



Department of General Services
 Procurement Division
 707 Third Street, 2nd Floor
 West Sacramento, CA 95605-2811

State of California
CONTRACT USER INSTRUCTIONS
STATEWIDE MANDATORY

Supplement 2
(Incorporates Supplements 1-2)

ISSUE AND EFFECTIVE DATE: 10/17/2019	
CONTRACT NUMBER:	1-19-70-19D-2
DESCRIPTION:	ENTERPRISE TECHNOLOGY (Data Center Equipment) DELL/EMC (OEM)
CONTRACTOR(S):	Kovarus, Inc.
CONTRACT TERM:	April 1, 2019 through March 31, 2022
STATE CONTRACT ADMINISTRATOR:	Sarah Samaan (916) 375-4432 Sarah.Samaan@dgs.ca.gov

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions:

- <http://www.documents.dgs.ca.gov/dgs/fmc/gsp/gspd401IT.pdf>
- <http://www.documents.dgs.ca.gov/dgs/fmc/gsp/gspd401it.pdf> (GSPD-401IT, rev 09/05/2014)
- Cal eProcure link: www.caleprocure.ca.gov

ORDER PLACEMENT INFORMATION		
U.S. Mail	Fax/Email	Contact Information
Kovarus, Inc. 1303 J Street, Suite 410 Sacramento, CA 95814	Fax: (800) 783-8997 Email: sledcontracts@kovarus.com	Kovarus, Inc. Monica Varela Phone: (650) 231-4240 x1041 Email: mwarela@kovarus.com
Contractor Website: http://www.kovarus.com/StateofCA OEM MSRP: Dell: http://ftpbox.us.dell.com/slq/weekly/dellpricereport.pdf EMC: https://www.emc.com/slq/monthly/EMCpricereport.pdf		

signature on file

Sarah Samaan, State Contract Administrator

Date: **October 17, 2019**

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All changes to most recent Supplement are in **bold red italic**.

SUMMARY OF CHANGES		
Supplement No.	Description/Articles	Supplement Date
2	<p><i>Subject contract for Enterprise Technology is hereby modified to reflect the following changes:</i></p> <ul style="list-style-type: none"> ➤ <i>Front Page – Updated link</i> ➤ <i>Article 2 – Update language</i> ➤ <i>Article 6 – Update language</i> ➤ <i>Article 7 – Update OEM and language</i> ➤ <i>Article 8 – Update language</i> ➤ <i>Article 17 – Update language</i> ➤ <i>Article 22 – Article correction</i> ➤ <i>Article 32 – Article correction</i> ➤ <i>Article 33 – Article correction</i> ➤ <i>Article 34 – Article correction</i> ➤ <i>Article 37 – Article correction</i> ➤ <i>Article 47 – Updated Link</i> ➤ <i>Article 48 – Added attachment</i> 	<i>10/17/19</i>
1	<p>Subject contract for Enterprise Technology is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Front page – Link to the IT GSPD updated ➤ Front page – Updated Contract Administrator ➤ Article 2 - Quote time frames added ➤ Article 7 – Update language ➤ Article 8 – Update language ➤ Article 31 – updated Contract Administration 	5/22/2019

All other terms and conditions remain the same.



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1. SCOPE

The State’s contract with Kovarus, Inc. (Contractor) provides Dell/EMC Enterprise Technology at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-19-70-19D-2.

The Contractor shall supply the entire portfolio of products as identified above and will be the primary point of contact for data collection, reporting, and distribution of Dell/EMC Enterprise Technology to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year period or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the Contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

2. CONTRACT USAGE/RULES

A. State Departments

- The use of the Enterprise Technology contracts is mandatory for all State of California departments.
- All quotes **must** be approved by the DGS Contract Administrator. Allow two (2) business days for approval.
- DGS requires the Excel version of the quote for approval, not a pdf. If a Statement of Work (SOW) is required (any quote with Professional services), it must be sent to DGS with the quote before the quote will be approved.
- It is the responsibility of the ordering agencies to review quotes before they are submitted to DGS. Review includes accuracy against the MSRP, correct discounts, correct product, etc. **Instructions are provided on Attachment 2, Quote Review – Instructions and Sample Quote. Non-reviewed quotes will be sent back to the ordering agency if not reviewed per the instructions.**
- Ordering agencies may choose any OEM silo offered, however, it is **highly recommended** that the ordering agencies receive quotes from multiple Contractors within an OEM silo to ensure the best price for the State solution, while still meeting the needs of the ordering agency. Only the Contractor’s quote that the ordering agency chooses is required to be submitted to DGS for review.
- **Contract discounts are the minimum discount the Contractor is required to offer. Contractors may offer a better discount than the contract offers.**
- Contractors have two (2) business days to respond to a quote request. Contact the State Contract Administrator if a Contractor does not respond to your quote request.
- The OEM contract choices are:

B. Arista Networks		Cisco	
1-19-70-19A	Enterprise Networking Solutions, Inc.	1-19-70-19B-1	NWN Corporation
		1-19-70-19B-2	Presidio Networked Solutions Group

Commvault		Dell/EMC	
1-19-70-19C-1	Presidio Networked Solutions Group	1-19-70-19D-1	Technology Integration Group
1-19-70-19C-2	Impex Technologies, Inc.	1-19-70-19D-2	Kovarus, Inc.
1-19-70-19C-3	Insight Public Sector		

Extreme Networks		F5	
1-19-70-19E-1	EYEP Solutions (SB)	1-19-70-19F	CDW-Government LLC

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1-19-70-19E-2	Enterprise Networking Solutions, Inc.	
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Fortinet		HPE	
1-19-70-19G-1	SLED IT Solutions, Inc. (SB)	1-19-70-19H-1	Entisys360
1-19-70-19G-2	EYEP Solutions (SB)	1-19-70-19H-2	NWN Corporation
1-19-70-19G-3	Golden Star Technology	1-19-70-19H-3	CDW-Government LLC

IBM		Juniper	
1-19-70-19I	Direct Support Systems	1-19-70-19J-1	Castro International Consulting (SB/DVBE)
		1-19-70-19J-2	Dynamic Systems
		1-19-70-19J-3	InterVision Systems

Lenovo		Luminex	
1-19-70-19K	Enterprise Networking Solutions, Inc.	1-19-70-19L	Entisys 360

NetApp		Nutanix	
1-19-70-19M	Enterprise Networking Solutions, Inc.	1-19-70-19N-1	Roundstone Solutions (SB)
		1-19-70-19N-2	Presidio Networked Solutions Group
		1-19-70-19N-3	Insight Public Sector

Oracle		Palo Alto Networks	
1-19-70-19O	Dynamic Systems	1-19-70-19P	Enterprise Networking Solutions, Inc.

Pure Storage		Rubrik	
1-19-70-19Q-1	HSB Solutions, Inc.	1-19-70-19R	Enterprise Networking Solutions, Inc.
1-19-70-19Q-2	Dimension Data		
1-19-70-19Q-3	Teranomic		

StorageCraft	
1-19-70-19S	Entisys 360

- All contracts listed in the table above can be viewed at:
<https://www.caleprocure.ca.gov/pages/LPASearch/lpa-search.aspx>

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- State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 3, as applicable.
 - Prior to placing orders against this contract, State departments must have been granted IT purchasing authority by the Department of General Services, Procurement Division (DGS-PD) for the use of this statewide contract. The State department's current purchasing authority number must be entered in the appropriate location on each purchase document. State departments that have not been granted purchasing authority by DGS-PD for the use of the State's statewide contracts ~~may access the Purchasing Authority Application at <https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Obtain-Purchasing-Authority-or>~~ may contact DGS-PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.
 - State departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. State departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.
- C. Local Governmental Agencies
- Local governmental agency use of this contract is optional.
 - Local government agencies are defined in Public Contract Code Chapter 2, Section 10298 (a) (b) and 10299 (b); this includes the California State Universities (CSU) and University of California (UC) systems. K-12 schools and community colleges empowered to expend public funds for the acquisition of products. While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.
 - Local governmental agencies shall have the same rights and privileges as the State departments under the terms of this contract. Any local governmental agencies desiring to participate shall be required to adhere to the same responsibilities as do State departments and have no authority to amend, modify or change any condition of the contract.
 - A billing code is not required for local government agencies.
- D. Unless otherwise specified within this document, the term "ordering agencies" will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each article.

3. DGS ADMINISTRATIVE FEES

A. State Departments

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the Price Book & Directory of Services located at: <https://www.dgs.ca.gov/OFS/Price-Book> (Go to Price Book and click on "Purchasing" under Procurement Division.)

B. Local Governmental Agencies

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS-PD an Incentive Fee of an amount equal to 1 percent of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the local government agency's purchase price, nor invoiced or charged to the local government agency. All prices quoted to local governmental agencies customers shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

4. SB/DVBE OFF-RAMP PROVISION

There is no SB/DVBE off ramp associated with this contract.

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5. EXEMPT PURCHASES

To purchase any Enterprise Technology hardware other than the OEM's listed in Article 2 or any products or services other than that included in other than the contracted OEM's catalogs requires an approved exemption from the State Contract Administrator. Please refer to <https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Request-an-IT-Hardware-Contract-Exemption> for information and the required justification forms regarding the exemption process.

These special exemption purchases must be documented within the individual procurement file and will be acquired under the department-approved IT purchasing authority guidelines stated in the SCM Volume 3. Exemptions are stand-alone and are not a blanket, unless otherwise determined by the State Contract Administrator.

6. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering agencies and/or Contractors shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc.

~~***For Contractor performance issues, ordering agencies must submit a completed Supplier Performance Report via email or facsimile to the State Contract Administrator identified in Article 32 (Contract Administration).***~~ The ordering agency should include all relevant information and/or documentation (i.e. Purchase documents).

7. CONTRACT ITEMS

This contract includes a complete catalog of all Dell/EMC Enterprise Technology. Enterprise Technology includes equipment in a Data Center and equipment that can interface with a Data Center (e.g., servers, storage, converged & hyper-converged systems, on-campus networking, fabric). Hardware is the main focus for this contract. Software, accessories and services will be ancillary and support the hardware. ~~***Software should not be purchased as a stand-alone (with the exception of Software Defined Storage (SDS) and software tied to specific hardware).***~~ ~~***Installation and professional services cannot be purchased as a stand-alone from this contract.***~~

This contract does **not** include the following items:

- 1) Cloud Services including acquisitions structured as managed on-site services
- 2) Storage as a Service, an architecture model by which a provider allows a customer to rent or lease storage space on the provider's hardware infrastructure on a subscription basis.
- 3) Telecommunications hardware and services
- 4) PC Goods
- 5) Wireless phone and internet service
- 6) Managed Print Services
- 7) Printers, Tablets, Cellular Phone Equipment
- 8) Off-campus networking
- 9) Public Works

This contract is percentage-off the OEM List Price (MSRP). The URL to the OEM List Price (MSRP) is listed on the cover of these User Instructions. Discounts for each type of technology can be found on Attachment 1, Contract Discounts.

Ordering Agencies can purchase anything ***for a data center that is not included*** within the ***non-contract*** items listed above (***items 1 through 9***) but all items must be in the MSRP to be approved. ***Line items Actual prices*** not in the MSRP must be justifiable with either attachments or additional tabs explaining where the price is calculated from. ***All calculations must be shown.***

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8. INSTALLATION, PROFESSIONAL SERVICES, WARRANTY/SUPPORT AND PRE-WORK CONSULTATION

These items are available for purchase from this contract with the purchase of hardware.

Any Professional Services/Pre-Work Consultation must have a SOW accompany the quote when submitted.

Warranty/Support can be purchased as a stand-alone. All other services must support a hardware **or software** purchase.

Note: Training is considered a Professional Service; however, if the quote has only training for the professional services sub-category, then a SOW is not required.

9. SPECIFICATIONS

There are no specifications for this contract.

10. CUSTOMER SERVICE

The Contractor shall have a customer service unit that supports this contract. The customer service unit shall provide office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 5:00 p.m., PT.

The customer service unit shall be staffed with individuals that:

- Are trained in the requirements of this contract
- Have the authority to take administrative action to correct problems that may occur
- Are designated for training and general customer service follow-up

Contact	Phone	Email
Monica Varela	Work: (650) 231-4240 x1041 Mobile: (714) 791-1775	mvarela@kovarus.com

11. CONTRACT WEBSITE CONTENTS

A contract website specific to this Statewide contract for Dell/EMC Enterprise Technology is available and contains the following data elements at a minimum:

- Contract-specific discounts
- Warranty information
- SB/DVBE participation information
- Quote generation/instructions on how to receive a quote
- Contractor's customer service contact information
- Publically-available OEM price list URL's (current and archives)

The URL is listed on the front cover of this User Instructions.

12. OFFER FORMAT

The Contractor shall provide an offer to ordering agencies in an MS Excel spreadsheet format. Purchases from this contract may not take place without the written authorization of the State's Contract Administrator. The authorization process requires submission of the Contractor's offer format spreadsheet which must include the following data elements:

- Contractor letterhead
- Offer/Quote "prepared by" name and contact information
- Offer/Quote number
- Date of Offer/Quote
- Expiration of Offer/Quote (no less than 60 days)

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- Ordering agency name
- Ordering agency contact person
- Contract number
- Contract expiration date
- Link to OEM Price List (MSRP)
- Group/Category Sub-headers
- Segment ID
- Service Proprietary/Not Proprietary
- Quantity
- Description of Item
- Manufacturer's Part Number/SKU
- OEM Price List (MSRP)/Index Price
- Contract Discount and Unit Price
- Extended Price (Quantity x Contract Price)
- Energy Star® certification (if applicable)

13. PRODUCT SUBSTITUTIONS/DISCONTINUED ITEMS

Product substitution shall be in accordance with the General Provisions, Article 15 entitled "Substitutions". Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products without approval from the State Contract Administrator and/or the ordering agency.

14. PROMOTIONAL PRICING

During special pricing promotions, the Contractor shall offer ordering agencies the promotional pricing.

The Contractor shall notify the State Contract Administrator of all promotional pricing changes. Notification shall include at a minimum:

- Promotion start and end dates.
- Models, products, and services included in the promotion.
- Promotional pricing.

Promotional pricing shall not be cause for a permanent change in pricing. Promotional pricing shall not be cause for Contractor refresh.

Promotional items shall come with all benefits of the statewide contract terms and conditions and shall include all provisions such as warranty and delivery.

15. STATE AGENCY INFORMATION TECHNOLOGY CERTIFICATION REQUIREMENT

This requirement does not apply to local government agencies.

For State departments, a signed certification of compliance with state information technology (IT) policies is required for all IT acquisitions of hardware, software, and services that cost \$5,000 or more. The policy and required format is provided in SAM Section 4819.41.

16. PURCHASE EXECUTION

A. State Departments

1) Std. 65 Purchase Documents

State departments not transacting in FISCAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site: <https://www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx> (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name

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- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Discount Percentage off MSRP
- Extension Price

- 2) FISCAL Purchase Documents
 State departments transacting in FISCAL will follow the FISCAL procurement and contracting procedures.
- 3) Blanket Orders
 The use of blanket orders against this statewide contract is not allowed.

A. Local Governmental Agencies
 Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number and Billing Code which are used by State departments only).

17. MINIMUM ORDER

There is no minimum order for the resulting contract. ~~With the exception of warranty/support, software and Services (professional services, installation, training, pre-work consultation) should shall~~ not be stand-alone purchases ~~on from~~ this contract.

18. ORDERING PROCEDURE

A. Ordering Methods:

Ordering agencies are to submit appropriate purchase documents directly to the Contractor via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The Contractor's Order Placement Information is as follows:

ORDER PLACEMENT INFORMATION		
U.S. Mail	Facsimile	Email
Kovarus, Inc. 1303 J Street, Suite 410 Sacramento CA 95814	(800) 783-8997	sledcontract@kovarus.com

Note: When using any of the ordering methods specified above, all State departments must conform to proper State procedures.

19. ORDER ACCEPTANCE

The Contractor shall accept orders from any ordering agency. The Contractor shall not accept purchase documents for this contract that:

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- Are incomplete;
- Are submitted without the State Contract Administrator approval
- Contain non-contract items; or
- Contain non-contract terms and conditions.

The Contractor must not refuse to accept orders from any State department or local governmental agency for any other reason without written authorization from the State Contract Administrator.

20. ORDER RECEIPT CONFIRMATION

The Contractor will provide ordering agencies with an order receipt confirmation, via e-mail or facsimile, within forty-eight (48) hours of receipt of purchase document. The Order Receipt Confirmation shall include the following information:

- Ordering agency name
- Agency order number (purchase order number)
- Contractor's order number
- Description of goods
- Total cost
- Anticipated delivery date
- Identification of any out of stock/discontinued items

21. OUT OF STOCK REMEDY

Upon receipt of order acknowledgment identifying out of stock items, the ordering agencies shall have the following options:

- Request back order; or
- Cancel the item from the order with no penalty.

The contractor will provide notification to the ordering agencies regarding out-of-stock items which have been back ordered.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products.

22. DISCONTINUED ITEM REMEDY

Upon receipt of an order acknowledgment identifying discontinued items, the ordering agencies shall have the following options:

- Amend purchase document to reflect State-approved substitute item (per Article **13-12**, Product Substitutions/Discontinued Items)
- Cancel the item from the order.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products without approval from the State Contract Administrator.

23. DELIVERY SCHEDULES

Delivery for orders placed against this contract shall be in accordance with the following:

A. Locations

Deliveries are to be made (statewide) to the location specified on the individual purchase order, which may include, but not limited to inside buildings, high-rise office buildings, and receiving docks.

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B. Schedule

Delivery of ordered product shall be completed in full within thirty (30) calendar days after receipt of an order (ARO) unless otherwise agreed to in writing by the ordering agency. Since receiving hours for each ordering agency will vary by facility, it will be the Contractor's responsibility to check with each ordering agency to inquire regarding their specific delivery hours and drop locations before the delivery occurs.

The Contractor must notify the ordering agency within twelve (12) hours of scheduled delivery time (as soon as the Contractor has been made aware; no longer than four (4) hours before delivery) if delivery cannot be made within the time frame specified on the order.

The contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino Metropolitan Area, and San Diego Metropolitan Area during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM.

C. Security Requirements

Deliveries may be made to locations inside secure institutional grounds (such as the California State Prisons) that require prior clearances to be made for delivery drivers. Since security clearance procedures for each facility may vary, it will be the Contractor's responsibility for contacting the secure location for security clearance procedures, hours of operation for deliveries and service, dress code, and other rules of delivery.

24. EMERGENCY/EXPEDITED ORDERS

Emergency/Expedited orders do not apply to this contract.

25. FREE ON BOARD (F.O.B.) DESTINATION

All prices are F.O.B. destination; freight prepaid by the Contractor, to the ordering agency's receiving point. Responsibility and liability for loss or damage for all orders will remain with the Contractor until final inspection and acceptance, when all responsibility will pass to the ordering agency, except the responsibility for latent defects, fraud, and the warranty obligations.

Special Delivery charges may occur. These charges must be described in detail by the Contractor (either in the purchase order or in the SOW) and MUST BE pre-approved by the State Contract Administrator.

26. PALLETS

Unless otherwise specified on the ordering agency's purchase order document, standard commercially available pallet sizes should be used. All pallets shall be of sturdy construction and adequate condition to assure delivery of the goods without damage to the goods or safety hazards.

Exchange pallets may be available; however, the State assumes no responsibility for the availability to exchange pallets. Delivery drivers shall not remove more pallets from the location than delivering at time of delivery.

27. SHIPPED ORDERS

All shipments shall be in accordance with the General Provisions, Article 12 entitled "Packing and Shipment".

28. PACKING SLIP

Packing slip requirements shall be in accordance with the General Provisions, Article 12 entitled "Packing and Shipment".

Any back-ordered or out of stock items shall be identified on the packing slip as well as the availability date of unfilled and partial shipment.

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A packing label shall also be included with each order shipped and include the following items, visible on the outside of the box:

- Ordering agency name
- Delivery address, unit, and/or floor
- Ordering agency contact information

29. PACKING LABEL

A packing label will also be included with each order shipped and include the following items, visible on the outside of the box:

- Authorized Purchaser
- Address
- Department and floor
- Authorized Purchaser Contact Name
- Authorized Purchaser Telephone Number

30. INSPECTION AND ACCEPTANCE

Inspection and acceptance shall be in accordance with the General Provisions, Article 16 entitled Inspection, Acceptance and Rejection.

31. CONTRACT ADMINISTRATION

Both the State and the Contractor have assigned Contract Administrators as the single points of contact for problem resolution and related contract issues.

Administrator Information	DGS-PD (State Contract Administrator)	Kovarus, Inc. (Contractor)
Contact Name:	Sarah Samaan	Scott Wiele, Director, Public Sector
Telephone:	(916) 375-4432	(916) 262-7450
Mobile:	XXXXXXXXXXXXXXXXXXXXXXX	(415) 828-8574
Facsimile:	(916) 375-4613	N/A
Email:	Sarah.Samaan@dgs.ca.gov	sledcontracts@kovarus.com
Address:	DGS/Procurement Division Attn: Sarah Samaan 707 Third Street, 2 nd Floor, MS 201 West Sacramento, CA 95605	Kovarus, Inc. Attn: Scott Wiele 1303 J Street, Suite 410 Sacramento CA 95814

32. RETURN POLICY

The contractor will accept all products for return if returned prior to acceptance by the ordering agency in accordance with Article ~~30~~ ~~31~~, Inspection and Acceptance. The contractor shall offer a credit or refund in accordance with Article ~~33~~ ~~34~~, Credit Policy. The contractor may impose a restocking fee in accordance with Article ~~34~~ ~~35~~, Restocking Fees.

Note: Products returned should be in the packaging as delivered and include all documentation. Lost or damaged packaging materials and/or documentation shall be supplied by the Contractor. The Contractor shall not charge for these materials in excess of the Contractor’s cost or the 15 percent restocking fee, whichever is lower. The Contractor shall provide the State Contract Administrator and/or ordering agency a copy of the Contractor’s material cost, if requested, within ten (10) days of request.

All returns shall be picked up within seven (7) working days of notification. Notification is defined as notice in writing, by facsimile or e-mail. Shipping or freight costs for returned items that were shipped in error, defective or freight-damaged shall be paid by the Contractor.

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Exceptions to the return policy's date of acceptance can be negotiated for an individual SOW with the approval of the ordering agency, Contractor and the State Contract Administrator.

33. CREDIT POLICY

The Contractor shall offer a credit/refund for the following items:

- Items shipped in error
- Defective or freight-damaged items
- Unopened product (within thirty (30) days of delivery)

All other items returned in accordance with Article **32 33**, Return Policy, shall receive credit or refund, less any applicable restocking fees in accordance with Article 34, Restocking Fees. In all cases, the ordering agency shall have the option of taking an exchange, receiving a credit, or receiving a refund.

The Contractor will be responsible for the credit/refund or replacement of all products, including those covered by manufacturer warranties in accordance with **Section 3.6.1 Article 39**, Warranty. Contractor cannot require the ordering agency to deal directly with the manufacturer.

34. RESTOCKING FEES

The Contractor will not impose a restocking fee on the ordering agency for the following situations:

- Items returned that were damaged upon receipt
- Incorrect items shipped
- Unopened items that are returned within thirty (30) calendar days of delivery
- Items that are returned, but exchanged for other items within thirty (30) calendar days.

Re-stocking fees for all other reasons shall be no greater than 15 percent of the value of the items to be restocked.

The packaging and documentation provisions in accordance with Article **32 33**, Return Policy, shall apply to re-stocked items.

The Contractor will not be required to accept returns more than sixty (60) days after delivery. The ordering agency will be responsible for return transportation costs to the Contractor if so accepted sixty (60) days after delivery.

Note: "Item" refers to any product from this contract. No exceptions.

35. INVOICING

Ordering agencies may require separate invoicing, as specified by each ordering agency. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged procurement number (contract number)
- Agency order number (purchase order number)
- Item and commodity code number
- Quantity purchased
- OEM list price (MSRP)
- Percentage discount
- Contract price and extension
- State sales and/or use tax
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

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36. PAYMENT

A. Terms

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

B. CAL-Card Use

State departments may use the CAL-Card for the payment of invoices. Use of the CAL-Card requires the execution of Purchasing Authority Purchase Order (Std. 65) in accordance with Article **16 45** (Purchase Execution) and must include all required documentation applicable to the purchase.

The CAL-Card is a payment mechanism, not a procurement approach and, therefore, does not relieve State departments from adhering to all procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manual (SCM) Volume 3. This includes but is not limited to the application of all sales and use tax laws, rules and policies as applicable to the purchase.

C. State Financial Marketplace

State departments reserve the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS \$Mart and/or Lease \$Mart). If payment is via the financial marketplace, the Contractor will invoice the State department and the State department will approve the invoice and the selected Lender/Lessor for all product listed on the State's procurement document will pay the Contractor on behalf of the State.

D. Payee Data Record

Each State department's accounting office must have a copy of the Contractor's Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting offices. Without the Std. 204, payment may be unnecessarily delayed.

State departments should email the State Contract Administrator to request of copy of the Payee Data Record. Please identify the Contractor and the Contract number.

37. CAL-CARD INVOICING

All CAL-Card invoices are to be processed separately from other payment methods and include the elements identified in Article **35 36**, Invoicing. CAL-Card invoices shall be submitted to the CAL-Card account holder. The total invoice amount for each CAL-Card order must reflect a zero balance due or credit, if applicable, and state "paid by CAL-Card".

For additional information regarding DGS-PD's CAL-Card program, see the following website:
<https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Enroll-in-CAL-Card-Program-for-Government-Entities>

38. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the Contractor is listed below. Ordering agencies can verify that permits are currently valid at the following website: www.cdtfa.ca.gov

State departments must adhere to the file documentation identified in the State Contracting Manual Volume 3, as applicable.

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Contractor Name	Seller Permit #
Kovarus, Inc.	100-427261

39. WARRANTY

The Contractor must honor all standard manufacturers' warranties and guarantees from the date of acceptance on all products offered as part of this contract (excluding 3rd party software). The Contractor shall bear all material and labor costs and freight for repair of equipment defects and failure.

During the manufacturers' warranty period, the Contractor must:

- Honor all manufacturers' warranties and guarantees on all products offered through the contract.
- Continue to provide warranty service after contract termination until expiration of warranties for products that have been sold under the contract.
- Provide all labor, parts, and travel necessary to keep the products in good operating condition and preserve its operating efficiency in accordance with its technical specifications.
- Pay any necessary shipment and insurance costs.

The warranty services listed shall include all products, software and firmware maintenance costs and costs of labor, parts, travel, factory overhaul, rehabilitation, shipping, transportation and substitute products (if offered) as necessary. If it is necessary to remove any products from an ordering agency's location where on-site warranty is specified, the Contractor will provide substitute products (if offered) at the time of removal. Substitute products (if offered) will be comparable to or better than the products removed. In instances where it is necessary for the Contractor to return the products to the factory, the Contractor will be responsible for all costs of the products from the time it leaves the ordering agency's site until it is returned to the site in good operating condition.

Only new standard parts or parts equal in performance to new parts will be used in effecting repairs. Parts that have been replaced will become the property of the Contractor except in instances where the ordering agency chooses to keep the hard drives. Replacement parts installed will become the property of the ordering agency.

All operating system software and firmware will be considered an integral component of the equipment and the Contractor will respond to all requests for warranty service for any failure.

Warranty services during the warranty period will not include electrical work external to the products, the furnishing of supplies, or adding or removing accessories, attachments, or other devices not provided under this contract. Warranty services also will not include repair of damage resulting from transportation by the ordering agency between State and/or local sites or from accident, unless the accident is caused by negligent or intentional acts or omissions of the Contractor or its agents.

In the event of system failure or damage caused by the Contractor or its product, the Contractor agrees to use its commercially reasonable efforts to assist in restoring the system to operational capacity provided that the Contractor's products are under warranty or a continuous maintenance agreement.

Additional warranties and support will be offered for purchase from the OEM's catalog.

The warranty/support agreements shall include warranty/support service after contract expiration until the expiration of the warranty/support agreement.

Software/Firmware: At no additional cost, the Contractor must provide the State with software/firmware updates for the length of the support agreement purchased.

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40. QUALITY ASSURANCE GUARANTEES

The Contractor shall represent and warrant that products provided shall be free from defects in material and workmanship, given normal use and care, over the period of the warranty. The terms of the contract will supersede any language to the contrary on purchase orders, invoices, or other sources.

41. EQUIPMENT REPLACEMENT DURING WARRANTY

If the product provided fails to perform in accordance with technical specifications and functional descriptions contained or referenced in the contract agreement and is subject to warranty response three (3) or more times during any ninety (90) day period, the Contractor will upon the ordering agency's request, replace the product at no price. The replacement product will be delivered no later than fifteen (15) working days after the ordering agency's request is received by the Contractor. Replacement goods cannot be used, refurbished or recycled, and must be of equal or greater value.

42. PRINCIPAL PERIOD OF MAINTENANCE

The Contractor must provide warranty in accordance with the following Principal Period of Maintenance (PPM) times after notification from an ordering agency of a problem with any of the goods included in this contract.

- Metropolitan Areas shall be 8x5x8 Next Business Day onsite – Eight (8) hours, typically 8:00 am to 5:00 pm, Pacific Time, five (5) days a week, Monday through Friday, eight (8) hour NBD onsite response time in metropolitan areas, excluding State holidays.
- Non-Metropolitan Areas shall be 8x5x2 (two (2) hour call back response time, excluding State holidays.) Remediation shall be underway within forty-eight (48) hours.

Metropolitan Areas:

Counties

San Diego	Orange	Riverside	Los Angeles	San Francisco	Alameda
Sacramento	Santa Clara	San Bernardino	Yolo	Solano	Contra Costa
San Mateo					

Cities

Redding	Stockton	Bakersfield	Ventura	Tracy	San Quentin
Santa Rosa	Santa Barbara	Frontera	Fresno		

At the discretion and mutual agreement of ordering agencies and the Contractor, the PPM service availability may be changed for a site by attaching an amendment to their purchase order that states the alternative hours of maintenance at that site. All equipment at a single ordering agency site shall have a common PPM service availability. If the ordering agency requests unscheduled on-call PPM be performed at a time which is outside the PPM service availability, the service will be furnished at the applicable per call rates and terms then in effect. Travel time and expenses are not billable in connection with such maintenance.

PPM after manufacturers' warranty will be based on the warranty/support offered/purchased by the ordering agency.

43. RECYCLED CONTENT

State departments are required to report purchases in many product categories. While this contract does not contain any reportable products at this time, State departments may request the Contractor to validate that their purchase does not contain any recycled content.

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44. SMALL BUSINESS/DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION

The small business (SB) and disabled veteran business enterprise (DVBE) certifications and percentages for the Contractor and subcontractor(s) are listed below. State departments can verify that the certifications are currently valid at the following website: <https://www.caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>

Name	Prime or Subcontractor	OSDS Certification #	SB Percent (%)	DVBE Percent (%)
Castro International Consulting, Inc.	Subcontractor	1744407	Determined per order – read below	

State departments must identify subcontractors on individual purchase documents whenever subcontractors are used.

Individual orders may have no applicable participation or may have participation greater than that of the total contract commitment. Ordering agencies must verify the participation amount with the Contractor. The exact participation percentage levels for each purchase order will be determined on an order-by-order basis in cooperation with the Contractor prior to submittal of a Purchasing Authority Purchase Order (STD 65).

Any irregularities or concerns regarding prime or SB/DVBE subcontractor responsibilities are to be immediately documented and reported to the State Contract Administrator for further investigation. Information provided to the State Contract Administrator includes, but is not limited to:

- Copy of executed purchase document
- Value-added service description
- Work performance issue or concern
- State department contact name, email, and phone number

State departments should keep track of their SB/DVBE participation levels on orders. However, State departments may request a monthly report from the Contractor which will provide the SB/DVBE participation levels on purchase orders.

45. BIDDER DECLARATION/COMMERCIALLY USEFUL FUNCTION (CUF)

The DGS-PD, as the awarding department, has assessed the prime Contractor and subcontractor certifications and CUF during the solicitation evaluation process. Consequently, when executing purchase documents pursuant to this contract, it is not necessary for State departments operating under statewide contract purchasing authority to request the completion of a Bidder Declaration document or perform additional CUF analysis. The State department should make a notation of this within their procurement file.

46. TRADE-IN

Before any Trade-In can occur, State departments must obtain approval for discarding their IT equipment from the DGS Surplus Property and Reutilization Program. In accordance with the State Administrative Manual (SAM), Chapter 5900, Information Technology-Disposal of IT Equipment, each State department must explore the reutilization of surplus IT equipment prior to requesting approval for recycling or attempting to use the equipment as a credit toward the purchase of new equipment.

This contract offers a Trade-In service for *similar* equipment, including other OEM equipment. This Trade-In service is for non-working equipment. It is not mandatory that the ordering agency use the Trade-In service offered. The equipment returned as part of the Trade-In service shall be environmentally responsibly managed. To the greatest extent feasible, the equipment is to be refurbished for resale or recycled.

Trade-In's are available for this contract. Please contact the Kovarus Contract Manager for further details.

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47. ELECTRONIC WASTE RECYCLING

The Contractor will comply with the Electronic Waste Recycling Act of 2003 requiring retailers to collect a recycling fee from consumers on covered electronic devices, starting January 1, 2005. California Public Resources Code Section 42463(f) defines a "covered electronic device" as a video display device containing a screen greater than four inches measured diagonally. The fees must be shown on all purchase orders. See the code identified above for more information and exceptions to this definition or go to

http://www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm#6 <https://www.cdfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm> for a breakdown of the fees.

48. ATTACHMENTS

Attachment 1 – Contract Discounts

Attachment 2 – Quote Review – Instructions and Sample Quote