



Converged Voice, Data and Video
"Linking You To the World"



www.avatel.us

Avatel Technologies, Inc.
220 S. Hilltop Rd, Brandon, FL 33511
For Service: 866-835-2661 Prompt 4
Customer: SAN BENITO, COUNTY OF

AVAYA

Partner in Customer Excellence

Quotation/Purchase Agreement 113742

Date 11/25/2015

Account Executive: Fred Sternberg

Toll-free Phone: 866-835-2661 Ext: 1137

Fax: (813) 699-1683

Ship To: SAN BENITO, COUNTY OF

Site Phone: (831) 636-4060 Fax

Contact: Kellie kkennedy@sbcsheriff.org

Bill To: SAN BENITO, COUNTY OF

Ship Phone: (831) 636-4060

Ship To 710 FLYNN RD

Address:

HOLLISTER CA 95023

710 FLYNN RD

HOLLISTER CA 95023

Bill Phone: (831) 636-4060 OP#

Qty Description

By signing below, Customer hereby orders and agrees to purchase via 3rd party financing or in whole from Avatel Technologies, Inc (AVATEL) products identified on this Quotation Purchase Agreement in accordance with the attached Avatel Terms and Conditions and the attached Avaya Global Software License Terms (when license included) as set forth, which forms an agreement between the parties, however is not binding upon AVATEL until AVATEL's written acceptance of it in the space provided below or by AVATEL performance hereunder. Other than for sales to locations in Florida, Avatel is not responsible for and does not collect any sales or use tax; therefore, you must remit any tax due on this transaction to the appropriate state. If Avatel is later assessed tax by a state other than Florida as a result of your failure to remit the entire tax due, you agree to reimburse Avatel for all tax, interest and penalty assessed with respect to this transaction.

60 Mo Fair Market Value Lease \$244.62/Mo

Please Check listed equipment carefully, as all returned equipment will be subject to 15% restocking fees.

Company: _____

Avatel Technologies, Inc: _____
(Authorized Signature)

Signature: _____
(Authorized Signature)

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

APPROVED AS TO LEGAL FORM
SAN BENITO COUNTY COUNSEL

Matthew Granger 5-12-2016
COUNTY COUNSEL DATE



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	Qty	Description
LUC-700476005	1	AVAYA IPO IP500 V2 CONTROL UNIT w/Voice Mail System
LUC-700479710	1	AVAYA IPO IP500 V2 SYSTEM SD CARD MU-LAW
AVA-700508797	1	IPO/IPO-SL R9.1 USER/ADMIN DVD
LUC-700289770	1	IP Office Power lead (Earthed) US
UPS/Surge	1	UPS/SURGE PROTECTION
AVA-700504556	2	IP500 V2 ATM Combo Card Replaces 700476013
LUC-700430150	1	AVAYA IPO 500 WALL MOUNTING KIT
USB-1200	1	Music on Hold with 1 custom recording
LUC-700415631	2	WALL MOUNT KIT BLACK FOR AVAYA PHONE 1416/1616
LUC-700469968	1	AVAYA BUTTON MOD FOR 1400 SERIES
LUC-700356447	1	AVAYA 1416 BM32 PWR
LUC-405362641	1	AVAYA 1416 BM32 PWR CRD
AVA-700510910	3	AVAYA 1416 Telset, icon only, 4- pack (12 Phones)
AVL-InstallPromo	1	Avaya Installation Promo
		**Please add CA Sales Tax
	1	**Promotional Lease Rates and discounts - Expire 5-31-16

TERMS AND CONDITIONS

CERTIFICATION: Company certifies that it will purchase Products only as a bona fide end user, for its own internal use, and except for used Products, will not resell same, unless otherwise provided in this Agreement.

Thank you for the opportunity to be of service to your business. The outlined above will be performed on "time and materials" basis. Unless the work is on a fixed price basis, the final billings will reflect the actual time spent on the job at our prevailing rates as well as the price for any materials used. There is no minimum or maximum billing for this work. If an estimate is or was given, it shall not be binding on AVATEL Technologies, Inc. It is a good faith estimate of the anticipated (not actual) billing based upon the work that is to be completed as outlined in the attached agreement. We may or may not have visited your site in advance. Additions, changes or deletions to the work will affect the quoted price. The quote assumes some delays, however, or any of the delays listed below may cause the work to take longer and increase the price (even if the work was quoted at a fixed price).

- Customer Delays (Changing Installers Needed Access)
- Delays By Moving Companies
- Delays Caused By Inability to Obtain Electrical Power
- Changes Requested By You, the Customer
- Delays Caused By the TELCO Utility (Service Not Ready)
- Delays Caused By Others (Contractor, Data, etc)
- Furniture (we are prohibited from moving heavy furniture)

We are assuming that a normal installation environment exists unless otherwise stated. Abnormal conditions included, but are not limited to, brick or cement walls that cables must pass through, air plenum ceilings, special ceiling tiles (1x1), no access to equipment rooms when needed, etc.

PREVAILING TERMS AND CONDITIONS: Except in the event of AVATEL Technologies, Inc. financing of the Products hereunder, the terms and conditions of this Agreement, and the terms and conditions contained in any Appendices to this Agreement, together with the entire agreement between the parties. Any terms or conditions contained in any Company purchase order, request for quotations, acceptance or other purchasing documents concerning Products which are inconsistent with, different from or in addition to this terms and conditions of this Agreement are void.

APPROVAL OF ORDERS: This Agreement and all Company purchase orders for Products under this Agreement are subject to acceptance by AVATEL Technologies, Inc. including if appropriate, approval by AVATEL Credit Department. Upon notice by AVATEL, Company will furnish AVATEL such financial information as AVATEL may be responsible for this approval. AVATEL may in its sole discretion, cancel this Agreement at any time or delay shipment of Products if Company fails to meet credit requirements established by AVATEL.

PRODUCTS: Products covered by this Agreement, and the quantities thereof, are only those specifically identified in this Agreement. Customer understands that in some cases additional products may be needed that are either too small to itemize or unknown to AVATEL Technologies, Inc. during the initial quotation and agreement stage based on undisclosed environmental requirements, data requirements, and other Customer needs. Products may be added to this Agreement only by the parties' agreement in writing and will be on the final invoice generated for products and services rendered. AVATEL may make changes to Products that do not adversely affect their form, fit or function without prior approval of or notification to the Company. AVATEL will give Company prior notice if AVATEL makes changes to Products that affect their form, fit or function or discontinues any Products prior to fulfillment hereunder. In such event, AVATEL will use reasonable efforts to find a substitute Product acceptable to Company, in Company's sole discretion, but failing that, then either party may cancel any Company purchase order for Products to the extent not previously fulfilled by giving the other notice, and neither party will be liable to the other for damages resulting from that cancellation.

PRICES AND PAYMENT: Company will pay AVATEL those prices indicated in this Agreement for Products. Unless otherwise provided, AVATEL may change prices for any Products whose estimated delivery dated indicated in this Agreement is more than sixty (60) days after the date hereof, by giving Company prior notice. If because of any price increase Company does not wish to purchase Products previously fulfilled by giving AVATEL notice within (10) days of notice. Unless otherwise provided in this Agreement, Company must pay for Products in full within thirty (30) days of their invoice date. Company may not make deductions or offsets of any kind from payments due to AVATEL unless Company has received a written credit memorandum from AVATEL authorizing that deduction or offset.

TRANSPORTATION COSTS: Unless otherwise provided in this Agreement, the prices for Products indicated in this Agreement exclude all transportation costs, including but not limited to freight, insurance and special handling and packaging. AVATEL will prepay these costs and invoice them to the Company.

TAXES: The prices for Products indicated in this Agreement exclude all taxes, including but not limited to, sales, excise or use taxes. Company shall pay all sales, use, ad valorem, excise and/or any other taxes imposed on either party by virtue of this agreement, except for taxes based on AVATEL's net income. AVATEL will invoice Company for any of these taxes AVATEL is legally obligated to collect from Company.

ADJUSTMENTS: If the price for Products indicated in this Agreement are prices which have been reduced either based: (a) on Company's representation that Company would purchase certain minimum quantities of Products and Company fails to purchase those minimums; or, (b) on Company's representation that Company was purchasing Products for its own use and not for resale but Company resells same, then in addition to any other remedies available to AVATEL under this Agreement or allowed by law for that default, AVATEL may retroactively increase these prices to make them equal to those prevailing for the quantities of Products actually purchased by Company and/or for the appropriate resale class of trade, and AVATEL will invoice company for any resulting increase in prices.

FINANCE CHARGES/COST OF COLLECTION: If company fails to pay AVATEL for Products when due, then in addition to any other remedies available to AVATEL under this Agreement or allowed by law for that default, Company will pay AVATEL an additional monthly financing charge equal to the lesser of: (a) one and one half percent (.5%) or, (b) the maximum monthly interest rate allowed by law of any amounts past due, chargeable during each month that payments remains outstanding and AVATEL's reasonable expenses of collection, including but not limited to attorney's and experts fees and court costs.

DELIVERY, INSTALLATION, TESTING AND ACCEPTANCE: The system will be installed at the "Installation Site" (described above) by AVATEL according to the manufacturer's installation specifications and the standard practices of the telecommunications industry. Company shall allow AVATEL's employees, representatives and sub contractors reasonable access to the necessary premises for installation. Before and during installation, Company is responsible to ensure the timely and adequate delivery, installation and functioning of the electrical and telecommunications connections and other environmental requirements, specified in AVATEL's instructions, including those connections required for Company's choice of local and long distance telecommunications services.

If Company causes a delay in the delivery of the system, Company shall be responsible for storage and other costs incurred by AVATEL and any installments of the Purchase Price due after the delay shall be due and payable on the date specified in the Project schedule Annex. Additional charges may apply if AVATEL must perform extra services or bear additional cost (such as overtime wages) because of an unprepared Installation Site, or due to company's acts or omissions or conditions at the Installation Site that AVATEL was not aware when it signed this Agreement.

When the installation has been completed the System will be tested by AVATEL according to the manufacturer's diagnostic and readiness test specifications and company will be notified when the System is ready to be placed into use ("Cutover"). Within 10 days after Cutover, Company must either accept the System or notify AVATEL in reasonable detail of the terms and manner in which the System does not materially comply with this Agreement. AVATEL shall promptly correct any such items and manner in which the System does not materially comply with this Agreement. AVATEL shall promptly correct any such items. Upon such correcting if Company does not notify AVATEL of any material non-compliance within such time, acceptance of the System shall be deemed to occur. Company shall not unreasonable withhold acceptance.

METHODS AND POINT OF DELIVERY: Unless otherwise provided in this Agreement, AVATEL will choose the carrier for shipping Products, and all shipments of Products to company will be (F.O.B.) from an AVATEL U.S. warehouse.

TITLE AND RISK OF LOSS: Title and risk of loss or damages to any Products will pass to Company upon AVATEL's delivery of them to the carrier. All claims for damage to or loss of products must be made by Company directly to the carrier or the insurance company (as may be the case).

INTERCONNECTION WITH CARRIER FACILITIES:

Seller's services shall be limited to the installation of the Equipment on the Customer's side of the equipment furnished by the local carrier connecting the Equipment to carrier's network. Seller shall not be responsible in the event the carrier fails to timely make available services nor shall Seller be obligated to pay the carrier's charges for the services.

Seller's services shall be limited to the installation of the purchased equipment only and shall not (unless specifically so stated) include labor or materials that may be needed to connect the equipment with the incoming facilities (telephone lines) at the utilities demarcation point also known as the Minimum Point Of Entry (MPOE), nor shall Seller be obligated to provide labor or materials (unless specifically so stated) to install, maintain or cross connect to the building's Intra-building Network Cabling (INC) which is legally owned by the building owner.

CUSTOMER'S RESPONSIBILITIES:

The Customer shall, at its expense, on the date of delivery of the Equipment to Customer's premises, and at all times thereafter during the period of installation services hereunder:

- Allow employees or representatives of Seller free access to premises and facilities where the Equipment is to be installed at hours consistent with the requirements of the installation. Premises shall also include all telephone closets, rooms or terminals in the building that access is needed to complete the installation. If there is a fee for this access, it shall be paid for by the Customer. If the building owner requests certificates of insurance Seller shall provide them at a nominal charge to Customer. If there are any delays in gaining access to any of the telephone rooms, closets or terminals not created by Seller, Seller at Seller's option may bill Customer for such delays at its regular and prevailing hourly rates.
- Assure that the premises will meet temperature, humidity controlled, air-conditioning, and other environmental requirements as set forth in the applicable Equipment specifications, and will be dry and free from dust and in such condition as not to be injurious to the employees or representatives of Seller or the Equipment to be installed.
- Provide necessary openings and ducts for cable and conductors in floors and walls.
- Provide electric current for any necessary purpose with suitable terminals in rooms where it is required.
- Provide installed metallic ground or grounds as required.
- Provide for the termination of any existing services agreement with the applicable telephone carrier(s) and for the removal of any existing equipment and cable, as required.
- Provide suitable and easily accessible floor space to permit storing adjacent to where Equipment will be used, and for secure storage of tools, test sets, etc.
- If required, secure permission from building owner, landlord or manager allowing Customer to use buildings Intra-building Network Cabling (INC) to connect equipment to utility company's Minimum Point Of Entry (MPOE). If a fee is charged for the use of cabling they shall be paid for by the Customer.

FORCE MAJEURE: Each party will be excused from any default in its obligations under this Agreement other than the payment of money due, resulting from any act or event beyond its reasonable control or responsibility.

Including, but not limited to, acts of God, accident, fire, flood, storm, riot, war, sabotage, explosion, strike, lockout, labor disturbance, national defense requirement, government action, law, ordinance, rule or regulation, whether valid or invalid, inability to obtain or curtailment of electricity or other types of energy raw material, labor component products or transportation, failure of normal sources of supply, or any similar or different contingency which would make performance or timely performance commercially impracticable. The party relying on any of these acts or events of force majeure must give the other notice thereof promptly after it becomes known to that party. If any of these acts or events of force majeure exceed (60) continuous or cumulative days, then either party may at its sole remedy, cancel this Agreement to the extent not previously fulfilled by giving the other notice, and neither party will be liable to the other for damages resulting from that cancellation.

LIMITED WARRANTY: The warranty cards enclosed with Products state manufacturers limited warranty to Company applicable to those Products. If Products are not accompanied by warranty cards, manufacturers' then current warranty applicable to those Products will apply. Unless a separate service agreement has been entered into between parties, all repairs to or replacements of Products after the expiration of the applicable warranty period will be Company's responsibility.

EXCEPT FOR THE FOREGOING WARRANTIES, AVATEL HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTY WITH REGARD TO ANY CLAIM OF INFRINGEMENT THAT MAY BE PROVIDED IN SECTION 2-312 (b) OF THE UNIFORM COMMERCIAL CODE AND/OR IN ANY OTHER COMPARABLE STATE STATUTE RESPECTING PRODUCTS IS EXPRESSLY EXCLUDED. AVATEL HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT PRODUCTS ARE COMPATIBLE WITH ANY COMBINATION OF NON-AVATEL PRODUCTS COMPANY MAY CHOOSE TO CONNECT TO PRODUCTS.

LIMITATION OF LIABILITY: THE LIABILITY OF AVATEL, IF ANY, AND COMPANY'S SOLE AND EXCLUSIVE REMEDY FOR DAMAGES FOR ANY CLAIM OF ANY KIND WHATSOEVER UNDER THIS AGREEMENT, REGARDLESS OF LEGAL THEORY, WILL NOT BE GREATER THAN THE ACTUAL PURCHASE PRICE OF THOSE PRODUCTS WITH RESPECT TO WHICH SUCH CLAIM IS MADE, UNDER NO CIRCUMSTANCES WILL AVATEL BE LIABLE TO COMPANY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES RELATIVE TO THIS AGREEMENT INCLUDING BUT NOT LIMITED TO, DAMAGES FOR COMPENSATION, REIMBURSEMENT OR LOSS OF PRESENT OR PROSPECTIVE PROFITS, EXPENDITURES, INVESTMENTS OR COMBATANTS, WHETHER MADE IN THE ESTABLISHMENT, DEVELOPMENT OR MAINTENANCE OF BUSINESS REPUTATION OR GOODWILL, COST OF CAPITAL, OR FOR ANY OTHER REASON WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE CLAIMS OF ANY THIRD PARTY. This limitation of liability will in no way affect Company's right to seek appropriate relief or law arising from or incident to any death, personal injury or property damage which is in any way connected to AVATEL's negligence, willful misconduct or strict liability in tort with respect to Products and their use.

DEFAULTS: If Company is in default of any of the terms or conditions of this Agreement or any other agreement with AVATEL, AVATEL may suspend further performance under this Agreement.

TRADEMARKS: Company acknowledges the validity of AVATEL trademarks and trademarks appearing on Products and Company will have no right to or interest in any trademarks or trademarks owned, used or claimed now or in the future by manufacturer.

NOTICES: Any notice given under this Agreement will be deemed to be sufficiently given when sent in writing by certified mail or by facsimile or other rapid form of transmission where receipt is acknowledged to the parties at their respective addresses set forth herein or as those addresses may be subsequently changed by giving notice. The date of mailing or transmission of any notice hereunder will be deemed the dates on which that notice have been given.

EXPORT: company will not export any Products or related technology or software in violation of applicable U.S. laws and regulations. Company will be responsible for obtaining any required export licenses for Products.

ASSIGNMENT: Company may not assign any of its rights or delegate any of its duties or obligations under this Agreement without AVATEL's prior written consent, which consent will not be unreasonably delayed or withheld. Any assignment or delegation hereof by Company without AVATEL's consent will be deemed void.

WAIVER: Either party's waiver of the other's default in its obligations under any term or condition of this Agreement will not in any way limit or affect that party's right to enforce and compel strict compliance with that term or condition at any other time or with any other term or condition.

REMEDIES: each specific right or remedy accorded either party under this Agreement will not be exclusive but cumulative of all other rights and remedies accorded that party hereunder or allowed by law therefore.

INVALIDITY: If any term or condition of this Agreement is held invalid or unenforceable by any court, in whole or in part, that term or condition will be construed and enforced to the greatest extent possible and the validity of the remaining terms and conditions will not be affected thereby.

CHOICE OF LAW: This Agreement will be construed and enforced in accordance with the laws of the State of Florida, without reference to its conflicts of law principles.

SOFTWARE: Any License Agreement enclosed in the original factory packaging for Products will state those additional terms and conditions of any license granted to Company applicable to those Products. In all other cases, any software furnished by AVATEL under this Agreement is done so on a non-transferable license to use basis and all right, title and interest therein is and will remain vested exclusively in AVATEL or its licensors. Company will not decompile, disassemble, or otherwise derive the source code of any software, except that Company may make one (1) copy of each such software Product for backup purposes only. Company will return or destroy all copies of software upon cessation of related Product usage. All software furnished by AVATEL is to be considered confidential information and will be held by company in strict confidence and disclosed on a need-to-know basis to only those of its employees who have agreed in writing to maintain the confidentiality of Company provided third party confidential information.

ENTIRE AGREEMENT: This Agreement and any Appendices to the Agreement supersedes, terminates, and otherwise voids any and all prior written and/or oral agreements between the parties with respect to Products. There are no warranties, representations or understandings of any kind or description whatsoever made by either party to the other, except such as are expressly set forth herein. This Agreement may be modified only by a written instrument signed by both parties making specific reference hereto.

#Name?