowerment goal will be added to the points scored for price and the total will be rounded off to the nearest two decimal places.

(d) The contract will be awarded to the tenderer scoring the highest points.

3.6 The ASB's empowerment goals are as follows:

(a) The ASB endeavours to protect or advance persons or categories of persons disadvantaged by unfair discrimination of the past through allocation of contracts as provided for in section 2(1) of the Preferential Procurement Policy Framework Act (PPPFA).

(b) The ASB's goals in this procurement are outlined in the table below:

<b>Empowerment goal Target</b>	<b>Points allocated</b>	<b>Method of verification</b>
Black person/s with at least 51% ownership	10	B-BBEE certificate, or Sworn Affidavit, or Report from Central Supplier Database (which is not older than 24 months).
Black women with at least 30% ownership	5	
Black person/s with disabilities with at least 30% ownership	5	
<b>Total</b>	<b>20</b>	

3.7 A specific total Rand-value for the development of the material should be quoted. Do not provide variable rates. The price for the development of the material should be quoted separately from other costs. Note: The ASB operates in a virtual environment and therefore travel should not be included in the budget. Engagements between the ASB and service provider can be facilitated using MS Teams or equivalent.

3.8 The ASB reserves the right to not make an award on the basis of affordability.

## 4. SUB-CONTRACTING

4.1 A supplier awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract outlined in this Invitation to Bid

- 4.2 If the supplier intends to sub-contract, they must indicate the value of the work in Rands to be sub-contracted in relation to the total quoted amount. The supplier must also indicate the name(s) of the company / contractor and experience in terms of this bid.

## **5. MANDATORY DOCUMENTS TO BE SUBMITTED**

- 5.1 Apart from attending the briefing session (see paragraph 2.9), interested service providers must comply with the conditions outlined in Section 3 of this Invitation to Bid. Failure to meet the requirements and/or provide the necessary supporting evidence, will render the proposal non-responsive and will be disqualified.

- 5.2 Service providers are required to complete and submit appropriately signed Standard Bid Documents (SBDs), failing which their bid response will be disqualified.

- 5.3 A list of documents required:

- SBD 1 – Invitation to bid – and all related documents
- SBD 3.3 – Pricing schedule for professional Services
- SBD 4 – Declaration of interest.
- SBD 6.1 – Preference Points Claim Form In Terms of The Preferential Procurement Regulations 2022
- General Terms of Contract
- CSD Registration number
- Tax Compliance Certificate/Tax PIN.
- Documents supporting verification of goals, including a B-BBEE certificate, or Sworn Affidavit, or Report from Central Supplier Database (which is not older than 24 months).
- The ASB may request additional information if Instruction Notes, Guidelines and other documents related to the implementation of the Preferential Procurement Regulations 2022 (PPR 2022) are published by the National Treasury.

- 5.4 In case of proposal from a joint venture, the following must be submitted together with the proposal:

- Joint venture agreement including split of work signed by both parties.
- The original or certified copy of the B-BBEE certificate of the joint venture.
- The Tax Clearance Certificate of each joint venture member.
- Proof of ownership/shareholder certificates/copies.
- Company registration certificates.

- 5.5 Bids submitted should be valid for 60 days from date of closure of the Invitation to Bid.

## **6. ELIMINATION CRITERIA**

Bidders will be eliminated under the following conditions:

- The required documents as outlined in this Invitation to Bid are not submitted.
- Proposals are submitted late. The ASB must receive the submission by 16:00 on 10 February 2025. Confirmation will be provided by the ASB for bids received on or before the closing date and time.

- Submission to incorrect email address (**Please submit electronically to [shereenp@asb.co.za](mailto:shereenp@asb.co.za); [info@asb.co.za](mailto:info@asb.co.za); [juliannev@asb.co.za](mailto:juliannev@asb.co.za)**)

## **7. CANCELLATION OR NO AWARD**

- 7.1 Bidders will be notified in writing about whether they have been successful or not.
- 7.2 The ASB reserves the right, in terms of the relevant legislation and regulations, to cancel or not award the bid.

## **8. PROTECTION OF PERSONAL INFORMATION**

The Protection of Personal Information Act, 4 of 2013 (POPIA) provides that when one processes another's personal information, such collection, retention, dissemination and use of that person's personal information must be done in a lawful and transparent manner. To evaluate the bids received, the ASB will process bidders personal information. Personal information will not be used for other purposes.

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**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:



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 ancillary 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](http://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



analyzed 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 suppliers 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 fulfillment 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 contracts 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 canceling 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 willful 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.
<b>29. Governing language</b>	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.
<b>30. Applicable law</b>	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	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
	31.2	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.
<b>32. Taxes and duties</b>	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.
<b>33. National Industrial Participation Programme (NIP)</b>	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.
<b>34 Prohibition of Restrictive practices</b>	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.