

STANDARD TERMS AND CONDITIONS: PRIVATE ACCOMMODATION PROVIDERS

1 Definitions

- 1.1 “**Accreditation**” means the approval of a PAP’s application to provide accommodation to NSFAS’s beneficiaries at the PAP’s proposed accommodation or Property. A Property will be accredited by NSFAS if the PAP’s application for accreditation is successful.
- 1.2 “**Assignment**” means the allocation of a student or beneficiary to the PAP’s Property for accommodation during the course of the beneficiary’s studies at an Institution of Higher Learning.
- 1.3 “**Appeal Committee**” is the committee appointed by NSFAS to consider and adjudicate appeals lodged by PAPs to dispute accreditation determinations made by the Evaluation Committee;
- 1.4 “**Beneficiary**” means a student who has entered into a bursary agreement with NSFAS;
- 1.5 “**Grading**” means the allocation of a rank to the PAP’s proposed accommodation for purposes of determining the rental payable by NSFAS to the PAP, on behalf of beneficiaries;
- 1.6 “**Grading Committee**” means the committee appointed by NSFAS for purposes of allocating a rank to the PAP’s proposed accommodation or premises;
- 1.7 “**Internal Review Committee**” means the committee appointed by NSFAS to review the supporting documents provided by PAPs for accreditation, and supporting documents provided by students applying for student accommodation;
- 1.8 “**Institution of Higher Learning**” means a public university, public college, designated public college or designated higher education institution;

- 1.9 “**Minimum Norms and Standards**” means the Policy on the Minimum Norms and Standards for Student Housing at Public Universities, published in terms of the Higher Education Act 101 of 1997;
- 1.10 “**NSFAS**” means the National Student Financial Aid Scheme established in terms of the National Student Financial Aid Scheme Act 56 of 1999 and has the same meaning as “the Scheme”;
- 1.11 “**National Accreditation Panel**” is the NSFAS National Accreditation Panel appointed to accredit accommodation, in accordance with, amongst others, the Policy of the Minimum Norms and Standards for Student Housing at Public Universities, published in terms of the Higher Education Act 101 of 1997;
- 1.12 “**Parties**” means the PAP and NSFAS;
- 1.13 “**PAP**” means the Private Accommodation Provider;
- 1.14 “**Proposed accommodation**” means the premises in respect of which the PAP has lodged an application for accreditation on the Portal and has the same meaning as “Property”;
- 1.15 “**Standard Lease Agreement**” means the auto-generated standard lease agreement to be concluded by the PAP and a beneficiary, in respect of a PAP’s accredited premises for student accommodation; and
- 1.16 “**Student Accommodation Portal**” means the electronic platform established by NSFAS to facilitate the accreditation and grading of proposed accommodation, as well as the assignment of accommodation to eligible students, and the facilitation of queries concerning accredited premises, and has the same meaning as “the Portal”.

2 TERMS AND CONDITIONS FOR PARTICIPATION ON PORTAL

- 2.1 These terms and conditions apply to a PAP’s participation on the Portal.
- 2.2 PAPs must comply with these standard terms and conditions. No variation of these terms and conditions is effective unless recorded in writing by NSFAS.

2.3 PAPS must comply with the accreditation and grading procedures determined by NSFAS.

3 RESPONSIBILITIES OF PAPS

3.1 A PAP must apply for registration on the Student Accommodation Portal.

3.2 Once registered, the PAP must lodge an application for the accreditation of its proposed accommodation.

3.3 The PAP must upload and/or provide the following documents and information in support of the application for accreditation, under oath:

3.3.1 a detailed description of the proposed accommodation, including the address of the Property and the specifications of the units / flats / rooms to be used in housing beneficiaries;

3.3.2 a detailed description of the amenities to be provided to beneficiaries on occupation, including a description of the recreational amenities and services offered by the PAP;

3.3.3 a detailed description of the nature of the security services offered on the Property;

3.3.4 an indication of the number of students that the PAP can accommodate in its premises, and the number of units available for occupation on the Property;

3.3.5 an indication of the Institutions of Higher Learning whose students the PAP seeks to accommodate, including an indication of the proximity, in kilometres, of the proposed accommodation to those Institutions of Higher Learning;

3.3.6 a copy of the PAP's Sexual Harassment Policy and a copy of the PAP's rules for students occupying the proposed accommodation;

3.3.7 details of the availability of transport to Institutions of Higher Learning, including whether the PAP provides transport services to students;

- 3.3.8 whether any incidents of crime were reported to the PAP by residents on the Property in the preceding year, including details of the reported criminal activities;
 - 3.3.9 proof of tax compliance, issued by the South African Revenue Service (“SARS”);
 - 3.3.10 the PAP’s banking details, and the account designated by the PAP for the payment of rentals by NSFAS. The banking details provided must include the following –
 - 3.3.10.1. the name of the nominated bank;
 - 3.3.10.2. the account number;
 - 3.3.10.3. branch code;
 - 3.3.10.4. account type; and
 - 3.3.10.5. the reference to be used by NSFAS in effecting payment for rent.
 - 3.3.11 any other facts and details which are, according to the PAP, relevant for consideration by the Evaluation Committee and the Grading Committee; and
 - 3.3.12 any other documents or information that may be required by NSFAS for the registration of the PAP on the Portal, and for accreditation, evaluation and/or grading.
- 3.4 The PAP’s application will be disqualified if the application does not meet any of the requirements stipulated in clauses 3.3.1 – 3.3.12 above.
- 3.5 The PAP must permit unrestricted access to its premises for purposes of inspection by appointed members of the National Accreditation Panel. The PAP must co-operate with NSFAS to arrange mutually acceptable dates and times for the inspection of the premises offered by the PAP for the accommodation of beneficiaries.

3.6 Notwithstanding the provisions of clause 3.5, NSFAS reserves the right to conduct unannounced inspections to determine the PAP's compliance with these terms and conditions, the Minimum Norms and Standards, or any other statutory obligation or directive with which the PAP is required to comply. The PAP consents to NSFAS's unrestricted access to the accredited premises for unannounced inspections.

4 RESPONSIBILITIES OF NSFAS

NSFAS will:

- 4.1 consider accreditation applications lodged by PAPs on the Portal, and either decline or approve applications for accreditation;
- 4.2 provide reasons for declining any application for accreditation;
- 4.3 accredit and grade the proposed accommodation and issue grading certificates to successful PAPs, which shall include –
 - 4.3.1 the name and company registration number of the PAP;
 - 4.3.2 the address of the PAP;
 - 4.3.3 the grade of the PAP; and
 - 4.3.4 the validity period of the accreditation and grading.

5 ASSESSMENT AND DETERMINATION OF APPLICATIONS FOR ACCREDITATION

- 5.1 NSFAS will consider applications by PAPs for accreditation, and grade successful applicants in accordance with grading criteria developed by NSFAS and the Department of Higher Education and Training.
- 5.2 In considering applications for accreditation –
 - 5.2.1 the Internal Review Committee must conduct an initial review of the documents provided by the PAP in support of its application for accreditation, and report its findings to the Evaluation Committee;

- 5.2.2 NSFAS must appoint members of the National Accreditation Panel to conduct an inspection of the proposed accommodation. The appointed members of the Accreditation Panel must report their findings to the Evaluation Committee;
- 5.2.3 the Evaluation Committee must determine the PAP's application for accreditation. In determining the application for accreditation, the Evaluation Committee must consider, amongst others –
 - 5.2.3.1. the application lodged by the PAP;
 - 5.2.3.2. the reports of the Internal Review Committee and the Accreditation Panel;
 - 5.2.3.3. the Minimum Norms and Standards;
 - 5.2.3.4. the geographical location of the proposed accommodation; and
 - 5.2.3.5. any other policy directives issued by NSFAS for the determination of applications for accreditation.
- 5.3 The Evaluation Committee may, upon considering an application for accreditation –
 - 5.3.1 approve the application, and transmit the application to the Grading Committee;
 - 5.3.2 decline the application, and issue further directives to the PAP for compliance with requirements for accreditation; or
 - 5.3.3 decline the application, with reasons.

6 CONCLUSION OF LEASE AGREEMENTS WITH BENEFICIARIES

- 6.1 The PAP must, following accreditation of the Property and the assignment of a beneficiary to the premises, conclude the Standard Lease Agreement available on the Portal with the beneficiary.

6.2 NSFAS's obligations in terms of clause 11 will only arise after the conclusion of the Standard Lease Agreement between the PAP and the beneficiary.

7 MANDATORY APPEAL PROCEDURE

7.1 The PAP must comply with the internal appeal procedure outlined below, if it is aggrieved any refusal of its application for accreditation.

7.2 An appeal against the determination of the Evaluation Committee must be lodged by the PAP within seven (7) days of receipt of the outcome.

7.3 The PAP must, with reference to the reasons provided, set out the basis on which the determination is appealed.

7.4 If necessary, the Evaluation Committee may deliver a response to the appeal.

7.5 NSFAS must appoint an Appeal Committee to determine the appeal. In determining the appeal, the Appeal Committee must consider the reasons for the refusal of the application, the basis advanced by the PAP on appeal, and any response to the appeal by the Evaluation Committee.

7.6 The Appeal Committee may issue any directives it considers necessary for the determination of the appeal, to the PAP and/or any official or Committee appointed by NSFAS.

7.7 The Appeal Committee must, within a reasonable period, either uphold the appeal, dismiss it, or substitute the decision of the Evaluation Committee. In doing so, the Appeal Committee must provide reasons for its decision.

8 REVOCATION AND/OR SUSPENSION OF ACCREDITATION

8.1 NSFAS may, after notice to the PAP, revoke the accreditation of the PAP if, amongst others, NSFAS determines that the PAP –

8.1.1 supplied fraudulent documentation or information in its application for accreditation;

- 8.1.2 required beneficiaries to pay a deposit, or to make any form of payment to the PAP;
 - 8.1.3 engaged in conduct aimed at defrauding the Scheme;
 - 8.1.4 improperly influenced a decision of the Scheme, or attempted to do so;
 - 8.1.5 colluded with NSFAS officials or beneficiaries;
 - 8.1.6 engaged in illegal or unethical business practices;
 - 8.1.7 allowed a beneficiary to continue occupying the accredited accommodation despite being deregistered from their Institution of Higher Learning;
 - 8.1.8 failed to notify NSFAS of a beneficiary's relocation from the PAP's Property;
 - 8.1.9 failed to notify NSFAS of the deregistration of a beneficiary from an Institution of Higher Learning; or
 - 8.1.10 engaged in any conduct considered by NSFAS to be unconscionable.
- 8.2 NSFAS reserves the right to suspend the accreditation of the PAP, until conditions that may be prescribed by NSFAS are fulfilled by the PAP within a stipulated timeframe.

9 ACCOMMODATION GRADING SYSTEM

- 9.1 The PAP consents to the application of the grading system implemented by NSFAS, and to the determination of the rental payable to it by NSFAS, based on the grading system.
- 9.2 NSFAS will appoint a Grading Committee for purposes of grading the proposed accommodation.

9.3 In grading the proposed accommodation, the Grading Committee must consider –

- 9.3.1 the Minimum Norms and Standards;
- 9.3.2 the geographical location within which the proposed accommodation is situated;
- 9.3.3 the proximity of the proposed accommodation to Institutions of Higher Learning;
- 9.3.4 the availability of transport to Institutions of Higher Learning identified by the PAP for accommodating its students;
- 9.3.5 the nature of the security services employed by the PAP at the proposed accommodation;
- 9.3.6 the extent to which the proposed accommodation promotes a student / life balance; and
- 9.3.7 any other factors that may be considered relevant by the Grading Committee.

9.4 The grading accorded to the proposed accommodation shall remain applicable for a period of twelve months from the date of accreditation.

10 ASSIGNMENT OF STUDENTS

10.1 NSFAS will only assign students to the PAP's Property if the PAP's application for accreditation in respect of that Property is successful.

10.2 The PAP must conclude the auto-generated Standard Lease Agreement with the student assigned to the PAP, for residence at the PAP's accredited premises.

11 RENTAL

11.1 The PAP accepts that the applicable rental is dependent on the grading of the accredited premises.

11.2 The PAP consents to the **direct payment** by NSFAS to the PAP of the applicable rental, on behalf of a beneficiary assigned to the accredited premises.

11.3 NSFAS will make rental payments on behalf of a beneficiary electronically into the PAP's designated bank account.

11.4 The PAP shall have no recourse against any beneficiary for any default in the payment of rental by NSFAS.

12 **WARRANTIES**

The PAP warrants that the documents and information provided, and to be provided during any process undertaken by NSFAS are authentic and are what they purport to be.

13 **PAYMENT FOR PARTICIPATION ON PORTAL AND ACCREDITATION**

The PAP is liable for –

13.1 a once-off fee payable upon the PAP lodging an application for the accreditation of its proposed accommodation, according to the following tariff:

NO.	DESCRIPTION	AMOUNT (PER BED)
1.	1 to 20 beds	R200
2.	21 to 50 beds	R150
3.	51 to 100 beds	R125
4.	More than 100 beds	R100

13.2 a monthly system license fee of five percent (5%) of the PAP's monthly revenue due from NSFAS. The monthly system license fee payable by the PAP will be deducted by NSFAS monthly, from the rental paid by NSFAS to the PAP.

14 CONFIDENTIAL INFORMATION

14.1 The PAP must treat as confidential all data, including data relating to the Scheme's beneficiaries, which the PAP may receive from NSFAS in the course of fulfilling its obligations.

14.2 The PAP may not process data obtained from the Scheme for any purpose, unless such processing is necessary to carry out the PAP's obligations.

14.3 The PAP may not divulge to any other third party in any other circumstances any such information, whether during the currency of its relationship with NSFAS or at any time thereafter, unless the prior written consent of the Scheme has been obtained.

14.4 The PAP undertakes to ensure that its employees or agents keep as confidential, data which becomes known to them by reason of the relationship between the Parties.

14.5 Upon the termination of the PAP's accreditation, the PAP must immediately return to NSFAS all confidential information and property of NSFAS in the PAP's possession.

14.6 The PAP may not use the Scheme's name, logo and trademarks for any advertising or promotional purposes, or in any publication or in connection with the marketing or advertising of products or services without the Scheme's express prior written consent.

15 INDEMNITY

15.1 The PAP indemnifies NSFAS against any expenses which NSFAS may incur in respect of any claim by a third party as a result of any wilful or negligent act by the PAP.

15.2 The PAP further indemnifies the Scheme against any loss of, or damage to, the property of the PAP or any financial loss suffered by the PAP, or for claims arising out of any loss of or damage to property or any financial loss arising out of the acts and/or omissions of the Scheme's employees or representatives.

16 INDEMNITY IN RELATION TO ACTS OF BENEFICIARIES

16.1 Without limiting any other obligation that accrues to it, the PAP must do all that is reasonably practicable to prevent or minimise the risk of injury or harm to beneficiaries of the Scheme by any means.

16.2 The PAP hereby indemnifies the Scheme against:

16.2.1 any loss of, or damage to, the PAP's Property or any financial loss suffered by the PAP, or for claims arising out of any loss of or damage to property or any financial loss arising out of the acts and/or omissions of the Scheme's beneficiaries;

16.2.2 any claim arising from a breach of the lease agreement concluded with beneficiaries;

16.2.3 any liability arising from any breach of laws or regulations by any beneficiary; and

16.2.4 any costs incurred by the PAP in connection with the enforcement of the terms of a lease agreement concluded with a beneficiary.

17 NOTICES

17.1 The PAP chooses as its *domciliium citandi et executandi* the address provided by it on the Portal, for all purposes under these terms and conditions, whether court process, notices or other documents or communications of whatsoever nature.

17.2 NSFAS chooses as its *domciliium citandi et executandi* the following address for all purposes under these terms and conditions, whether court process, notices or other documents or communications of whatsoever nature:

The Halyard
4 Christian Barnard Street
Cape Town City Centre
Cape Town
info@nsfas.org.za

17.3 Any notice or communication given in terms of these terms and conditions is valid and effective only if it is in writing.

17.4 It is acceptable to give notice in writing by email. Notwithstanding any contrary provision, a written notice or communication actually received by a party will be an adequate written notice or communication notwithstanding that it was not sent to or delivered to its chosen *domcillium citandi et executandi*.

17.5 Notice sent by email is deemed to have been received on the date of delivery.

18 COMPLETE TERMS AND CONDITIONS

18.1 The PAP is subject to these terms and conditions. Notwithstanding anything to the contrary in any document issued or sent by the PAP to the Scheme, these terms and conditions apply except as expressly agreed in writing by the Parties. No agent of the Scheme has authority to vary these conditions.

18.2 These terms and conditions are subject to such further conditions as may be agreed upon in writing by the Parties.

19 DISPUTE RESOLUTION

19.1 The Parties undertake to use their best endeavours to settle any dispute regarding the interpretation, implementation or application of these terms and conditions amicably by way of consultation and negotiation.

19.2 This clause also applies to any dispute regarding abatement and/or the application of clause 13 of the Standardised Lease Agreement. Pending the determination of any such dispute, NSFAS will continue to pay the full rent for the premises as if they had not been damaged, and as soon as the matter has been resolved, the PAP must make the appropriate repayment to NSFAS, or NSFAS must make up the arrears in the rent as abated.

19.3 A party may declare a dispute by written notice to the other Party describing the nature of the dispute.

19.4 The Parties' representatives must meet within fourteen (14) days of the dispute notice to resolve the dispute amicably. The Parties' representatives may agree to convene further meetings aimed at resolving the dispute.

- 19.5 If the Parties fail to resolve the dispute within thirty (30) days of the dispute notice, a party may by written notice require that the dispute be referred to arbitration, in which event:
- 19.5.1 the Parties must agree on the arbitrator. If the Parties fail to agree on the arbitrator within ten (10) days of the arbitration notice, a Party may request the Arbitration Foundation of South Africa (“AFSA”) to appoint an arbitrator to resolve the dispute;
 - 19.5.2 the arbitrator must be suitably qualified and experienced, having regard to the nature of the dispute;
 - 19.5.3 the arbitrator must determine the dispute expeditiously, with a minimum of legal formality and on a confidential basis;
 - 19.5.4 the arbitrator’s determination is final and binding on the Parties; and
 - 19.5.5 the costs of the arbitration shall be determined by the arbitrator.
- 19.6 These dispute resolution provisions survive the expiry or termination of the PAP’s accreditation by NSFAS.
- 19.7 The PAP undertakes to not to evict the beneficiary, or to terminate the lease agreement, pending the resolution of the dispute.