

Exhibit “4”



COMMERCIAL SUBCONTRACT AGREEMENT

Firm Fixed Price (FFP)

SUBCONTRACT TYPE: FFP	SUBCONTRACT No.: P000043846
SELLER: Cyberlux Corporation	MODIFICATION No.: Award
ADDRESS: 800 Park Offices Drive, Suite 3209 Research Triangle, NC 27709	DPAS Rating: Not Rated
PROJECT: 110953.013 NAIC CODE: 336411 Size Standard: 1,500 employees	Contract Price: \$78,857,414.20

INTRODUCTION

This Subcontract, effective **08/29/2023**, is made between HII Defense & Federal Solutions, Inc., (hereinafter known as "Buyer" or "Prime") and Cyberlux Corporation (hereinafter known as "Seller"). The work to be performed by Seller under this Subcontract will support Buyer's work under Prime Contract No. or higher-tier Subcontract No. GS00Q14OADU109; Task/Delivery Order No. 47QFCA22F0039 that has been issued by The Federal Systems Integration and Management Center (FEDSIM), hereinafter referred to as "Customer". The work defined in Attachment I (Statement of Work and Schedule) shall be performed on a Firm Fixed Price basis in accordance with Schedule A hereto (Specific Terms and Conditions), and any document referenced herein.

The following authorized representatives are hereby designated for this Subcontract:

Cyberlux Corporation:

HII Defense & Federal Solutions, Inc.:

TECHNICAL: <u>Mark Schmidt</u>	TECHNICAL: <u>Jason Beckner</u>
PHONE: <u>(919) 434-6608</u>	PHONE: <u>410-453-2618</u>
EMAIL: <u>mschmidt@cyberlux.com</u>	EMAIL: <u>Jason.Beckner@hii-tds.com</u>

CONTRACTUAL: <u>Aaron Goodman</u>	CONTRACTUAL: <u>Josh Rancourt</u>
PHONE: <u>914-414-1884</u>	PHONE: <u>240-930-6341</u>
EMAIL: <u>agoodman@cyberlux.com</u>	EMAIL: <u>Joshua.Rancourt@hii-tds.com</u>

Only the Buyer's Contractual Representative has the authority on behalf of Buyer to make changes to this Subcontract, which can be done only in a writing signed by the Buyer's Contractual Representative. Either party may change its Technical or Contractual representative at any time, provided prompt notice is provided to the other party. All notices or other written communication required or permitted to be given under any provision of this Subcontract shall be in writing and shall be deemed to have been given by the notifying party if delivered by hand, facsimile (with confirmed receipt), email (with confirmed receipt) or mailed by an overnight delivery service, to the receiving party's above-identified Contractual Representative.

The Parties hereby agree that this Subcontract shall constitute the entire agreement and understanding between the parties with regard to the subject matter hereof and supersedes in its entirety any previous understandings between the parties, whether oral or written.

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SCHEDULE A – SPECIFIC TERMS AND CONDITIONS

1. PERFORMANCE

The Seller, as an independent contractor and not as an agent of Buyer, shall on the terms and conditions described herein furnish the necessary administration, labor, facilities, travel, and materials (except as specified herein to be furnished either by the Customer through Buyer or directly by Buyer) necessary for and incidental to the performance of the work authorized hereunder.

1.1. Period of Performance

The period of performance for this Subcontract is **08/29/2023 – 7/24/2024** unless amended in writing. Seller is not obligated to continue work or provide services and Buyer is not obligated to compensate Seller for work performed or expenses committed before or after these dates.

2. TYPE OF SUBCONTRACT

This is a Firm Fixed Price Subcontract.

- a. All goods and services are ordered and delivered as per this contract.
- b. Seller must notify Buyer as soon as possible if performance requires travel to any of the countries listed as a country of concern contained in the Attachment entitled "High-Risk Countries of Concern", other than the countries, both parties are aware of, of Poland and Ukraine. Buyer may, at its discretion, amend this list from time to time to include other high-risk countries.
- c. Exclusivity of supply is neither implied nor intended and Buyer is free to purchase the same or similar services from sources other than the Seller.

3. PRICES AND SCHEDULES FOR SUPPLIES/ SERVICES

The value for this Subcontract, as stated on the cover page, represents the total Subcontract value for the duration of the Subcontract. Unless otherwise provided herein, the price of the supplies/services include all applicable Federal, State, and Local taxes, customs duties, import fees of any kind, and shipping/delivery charges.

Seller/Off Site work: The Seller shall furnish all typical supplies and services routinely required in the industry for the same or similar work. These supplies and services include, but are not limited to, telephones, faxes, personal computers, business computer software, office furniture, supplies, and services, and normal copying and reproduction costs.

Buyer/On Site work: The Buyer or Buyer's customer will furnish personal computers, faxes, telephone, business computer software, office space and associated furniture, equipment, and office supplies, unless otherwise specified.

CEILING VALUE	
Previous Ceiling from:	\$0.00
Modification to Ceiling by:	\$78,857,414.20
Total Ceiling to:	\$78,857,414.20

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4. Funding

This Subcontract is fully in the amount of: \$78,857,414.20

Unless this Subcontract is amended in writing by mutual agreement of the parties, Subcontractor is not obligated to incur expenses or make commitments in excess of this amount and Buyer is not obligated to compensate Subcontractor beyond the amount stated.

5. INVOICES

Individual invoices shall be submitted to the buyer per the milestone schedule below and shall contain the following information:

- a. HII-Defense & Federal Solutions, Inc.
- b. Seller’s company name and remit to address
- c. Subcontract number
- d. Unique invoice number
- e. Billing period
- f. Awarded amounts by line item
- g. Current and cumulative extended dollar totals billed by category and/or line item
- h. Current and cumulative Material, Travel, and other direct costs by line item.

MILESTONE/ DELIVERABLE	PAYMENT	ACCEPTANCE CRITERIA
Subcontract Award	50% of Drone Procurement	Award and Spend Plan
Shipping of 1,000 units – 50%	20% of Drone Procurement	Arrival of 1,000 systems to Dover AFB; Bill of Lading; Signed DD250/Similar Acceptance Document
Shipping of 2,000 units – 100%	30% of Drone Procurement	Arrival of 2,000 systems to Dover AFB; Bill of Lading; Signed DD250/Similar Acceptance Document
Sim SW (Simulation Software)	100%	Upon License Delivery
Training Drone Kit	100%	Upon Shipment; Bill of Lading;
Completion of Training	100% of Training	60 Certifications

Invoices shall be addressed to the following:
HII Defense & Federal Solutions, Inc.
Attn: Accounts Payable
5701 Cleveland Street Suite 400
Virginia Beach, VA 23462

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Invoices shall be delivered electronically via email to: subcontract-consultant-invoices@hii-tds.com and include the Subcontract Number, Invoice Number, and Invoice Date in the subject line of the email. Invoices shall be signed and dated by Seller's authorized representative, verifying the costs included are correct.

6. PAYMENT

Buyer agrees to reimburse the Seller for invoiced amounts based upon receipt of a properly prepared invoice and payment for deliveries/performance from the Customer for the amount of Seller's invoices. Payment to the Seller shall be made not later than ten (10) calendar days from Buyer's receipt of payment from the Customer that included Seller's invoiced amounts or sixty (60) calendar days from receipt of a properly prepared invoice from the seller, whichever comes first. Buyer shall exert reasonable effort to process Seller invoices promptly to avoid delay in payment. Buyer shall not be held liable or assume any obligation to pay Seller interest on any unpaid invoices, unless Buyer is in default of contract.

7. DELIVERY

Goods and services shall be delivered in accordance with the Statement of Work and Schedule. Time is of the essence. All goods furnished under this Subcontract shall be delivered FOB Origin to Dover AFB, unless specified otherwise in writing. Delivery shall not be deemed complete until the goods have been received and accepted by Buyer, notwithstanding delivery to any carrier. Services shall be deemed delivered after they have been performed, received, and accepted by Buyer.

8. RESERVED⁹. INSPECTION AND ACCEPTANCE

- a. Inspection and acceptance shall be at Buyer's location or at such other place as Buyer shall designate. All materials furnished and services performed pursuant hereto shall be subject to inspection and test by Buyer and its agents and by its customers at all times and places, during the period of performance, and in any event before acceptance. In the event that material furnished, or services supplied are not in accordance with the Statement of Work requirements, Buyer may require Seller to replace or correct services or materials at Seller's expense. If Seller fails to proceed with reasonable promptness to perform required replacement or correction, Buyer may terminate the Subcontract for default pursuant to the terms of this Subcontract.
- b. The Seller understands that its performance will significantly impact Buyer's ability to satisfy the Prime Contract obligations. The Seller therefore agrees to exert all reasonable efforts to perform all technical support requirements within the specified time schedules and dollar limits awarded under this Subcontract. The Seller further agrees to advise Buyer's Program Manager upon discovery of any event or circumstance that potentially may cause any negative impact to schedule or cost.
- c. Buyer reserves the right to include additional acceptance criteria within future modifications to this Subcontract.

10. WARRANTY

In addition to all express warranties and those implied by law, Seller warrants (1) all services covered by this Subcontract will be performed to the highest professional standards and will conform to all the specifications set forth in the Statement of Work; (2) the price(s) specified in. Seller warrants that the technical and management personnel proposed to perform the work hereunder are qualified to perform their assigned tasks; (3) that all goods will conform to applicable specifications, drawings, and standards of quality and performance, and that all items will be free from defects in design or materials and suitable for their intended purpose; (4) All representations,





service warranties and guarantees, if any, shall run to Buyer, and Buyer's client or customer. The foregoing warranties shall survive any delivery, inspection, acceptance, or payment by Buyer.

11. PERSONNEL

11.1. Non-Solicitation of Employees

Buyer and the Seller agree that neither party shall directly contact the other parties' personnel who are working in support of this Subcontract for the purpose of soliciting for employment. This restriction shall continue for the Subcontract term and twelve months beyond the end of the term. This limitation shall apply only to positive acts of employment solicitation by either party, and shall not limit the right of the employees of each party to seek employment with the other party in response to a publicly advertised position.

11.2. Restrictions on employing US Government Personnel

In performing this Subcontract, the Seller shall not use as a consultant or employ (on either a full or part-time basis), any active-duty US Government personnel (civilian or military) without the prior approval of Buyer and the Government Contracting Officer for the Prime Contract.

11.3 Equal Employment Opportunities

The Parties shall comply with all Federal Equal Employment Opportunity (EEO) obligations under 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A and subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on race, color, religion, sex, national origin, sexual orientation, and gender identify. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

12. GENERAL INDEMNIFICATION

Seller shall defend, indemnify, and hold harmless Buyer, its agents, and Buyer's Customer from and against any and all claims, damages, losses, liabilities or expenses (including reasonable attorney's fees, consultant fees, and expert witness fees) arising out of or relating to any third party claims, causes of action, lawsuits or other proceedings (individually or collectively, "Claims"), regardless of legal theory, to the extent such Claims arise from Seller's (or any of Seller's subcontractors, suppliers, employees, agents, or representatives): (i) intentional misconduct, negligence, or fraud; (ii) breach of this Subcontract; (iii) breach of the confidentiality or disclosure provisions herein; or (iv) violation of applicable law or regulation. Notwithstanding the foregoing, Seller's obligations under this Section shall not apply to the extent that a claim is finally determined by a court of competent jurisdiction to be caused by the sole negligence or willful misconduct of Buyer. Likewise, Seller will extend the same terms to Buyer.

12.1. Intellectual Property Indemnity

Without regard to any other warranties provided under the terms of this Subcontract, Seller warrants that the use or sale of the goods or services provided by Seller to Buyer will not infringe on any patent, trademark or copyright covering the goods or services. Further, Seller shall defend, indemnify and hold harmless Buyer, its affiliates and agents, subsidiaries, directors, officers, shareholders, employees and the Customer from and against any and all claims, costs, losses, damages, liabilities or expenses (including reasonable attorney's fees, consultant fees, and expert witness fees) attributable to a claim that any goods or services, in whole or in part, furnished under this Subcontract infringes any patent, trademark, copyright, trade secret, or any other intellectual property right. In the event of such a claim, in addition to the indemnity above, Seller, at the option of Buyer and the Seller's expense, shall either (1) procure for Buyer the right to continue using the goods or services, or (2) replace same

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with non-infringing, but equivalent goods or services, (3) modify the goods or services so it becomes non-infringing but nonetheless satisfies all other Subcontract requirements, or (4) refund the purchase price to Buyer. Likewise, Seller will extend the same terms to Buyer.

13. REQUIRED INSURANCE

Without prejudice to Seller's liability to indemnify Buyer as stated in any indemnification provision contained in this Subcontract, Seller shall procure at its expense and maintain for the duration of this Subcontract and ensure that any of its subcontractors used in connection with this Subcontract procure and maintain, the insurance policies required below.

(a) **Workers' Compensation:** Coverage for statutory obligations imposed by laws of any State in which the work is to be performed. Where applicable, Seller shall provide evidence of coverage for the Defense Base Act (DBA) including all employees working on U.S. Government contracts outside the United States. Seller and its insurer shall waive all rights of subrogation in favor of Buyer. Employer's Liability coverage of \$1 million each accident shall also be maintained.

(b) **Commercial General Liability:** Coverage for third party bodily injury and property damage, including products and completed operations, contractual liability, and independent contractors' liability with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Buyer, its directors, officers, and employees, and Buyer's customer where required by Buyer's Prime Contract with its Customer, shall be named as Additional Insureds and shall be granted a waiver of subrogation.

(c) **Business Automobile Liability:** Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per accident combined single limit for bodily injury and property damage liability. Buyer, its directors, officers, and employees, and Buyer's Customer where required by Buyer's Prime Contract with its Customer, shall be named as additional insureds and shall be granted a waiver of subrogation.

(d) **Professional Liability / Errors and Omissions:** *If Seller is performing any professional services, coverage for damages (including financial loss) caused by any acts, errors and/or omissions arising out of Seller's performance or failure to perform professional services with limits of not less than \$1,000,000 per claim and \$2,000,000 in the annual aggregate. Buyer, its directors, officers and employees shall be granted a waiver of subrogation.*

The required insurance coverages above shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer and notwithstanding any provision contained herein, the Seller, and its employees, agents, representatives, consultants, subcontractors, and suppliers, are not insured by Buyer, and are not covered under any policy of insurance that Buyer has obtained or has in place.

Any self-insured retentions, deductibles, and exclusions in coverage in the policies required under this article shall be assumed by, for the account of, and at the sole risk of Seller. In no event shall the liability of Seller or any subcontractors be limited to the extent of any of insurance or the minimum limits required herein.

Coverage shall not exclude claims brought in the United States and all insurance required as part of this Subcontract shall be placed with insurance companies that are authorized to do business under the laws of the state(s) or foreign jurisdiction in which the work is being performed and shall be in a form reasonably acceptable to Buyer and with insurers with a current A.M. Best financial rating of no less than A-, VIII.

Prior to commencement of any work, and within concurrently with of any policy renewal that occurs while any work is on-going under this Subcontract, Seller shall provide Buyer certificates of insurance evidencing the insurance coverage required above, including evidence of additional insured status and waivers of subrogation as required.





14. RESERVED

15. BUYER FURNISHED ITEMS AND INTELLECTUAL PROPERTY

a. Notwithstanding, for the buyer to meet its obligation to customer in performance of this contract, any other provision of this Subcontract relating to rights in technical data, rights in computer software, patent rights, copyright, or any other form of intellectual property (collectively "IP") whether granted to Buyer or to Buyer's customer, the Seller understands and agrees that Buyer will need access to and use of Seller's IP in order for Buyer to perform its contract with Buyer's customer. Accordingly, Seller agrees that it will promptly provide such of its IP as Buyer may from time-to-time request in the form required by Buyer. In doing so, Seller is granting Buyer a license in such IP for the purpose of Buyer fulfilling its obligations to Buyer's Customer, but for no other purpose except as expressly provided for elsewhere under this Subcontract or in a separate agreement.

16. PUBLIC RELEASE OF INFORMATION

Seller shall not disclose information concerning work under this Subcontract to any third party unless such disclosure is necessary for the performance of the Subcontract effort. No news releases, public announcement, denial, or confirmation of any part of the subject matter of this Subcontract or any phase of any program hereunder shall be made without prior written consent of Buyer. The restrictions of this paragraph shall continue in effect upon completion or termination of this Subcontract for such period of time as may be mutually agreed upon in writing by the parties. In the absence of a written established period, no disclosure is authorized. Failure to comply with the provisions of this Clause is a material breach of this Subcontract.

17. APPLICABLE STATE LAW AND COMPLIANCE

This Subcontract shall be governed by and construed in accordance with the laws of Virginia. Seller shall comply with all applicable foreign and United States federal, state, and local laws, statutes, rulings, ordinances, orders, and regulations in performing this Subcontract.

To the extent that performance of this Agreement requires that Seller's employees be deployed outside the United States ("Deployed Personnel"), Seller shall at all times be responsible for its Deployed Personnel's compliance with applicable local, state, and host nation laws, and Seller shall bear all risks, costs, damages, or liabilities that may result from any non-compliance. Should Seller wish that its Deployed Personnel be authorized to carry a weapon, Seller: (1) shall comply with the requirements of all Government instructions, regulations, directives, orders, and policies pertaining to the possession and use of weapons by contractor personnel; (2) shall bear all risks, costs, damages or liabilities that may result from the possession or use of weapons by its Deployed Personnel, and (3) shall indemnify Buyer for any and all claims or liabilities that may arise from or relating to such weapons use or possession. Seller acknowledges and agrees that Buyer neither authorizes or requires Seller's Deployed Personnel to possess weapons.

18. NEW MATERIALS – COUNTERFEIT PRODUCTS AVOIDANCE

a. Definitions: The term "Material" or "Product", as used in this clause, includes, but is not limited to raw material, parts, components, assemblies, and end items. The term "New", as used in this clause, means Original Equipment Manufacturer (OEM) or Original Component Manufacturer (OCM), Material previously unused or composed exclusively of previously unused Material, allowing for conventional use including, but not limited to integration, installation, assembly, test, burn-in, training, troubleshooting, and rework as required. The term "Counterfeit Material" or "Counterfeit Product" means Materials or products salvaged, produced or altered to resemble a product without authority or right to do so, with the intent to mislead or defraud by presenting the imitation as New Material or Product.

b. Unless Buyer specifies otherwise in writing, Seller only shall deliver New Material and Products.

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- c. Seller shall not deliver Counterfeit Material or Products to Buyer under this subcontract. Seller represents and warrants that it has policies and procedures in place to ensure that none of the Products furnished to Buyer under this Subcontract are or contain Counterfeit Material or Products.
- d. Seller will adhere to DFAR 252.246-7008 Sources of Electronic Parts.
- e. Seller shall immediately notify Buyer when Material or Products are found or suspected to be Counterfeit. Notice must be in writing and must be provided to Buyer within 10 days of discovery.
- f. Upon request, Seller shall provide OEM/OCM documentation that enables traceability of the affected Material to the applicable OEM/OCM.
- g. Should any Material or Products delivered under this Contract constitute or include Counterfeit Material or Products, Seller shall, at its expense, promptly remove and replace such Counterfeit Material or Products with genuine parts conforming to the requirements of this Subcontract. Notwithstanding any other provision in this subcontract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Material or products, including, without limitation, Buyer's costs of removing Counterfeit Material or products, of installing replacement New Material or products and of any testing/corrective action necessitated by the replacement of Counterfeit Material or products. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this subcontract.

19. COMPLIANCE WITH REPRESENTATIONS AND WARRANTIES

19.1. Compliance with Anti-Corruption Laws

Seller represents, warrants, and covenants that, in relation to the activities or transactions contemplated by this Subcontract, Seller and its affiliates, subsidiaries, directors, officers, employees, agents, consultants, contractors, designees, ultimate beneficial owners, and shareholders, and all other persons or parties acting on Seller's behalf, directly or indirectly, will comply with (i) any applicable anti-corruption laws, including but not limited to, the U.S. Foreign Corrupt Practices Act, U.K. Bribery Act, and other laws prohibiting corruption and bribery of any officer or employee of any agency, instrumentality, subdivision or other body of any national, regional or municipal governmental authority, any commercial or similar entity that the governmental authority controls or owns, including state-owned and state-operated companies or enterprises, any public international organization, any political party or any candidate for political office (each, a "Government Official") (collectively "Anti-Corruption Laws"), (ii) all applicable anti-money laundering laws, including the U.S. Bank Secrecy Act, as amended by Title III, International Money Laundering and Anti-Terrorist Financing Act of 2001, of the USA PATRIOT Act of 2001, as may be amended from time to time, and (iii) U.S. anti-human trafficking laws and regulations, including the Trafficking Victims Protection Act.

19.2. Anti-Corruption

Seller represents, warrants, and covenants that, in relation to the activities or transactions contemplated by this Subcontract, Seller and its affiliates, subsidiaries, directors, officers, employees, agents, consultants, contractors, designees, ultimate beneficial owners, and shareholders, and all other persons or parties acting on Seller's behalf, directly or indirectly, shall not pay, offer, or promise to pay, or authorize the payment, directly or indirectly, of any monies or anything of value to any (i) Government Official or (ii) person acting for or on behalf of a Government Official or engaging in any of the above-described activities at the suggestion, request, direction or for the benefit of a Government official, for the purpose of influencing any act or decision of such Government Official or of a governmental authority to obtain or retain business, provide any business advantage related to this Subcontract, or direct business to any party. Seller hereby agrees to immediately notify Buyer of any known or suspected violations of the Foreign Corrupt Practices Act, U.K. Bribery Act, and other laws prohibiting corruption and bribery of Government Officials (collectively "Anti-Corruption Laws"). Buyer has the right, at its own expense and upon reasonable notice, to review the Seller's anti-corruption program to ensure compliance.

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19.3. Anti-Human Trafficking

Seller represents, warrants, and covenants that, in relation to the activities or transactions contemplated by this Subcontract, Seller and its affiliates, subsidiaries, directors, officers, employees, agents, consultants, contractors, designees, ultimate beneficial owners, and shareholders, and all other persons or parties acting on Seller's behalf, directly or indirectly, shall not: (i) engage in any form of sex trafficking, involuntary servitude, peonage, debt bondage, slavery or any other "severe forms of trafficking in persons"; (ii) procure commercial sex acts during the period of performance of this Subcontract; (iii) use forced labor in the performance of this Subcontract; (iv) destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents; (v) use fraudulent or misleading practices during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of the work, the living conditions, housing and associated housing costs, any significant costs to be charged to the employee or potential employee, and the hazardous nature of the work (if applicable), or use recruiters that use any such methods or otherwise do not comply with local labor laws; (vi) charge employees or potential employees recruitment fees; (vii) fail to provide return transportation or pay for the cost of return transportation upon the end of employment for an employee who was brought to a country outside of where he and she resides to perform work related to this Subcontract; (viii) provide housing that fails to meet host country safety and health standards; or (ix) fail to provide an employment contract, recruitment agreement, or other required work document in writing (if required by law or contract). Seller hereby agrees that Seller shall implement an antihuman trafficking program in accordance public law, notify its employees and agents of the U.S. Government's policy prohibiting trafficking in persons and take appropriate action against such employees and agents for violations of such policy. Seller hereby agrees that it will cooperate fully in providing reasonable access to its facilities and staff to allow the Buyer or responsible U.S. Federal agencies to conduct audits, investigations, or other actions to test compliance with U.S. anti-human trafficking laws and regulations. Seller hereby agrees to immediately notify Buyer of any known or suspected violations of the anti-human trafficking laws. Buyer has the right, at its own expense and upon reasonable notice, to review the Seller's anti-human trafficking program to ensure compliance.

19.4. Conflict Minerals Disclosure

Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, Buyer is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin, or tungsten) contained in Buyer's manufactured products. Buyer has implemented a comprehensive Conflict Minerals compliance program, which includes posting relevant information for suppliers at this website: <http://www.huntingtoningalls.com/who-we-are/ethics-compliance/conflict-minerals/>. It is a requirement of this Subcontract that Seller shall be familiar with this information and make all reasonable efforts to assist Buyer in identifying the presence and source of Conflict Minerals contained in the products sold by Seller to Buyer, as described further below.

- a. As of the time of award of this Subcontract, Seller represents that: (i) The Product(s) Seller will be supplying under this Subcontract do not contain (a) gold or (b) tantalum, tin, or tungsten (derivatives of columbitetantalite (coltan), cassiterite, and wolframite); or (ii) Alternatively, if the Product(s) contain gold, tantalum, tin, or tungsten, Seller agrees to provide Buyer one of the following completed forms prior to delivery of the Product(s):
 - i. The Global E-Sustainability Initiative Conflict Minerals Reporting Template ("GeSI CMRT") available at <http://www.conflictreesourcing.org/conflict-minerals-reporting-template/>, with "Product" selected under the "Declaration Scope or Class" field;
 - ii. Written documentation about the source of Conflict Minerals in the Product(s) that provides substantively similar information to that requested by the GeSI CMRT.
- b. Any GeSI CMRT provided pursuant to paragraph A(ii) above shall also be submitted to Buyer in writing.

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- c. If the status of any Product(s) changes during performance of this Subcontract so that the representation or information provided pursuant to paragraph A of this provision is no longer accurate, then Seller must within 30 days complete and submit updated, accurate and current information as provided in paragraph B above.
- d. If Buyer determines that any representation made by Seller pursuant to this provision is inaccurate or incomplete in any respect, or Seller fails to timely submit the information required by this provision, then Buyer may terminate this Subcontract for default.

19.5. Notification of Potential Violation

Seller represents, warrants, and agrees to immediately notify Buyer should it become aware any credible information it receives from any source that alleges that a Subcontractor employee, lower tier subcontractor or subcontractor's employee, or their agent has engaged in conduct that would violate the Compliance Representations and Warranties included in this clause.

19.6. Public Official Involvement

Other than those disclosed to Buyer, Seller does not have any current officers, directors, ultimate beneficial owners, or shareholders (excluding for purposes of this section shareholders of a publicly traded company) who are, or whose immediate family members are Government Officials, and should it become aware of any such officer, director, ultimate beneficial owner, or shareholder becoming a Government Official, it shall inform Buyer within 30 days.

19.7. Use of Third Party or Third-Party Representatives

If Seller anticipates retaining a Third-Party Representative for any aspect of this project, Seller will provide prior notice and identification of the third party to Buyer in order to allow Buyer to conduct appropriate screening and due diligence. The Seller may not use a third party to fulfill its responsibilities under the Agreement without the written authorization of Buyer. Seller shall be responsible for all services performed and delivered by any such authorized third party or parties under this Agreement, will ensure that the third party complies with all applicable terms and conditions of this agreement, to include anti-bribery and anti-corruption laws and regulations, and anti-human trafficking laws and regulations, and agrees to indemnify Buyer for any violations.

Any violation or breach of the obligations subscribed by Seller under this Section 21 of this Subcontract shall be qualified as gross misconduct and material breach of this Subcontract attributable to Seller and may bring about the automatic cancellation of this Subcontract at the initiative of Buyer without any compensation nor any right of compensation in favor of Seller and without prejudice to all rights of recourse which could be exercised by Buyer. Buyer shall be entitled to terminate this Subcontract, without penalty or compensation, if it has reasonable grounds to believe (on the basis of credible information, including, but not limited to, third-party statements that Buyer believes to be reliable, or well-sourced press reports) that Seller has committed a material breach of its representations, warranties, or covenants included in this section of this Subcontract.

20. EXPORT CONTROL COMPLIANCE

- a. Export Compliance. Seller is advised that its performance of this Subcontract may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either:



- i. A U.S. Person as that term is defined in the Export Laws and Regulations; or
 - ii. That it has disclosed to Buyer's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status.
- b. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.
- c. Foreign Personnel/Persons. Seller shall not give any Foreign Person, as defined by ITAR sec. 120.16, (including Seller's own non-U.S. employees or affiliates) access to Technical Data, software or Defense Articles, or provide an unauthorized Defense Service as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph C shall relieve Seller of its obligations to comply with paragraph (b) of this provision or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph (b), nor constitute consent for Seller to violate any requirement of the Export Laws and Regulations.
- d. Notwithstanding any other indemnification provisions contained in this Subcontract, Seller shall indemnify and hold harmless Buyer, Buyer's parent and affiliates and their respective officers, directors, and employees from and against any and all liabilities, claims losses, liabilities, and expenses arising out of the failure of Seller, its employees, Subcontractors, or agents to comply with the requirements of this provision and breach of the warranty set forth in paragraph a. Seller shall, at its own cost, defend Buyer against such claims, losses, and liabilities, and, it shall pay Buyer's reasonable attorney fees and expenses, related to carrying out and enforcing the terms of this provision, as those costs are incurred. Buyer has the right to conduct such defenses if it so chooses. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this provision shall be a material breach of this Subcontract.
- e. The substance of this provision shall be incorporated into any lower-tier subcontract entered into by Seller for the performance of any part of the work under this Subcontract. **21. COVERED TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT**
- a. Pursuant to Title 48 of the Combined federal Regulations §52.204-24 Seller represents, warrants, and covenants that it has reviewed its equipment and components that it is providing and certifies that:
- i. It does not contain or use telecommunications equipment or components manufactured by the covered companies Huawei Technology Company or ZTE Corporation (or any subsidiary or affiliates of such agencies);
 - ii. Does not contain surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - iii. Does not use telecommunications or video surveillance services provided by such entities or are using such equipment; and
 - iv. Does not contain telecommunications or surveillance equipment or services produced by or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by or otherwise connected to, the government of a covered foreign country (The Peoples Republic of China).
- b. In the event the Seller identifies covered telecommunications equipment, software, hardware or services used as a substantial or essential component of any system, or as critical technology as part of any system, during Subcontract performance, or the Seller is notified of such by a subcontractor at any tier or by any other source, the Seller shall immediately report the information to Buyer. Seller assumes all liability for the



violation of this clause and will indemnify Buyer for any and all costs and damages related to the violation of this clause.

- c. Further, Seller is prohibited from—
- i. Providing any covered article that the Customer will use on or after October 1, 2018; and
 - ii. Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract. Covered technology includes: any hardware, software, or service that is (i) Is developed or provided by a covered entity; (ii) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or (iii) Contains components using any hardware or software developed in whole or in part by a covered entity. iii. A covered entity is: (i) Kaspersky Lab; (ii) Any successor entity to Kaspersky Lab; (iii) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or (iv) Any entity of which Kaspersky Lab has a majority ownership.
- d. In the event the Seller identifies any covered article identified in paragraph (c) herein is provided to Buyer or Buyer's Customer during subcontract performance, or the Seller is notified of such by a subcontractor at any tier or by any other source, the Seller shall report the information immediately to Buyer. Seller assumes all liability for the violation of this clause and will indemnify Buyer for any and all costs and damages related to the violation of this clause.

22. ORGANIZATIONAL CONFLICT OF INTEREST

Seller represents and warrants that its performance of this Subcontract does not constitute and will not create an organizational conflict of interest (OCI) as defined under any applicable OCI clause or regulation. If during the course of performance, Seller becomes aware of any actual or potential organizational conflict of interest caused by its performance of this Subcontract, Seller shall promptly notify Buyer in writing of the nature of such actual or potential organizational conflict of interest.

23. CHANGES

Buyer and seller must both agree to any bilateral changes made to the subcontract agreement. Buyer may make changes within the general scope of this Subcontract, by written notice to Seller at any time before completion of this Subcontract including any one of the following: (a) drawings, designs, or specifications; (b) quantity; (c) place of delivery; (d) method of shipment or routing; and (e) make changes in the amount of Buyer furnished property. If any such change causes a material increase or decrease in the estimated cost of, or the time required for the performance of any part of the work under this Subcontract, Buyer shall make an equitable adjustment in the estimated cost, delivery schedule, or amount of any fixed fee and shall modify the Subcontract. The Seller must have notified Buyer in writing of any request for such adjustment within twenty (20) days from the date of such notice from Buyer or from the date of any act of Buyer which Seller considers constituting a change. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this Subcontract. Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

24. DISPUTES

The parties agree to negotiate to resolve any dispute arising out of the performance of this Subcontract. Both Parties agree to negotiate in good faith to reach a mutually agreeable settlement within a reasonable amount of time. Should negotiations be unsuccessful, both parties shall have the right to litigation. The parties expressly agree that any action arising out of or relating to this Subcontract shall be brought exclusively in any state or Federal court in Virginia.

Pending any decision, appeal or judgment referred to in this provision or the settlement of any dispute arising under this Subcontract, Seller shall proceed diligently with the performance of this Subcontract



25. ATTORNEY FEES AND LEGAL COSTS

In any litigation or court proceeding between the Parties to enforce or declare the rights of any Party pursuant to this Agreement, the prevailing Party shall be entitled to recover its reasonable costs and expenses incurred with respect thereto, including reasonable attorneys' fees, consultant fees, and expert witness fees, unless otherwise directed by the court.

26. SUBCONTRACT CLOSEOUT

26.1. Close Out Documentation

- a. Upon completion of the subcontract, the Closeout Administrator shall send Subcontractor Certification Statements and other necessary forms to the Seller. The Seller shall complete and return Subcontract Certification Statements to Buyer's Contract Closeout Department within 45 days after receipt of Certification Statements.
- b. Final invoice shall be sent within 30 days of final milestone deliverable.
- c. In the event Seller fails to submit closeout documents within the period specified above or be granted an extension in writing by the Buyer Subcontract Closeout Administrator, Seller does forever fully and finally remise, release, and discharge Buyer and/or Customer, its officers, agents and employees, of and from any and all liabilities, obligations, claims, and demands whatsoever arising under or relating to this Subcontract, in consideration of the amounts previously paid to Seller by Buyer pursuant to this Subcontract, as determined by Buyer's records, which constitute the full, complete and final extent of Buyer's financial obligation to Seller, and that Seller expressly authorizes Buyer to rely on the foregoing representations and release in connection with Buyer's closeout of or other actions taken with respect to the Prime Contract with the Customer.
- d. For purposes of this Subcontract, subcontract closeout authority is delegated to the Buyer's Closeout Department.

26.2. RESERVED

This Subcontract may not be assigned in whole or in part, including lower-tier Subcontracts, or by merger or transfer of all or a substantial part of the assets of the Seller, without the prior written consent of Buyer and the Customer (as required).

The Seller is prohibited from lower-tier subcontracting without the prior approval of the Buyer Contractual Representative.

28. GENERAL RELATIONSHIP

Seller is an independent contractor. Neither Seller nor any of Seller's workers shall be deemed to be employees of Buyer for any purpose. Seller is to exercise its own discretion as to the method and manner of performing its duties, and Buyer will not exercise control over Seller beyond ensuring that Seller complies with the statement of work and the other terms and conditions of this Subcontract. Buyer reserves the right to offer suggestions to Seller regarding the technical aspects of Seller's services. Seller agrees to defend, indemnify and hold Buyer harmless in connection with any claim or suit by any employee of Seller against Buyer, its employees, agents and assigns to the maximum extent permitted by law; in addition, Seller's Liability Insurance will insure Seller's indemnity and defense obligation with respect to such claim or suit. Seller waives any statutory or common law protections that would otherwise protect it against all such obligations listed in this paragraph.

Buyer shall be solely responsible for all coordination and communication with Buyer's customer as it affects the applicable Prime Contract and this Subcontract. Any communications initiated by the Customer directly with the Subcontractor concerning this Procurement are permissible, provided Buyer is notified promptly of such communications and the substance thereof.



29. HEALTH AND SAFETY

Seller shall take all necessary precautions to protect the health and safety of Seller's employees or representatives while participating in work under this Subcontract and shall follow all applicable state and federal Occupational Safety & Health Administration ("OSHA") requirements.

30. NON-WAIVER OF RIGHTS

Failure of Buyer to insist upon strict conformance of the provisions of this Subcontract shall not constitute a waiver of any of the provision(s) of this Subcontract, or a waiver of any of the technical requirements, specifications, drawings, or a waiver of any default provision.

If any provision of this Subcontract, in whole or in part, is found to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision(s) of this Subcontract.

Except as otherwise expressly stated the remedies provided herein shall be non-exclusive and in addition to any remedies in law or equity.

31. STANDARDS OF BUSINESS ETHIC AND CONDUCT

HII Defense & Federal Solutions, Inc. has implemented a comprehensive Ethics and Business Conduct Program, which includes a "Supplier Code of Conduct," or expectations that HII Defense & Federal Solutions, Inc. holds for its suppliers. The "Supplier Code of Conduct" is available at this website: <http://www.huntingtoningalls.com/wpcontent/uploads/2016/07/ethicsba.pdf>. Commensurate with the size and nature of Seller's business, Seller shall have management systems in place to support compliance with laws, regulations, and the expectations related to or addressed expressly within the Supplier Code of Conduct. In the event of a violation of any of the expectations set forth in the Supplier Code of Conduct, Buyer may pursue corrective actions to remedy the situation, up to and including termination of this Subcontract.

32. TERMINATION

32.1. Termination for Convenience

If and when customer exercises its right, Buyer shall have the right to terminate this Subcontract, in whole or in part at any time without cause regardless of dollar value by providing written notice to the Seller. Upon receiving notice of such termination, Seller shall:

- (i) stop all work under this Subcontract on the date and to the extent specified;
- (ii) place no further contracts hereunder except as may be necessary for completing such portions of the Subcontract as have not been terminated;
- (iii) terminate all contracts to the extent that they may relate to portions of the Subcontract that have been terminated; and
- (iv) protect all property in which Buyer has or may acquire an interest and deliver such property to Buyer.

Buyer's sole obligation to Seller in the event of a termination for convenience shall be to pay Seller a percentage of the Subcontract price corresponding with the percentage of the terminated work actually performed prior to the notice of termination, plus Seller's reasonable expenses incurred as a direct result of the termination. Under no circumstances shall Seller be entitled to anticipatory or lost profits. Within twenty (20) days from such termination, Seller may submit to Buyer its written claim for termination charges in the form prescribed by Buyer. Failure to submit such claim within such time shall constitute a waiver of all claims and a release of Buyer's liability arising out of such termination.

Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer, upon its request, all relevant books and records for inspection and audit (e.g., timecards and receipts). If Seller fails to afford Buyer its rights hereunder, Seller shall be deemed to have relinquished its claim.



32.2. Termination for Default

Buyer may, by written notice of default to the Seller, terminate the whole or any part of this Subcontract in any one of the following circumstances: (i) if Seller fails to make progress in the production capacity and or the delivery schedule in the proposal as so to endanger performance or (ii) if Seller fails to perform any of the other provisions of this Subcontract in accordance with its terms, after receipt of notice from Buyer specifying such failure; or (iii) Seller becomes insolvent or the subject of proceeding under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due, and in any of these three circumstances does not cure such failure within a minimum period of 10 days of endangering performance (or such longer period as Buyer may authorize in writing).

If, after a default termination, it is determined that Seller was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of Buyer.

If this Subcontract is so terminated,

Seller shall continue performance of this Subcontract to the extent not terminated. Buyer shall have no obligations to Seller with respect to the terminated part of this Subcontract except as herein provided. In case of Seller's default, Buyer's rights as set forth herein shall be in addition to Buyer's other rights although not set forth in this Subcontract.

33. NOTICE OF DELAYS

In the event Seller encounters difficulty in meeting performance requirements or anticipates difficulty in complying with the delivery schedule, dates, or whenever Seller has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Subcontract, Seller shall notify Buyer, in writing, within seventy-two (72) hours of discovery, giving pertinent details. This notification shall be informational only and compliance with this notification provision shall not be construed as a waiver by Buyer of any delivery schedule, date, or of any rights or remedies provided by law or under this Subcontract.

34. ORDER OF PRECEDENCE

The documents listed below are hereby incorporated by reference. In the event of an inconsistency or conflict between or among the provisions of this Subcontract, the inconsistency shall be resolved by giving precedence in the following order:

1. Subcontract Agreement
2. Schedule B Part III Commercial Products and Services
3. Prime Contract Special
4. Statement of Work
5. Seller's Pricing (cyberlux to hii transmittal letter)
6. Representations and Certifications

35. AGREEMENT EXECUTION

Seller hereby certifies to the best of its knowledge and belief that it has not within a three-year period preceding the execution of this Certification been convicted of or had a civil judgment rendered against them for, nor has Seller been indicted for or charged by a governmental entity with: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property.

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HII Defense & Federal Solutions, Inc.

Seller shall provide immediate written notice to Buyer if, at any time during the term of any agreement between Seller and Buyer, Seller learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Seller may be required to execute Buyer's Standard Representations and Certifications (Attachment IV) annually, which will be incorporated into and made a part of this Subcontract upon completion and execution by Seller. Seller is to promptly notify Buyer of any change in status with respect to matters covered by Certifications and Representations. Seller hereby agrees to execute such further documents as Buyer and/or the Customer may reasonably require in connection with the award or performance of this Subcontract.

IN WITNESS WHEREOF, the parties have executed this Subcontract as of the date signed below. Both parties agree that a single original of this Subcontract will be executed.

Cyberlux Corporation

By: Mark D. Schmidt

Name: Mark D. Schmidt

Title: CEO

Date: 08/29/2023

HII Defense & Federal Solutions, Inc.

By: _____

Name: Josh Rancourt _____

Title: Subcontracts Administrator _____

Date: _____

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