

### **THIRD AMENDMENT TO AGREEMENT**

This Third Amendment of the Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CITY OF ALAMEDA, a municipal corporation (hereinafter "City") and Avineon, Inc. a Delaware corporation, whose address is 1430 Spring Hill Road, Suite 300, McLean, VA 22101, (hereinafter "Provider"), is made with reference to the following:

#### **RECITALS:**

A. On August 12, 2019, City and Provider entered into an Agreement (hereinafter "the Agreement") with compensation not to exceed \$25,000.

B. On October 7, 2019, City and Provider entered into a First Amendment to the Agreement (hereinafter "First Amendment"), with compensation not to exceed \$69,900.

C. On September 2, 2020, City and Provider entered into a Second Amendment (hereinafter "Second Agreement") in an amount not to exceed \$135,740.

B. City and Provider desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. Paragraph 1, TERM, of the Agreement is modified to read as follows:

The term of this Agreement shall commence on the August 12, 2019 and shall terminate on the 30th day of June 2022, unless terminated earlier as set forth herein.

2. Paragraph 2, SCOPE OF WORK, of the Agreement is modified to read as follows:

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested.

3. Paragraph 3, COMPENSATION TO PROVIDER, is modified to read as follows:

a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit B and incorporated herein by this reference.

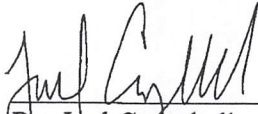
b. The total compensation for the work under this Third Amendment is not to exceed **\$24,900**. Total compensation for work under this Agreement shall not exceed **\$160,640**.

4. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

*Signatures on following page*

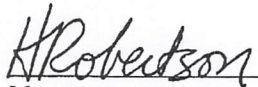
IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed on the day and year first above written.

AVINEON  
A Delaware Corporation

  
By Joel Campbell  
Title Vice President

CITY OF ALAMEDA  
A Municipal Corporation

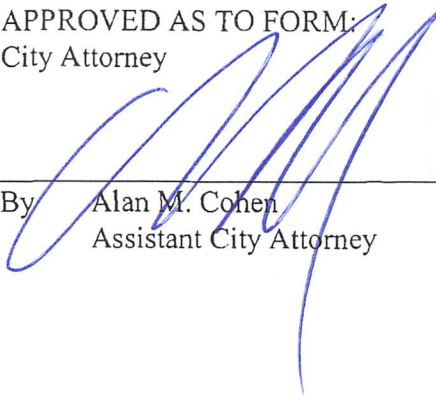
\_\_\_\_\_  
By Eric J. Levitt  
Title City Manager

  
Name Heesun Robertson  
Title Secretary

RECOMMENDED FOR APPROVAL:

  
\_\_\_\_\_  
By Carolyn Hogg  
Title IT Director

APPROVED AS TO FORM:  
City Attorney

  
\_\_\_\_\_  
By Alan M. Cohen  
Assistant City Attorney

# Exhibit A



February 25, 2021

Ms. Carolyn Hogg  
Chief Information Officer  
City of Alameda  
950 West Mall Square, Room 200  
Alameda, California 94501

Re: City of Alameda Fiber Network Mapping - Strand Integration Project

Dear Ms. Hogg:

Avineon, Inc. (Avineon) has been pleased to support the implementation of GIS at the City of Alameda (City or Alameda). We are excited to continue to support the City on its journey to develop a modern geospatially enabled infrastructure through the development of an integrated highly detailed fiber network strand database within the City's fiber Utility Network GIS geodatabase model. This information will enhance the fiber network mapping and support analysis functions to leverage the network and fiber information contained within your GIS. In the enclosed attachments, Avineon has outlined our understanding of the required scope of work and cost proposal for this important phase of work.

Avineon was founded in 1992 and has over 29 years of experience providing innovative and high-quality geospatial, digital modernization, and engineering support solutions to our customers in both public and private sectors. Avineon is appraised at Capability Maturity Model Integration (CMMI) Maturity Level 3 for development and services and is ISO 9001:2015 registered for quality management.

Thank you for the opportunity to submit this proposal to continue our support for the City of Alameda. Avineon looks forward to supporting your organization. If you have any questions or require further information, please contact Mr. Chad Collins ([ccollins@avineon.com](mailto:ccollins@avineon.com); 231-674-5221) or me at your earliest convenience.

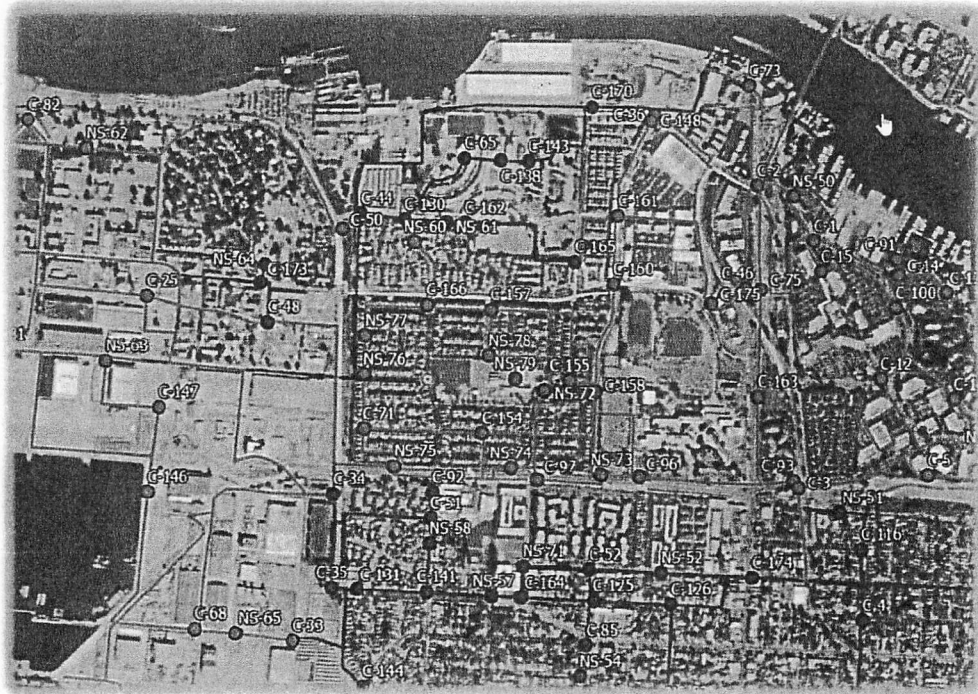
If you agree with the terms of this proposal, please use the attached scope of work and cost proposal to prepare the City documents necessary to authorize Avineon to proceed. Avineon is ready to begin this engagement upon notice to proceed. A formal schedule for this scope of work will be established working with City staff and based on Avineon staff availability.

Sincerely,

Joel Campbell  
Senior Vice President – Commercial Systems  
Avineon, Inc.  
[jcampbell@avineon.com](mailto:jcampbell@avineon.com)

## Background and Tasks

Alameda Fiber GIS Database



The currently maintained Microsoft Excel-based fiber network worksheets data consists of information such as fiber cable identifiers, associated closure/splice tags, fiber-strand counts, types, and maintenance comments as well as ownership as illustrated below.

*Fiber Network Details in Excel Worksheets*

	A	B	C	D	E	F	G	H	J	K	L	M	N	O
1	Cable ID	Section ID	Start	End	Page	Closure 1	Closure 2	Strands	Comments	Buffer 1 Blue Un-Term'd	Buffer 2 Orange Un-Term'd	Buffer 3 Green Un-Term'd	Buffer 4 Brown Un-Term'd	Buffer 5 Black Un-Term'd
49	AS C-002 F12	AS	C-002	F12		C-002	F12	48	Former PILOT Cable is not in service					
50														
51	AT C-029 F13	AT	C-029	F13		C-029	F13	12		A-2	S			
52														
53	AU C-003 C-007	AU	C-003	C-007	2	C-003	C-005	96		S	C-10	A-9	C-0	C-1
54	AU C-003 C-007	AU	C-003	C-007	4	C-005	C-006	96		A/C-4	A-6	A-6	C-0	C-1

AA	AB	AC	AD	AE	AF	AG	AH
Buffer 1 Blue	Buffer 2 Orange	Buffer 3 Green	Buffer 4 Brown	Buffer 5 Slate	Buffer 6 White	Buffer 7 Red	Buffer 8 Black
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T
Alameda P&T	Alameda P&T	Buyer	Buyer	Buyer	Buyer	Buyer	Alameda P&T

In addition to the above fiber network details, the Citywide fiber network routes and assignments as-built drawings provide additional overall references to the fiber framework and telecommunications details for the fiber cables.



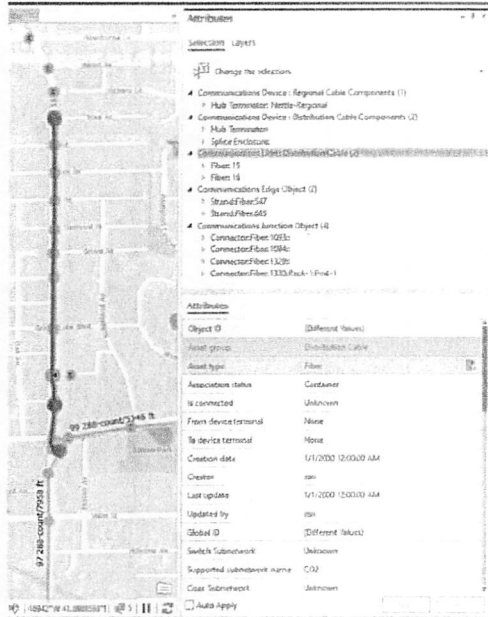
**AVINEON®**  
Visualize IT. See IT Through.

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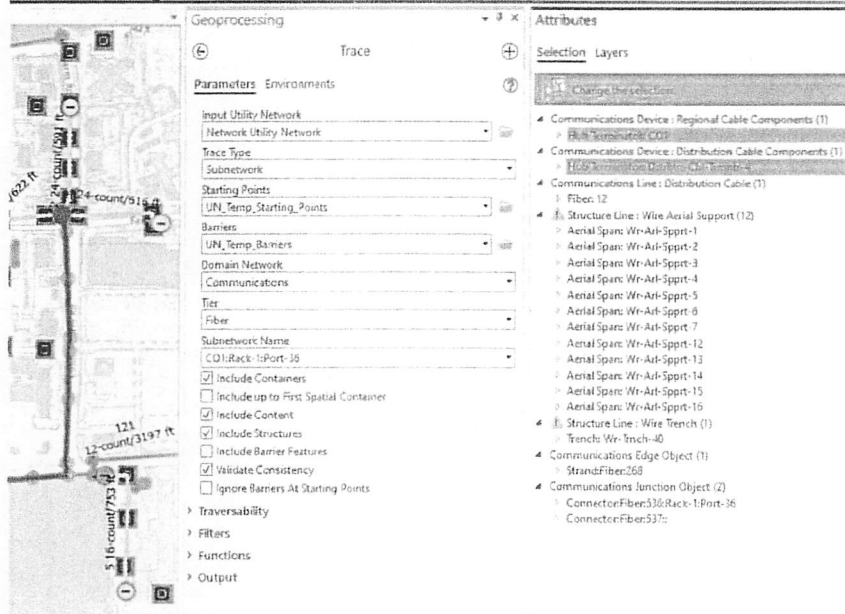
As the fiber network is developed in the modern Alameda fiber GIS database, it will serve as the authoritative fiber network system of record in which the City can better maintain, manage, and leverage its fiber assets.

Avineon will deliver the newly updated and intelligent Alameda fiber GIS database (in file geodatabase format) to the City along with an ArcGIS Pro map template referencing the Alameda fiber GIS database network GIS data to enable staff to quickly view and analyze the fiber assets in the GIS as illustrated below.

## Fiber Network Strands in ArcGIS



## Fiber Tracing in ArcGIS







These data can then be published on the City's ArcGIS Online organizational account or converted into a modern ArcGIS Enterprise database/system where it can be used within maps, web maps, and applications for engaging with all stakeholders.

**Project Timeframe**

Avineon estimates a total project timeframe of one and a half to two months from receiving the authorization to proceed. The project schedule will be finalized during project initiation. Every effort will be made to accelerate this schedule whenever possible to address City's critical business needs. This schedule may be adjusted based on City requirements or Avineon staff availability.

## Exhibit B

Ms. Carolyn Hogg  
February 25, 2021  
Page 7



### ATTACHMENT B – COST PROPOSAL

The following table presents Avineon's firm-fixed pricing for the proposed project. All expenses are included in the figures for these tasks. Any changes to this proposal and the scope of work (including any unforeseen contingencies) will be made in writing and signed by both parties.

Task/Title	Price
Fiber Network Mapping - Attributes Integration	\$24,900.00
Total	\$24,900.00

#### **Assumptions**

1. No travel to the City of Alameda is included in this proposal. Given the current Covid-19 situation, it is expected that all of the required meetings, presentations, and interviews can be handled using web-enabled conferences and conference calls. If travel is required, the City will provide approval before traveling and will be billed to the City on a cost-plus G&A basis.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/13/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Kirkman & Conway Inc. 1300 Piccard Drive Suite LL4 Rockville MD 20850	<b>CONTACT NAME:</b> Lettie Ballve <b>PHONE (A/C, No, Ext):</b> (301) 670-0500 <b>FAX (A/C, No):</b> (301) 921-9275 <b>E-MAIL ADDRESS:</b> lballe@kirkmanconway.com																					
<b>INSURED</b> Avineon, Inc., Avineon Canada Inc. & InfoGeographics, Inc. 1430 Spring Hill Road, Suite 300 McLean VA 22102-3018	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>Hanover American Insurance Co</td><td>36064</td></tr><tr><td>INSURER B:</td><td>Hanover Insurance Co</td><td>22292</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Hanover American Insurance Co	36064	INSURER B:	Hanover Insurance Co	22292	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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INSURER C:																						
INSURER D:																						
INSURER E:																						
INSURER F:																						

**COVERAGES****CERTIFICATE NUMBER:** CL2051306568**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	Y	ZZR A311506 06	05/21/2020	05/21/2021	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000						
	MED EXP (Any one person) \$ 10,000						
	PERSONAL & ADV INJURY \$ 1,000,000						
GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	ZZR A311506 06	05/21/2020	05/21/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
							\$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	Y		UHR A311515 06	05/21/2020	05/21/2021	EACH OCCURRENCE \$ 4,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 0						AGGREGATE \$ 4,000,000
							\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WHR A288129 06	05/21/2020	05/21/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	E.L. EACH ACCIDENT \$ 1,000,000						
	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000						
	E.L. DISEASE - POLICY LIMIT \$ 1,000,000						
B	Cyber Liability & Professional Liability			LHR A312181 06	05/21/2020	05/21/2021	Each Claim \$2,000,000
							Aggregate \$2,000,000
							Retention Each Claim \$25,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)RE: City of Alameda Headstart Project  
\* Endorsements included with Certificate

The City of Alameda, its City Council, boards and commissions, officers, employees and volunteers are Additional Insureds with respects to General Liability, Auto Liability, and Umbrella Liability (follows form) as required by written contract. The blanket Additional Insured forms #421-2915 06/15 for General Liability and #CA2048 0299 for Auto Liability (attached) is equivalent to the General Liability form CG2010 1093 and Auto Liability form CG2048 0299, with the exception of being "blanket as required by written contract".

OK 8-18-20  
JC**CERTIFICATE HOLDER****CANCELLATION**

* City of Alameda Public Works Department 950 West Mall Square, Room 110 Alameda CA 94501-7558	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
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AGENCY CUSTOMER ID: 00002133

LOC #: \_\_\_\_\_

**ADDITIONAL REMARKS SCHEDULE**

Page \_\_\_\_ of \_\_\_\_

AGENCY Kirkman & Conway Inc.		NAMED INSURED Avineon, Inc., DBA: Avineon Canada Inc.
POLICY NUMBER		
CARRIER	NAIC CODE	
EFFECTIVE DATE:		

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

General Liability coverage applies on a primary and non-contributory basis in favor of the Additional Insured. The policy language includes Separation of Insureds, applies to each named insured as if that named insured was the only named insured and the policy applies separately to each insured against whom claim is made or suit it brought.

A Waiver of Subrogation applies to the General Liability and Auto Liability in favor of the Additional Insured as required by written contract. Blanket Waiver for General Liability is included in the GL Broadening Endorsement #421-2915 0615 and Auto Blanket Waiver form #461-0500 1113 (attached)

Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide 30 days written notice; 10 days if cancelled for non-payment of premium to the City of Alameda. Attention: Risk Manager.



POLICY NUMBER: ZZR A311506 06

COMMERCIAL AUTO

CA 20 48 02 99

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 05/21/2020	Countersigned By:          (Authorized Representative)
Named Insured: AVINEON INC	

**SCHEDULE**

**Name of Person(s) or Organization(s):**  
BLANKET ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** AVINEON INC

**Endorsement Effective Date:** 05/21/2020

**SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

BLANKET ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT

*Information required to complete this Schedule, if not shown above, will be shown in the Declarations*

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.





THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL GENERAL LIABILITY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SUMMARY OF COVERAGES

1.	Additional Insured by Contract, Agreement or Permit	Included
2.	Additional Insured – Primary and Non-Contributory	Included
3.	Blanket Waiver of Subrogation	Included
4.	Bodily Injury Redefined	Included
5.	Broad Form Property Damage – Borrowed Equipment, Customers Goods & Use of Elevators	Included
6.	Knowledge of Occurrence	Included
7.	Liberalization Clause	Included
8.	Medical Payments – Extended Reporting Period	Included
9.	Newly Acquired or Formed Organizations - Covered until end of policy period	Included
10.	Non-owned Watercraft	51 ft.
11.	Supplementary Payments Increased Limits	
	- Bail Bonds	\$2,500
	- Loss of Earnings	\$1000
12.	Unintentional Failure to Disclose Hazards	Included
13.	Unintentional Failure to Notify	Included

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

#### 1. Additional Insured by Contract, Agreement or Permit

The following is added to **SECTION II – WHO IS AN INSURED**:

##### Additional Insured by Contract, Agreement or Permit

- a. Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional insured(s) designated in the contract, agreement or permit;

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

- b. The insurance afforded to such additional insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.



(3) Applies on a primary basis if that is required by the written contract, written agreement or permit.

(4) Will not be broader than coverage provided to any other insured.

(5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.

c. This provision does not apply:

(1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal injury and advertising injury".

(2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

(3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage", "personal and advertising injury" arises out of sole negligence of the lessor

(4) To any:

(a) Owners or other interests from. whom land has been leased which takes place after the lease for the land expires; or

(b) Managers or lessors of premises if:

(i) The occurrence takes place after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.

(5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and

advertising injury" involved the rendering of or failure to render any professional services by or for you.

d. With respect to the insurance afforded to these additional insureds, the following is added to **SECTION III – LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

1. Required by the contract, agreement or permit described in Paragraph a.; or

2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

## 2. Additional Insured – Primary and Non-Contributory

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. Other insurance:

### Additional Insured – Primary and Non-Contributory

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II – WHO IS AN INSURED**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss covered under Coverages A or B of this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the

Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

(1) For the sole negligence of the Additional Insured;

(2) When the Additional Insured is an Additional Insured under another primary liability policy; or

(3) when b. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.



**b. Excess Insurance**

(1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other Insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each

insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers

**3. Blanket Waiver of Subrogation**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us:**

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damage under this coverage form. The damage must arise out of your activities under a written contract with that person or organization. This waiver applies only to the extent that subrogation is waived under a written contract executed prior to the "occurrence" or offense giving rise to such payments.

**4. Bodily Injury Redefined**

**SECTION V – DEFINITIONS**, Definition 3. "bodily injury" is replaced by the following:

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

**5. Broad Form Property Damage – Borrowed Equipment, Customers Goods, Use of Elevators**

a. **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Paragraph 2. **Exclusions** subparagraph j. is amended as follows:

Paragraph (4) does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

Paragraphs (3), (4) and (6) do not apply to "property damage" to "customers goods" while on your premises nor do they apply to the use of elevators at premises you own, rent, lease or occupy.

b. The following is added to **SECTION V – DEFINITIONS:**

24. "Customers goods" means property of your customer on your premises for the purpose of being:

- a. worked on; or
- b. used in your manufacturing process.
- c. The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured whether primary, excess, contingent

**6. Knowledge of Occurrence**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit:**

- e. Notice of an "occurrence", offense, claim or "suit" will be considered knowledge of the insured if reported to an individual named insured, partner, executive officer or an "employee" designated by you to give us such a notice.

**7. Liberalization Clause**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

**Liberalization Clause**

If we adopt any revision that would broaden the coverage under this Coverage Form without additional premium, within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

**8. Medical Payments – Extended Reporting Period**

- a. **SECTION I – COVERAGES, COVERAGE C – MEDICAL PAYMENTS**, Paragraph 1. **Insuring Agreement**, subparagraph a.(3)(b) is replaced by the following:

- (b) The expenses are incurred and reported to us within three years of the date of the accident; and

- b. This coverage does not apply if **COVERAGE C – MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Part or by endorsement.

**9. Newly Acquired Or Formed Organizations**

**SECTION II – WHO IS AN INSURED**, Paragraph 3.a. is replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.

**10. Non-Owned Watercraft**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Paragraph 2. **Exclusions**, subparagraph g.(2) is replaced by the following:

**g. Aircraft, Auto Or Watercraft**

- (2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge;

This provision applies to any person who, with your consent, either uses or is responsible for the use of a watercraft.

**11. Supplementary Payments Increased Limits**

**SECTION I – SUPPLEMENTARY PAYMENTS COVERAGES A AND B**, Paragraphs 1.b. and 1.d. are replaced by the following:

- 1.b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- 1.d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1000 a day because of time off from work.

**12. Unintentional Failure to Disclose Hazards**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 6. **Representations:**

We will not disclaim coverage under this Coverage Part if you fail to disclose all hazards existing as of the inception date of the policy provided such failure is not intentional.

**13. Unintentional Failure to Notify**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit:**

Your rights afforded under this policy shall not be prejudiced if you fail to give us notice of an "occurrence", offense, claim or "suit", solely due to your reasonable and documented belief that the "bodily injury" or "property damage" is not covered under this policy.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.