



Purchase Order Terms and Conditions

Scope and Application

These Purchase Order Terms and Conditions ("**Terms**") govern all purchases of goods and services made by the First Nations Capital & Infrastructure Agency of Saskatchewan ("**FNCIAS**") using a FNCIAS Purchase Order ("**PO**"). The PO includes all documents expressly attached to or incorporated by reference, and these Terms. In the event of any discrepancies between the PO and related documents, the Terms outlined herein shall take precedence.

FNCIAS may specify exceptions or additional terms within a specific PO, and any such changes shall apply solely to that particular transaction and shall not modify these Terms. In cases where a specific written agreement exists between FNCIAS and the supplier, such as a Master Services Agreement ("**MSA**") or other written agreement, the terms of that agreement shall prevail.

Acceptance of a PO, delivery of goods, or performance of services, constitutes acceptance of these Terms without modification. Any supplier documentation, including but not limited to quotations, proposals, emails, order acknowledgments, packing slips, delivery documents, work orders, or invoices, shall not modify, supplement, or override these Terms, regardless of any language to the contrary contained therein.

These Terms are subject to periodic updates and the current version is available on the FNCIAS website at www.fncias.ca. The version of the Terms in effect at the time a PO is issued shall govern that PO and any related transactions. Updates to the Terms shall not apply retroactively to any PO issued prior to the effective date of the updated Terms.

Compliance with Laws, Ethical Standards, and FNCIAS Policies

The supplier shall adhere to all applicable laws and regulations in fulfilling this PO, including health, safety, and environmental standards. The supplier shall also provide proof of compliance with laws, regulations, health, safety, and environmental standards when requested by FNCIAS.

The supplier agrees to follow ethical business practices and comply with the FNCIAS "**Minimum Requirements for Suppliers**" available on the FNCIAS website at www.fncias.ca or by contacting procurement@fncias.ca. Failure to meet these standards may lead to immediate termination of the PO and disqualification from future procurement opportunities.

The supplier shall promptly notify FNCIAS of any legal or regulatory non-compliance that may affect its ability to fulfill its obligations under this PO.



Price and Payment

The price specified in the PO is fixed and includes all related costs, such as applicable taxes, shipping, and packaging, unless otherwise agreed upon in writing within the PO.

Invoices shall include the PO number and sufficient details to describe the goods and services provided and be submitted to FNCIAS Accounts Payable at ap@fncias.ca. Payment terms are Net thirty (30) days from receipt of goods and services delivery and acceptance by FNCIAS. No interest shall accrue on overdue payments, provided such delays do not exceed 30 days.

FNCIAS shall notify the supplier of any disputed invoice amount, and both parties shall cooperate in good faith to resolve such disputes within ten (10) business days. If the dispute is not resolved within this timeframe, FNCIAS may withhold payment of the disputed amount until resolution.

Delivery and Risk of Loss

Goods and services shall be delivered by the specified date and to the specified location. Risk and title pass to FNCIAS upon delivery and formal acceptance. The supplier shall meet all delivery conditions and notify FNCIAS of any anticipated delays.

FNCIAS reserves the right to inspect all goods and services and reject non-conforming goods and services, requiring replacement or reperformance at the supplier's expense. Rejected goods shall be returned to the supplier at the supplier's cost, and any associated risks and costs shall remain with the supplier. FNCIAS shall notify the supplier of non-conformance within ten (10) business days of inspection or as soon as practicable for latent defects. Inspection and acceptance do not waive any rights under warranties or for latent defects.

Confidentiality and Data Protection

The supplier shall treat all information as confidential and use it solely to fulfill the PO. Disclosure of FNCIAS information to any third party is prohibited without the prior written consent of FNCIAS, except as required by law.

When processing FNCIAS data, the supplier shall comply with all applicable privacy and data protection laws, regulations, and FNCIAS policies regarding the handling of personal and sensitive information. The supplier shall implement and maintain appropriate technical and organizational measures to safeguard FNCIAS data against unauthorized access, disclosure, alteration, loss, or misuse.

The supplier shall adhere to the First Nations principles of ownership, control, access, and possession ("**OCAP**") in handling any First Nations data and operational information provided by FNCIAS. This includes recognizing and respecting First Nations and the



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respective First Nations rights to govern how their data is collected, used, shared, and stored. **OCAP**® is a registered trademark of the First Nations Information Governance Centre (“**FNIGC**”) (<https://fnigc.ca/ocap-training/>).

Upon the completion, expiration, or termination of the PO, the supplier shall securely return all First Nations information to FNCIAS or, if instructed by FNCIAS, securely destroy the data. Data destruction shall be performed using methods that ensure data is irretrievable, and the supplier shall provide FNCIAS with a written certification of destruction upon request.

Non-compliance with these obligations constitutes a material breach, and FNCIAS reserves the right to pursue all available remedies, including termination of the PO, claims for damages, and disqualification from future procurement opportunities.

Intellectual Property

Any Intellectual Property (“**IP**”) created in connection with the PO shall be owned by FNCIAS unless otherwise agreed in writing. Any pre-existing IP used or incorporated into the goods and services remains the property of the supplier, with FNCIAS and its Member Nations granted a perpetual, royalty-free license to use such IP.

The supplier warrants that the goods and services do not infringe third-party IP rights.

Warranties and Quality

The supplier guarantees that all goods and services:

- Are free from defects, suitable for their intended purpose, and meet the specifications stated in the PO.
- Comply with applicable laws, regulations, and industry standards.
- Are performed in line with professional, industry-standard care when services are involved.

FNCIAS may require the supplier to repair or replace defective goods and services or provide a refund if the goods and services do not meet these warranties. If the supplier refuses to repair or replace a defect or the defect is repaired or replaced by other suppliers, any amount incurred by or charged to FNCIAS will be a debt due and owed by the supplier to FNCIAS. FNCIAS reserves the right to seek damages, realized or otherwise, in any defect of goods and services provided by the supplier.

Liability and Indemnity

The supplier shall indemnify, defend, and hold harmless FNCIAS, its Member Nations, its affiliates, and its employees from and against any and all claims, damages, costs,



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expenses, or liabilities (including all reasonable legal fees and costs of defense, whether incurred in litigation, arbitration, mediation, or settlement) arising out of or related to:

- Any injuries or property damage caused by the actions, omissions, or negligence of the supplier or its subcontractors.
- Defects in or non-compliance of the goods and services provided under the PO.
- Any failure by the supplier to fulfill its obligations under the terms of the PO, including warranties.
- Any claims related to IP infringement or alleged infringement arising from the use of goods and services provided by the supplier.
- Any fines, penalties, or costs incurred by FNCIAS due to the supplier's failure to comply with applicable laws, regulations, or FNCIAS policies.

The supplier's liability under a PO shall be limited to the greater of twice the total value of the PO, or CAD \$100,000. However, this limitation of liability shall not apply to claims arising from gross negligence, willful misconduct, breaches of confidentiality, data protection obligations, IP infringement, or violations of applicable laws and regulations. In such cases, the supplier's liability shall be unlimited.

The supplier shall remain fully liable for the acts, omissions, and defaults of any subcontractors or third parties engaged in the fulfillment of the PO as if they were the acts, omissions, or defaults of the supplier itself.

The aggregate liability of FNCIAS under this PO is limited to the lesser of the PO value or CAD \$100,000, covering direct damages only. FNCIAS shall not be liable for any indirect, consequential, special, or punitive damages, including, but not limited to, loss of profits, revenue, business opportunities, or reputational harm.

FNCIAS reserves the right to participate in the defense of any claim, demand, or action, and the supplier shall not settle any claim without prior written consent from FNCIAS, which shall not be unreasonably withheld.

Insurance

FNCIAS requires suppliers to maintain insurance coverage that reflects specific risks. The supplier shall maintain adequate insurance coverage to support its obligations under this PO. Depending on the nature of the goods and services provided, the supplier shall maintain the following insurance coverage as applicable:

- **General Liability and Commercial Liability Insurance:** Coverage of at least CAD \$2 million for damages resulting from general liability.



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- **Cybersecurity Insurance:** Coverage of at least CAD \$2 million for damages arising from data breaches or cybersecurity incidents.
- **Product Liability Insurance:** Coverage of at least CAD \$2 million for damages resulting from defective or unsafe products.
- **Environmental Liability Insurance:** Coverage of at least CAD \$2 million for cleanup costs and damages related to environmental impact.

Prior written consent from FNCIAS is required for any deviations from these insurance requirements. Requests for deviations shall be submitted in writing for approval and shall include equivalent risk-mitigation measures.

FNCIAS may adjust insurance requirements based on the procurement's risk profile, including increasing coverage limits or granting waivers.

FNCIAS reserves the right to request insurance certificates at any time during the PO term, and failure to provide within ten (10) business days of request may result in suspension of the PO until compliance is restored. The supplier shall notify FNCIAS promptly of any changes, cancellations, or lapses in coverage during the duration of the PO.

Failure to maintain the required insurance coverage or provide insurance certificates as requested constitutes a material breach of the PO. FNCIAS reserves the right to terminate the PO immediately in such cases.

Subcontracting and Third-Party Obligations

The supplier shall obtain prior written approval from FNCIAS before subcontracting any part of the goods and services under the PO to a third party.

The supplier remains fully responsible for the performance of its subcontractors and shall ensure they comply with these Terms and any conditions of the PO, including FNCIAS standards and applicable policies.

FNCIAS reserves the right to request audits or reviews of subcontractors to ensure adherence to these standards and/or policies. Any non-compliance by subcontractors shall be considered a breach of the PO by the supplier.

Force Majeure

Neither party shall be held liable for delays or failures in performance caused by events beyond their reasonable control, including but not limited to natural disasters or government actions (“Force Majeure Events”). Both FNCIAS and the supplier shall work collaboratively to mitigate the impact of a Force Majeure Event, prioritizing community welfare and ensuring continuity wherever feasible.



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The affected party shall notify the other in writing within five (5) business days of becoming aware of the Force Majeure Event, providing detailed information about its nature, anticipated impact, and an estimated timeline for resolution.

Termination

FNCIAS may terminate the PO at any time by giving written notice to the supplier. FNCIAS shall only compensate the supplier for goods and services satisfactorily delivered and accepted by FNCIAS up to the termination date, excluding any unapproved costs, penalties, or future commitments.

If FNCIAS consistently fails to meet key payment or cooperation obligations, the supplier may terminate the PO by giving thirty (30) business days written notice to FNCIAS.

Governing Law and Dispute Resolution

In the event of a dispute arising under this PO, the parties shall first attempt to resolve the issue through facilitated discussions led by the FNCIAS Procurement department. If the dispute remains unresolved, the dispute shall proceed to mediation or arbitration in Saskatoon, as determined by FNCIAS.

The supplier shall notify FNCIAS of any dispute within thirty (30) days of becoming aware of the issue. Requests for mediation or arbitration shall be initiated within sixty (60) days of the dispute notification.

FNCIAS may initiate disputes within the applicable statute of limitations unless specific PO timelines apply (e.g., for warranties or performance guarantees).

For latent defects, breaches of confidentiality, data protection issues, and non-compliance with OCAP® principles, FNCIAS reserves the right to initiate disputes at any time within two (2) years of discovering the issue.

Arbitration decisions shall be binding on both parties, unless otherwise mutually agreed. This clause does not limit the right for FNCIAS to seek equitable relief, including injunctive relief or specific performance, where appropriate.