

# PURCHASE ORDER

<b>Purchase Order No:</b> <b>B656438</b>	
<b>Issued To:</b> OpenFabrics, Inc. dba OpenFabrics Alliance Attention: Doug Ledford 1900 Embarcadero Rd STE 109 Palo Alto, CA 94303-3327 United States dledford@redhat.com	<b>LLNS Contract Analyst:</b> Minh-Thao Nguyen Phone: (925) 424-5154 Email: nguyen128@llnl.gov
<b>Address:</b> Lawrence Livermore National Laboratory U.S. National Nuclear Security Administration in care of LLNS, LLC Purchase Order No. B656438 7000 East Avenue Livermore, CA 94550	<b>Payment Terms:</b> Net 30 Days <b>F.O.B. Point:</b> Not Applicable <b>Shipping Point:</b> Not Applicable <b>Shipping Instructions:</b> Not Applicable <b>Transportation Terms:</b> Not Applicable

## INTRODUCTION

This is a Purchase Order between Lawrence Livermore National Security, LLC (hereinafter called LLNS) and the Seller identified above. This Purchase Order is a Subcontract under Prime Contract No. DE-AC52-07NA27344 between LLNS and the United States Government (hereinafter called Government), represented by the Department of Energy National Nuclear Security Administration (hereinafter called DOE/NNSA), for the management and operation of the Lawrence Livermore National Laboratory (hereinafter called LLNL) and the performance of certain research and development work. Pursuant to the DOE's policy objectives and Small Business Administration reporting requirements, the existence of this Purchase Order and certain related information including the general description of the items/services purchased, value, and place of performance and the Seller's name, address and socio-economic attributes will be disclosed to the Small Business Administration and published on [www.data.gov](http://www.data.gov).

### OPENFABRICS, INC. DBA OPENFABRICS ALLIANCE

BY: DocuSigned by:  
*Doug Ledford*  
 Doug Ledford

TITLE: Chair, OFA

DATE: 1/6/2023

### LAWRENCE LIVERMORE NATIONAL SECURITY, LLC

BY: \_\_\_\_\_  
 Minh-Thao Nguyen

TITLE: Contract Analyst  
 LLNL Supply Chain Management Dept.

DATE: \_\_\_\_\_



**ORDERED ITEMS**

ITEM NO.	ITEM, SPECIFICATIONS, CATALOG REFERENCES	QTY	UNIT PRICE	EXTENDED PRICE	PERIOD OF PERFORMANCE
1	OpenFabrics, Inc. Promoter Membership	1 each	\$12,500	\$12,500	Expiring 12/31/2023

**TOTAL FIXED PRICE:**           \$12,500.00          

**ARTICLE 1 - INCORPORATED DOCUMENTS**

The following are hereby incorporated as a part of the Purchase Order and are referenced or attached hereto.

**Documents**

GENERAL PROVISIONS FOR COMMERCIAL PRODUCTS & SERVICES (GPS #600B; 05/27/2022) \*

\* The documents marked with an asterisk, as well as links to Federal and State Tax Forms websites, are available on-line at the following website: <https://supplychain.llnl.gov/> (under Supplier Information, select either General Provisions & Forms, or Special Provisions).

In the event any attachments, specifications, drawings or other documents referenced or incorporated in this Purchase Order reference *Contract Administrator*, all such references shall mean *Contract Analyst*.

**ARTICLE 2 - INVOICES AND PAYMENT****A. Invoices**

The Seller shall reference the Purchase Order number on all invoices and billing period covered, which shall be submitted electronically by E-Mail, upon completion of the work, to Accounts Payable (AP) at: [apinvoice@llnl.gov](mailto:apinvoice@llnl.gov) (pdf attachment required). Note that the invoice system can accept one invoice per E-mail. If submitting multiple invoices at one time, only submit one invoice per E-mail.

Payment status inquiries should be directed to the LLNL Accounts Payable PO Payment Inquiry website at: <https://vipir.llnl.gov/vipir>

Invoice questions should be directed to the Financial Services Help Desk at (925) 424-4444 or [ocfohelp@llnl.gov](mailto:ocfohelp@llnl.gov).

All other correspondence may be mailed to the following address:

Lawrence Livermore National Laboratory  
Attention: Accounts Payable, L-432  
P.O. Box 5001  
Livermore, CA 94551

**B. Sales Tax**

Sales Tax is not applicable to this Order

### C. Federal and State Reporting and Withholding Requirements

LLNS is required to report income and withhold income tax, as may be applicable, on payments for services (e.g., labor, travel, etc.) performed for LLNS. LLNS must, therefore, request certain certifications, exemption / classification status, and other tax related information via tax forms. Depending on your exemption status, income tax withholding may apply.

LLNS requires both a Federal (W-9 or W-8BEN-E) and California State (587 or 590) tax form to be on file prior to issuing the initial invoice under this Purchase Order. (NOTE: California Form 587, if applicable, is required for each and every Purchase Order.) Links to the Federal and State Tax Forms websites are available on-line at the following website: <https://supplychain.llnl.gov/> (under Supplier Information, General Provisions & Forms). Tax forms shall be sent to LLNS Accounts Payable Tax Group, by E-Mail at: AP-tax@llnl.gov; by mail to: P.O. Box 5001, L-435, Livermore, CA 94551; or by Fax to: (925) 422-0310. Please reference B656438 on all correspondence.

For Sellers requesting a waiver (California Form 588) or reduced withholding rate (California Form 589) on payments of California source income, submit form directly to the Franchise Tax Board (FTB). Send a copy of the waiver or reduced rate authorization letter received from the FTB to the LLNS Accounts Payable Tax Group, by E-Mail at: AP-tax@llnl.gov; by mail to: P.O. Box 5001, L-435, Livermore, CA 94551; or by Fax to: (925) 422-0310.

Tax form questions should be directed to the Financial Services Help Desk at (925) 424-4444. Failure to submit required tax forms in a timely manner will result in significant delays in payment of invoices and/or amounts withheld unnecessarily.

### D. Location of Services

All non-Corporations shall specify the location of services (e.g., labor, travel, etc.) by state on each invoice including the invoiced amounts for each (include hours and dollars). If work will only be performed in one state, indicate accordingly. In addition, any Corporations that do not have an office in California or are not registered to do business in California shall also list the location of services on each invoice as previously described. Only Corporations with an office residing in California or are registered to do business in California need not specify the location of services.

## ARTICLE 3 - SAFETY STANDARDS AND TESTING

Materials, supplies, and equipment, or systems furnished by the Seller under this Purchase Order shall meet safety standards recognized in the United States of America. All electrical equipment, components, conductors, and other electrical material shall be of a type that is listed, labeled, or tested by a Nationally Recognized Testing Laboratory (NRTL) in accordance with Title 29, Part 1910, *Occupational Safety and Health Standards (OSHA)*, of the Code of Federal Regulations (29 CFR 1910.7). Seller-provided equipment or systems which are not listed, labeled or tested by a NRTL shall be field evaluated by an OSHA accredited NRTL prior to delivery to LLNL. The documentation consisting of a NRTL Field Report shall reference the applicable Purchase Order number and be delivered electronically to the LLNS Technical Representative identified in the Coordination and Administration clause and the Authority Having Jurisdiction (AHJ) at LLNL. The Seller shall not, without prior written approval from the LLNS Contract Analyst, furnish, use or provide any deliverables, materials, supplies, or equipment that do not meet these

requirements. LLNS may request, and the Seller shall provide, all applicable documentation enabling LLNS to review any waiver of these requirements.

#### **ARTICLE 4 - SITE ACCESS REQUIREMENTS FOR POST-EXPIRATION WARRANTY WORK**

If after expiration or termination of the Purchase Order, site access is required to correct any nonconformances under the Warranty clause of the GENERAL PROVISIONS, the Seller shall adhere to the terms in this Purchase Order and any LLNS access and work control requirements.

#### **ARTICLE 5 - COORDINATION AND ADMINISTRATION**

- A. The LLNS Contract Analyst for this Purchase Order is Minh-Thao Nguyen, or any other designee(s) as may be specified from time to time by the Contract Analyst, including by e-mail notification. All matters relating to the administration, performance and non-technical interpretation of this Purchase Order shall be directed to the LLNS Contract Analyst. The Seller shall direct all notices and requests for approval to the LLNS Contract Analyst. The LLNS Contract Analyst will issue any notices or non-technical approvals to the Seller.
- B. Technical guidance and direction under this Purchase Order shall be provided by the LLNS Technical Representative, Matthew Leininger, or designee, telephone (925) 422-4110, or email leininger4@llnl.gov.

The LLNS Technical Representative is not authorized to commit LLNS to any changes in the ordered items or any specifications, price(s), delivery schedule or terms, method of shipment, or other contractual requirements. The LLNS Technical Representative is not authorized to execute on behalf of LLNS any Subcontractor provided terms, conditions, or representations without consent from the LLNS Contract Analyst. This includes end-use certifications and representations. Changes to the contractual requirements of this Purchase Order shall be effected only by written change order or modification issued by the LLNS Contract Analyst or by a designated alternate.

- C. The Seller shall immediately notify the LLNS Contract Analyst in writing of (1) any third party action, including any proceeding before an administrative agency or regulatory violation (i.e., federal, state, local), filed against the Seller arising out of the performance of this Purchase Order; (2) any third party claim against the Seller, the cost and expense of which may be allowable under the terms of this Purchase Order; (3) any proceedings related to bankruptcy the Seller enters into; and (4) any circumstances whatsoever that the Seller becomes aware of during the performance of the Purchase Order which may jeopardize its fulfillment of the agreed performance of all or any portion of the Purchase Order.
- D. Except as otherwise provided, all notices required under this Purchase Order shall be sent in writing (via facsimile transmission or through regular U.S. mail) addressed as provided in this Purchase Order. Notices sent via electronic mail or text shall be effective only if the party that sent the notice can demonstrate that the notice was actually received by the intended recipient, who had authority to receive such notices on behalf of the receiving party.

## **ARTICLE 6 - EXEMPTION FROM APPLICATION OF SERVICE CONTRACT LABOR STANDARDS – MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT**

- A. By acceptance of this Purchase Order, the Seller hereby certifies:
1. The items of equipment to be serviced under this Purchase Order are used regularly for other than Government purposes, and are sold or traded by the Seller in substantial quantities to the general public in the course of normal business operations; and
  2. The services will be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.
    - An *established catalog price* is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Seller, is either published or otherwise available for inspection by customers, and states prices at which sales currently or were last made to a significant number of buyers constituting the general public.
    - An *established market price* is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Seller.
- B. The compensation (wage and fringe benefits) plan for all service employees performing work under this Purchase Order shall be the same as that used for these employees and for equivalent employees servicing the same equipment of commercial customers.
- C. The Seller is responsible for compliance with all the conditions of this exemption by its subcontractors. The Seller shall determine the applicability of this exemption to any lower-tier subcontract on or before subcontract award. In making a judgment that the exemption applies, the Seller shall consider all factors and make an affirmative determination that all of the conditions in Paragraphs A. and B. herein will be met.
- D. If the U.S. Department of Labor determines that any conditions for exemption in Paragraphs A. and B. herein have not been met, the exemption shall be deemed inapplicable, and this Purchase shall become subject to Service Contract Labor Standards. In such case, the procedures at 29 CFR 4.123(e)(1)(iv) and 29 CFR 4.5(c) apply.
- E. The Seller shall include the substance of this article, including this Paragraph E., in lower-tier subcontracts for exempt services under this Purchase Order.

## **ARTICLE 7 - E-VERIFY PROGRAM ENROLLMENT VERIFICATION**

Within 30 calendar days after award, the Seller shall demonstrate that it has enrolled as a *Federal Contractor* in the E-Verify System by providing the LLNS Contract Analyst a copy of the Seller's 'Company Information' page printed directly from the E-Verify System.

## **ARTICLE 8 - APPROVAL OF TECHNICAL DATA**

If this Purchase Order requires the Seller to furnish any drawings, specifications, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance or test data, or other technical data (hereinafter called data) for LLNS' approval, LLNS' approval of the data shall not relieve the Seller from responsibility for any errors or omissions in such data or from responsibility for complying with the requirements of this Purchase Order, except as specified below. Any work done prior to such approval shall be at the Seller's risk.

If the data includes any variation from the Purchase Order requirements, the Seller shall describe such variation in writing at the time of submission of the data to LLNS, for LLNS review and approval. If LLNS approves any such variation, the variation will be incorporated into the Purchase Order by a bilateral Modification to this Purchase Order.

Unless otherwise specified, LLNS requires a period of 10 working days, from date of receipt, to review and approve the data. If LLNS does not approve the data within the allotted time period, the parties will establish a new time period for review and approval of the data and, if necessary, the delivery schedule or completion date will be equitably adjusted.

All submittals shall be sent to the following e-mail address to the maximum extent practical:  
nguyen128@llnl.gov

All submittals that cannot be sent electronically shall be sent to the following address:

Lawrence Livermore National Laboratory  
Attention: Minh-Thao Nguyen, Mail Code L-650  
7000 East Avenue / P.O. Box 5012  
Livermore, CA 94550 / 94551

## **ARTICLE 9 - DEBARMENT ELIGIBILITY CERTIFICATION**

By acceptance of this Purchase Order, the Seller certifies, to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts (including subcontracts) by any agency of the Federal Government.

## **ARTICLE 10 - NAICS CODE AND SMALL BUSINESS SIZE STANDARD**

The North American Industry Classification System (NAICS Code) for this Purchase Order is 513210, Software Publishers. The corresponding small business size standard for this Agreement is \$41,500,000.00 or less. Annual receipts are to be based on the average annual gross revenue for the past three fiscal years.

The Seller shall base its Small Business Program Representations on the applicable small business size standard when certifying its representations and certifications data for this Purchase Order. Refer to Subpart 19.1 - *Size Standards* of the Federal Acquisition Regulation (FAR) for information on calculating annual average gross revenue.

## **ARTICLE 11 - TERMS AND CONDITIONS**

Any terms stated in Seller's bid/offer/proposal or acknowledgment shall not be a part of this Purchase Order.

## **ARTICLE 12 - ENTIRE AGREEMENT**

This Purchase Order consists of the Purchase Order document, the General Provisions, and any other incorporated documents, which is the entire agreement between the parties concerning the subject matter hereof and supersedes all prior proposals, representations, negotiations, or agreements, whether written or oral.

## **ARTICLE 13 - ORDER OF PRECEDENCE**

The parties shall resolve any inconsistencies in the terms and conditions comprising the Purchase Order by giving precedence in the following order: (a) the Purchase Order document; (b) the General Provisions; (c) any incorporated documents and attachments related to safety and security; (d) any referenced specification or statement of work; and (e) other referenced documents, exhibits, and attachments.

## **ARTICLE 14 - GENERAL PROVISIONS**

- A. The clauses listed in the incorporated GENERAL PROVISIONS shall be applicable to this Purchase Order based on the value of the Purchase Order, the status of the Seller, and the nature and location of the work as indicated in the GENERAL PROVISIONS.
- B. This Purchase Order shall not involve access to classified information and/or special nuclear material, or unescorted access to *Limited* security areas. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall not apply.
- C. This Purchase Order is not for the conduct of research, development, or demonstration (RD&D) work, or design work involving non-standard types of construction. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall not apply.

(END OF SCHEDULE OF ARTICLES)