

VEDDER B2B Agreement Overview for Applicants

Sample summary of key terms. Not the agreement; for applicant review only.

About this overview

Companies selected for VEDDER sign one contract with D!NG: the VEDDER B2B Prototyping Agreement (your “B2B”). It has three parts:

1. **Standard terms and conditions.** Umbrella terms that every company accepts as written, including the mandatory Government flow-downs. They are the same for all participants and are not negotiable.
2. **Company-specific terms.** Terms negotiated for your company and the technology you are developing.
3. **Milestone attachment.** Your milestone deliverables and payments, such as advancing your product’s technology readiness level (TRL), building out support around your company, and other steps that prepare you to sell to the Department of War.

This overview summarizes the key terms so you know what you are getting into before you apply.

This is a sample summary, not the agreement. The contract will be a single-agreement structure described here, and the final version will be provided to each company in full to review before B2B selections are made. Terms may change slightly until then, and only the executed agreement is binding. Where this overview and the signed agreement differ, the agreement controls.

Item	Detail
Program	VEDDER (Validation of Emerging Defense & Detection Equipment for Readiness) Prototype Accelerator
Prototype Accelerator Partner	Defense Innovation Networking Group, Inc. (D!NG), an Indiana 501(c)(3) nonprofit
Government sponsor	U.S. Army Contracting Command, Aberdeen Proving Ground, Edgewood Division
Prime agreement	Other Transaction Agreement W911SR-26-9-A033, under 10 U.S.C. § 4022
Your role	Portfolio Prototyping Company (PPC)

Your B2B is a commercial business-to-business agreement with D!NG, not a FAR contract, grant, or cooperative agreement. FAR and DFARS clauses apply only where the agreement expressly incorporates them. Some terms are mandatory flow-downs from the Prime Agreement and are not negotiable. The Government is a named third-party beneficiary of most articles but takes on no obligations to you.

How the agreement is structured

One contract covers your company’s participation: standard terms you accept as written, plus company-specific terms and milestones negotiated with you before signing.

Part	What it covers	Negotiable?
Standard terms and conditions	IP and data rights, Government emergency rights, regulatory obligations, security and foreign influence, supply chain, stop-work and termination, liability, Success Fee mechanics, disputes	No; the same for every company
Company-specific terms	Your technology and scope of work, payment amounts, period of performance, Background IP and data-rights assertions, Success Fee rate, any project-specific regulatory or security terms	Yes, negotiated before signing
Milestone attachment	Milestone deliverables, acceptance criteria, and payments; TRL and MRL targets and fail-fast gates; company-building support; readiness to sell to the Department of War	Yes, negotiated before signing

Term. The period of performance is set in your agreement and can be extended only by written amendment. If a company-specific term conflicts with a standard term, the company-specific term controls for your project. We expect prototyping projects to be from 12 – 36 months, but the terms of the contract will extend beyond the prototype period.

Government approval before effect. A B2B is not effective, and no funds flow, until the Agreements Officer (AO) approves it through the VEDDER B2B Authorization of Funds Memorandum. D!NG sends executed copies to the AO and the AO's Representative (AOR).

Who can change terms. Only the AO can approve changes that affect price, technical approach, or period of performance. The AOR gives technical direction but cannot change terms. Any amendment must be in writing and signed by both parties.

Tied to the Prime Agreement. If the Government ends or lets the Prime Agreement expire, your B2B ends on the same date. D!NG will notify you within 5 business days of learning of it. That ending is treated as a termination for convenience, so your milestone protections apply.

Funding and milestone payments

You are paid a fixed amount per milestone, after D!NG accepts the milestone deliverable and has received the matching Government funds.

1. **Deliver** the milestone deliverable set out in the Statement of Work.
2. **Acceptance:** D!NG accepts or rejects in writing within 10 business days, against the SOW acceptance criteria (with AOR concurrence where the SOW requires it). A rejection lists the deficiencies, and you get one chance to correct and resubmit.
3. **Payment:** D!NG pays within 15 business days after acceptance, subject to receiving the Government funds for that B2B. D!NG tells you promptly if funds have not arrived and will report funding status on request.

Other payment terms:

- **Cost ceiling.** You may not spend beyond the amount obligated in the B2B. Out-of-scope costs are yours, and no added cost is allowed without an AO-approved written modification.
- **Paid milestones are yours to keep.** Money paid for a completed milestone is not clawed back on a stop-work order or termination, unless it was obtained by fraud or material misrepresentation.
- **Taxes.** Prices include all federal, state, and local taxes and duties; no tax-exempt status is provided.
- **Financing.** You may assign your right to payment to a bank or financing institution under the Assignment of Claims Act.

Intellectual property and data rights

You keep ownership of your pre-existing IP and of what you create; the Government receives non-commercial use rights in what the program funds. Neither D!NG nor the Government takes equity, and neither may use its position to force a license of your Background IP or Background Data.

Category	Who owns it	Government rights
Background IP (existing before the B2B, or developed outside it)	You	None, unless your B2B grants them. Patents you list are excluded from Agreement Inventions.
Background Data	You	Limited Rights (use inside the Government only) unless your assertions state otherwise. More rights require a separate agreement with compensation, at your election (except the emergency rights below).
Agreement Inventions (conceived or first)	Follows inventorship under U.S. patent law: your sole inventions are	Nonexclusive, irrevocable, paid-up license to practice

Category	Who owns it	Government rights
reduced to practice under a B2B)	yours, joint inventions are jointly owned. Bayh-Dole does not apply.	for Government Purposes, not commercial use
Study Data (data and software first produced under a B2B)	You	Government Purpose Rights: use and disclosure for Government purposes, including competitive procurement, but not commercial use
Funded data not listed in your assertions	You	Unlimited Rights by default. Anything you want protected must be listed.

D!NG receives only a limited, royalty-free license to use your Background Data to administer the program during the term. Project-specific changes to these IP terms are possible, but only by mutual agreement written into the B2B and with the AO's prior written concurrence.

Before you sign a B2B you supply three schedules for Government review: a Background IP Schedule, Background Data Assertions, and a Data Rights Assertions List covering everything to be delivered with less than unlimited rights. Updates during performance need AO approval.

Your ongoing IP obligations:

- Report each Agreement Invention to D!NG within 45 days of conception or first reduction to practice.
- You choose patent or trade secret for your sole inventions. A trade-secret election must be notified within 8 months of disclosure, at least 45 days before it takes effect.
- You have the first right to enforce patents on inventions you own or co-own.
- Give D!NG 60 days' written notice before abandoning, letting lapse, selling, assigning, or exclusively licensing any patent covering an Agreement Invention. This survives the agreement.
- File an annual Background IP status report.
- Mark delivered Study Data with the W911SR-26-9-A033 legend. Where a deliverable mixes Background and Study Data, separate it, mark the portions, or redact immaterial Background Data.
- Keep Study Data for 5 years after the B2B ends, and deliver it at no cost within 30 days of a D!NG or AO request.
- Do not give any third party rights in Agreement Inventions or Study Data without D!NG's consent (not unreasonably withheld). Your own Background IP stays yours to license.
- Obtain AO approval before granting any license, option, assignment, or right of first refusal in Background IP, Agreement Inventions, or Study Data to a foreign person or entity, or one controlled by a country of concern.
- The Government gives no authorization and consent to use third-party patents, so infringement risk stays with you.

Protection of public investment (emergency rights)

The Government can require a manufacturing license to your funded technology only in a declared emergency where you cannot or will not supply it, and only after you have had 30 days to cure.

Both triggers must be met:

1. **A declared emergency:** an HHS emergency declaration under FD&C Act § 564 or a public health emergency under PHS Act § 319; and
2. **An operational failure** with the funded technology: you cannot or will not supply enough to meet documented Government needs in a reasonable time, you have formally abandoned development or

commercialization, or a regulator has barred you from manufacturing over uncorrected quality or safety violations.

Process. The AO sends written notice; you have 30 days (or a shorter agreed period during an emergency) to present a corrective action plan, such as scaling up or partnering with a contract manufacturer. Only if the AO finds the plan insufficient, in writing, can the Government act.

What the Government may then do:

- Direct you to grant a non-exclusive license to Government-designated manufacturers, covering the Agreement Inventions and Study Data needed to make the product.
- Obtain an FDA right of reference to your filings, solely so that manufacturer can get Emergency Use Authorization or equivalent.
- Negotiate, but not compel, a license to Background IP or Background Data the manufacturer needs, at customary industry rates. You must negotiate in good faith.

Limits. Output goes only to the U.S. Government for the emergency; no commercial, foreign, or foreign-military sales. Pre-existing third-party rights are respected. The license ends when the emergency ends, plus time to finish quantities already authorized. These rights survive the end of your agreement.

Regulatory, human, and animal research

You remain the FDA sponsor of your product, but the Government gets visibility into, and a chance to comment on, regulatory work the program funds.

Standard obligations (all projects, as applicable):

- Serve as sponsor of your regulatory applications unless the B2B says otherwise.
- Coordinate with the AOR before formal FDA meetings when asked, keep the Government informed of planned meetings, and share outcomes.
- Notify DING and the AOR of any foreign regulatory applications.
- Give the Government top-line summaries of funded studies, and a chance to review and comment on final drafts of submissions containing funded data. You reasonably consider its comments.
- Maintain GCP, cGMP, and GLP capabilities where they apply; meet DSCSA labeling and device-tracking rules for commercial products; comply with HIPAA, HITECH, and state privacy law, and obtain participant consent for Government access to Study Data where appropriate.
- When the AOR directs, sign a Public Law 115-92 Sponsor Authorization Letter (template provided) letting the FDA share product information with DoD. The Government will include you in those FDA interactions where practicable.
- On Government request, provide an FDA right of reference to filings for the funded technology, for Government Purposes, during the B2B and for 2 years after.

Possible project-specific terms set in the B2B: advance notice of FDA meetings with briefing packages, Government and DING observers at FDA meetings, copies of material FDA correspondence within a few business days, a set Government review window for draft submissions, and added quality standards (for example ISO 13485, ISO 14971, 21 C.F.R. Parts 11 and 820, IEC 62304).

Human subjects. No work with human subjects, human data, or human anatomical substances may start until the Army Medical Research and Development Command's Office of Human Research Oversight (OHRO) approves it or finds oversight unnecessary. Clinical investigator financial disclosure (21 C.F.R. Part 54) applies.

Animals. No use of laboratory animals without written approval from the Army Animal Care and Use Review Office (ACURO). Noncompliance in either area can lead to withheld funds or termination.

Security, foreign influence, and supply chain

All work is unclassified, but your key people must clear a Government security review before they start, and foreign ties, foreign nationals, and foreign sourcing all need disclosure or AO approval.

People and foreign influence

- **Covered Individuals** (principal investigators, key personnel, senior researchers) must be identified and certified before any technical work. None may start work, access Government data, or use Government funds until the AO confirms in writing that the risk-based security review is complete. The same applies to anyone added later.
- **Ongoing disclosure.** Keep internal procedures to spot and immediately report risks about Covered Individuals, such as new foreign affiliations, financial interests, or criminal matters.
- **Countries of concern.** Disclose any owner or Covered Individual in a malign foreign talent recruitment program, any parent, subsidiary, or affiliate in the PRC or another country of concern, and any foreign research affiliation there. Negative findings go to a Government Risk-Based Security Review Board.
- **FOCI.** File Standard Form 328 through NISS to DCSA, and email the AO and AOR confirmation of each filing and its outcome within 24 hours.
- **Foreign nationals** may not work on funded tasks without the AO's written permission.
- **Conflicts of interest.** You warrant no known organizational or personal conflicts; report any new one to the AO and AOR within 5 business days with a mitigation plan.
- Comply with any Army Research Risk Assessment Program (ARRP) security assessment results.

Cyber and information security

- CUI is not expected unless your B2B says so. If it is, you must meet DFARS 252.204-7012 and NIST SP 800-171, state your SPRS score (or provide your System Security Plan) before receiving CUI, report cyber incidents, and flow the rules down.
- Software for Government systems: secure development under EO 14028 and NIST SP 800-218, a Software Bill of Materials, DoD Risk Management Framework where network access is needed, DISA STIG hardening, and DAST/SAST testing with no unmitigated CAT I or CAT II findings without an approved POA&M.
- Staff complete Level I OPSEC training within 30 days of starting and annually; certificates go to the AOR within 5 business days.
- Handle PII and PHI under DoD and HIPAA rules, report accidents or mishaps to the AOR immediately, and comply with FAR 52.204-25 and 52.204-27 and DFARS 252.225-7007 telecom and covered-company prohibitions.

Domestic sourcing and supply chain

Tier	Source	Approval
1	Made in the U.S. from substantially domestic components or biological feedstock	None
2	Qualifying or trade-agreement countries	Prior written AO waiver
3	Other non-prohibited foreign sources	Prior written AO waiver

- Research reagents, cell lines, lab consumables, and COTS sensors used in bench testing are exempt from chain-of-custody tracking, but export controls still apply.
- No covered semiconductors (FY 2023 NDAA § 5949, including SMIC, CXMT, YMTC and affiliates); keep records of your semiconductor supply-chain screening. No Section 889 covered vendors.

- Report a single point of failure, covered-nation dependency (China, Russia, North Korea, Iran), counterfeit part, or supply-chain cyber compromise to D!NG within 10 days, with a corrective action plan within 30 days.
- Each B2B includes a Domestic Manufacturing Plan and an Indentured Bill of Materials (IBOM) tracing parts to OEM or raw-material origin, with country of origin and tier-1 through tier-N suppliers.

Stop-work and termination

D!NG can pause or end a B2B on short notice, including when a project misses a fail-fast gate, but money already paid for completed milestones stays with you.

Stop-work orders. You must stop work immediately on a written stop-work order. A Portfolio order covers named B2Bs of one company; a Program order, issued on Government direction, pauses all B2Bs. While it runs, no milestone is exercised and no funds are released. An order lasts up to 90 days unless extended in writing, then is cancelled (you resume, with an equitable adjustment for unavoidable costs), converted to a termination, or expires and work resumes. Paused time does not count against your milestone dates or KPIs. An equitable adjustment is your sole remedy.

Type	Trigger	Notice	Effect on you
Convenience	D!NG, for any reason, in whole or in part	60 days	Good-faith settlement for accepted work and open milestones
Fail-fast gate	You miss a go/no-go gate's objective criteria by its date in the SOW	10 business days, with gate results	Not a default; same settlement as convenience
Government action	The Government defunds, terminates, or directs termination	Date in the Government's notice	Settlement limited to funds D!NG receives for it; unspent funds are reallocated
Prime Agreement ends	The Prime Agreement is terminated or expires	Automatic	Treated as convenience
For cause	Material breach, uncured after 30 days' written notice	30-day cure period	D!NG may withhold payments, disallow noncompliant costs, withhold further funding, suspend, or terminate
For cause, no cure	Credible foreign ownership or influence finding, criminal indictment, sanctions or debarment, or fraud involving you or your principals	None	Immediate termination

If terminated for cause, within 30 days you deliver all technical data, documentation, regulatory filings, prototype designs, and software from the B2B to D!NG, or directly to the Government if directed. The Government also receives:

- a non-exclusive, paid-up, irrevocable, perpetual, worldwide license to the patents, copyrights, and technical data developed under the B2B that are needed to continue developing, testing, and fielding the terminated deliverables; and
- a non-exclusive, paid-up license, for itself or a designated third party, to pursue transition, manufacturing, or commercialization with other partners, subject to pre-existing third-party rights and the commercially reasonable terms set in the B2B.

Wind-down after any termination: stop new work and limit costs, submit a wind-down plan within 30 days, deliver a final accounting within 60 days, keep supporting records for 3 years, and cooperate in the transition.

What survives the end of a B2B: IP demarcation, invention and patent notices, data rights and Study Data retention, indemnification, emergency rights, regulatory obligations, foreign-licensing and domestic-manufacturing limits, and the Success Fee.

Liability, warranty, and inspection

You indemnify D!NG and the Government for claims arising from your work and deliverables; liability between you and D!NG is capped at the B2B value, with standard exceptions.

Indemnification. You defend and hold harmless D!NG and the Government against losses from: IP infringement by your deliverables; product liability, including injury, death, or property damage; your breach; your violations of law; and negligence or worse by you or your personnel. You defend at your cost, with counsel acceptable to the indemnified party, and may not settle without their consent. These obligations survive the agreement.

Limits.

- IP indemnity for Government claims is capped at the Government prototype funds paid to you under that B2B, except for fraud or willful misconduct.
- No IP indemnity for claims arising from Government or D!NG designs, someone else's modifications, combinations with items you did not supply, or uses outside the B2B. D!NG or the Government will notify you of a claim within 30 days.
- Between you and D!NG, neither is liable for consequential, incidental, or punitive damages, and each party's total liability is capped at the amount payable under the B2B. The cap does not cover fraud, willful misconduct, misuse of funds, confidentiality breaches, third-party indemnity, or amounts the Government makes D!NG repay because of your acts.

Warranty. You warrant professional skill and judgment. If services fall short, you re-perform or refund the amount paid, with Government concurrence. Claims must be made in writing within 90 days after the final deliverable. No implied warranties of merchantability or fitness apply.

Inspection and acceptance. The Government may inspect your premises and test deliverables, and may require repair, replacement, or re-performance of nonconforming items at no added price. Title passes to the Government on acceptance; risk of loss follows the shipping terms. Notify D!NG and the AO promptly of any excusable delay.

Success Fee

When your company is successful and triggers a qualifying financing event (such as series fundraising, acquisition, or goes public) you pay D!NG a one-time cash fee, targeted at 1% to 2% of the transaction value; it is never equity and never touches your IP. The goal of this fee is to sustain the VEDDER program indefinitely to provide these services to future companies beyond the end of government funding.

Rate. The percentage is negotiated with you before signing, set with reference to your maturity at entry (TRL, MRL, and capital stage), and written into your B2B's Success Fee Schedule. Once signed it is fixed, D!NG cannot change it on its own, and you may disclose it to investors.

What triggers it (the first of these after the B2B's effective date, in one transaction or a series):

1. **Merger or consolidation** in which your existing holders no longer hold a majority of the voting power.
2. **Sale, lease, or exclusive license of all or substantially all** of your assets (transfers to your own wholly owned subsidiary excluded).
3. **Change of control:** anyone acquiring more than 50% of your voting power, other than a bona fide equity financing.
4. **Going public:** an IPO, a direct listing, or a SPAC or similar combination.
5. **Qualifying funding round:** the closing of a bona fide priced equity financing at or above the minimum round size stated in your Success Fee Schedule. For this trigger, Realized Value is the round's post-money valuation. Payment is deferred until the earlier of a later event in items 1

through 4 or 24 months after the round closes, and you may carry the fee as a stated liability until then.

How value is measured. “Realized Value” is the gross consideration paid to the company or its equity holders, before taxes and transaction expenses. It includes cash, securities, other property, debt assumed or repaid by the buyer, and above-market side payments to holders. Escrows, holdbacks, and earnouts count only when actually paid out. For an IPO it is the offering price times fully diluted shares (for a direct listing or SPAC, the 10-trading-day average price). Non-cash value is set at fair market value; if you and D!NG cannot agree within 30 days, a jointly chosen independent valuation firm decides and the cost is split.

Payment.

- Paid in cash from closing proceeds at closing. Fees on contingent amounts are due within 30 days of release; for an IPO or listing, within 60 days.
- Fees on non-cash consideration wait until that consideration becomes liquid, and are settled in cash no later than 3 years after closing.
- Paid once. After the fee is paid, nothing more is owed on any later event.
- Window: an event within 10 years of the B2B’s effective date, even after the B2B ends. If no event occurs in 10 years, nothing is owed.

Notice and records. Tell D!NG within 10 business days of signing a definitive agreement and again at closing, with your good-faith calculation and the transaction documents (economic terms unredacted). This information is treated as your confidential information. Keep supporting records for 3 years. D!NG may audit once a year through an independent CPA at its own cost, unless the audit finds an underpayment over 5%.

What it is not. The Success Fee is a contingent contract payment only. It is not equity, a security, or debt. It gives D!NG and the Government no voting, board, governance, information, or valuation rights, creates no lien on your assets, and does not restrict your IP. It does not require D!NG consent to any financing, sale, or corporate action. No Government funds may be used to pay it, and the Government has no claim to it.

Reporting, confidentiality, publications, and administration

Expect quarterly data calls, Government security review of publications, and prior approval for Government-funded travel.

Reporting.

- Use D!NG’s cloud program-management platform for milestones, spend, and KPI tracking, and support reasonable real-time reporting requests.
- Answer D!NG’s reasonable data requests within 30 days. A quarterly data call may cover capital raised by source, non-dilutive awards, a TRL and MRL self-assessment with evidence, in-kind contribution letters, IP and data-rights events, and regulatory events.
- Deliver closeout inputs at least 60 days before the period of performance ends, and attend D!NG’s Semi-Annual Program Meetings on request.
- The Comptroller General may examine records directly related to the agreement for 3 years after final payment; flow this down to your subcontractors.

Confidentiality. Both sides protect each other’s non-public information (marked, confirmed in writing within 30 days if oral, or obviously confidential) on a need-to-know basis. Obligations last for the B2B term plus 5 years, longer for trade secrets and CUI. Information is returned or destroyed at the end, with limited retention exceptions. Whistleblower rights are never restricted. Do not release non-public information about B2B work without D!NG or AO approval, except in the regular course of business.

Publications and publicity.

- Each B2B has a joint publication plan. Either party gets 60 days to file patents before Study Data is disclosed, plus up to 90 more days at your request.
- Send each submission to the AOR for security review before publishing, and acknowledge Government funding under Agreement W911SR-26-9-A033.
- No Government logos without AO approval, and no advertising that implies Government endorsement.

Travel. Government-funded travel needs prior AOR approval, with an itinerary and cost estimate at least two weeks ahead (expedited review for emergencies). Travel outside the continental U.S. requires a written modification to the B2B.

Compliance with law. Federal, state, and local law applies, including anti-lobbying, anti-kickback, procurement integrity, whistleblower protection, the Fly America Act, FLSA and Contract Work Hours overtime rules, and anti-trafficking requirements. Any Government-furnished property is added by modification if needed.

Disputes and governing law

Indiana law governs, and disputes between you and D!NG go to court in Indianapolis after a 30-day good-faith negotiation period.

- **Negotiate first.** Neither party may sue until 30 days after an escalation notice, except to seek urgent injunctive relief.
- **Venue.** Exclusively the state courts of Marion County, Indiana, or the U.S. District Court for the Southern District of Indiana, Indianapolis Division.
- **Keep working.** You continue performance while any dispute is resolved.
- **Government matters** follow the Prime Agreement's dispute procedures, and provisions implementing the Prime Agreement are read under federal law.
- **Force majeure** excuses delays beyond a party's control, such as Government acts, war, fire, flood, epidemic, or strikes, if the party takes reasonable steps to limit the impact.
- Electronic signatures are accepted.

What to have ready

Companies invited to negotiate a B2B will need the items below before signing. Starting early shortens the time from selection to funding.

Company and people

- ☐ Legal name, address, UEI, and CAGE code
- ☐ Covered Individuals list (PIs, key personnel, senior researchers) with biosketches, current and pending support, and affiliations
- ☐ Disclosure of any ties to the PRC or other countries of concern, and any foreign nationals you plan to use
- ☐ SF-328 FOCI self-report filed through NISS
- ☐ Conflict-of-interest review (organizational and personal)
- ☐ NIST SP 800-171 SPRS score, if your project may involve CUI

IP and data

- ☐ Background IP Schedule: patents, applications, licenses, trade secrets, and know-how, noting any developed with prior federal funding and the contract number
- ☐ Background Data Assertions
- ☐ Data Rights Assertions List for every deliverable with less than unlimited rights

Project plan

- ☐ Proposed milestones with deliverables, acceptance criteria, and payment amounts
- ☐ Entry and target TRL and MRL, with fail-fast gate criteria and dates
- ☐ Private capital committed or targeted, and expected in-kind resources
- ☐ Regulatory classification, pathway, and existing FDA filing numbers, if applicable
- ☐ Human-subject or animal-use protocols for OHRO or ACURO review, if applicable
- ☐ Capital stage and maturity information for the Success Fee discussion

Manufacturing and supply chain

- ☐ Domestic Manufacturing Plan, including any planned Tier 2 or Tier 3 sourcing
- ☐ Indentured Bill of Materials with part numbers, country of origin, and suppliers down to OEM or raw material
- ☐ Semiconductor provenance screening procedures

Shortly after award: OPSEC Level I training for staff within 30 days, a Sponsor Authorization Letter if the AOR directs one, and the first quarterly data call.

Questions

Send questions about these terms to questions@dingusa.org.