

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

The contractor and subsequent subcontractors shall comply with the following requirements:

- DFARS 252-223-7002 (Safety Precautions for Ammunitions and Explosives)
- DFARS 252-223-7007 (Safeguarding Sensitive Conventional arms, Ammunition, and Explosives)
- DFARS 252.204-7012 (Safeguarding Covered Defense Information and Cyber Incident Reporting (Oct 2016)).

ARTICLE VIII: CONFIDENTIAL INFORMATION

A. Definitions

“Confidential Information” means information and materials which are designated as Confidential or as a Trade Secret in writing, whether by letter or by use of an appropriate stamp or legend, prior to or at the same time any such information or materials are disclosed by such disclosing party to the receiving party. Notwithstanding the foregoing, materials and other information which are orally, visually, or electronically disclosed by a disclosing party, or are disclosed in writing without an appropriate letter, stamp, or legend, shall constitute Confidential Information or a Trade Secret if the disclosing party, within thirty (30) calendar days after such disclosure, delivers to the receiving party a written document or documents describing the material or information and indicating that it is confidential or a Trade Secret, provided that any disclosure of information by the receiving party prior to receipt of such notice shall not constitute a breach by the receiving party of its obligations under this Paragraph. “Confidential Information” also includes any information and materials considered a Trade Secret by the NAC on its own behalf or on behalf of the CMF or NAC Members, or their subcontractors or suppliers.

“Trade Secret” means all forms and types of financial, business, scientific, technical, economic, engineering or otherwise proprietary information, including, but not limited to, patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, regardless of how it is stored, compiled, or memorialized, including physically, electronically, graphically, photographically, or in writing if:

1. The owner has taken reasonable measures to keep such information secret; and
2. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by the public.

B. Exchange of Information

The Government may from time to time disclose Government Confidential Information to the NAC for use by the CMF or NAC Members awarded OTIAs, their subcontractors or suppliers, in connection with the Annual Technology Plan and similar processes or particular projects. The CMF, on behalf of the NAC, NAC Members, their subcontractors or suppliers, may from time to

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

time disclose information that is Trade Secret or Confidential Information to the Government in connection with this Agreement, a project proposal, DOTC Base Agreements, or performance under an OTIA. Neither Party shall be obligated to transfer Confidential Information or Trade Secrets independently developed by the Parties, absent an express written agreement between the Parties providing the terms and conditions for the disclosure.

C. Confidentiality and Authorized Disclosure

The receiving party agrees, to the extent permitted by law, that Confidential Information and Trade Secrets shall remain the property of the disclosing party, and that, unless otherwise agreed by the disclosing party, Confidential Information and Trade Secrets shall not be disclosed, divulged, or otherwise communicated to third parties or used by for any purposes other than in connection with specified project efforts and the licenses granted in Article X, Patent Rights, and Article XI, Data Rights and Copyrights. The aforementioned shall not extend to information or materials that:

1. Are received or become available without restriction to the receiving party under a proper, separate agreement;
2. Are not identified with a suitable notice or legend;
3. Are lawfully in possession of the receiving party without such restriction to the receiving party at the time of disclosure, as demonstrated by prior written records;
4. Are or later become part of the public domain through no fault of the receiving party;
5. Are received by the receiving party from a third party having no obligation of confidentiality to the disclosing party that made the disclosure;
6. Are developed independently by the receiving party without use of Confidential Information or Trade Secrets, as evidenced by written records; or
7. Are required by law or regulation to be disclosed, provided, however, that the receiving party has given written notice to the disclosing party promptly so as to enable such disclosing party to seek a protective order or otherwise prevent further disclosure of such information.

D. Return of Proprietary Information

Upon the request of either Party, the other Party shall promptly return all copies and other tangible manifestations of the Confidential Information or Trade Secrets that were disclosed. As used in this section, tangible manifestations include human readable media as well as magnetic and digital storage media.

E. Term

Except to the extent covered by and subject to other provisions of this Agreement or the specific OTIA, the obligations of the receiving party under this Article shall continue for a period of five (5) years after the expiration or termination of the OTIA under which the information was provided.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

The NAC Member, shall flow down the requirements of this Article to their respective personnel, member entities, and agents at all levels.

ARTICLE IX: PUBLICATION AND ACADEMIC RIGHTS

A. Use of Information

Subject to the provisions of Article VIII, Confidential Information, and other applicable provisions of this Agreement, the Government and the NAC Members awarded OTIAs shall have the right to publish or otherwise disclose information or data developed by the Government or the respective NAC Members under OTIAs. The NAC Members awarded OTIAs shall include an appropriate acknowledgement of the sponsorship of the projects by the Government in any such publications or disclosures.

B. Classified Research Projects

If a desired publication includes information relating to a Classified project, the provisions of the DoD Security Agreement (DD Form 441), Certificate Pertaining to Foreign Interests (SF 328), and the DoD Contract Security Classification Specification (DD Form 254) apply.

C. Review or Approval of Technical Information for Public Release

At least thirty (30) calendar days prior to the scheduled release date, the NAC Member awarded an OTIA, shall submit to the AOR at least one (1) copy of the information to be released along with the required public release form. The AOR will route the information to the cognizant Public Affairs Office for review and approval. The AOR is hereby designated as the approval authority for the Agreements Officer for such releases.

Where an Academic Research Institution is awarded an OTIA, who is performing fundamental research on campus the CMF shall require such NAC Member to provide papers and publications to the AOR for review and comment at least thirty (30) calendar days prior to the formal paper or publication submission. However, if that Academic Research Institution incorporates into its research results or publications artifacts produced by and provided to these institutions by other (non-educational institution) NAC Members (or has authors listed on the paper who are not employees or students of the Academic Research Institution), then the procedures in the preceding paragraph shall be followed.

Parties to this Agreement are responsible for assuring that an acknowledgment of Government support will appear in any publication of any material based on or developed under the awarded OTIA, using the following acknowledgement terms:

“This effort was sponsored by the U.S. Government under the DoD Ordnance Technology Consortium (DOTC) Other Transaction Agreement (OTA) (W15QKN-18-9-1008) with the

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

National Armaments Consortium (NAC). The U.S. Government is authorized to reproduce and distribute reprints for Government purposes notwithstanding any copyright notation herein.”

Parties to this Agreement are also responsible for assuring that every publication of material based on or developed under an OTIA contains the following disclaimer:

“The views and conclusions contained herein are those of the authors and should not be interpreted as necessarily representing the official policies or endorsements, either expressed or implied, of the U.S. Government.”

The NAC Member shall flow down these requirements to all tiers.

ARTICLE X: PATENT RIGHTS

A. Allocation of Principal Rights

Unless specifically agreed to in an OTIA, Patent Rights under this Agreement or subsequent OTIAs shall be determined in accordance with FAR 52.227-11 (Patent Rights—Ownership by the Contractor (May 2014)), which is hereby incorporated by reference with the following modifications:

1. As appropriate, replace “Contractor” with “NAC Member”; “the agency” and “the Federal Agency” with “Government”; “contract” with “Agreement”; and “Contracting Officer” with “Agreements Officer”.
2. The Government shall have the initial option to retain title to each subject invention made only by Government employees or made jointly by the NAC Member and Government employees. The Government shall promptly notify the NAC Member upon making this election, and agrees to timely file patent applications at its own expense and agrees to grant to the NAC Member a non-exclusive, irrevocable paid-up license to practice the subject invention throughout the world.
3. The NAC Member shall elect in writing whether or not to retain ownership of any subject invention by notifying the Agreements Officer within six (6) months of disclosure. In any case where publication, on sale, or public use has initiated the one (1) year statutory period during which valid patent protection can be obtained in the United States, the period of election of title shall no later than sixty (60) calendar days prior to the end of the statutory period.
4. The CMF, on behalf of the NAC Member, may request an extension to the six (6) month period for ownership election. The Agreements Officer may, in their discretion, extend the ownership election period, but the ownership election period shall not exceed two (2) years from the disclosure of the subject invention.

FAR 52.227-1 (Authorization and Consent (Dec 2007)) and Alternate I (Apr 1984) and FAR 52.227-2 (Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)) are

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

also incorporated by reference under this Agreement. If FAR 52.227-3 3 (Patent Indemnity (Apr 1984)) is applicable, it shall be incorporated into the OTIA.

B. Patent Reports

All DOTC Base Agreements shall require the use of DD Form 882, Report of Inventions and Subcontracts, to file an invention report for every OTIA. Negative reports are also required. The NAC Member shall provide the CMF, with an Annual Invention Report at the close of each performance year of each OTIA and at the end of the term of each OTIA.

C. Final Payment

Final payment of an OTIA cannot be made until the NAC Member delivers to the CMF all disclosures of subject inventions and confirmatory instruments required by this Agreement.

D. Lower Tier Agreements

The NAC Member shall include this Article, suitably modified in all lower tier agreements, regardless of tier, for experimental, developmental, or research work performed under the OTIAs awarded pursuant to this Agreement.

The provisions of this Article shall survive termination of this Agreement under Article II, Section C.

ARTICLE XI: DATA RIGHTS AND COPYRIGHTS

Although this Article shall serve as the default and overarching terms and conditions for the handling of Data Rights and Copyrights, every OTIA is individually negotiated, and any specific Data Rights or Copyright terms and conditions in the OTIA Statement of Work will control over this Article.

Technical Data and Computer Software Rights under this Agreement shall be determined in accordance with DFARS 252-227-7013 (Rights in Technical Data—Noncommercial Items (Feb 2014)) and DFARS 252.227-7014 (Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014)), except at otherwise specified in this Article or the OTIA. The definitions included in this Article shall replace the definitions found in the referenced DFARS clauses.

A. Definitions

“Government Purpose” means any activity in which the Government is a party. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce,

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

“Government Purpose Rights” means the right to use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and to release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for Government purposes. This is a middle path unique to defense contracts that allows contractors to have the exclusive right to use the technical data in the commercial market. Unless otherwise agreed, Government Purpose Rights convert to Unlimited Rights five years after execution of the OTIA.

“Limited Rights” means the right to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party. However, the Government may reproduce, release, or disclose such data or authorize the use or reproduction of the data by persons outside the Government if it is necessary for emergency repair and overhaul, or a release or disclosure to a covered Government support contractor in performance of its covered Government support contract (management and administrative support). The recipient of the technical data is subject to prohibition on the further reproduction, release, disclosure, or use of the technical data, and the contractor or subcontractor asserting the restriction shall be notified of such reproduction, release, disclosure, or use.

“Restricted Rights” applies only to noncommercial computer software and means the Government’s right to use a computer program on a limited number of computers, and make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes. However, the Government may allow the use of the noncommercial computer software outside of the Government under a limited set of circumstances, including use by a covered Government support contractor in performance of its covered Government support contract (management and administrative support), and after the contractor or subcontractor asserting the restriction is notified.

“SBIR Data Rights” refers to a Small Business Innovation Research contract and applies to both technical data and computer software. The contractor is entitled the SBIR data protection to all technical data and computer software developed during performance of a SBIR Phase III agreement, regardless of the funding source. SBIR Data Rights are generally equivalent to Limited Rights for technical data and Restricted Rights for computer software. In the DOD, SBIR Data Rights survive for five years from the completion of the project, at which point they will convert to Unlimited Rights. SBIR efforts are divided into three successive phases (I, II, III), with the ultimate goal of commercializing the technology in question. The Government can award an unlimited number of SBIR Phase III agreements as long as they are a logical follow-on to the technology being developed, and with the understanding that the five-year clock restarts with every award.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

“Specifically Negotiated License Rights” means any modification by mutual agreement to the standard DFARS noncommercial data rights categories (Unlimited Rights, Government Purpose Rights, Limited/Restricted Rights) laid out in this Article that the Government and NAC Member consider appropriate to the specific contract action, but shall not provide rights less than that provided by Limited Rights. Any rights so negotiated shall be identified in a license agreement written into or made part of the OTIA.

“Technical Data” means recorded information, regardless of the form or method of recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial or management information.

“Unlimited Rights” means the right to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

B. Allocation of Principle Rights

The Government shall receive a Government Purpose Rights license or an Unlimited Rights license to all technical data and computer software developed and delivered under this Agreement, except for the technical data and computer software that was previously developed exclusively at private expense and identified in the OTIA Statement of Work. To the maximum extent practicable, segregable portions of deliverables that will be restricted shall be clearly identified and labeled by the NAC Member.

The Government and the NAC Member can negotiate for a specific level of rights to all, or a distinct subset of the technical data and computer software that is developed and delivered for a specific OTIA, which will have the full force and effect of an executed license.

If the Government and the NAC Member agree to engage in a Cost Share OTIA, and the NAC Member desires to contribute more than 50% of the total costs of the project, the Government may agree to a Limited or Restricted Rights license to all technical data and computer software developed and delivered under the OTIA, or any other mutually agreed upon level of rights to a distinct subset of the technical data and computer software developed and delivered under the OTIA.

C. Copyrights

The NAC Member reserves the right to protect by copyright original works developed under this Agreement and any subsequent OTIA, pursuant to 17 U.S.C. §§ 401 and 402. All such copyrights will be in the name of the individual NAC Member. The NAC Member, hereby grants to the Government a non-exclusive, non-transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, for Governmental purposes, any copyrighted materials developed under this Agreement, and to authorize others to do so.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

In the event that information is exchanged with a notice indicating that it is protected under copyright as a published, copyrighted work, and it is also indicated that such information existed prior to, or was produced outside of this Agreement or any subsequent OTIA, the Government, the CMF or the NAC Member receiving the information and others acting on its behalf may reproduce, distribute, and prepare derivative works for the sole purpose of carrying out its responsibilities under this Agreement.

D. Handling of Data

The NAC Member shall clearly identify, prior to award, the technical data and computer software (and the items, components or processes to which they pertain) that will have asserted restrictions in each OTIA Statement of Work. If, after award, the NAC Member wishes to use any other internally developed technical data or computer software, or any other pre-existing proprietary information not previously identified in the OTIA Statement of Work, then the NAC Member shall disclose its intent in writing the CMF prior to its use, and shall receive written approval from the Agreements Officer through the CMF prior to its use or incorporation. The asserted restrictions in the OTIA Statement of Work are the unilateral claims of the NAC Member, and the inclusion of those restrictions in the OTIA Statement of Work does not equate to the Government's agreement to those claims. At any time, the Government has the right to request substantiating information supporting those claims, and can challenge or reject those claims if they are unsupported.

Technical Data and Computer Software Provided by the Government: Technical data and computer software provided by the Government under this Agreement shall be appropriately marked with a suitable notice or legend and maintained in confidence and disclosed and used by the NAC Member only for the purpose of carrying out their responsibilities under a specific OTIA. At no time will technical data and computer software provided by the Government under this Agreement become the property of the NAC Member, nor does its use in carrying out their responsibilities grant any form of license to the NAC Member to disclose or use that technical data or computer software for any other purpose, unless specifically agreed to in writing by the Agreements Officer. This includes all technical data and computer software first produced by the Government under this Agreement. All OTIAs that contain technical data or computer software provided by the Government shall have appropriate non-disclosure agreements signed by the NAC Member. Upon completion of an OTIA, the aforementioned technical data and computer software shall be disposed of as requested by the Government.

Oral and Visual Information: If information which the NAC or any NAC Member considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to the Government, the exchange of such information must be reduced to a tangible, recorded form and marked with a suitable notice or legend, and furnished to the Government within ten (10) calendar days after such oral or visual disclosure, or the Government shall have no duty to limit or restrict, and shall not incur any liability for any disclosure and use of such information.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

Disclaimer of Liability: Notwithstanding the above, the Government shall not be restricted in, nor incur any liability for, the disclosure and use of:

1. Data or software not identified with a suitable notice or legend as set forth in this Article; nor
2. Information contained in any data or software for which disclosure and use is restricted under Article VIII, Confidential Information, if such information is or becomes generally known without breach of the above, is known to or is generated by the Government independently of carrying out responsibilities under this Agreement, is rightfully received from a third party without restriction, or is included in data or software which the NAC Member have or is required to furnish to the Government without restriction on disclosure and use.

E. Marking of Data

Except for technical data and computer software developed or delivered with Unlimited Rights, all technical data and computer software developed and delivered under this Agreement shall have appropriate Data Rights Markings in accordance with DFARS 252.227-7013(f) and 252.227-7014(f). The Government will have Unlimited Rights to all unmarked technical data or computer software. In the event that unmarked technical data or computer software should have contained a restrictive legend, the CMF, on behalf of the NAC Member, can cure the omission by providing written notice to the Agreements Officer within thirty (30) calendar days of the erroneous disclosure. The Government will not be responsible for any additional disclosures of the inappropriately marked technical data or computer software prior to that written notice.

F. Lower Tier Agreements

The NAC Member shall include this Article, suitably modified, in all lower tier agreements, regardless of tier, for work performed under the OTIAs awarded pursuant to this Agreement.

The provisions of this Article shall survive termination of this Agreement under Article II, Section C.

ARTICLE XII: EXPORT CONTROL

A. Export Control

The Parties shall comply with U.S. Export regulations including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. § § 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. § 120 et seq.; and the Export Administration Act, 50 U.S.C. app. § 2401-2420. Each party is responsible for obtaining from the Government export licenses or other authorizations/approvals, if required, for information or materials provided from one party to another under this Agreement. Accordingly, the NAC Member shall not export,

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

directly or indirectly, any products or technology, Confidential Information, Trade Secrets, or Classified and Unclassified Technical Data in violation of any U.S. Export laws or regulations.

B. Lower Tier Agreements

The NAC Member shall include this Article, suitably modified in all lower tier agreements, regardless of tier, for work performed under the OTIAs awarded pursuant to this Agreement.

The provisions of this Article shall survive termination of this Agreement under Article II, Section C.

ARTICLE XIII: SECURITY

The NAC Member shall comply with Distribution Statements, as mandated by DoDI 5230.24 (Distribution Statements on Technical Documents).

The NAC Member shall comply with DFARS 252.204-7012 (Oct 2016): Safeguarding Covered Defense Information and Cyber Incident Reporting, which includes implementing on its covered contractor information systems the security requirements specified by DFARS 252.204-7012. Nothing in this paragraph shall be interpreted to foreclose the NAC Member's right to seek alternate means of complying with the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 (as contemplated in DFARS 252.204-7008 (Compliance with Safeguarding Covered Defense Information Controls) (Oct 2016) and DFARS 252.204-7012 (Safeguarding Covered Defense Information and Cyber Incident Reporting (Oct 2016))).

ARTICLE XIV: SAFETY AND ENVIRONMENTAL

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| DFARS 252.223-7001 | Hazard Warning Labels |
| DFARS 252.223-7002 | Safety Precautions for Ammunition and Explosives |
| DFARS 252.223-7003 | Change in Place of Performance |
| DFARS 252.223-7006 | Prohibition on Storage and Disposal of Toxic and Hazardous Materials |
| DFARS 252.223-7007 | Safeguarding Sensitive Conventional Arms, Ammunition and Explosives |
| FAR 52.223-3 | Identification and Material Safety Data |
| FAR 52.247-29 | F.O.B. Origin |

ARTICLE XVI: TITLE AND DISPOSITION OF PROPERTY

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

As applicable, the following clauses may be incorporated into OTIAs that utilizes GFP: FAR 52.245-1 Government Property; FAR 52.245-9 Use and Charges; DFARS 252.211-7007 Reporting of Government-Furnished Property; DFARS 252.245-7001 Tagging, Labeling, and Marking of Government-Furnished Property; DFARS 252.245-7002 Reporting Loss of Government Property; DFARS 252.245-7003 Contractor Property Management System Administration; and DFARS 252.245-7004 Reporting, Reutilization, and Disposal.

Definitions

“Agreements Officer (AO)” is the United States Army Contracting Command – New Jersey (ACC-NJ) warranted Contracting Officer authorized to sign the final agreement for the Government, or otherwise contractually bind the Government.

“Agreements Officer’s Representative (AOR)” is the individual designated by the Government on a per project basis to monitor all technical aspects. The AOR shall only assist in agreement administration of the specific project to the extent expressly delegated in writing in the Appointment Letter by the responsible Agreements Officer, and cannot contractually bind the Government.

“Annual Technology Plan” means the research and development investment plan for a given year, as determined by the DoD Ordnance Technology Consortium (DOTC) Enterprise Program Office through input from Government organizations, agencies, labs and centers.

“Basket” is an electronic file containing proposals that have been submitted by NAC Members in response to Requests for Ordnance Technology Initiatives (ROTI) that are eligible for award, but have not yet been selected for award. Unless otherwise indicated by the NAC Member, submitted proposals shall be valid for three (3) years from the date the cognizant ROTI closed (proposal submission deadline).

“Consortium Management Firm (CMF)” refers to the organization acting on behalf of the National Armaments Consortium (NAC) to help in the execution and administration of the projects under this Agreement, as defined in the specific management agreement entered into between the NAC and the CMF. The current CMF is Advanced Technology International (ATI).

“Consortium Member Agreement (CMA)” means the agreement governing the rights and obligations of the NAC Member organizations as they relate to the organization and operation of NAC.

“Cost Share” means cash or in-kind resources expended during a prototype project by the NAC Member or lower tier subcontractors that are necessary and reasonable for accomplishment of the OTIA. An acceptable Cost Share must be verifiable from financial records and must not be

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

included as a cost sharing contribution for any other Federal Government contract vehicle. Cost Share cannot be paid by the Federal Government under another contract vehicle, except that Independent Research and Development (IR&D) costs that otherwise meet the Cost Share definition are allowable even though they may be indirectly reimbursed by another Federal Government contract vehicle.

“Date of Completion” is the date on which all work is completed or the date on which the period of performance ends.

“DoD Ordnance Technology Consortium (DOTC) Enterprise” refers to the combined grouping of the National Armaments Consortium (NAC) and the DOTC Enterprise Program Office, which allows for more efficient collaboration and coordination and brings to bear the combined resources of Government, industry, academia, and non-profit organizations. The goal of the DOTC Enterprise is to align resources towards the goal of advancing current and future ordnance related research and development.

“DOTC Base Agreement” or “Agreement” means the agreement between the NAC’s CMF and the NAC Member that serves as the baseline agreement for all future OTIAs, and flows down applicable terms and conditions from this Agreement.

“DOTC Enterprise Program Director” means the Government person responsible for the current activities and future direction of the DOTC Program Office. The duties include management and oversight of the DOTC Program Office, oversight of the DOTC OTA, interactions with the National Armaments Consortium (NAC), education of the Government workforce in DOTC related research, interactions with the ordnance communities, and implementation of the DOTC Program Office budget.

“DOTC Enterprise Program Office (PO)” means the Government organization created to manage, oversee, and administer the OTA from a program perspective, and to provide input to the Government ordnance community on collaboration and future investment areas in ordnance research and development.

“DOTC Technology Manager” means the person designated by the DOTC Enterprise Program Director that is responsible for the management of one or more technology areas managed by the DOTC PO, coordinating OTA activities performed by the Agreement Officer Representatives (AOR). Duties could include but are not limited to: input on requirements; review of Enhanced Whitepapers related to the requirements; review of Selection Memos related to the requirements; facilitating OTIA Statement of Work negotiations; and monitoring OTIAs to ensure timely completion.

“DOTC OTA” refers to the Other Transaction Agreement between the Government and the National Armaments Consortium (NAC), through its Consortium Management Firm, Advanced Technology International (ATI).

“Effective Date” means the date of the last signature.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

“Government Fiscal Year” means the period commencing on October 1 and ending September 30 of the following calendar year.

“Milestone” means a scheduled event signifying the completion of a major deliverable or a set of related deliverables as identified in the OTIA Statement of Work.

“National Armaments Consortium (NAC)” refers to the consortium formed by industry and academia, which is comprised of Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions. The NAC was established to facilitate the collaborative effort between the Government, industry and academia for the research and development of advances to ordnance related prototypes and technologies. As directed by the Government, membership in the NAC shall be limited to U.S. companies, firms, organizations, institutions or other entities organized or existing under the laws of the United States, its territories, or possessions (as defined in Section 120.15 of International Traffic in Arms Regulations, 22 C.F.R. §120 *et seq.*).

“NAC Executive Committee” or “Executive Committee” refers to the executive committee elected by the NAC Members, comprised of Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions.

“NAC Executive Director” refers to the person hired or appointed by the NAC Executive Committee to lead and manage the activities of the NAC.

“NAC Members” refers to the Nontraditional and Traditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions that are members of the NAC.

“Nonprofit Research Institution” means a university or other institution of higher learning, or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 that is exempt from taxation under Section 501(a) of the Internal Revenue Code, or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

“Nontraditional Defense Contractor” means an entity that is not currently performing and has not performed, for at least the one-year period preceding the issue date of the ROTI, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to section 1502 of title 41 and the regulations implementing such section. A nontraditional defense contractor can be at the prime level, team members, subcontractors, lower tier vendors, or "intra-company" business units (provided the business unit makes a significant contribution to the prototype project). Examples of what might be considered a significant contribution include supplying new key technology or products, accomplishing a significant amount of the effort, or in some other way causing a material reduction in the cost or schedule or increase in the performance. Certification of a Nontraditional Defense Contractor is confirmed prior to the Technical Direction Letter (TDL).

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

“Ordnance” means the armaments, ammunition, munitions, weapons, systems and related military materiel, including equipment and components, which enable the military to achieve combat and mission effectiveness in all warfare environments: air, land, sea, undersea and space.

“Ordnance Technology Initiative Agreement (OTIA)” refers to the agreement between the CMF, on behalf of the NAC, and the NAC Member that contains all the contractual information regarding the scope of work, project specific terms and conditions, and payment information for the project. The OTIA is initiated by the CMF based on the TDL sent by the Government to the CMF. Each OTIA will be assigned a unique identification number.

“Other Transactions Agreement (OTA)” is the term commonly used to refer to the 10 U.S.C. § 2371b authority to enter into transactions other than contracts, grants or cooperative agreements. The Department of Defense (DoD) currently has authority to make awards that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces. OTAs are acquisition instruments that are generally not subject to the federal laws and regulations governing procurement contracts. As such, they are not required to comply with the Federal Acquisition Regulation (FAR), its supplements (i.e. DFARS) or laws that are limited in applicability to procurement contracts.

“Parties” means the CMF and the NAC Member where collectively identified, and “Party” where each entity is individually identified.

“Payable Milestone” means that once a Milestone has been met in fixed price OTIAs, the Government can approve payment to of a predetermined dollar amount in relation to performance of a particular project under this Agreement. For cost reimbursable OTIAs, payment will be made based on actual costs incurred.

“Proposal” means a NAC Member’s submission in response to a Government solicitation, which may be in the form of an Enhanced Whitepaper, proposal, or some other document.

“Prototype” means a physical or virtual model used to evaluate the technical feasibility, manufacturing feasibility or military utility of a particular technology, process, concept, end item, or system.

“Prototype Project” or “Project” means a project that can be described as a preliminary pilot, test, evaluation, demonstration, or agile development activity used to evaluate the technical or manufacturing feasibility or military utility of a particular technology, process, concept, end item, effect, or other discrete feature. Prototype projects may include systems, subsystems, components, materials, methodology, technology, or processes. By way of illustration, a prototype project may involve: a proof of concept; a pilot; a novel application of commercial technologies for defense purposes; a creation, design, development, and demonstration of technical or operational utility;

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

or combinations of the foregoing, related to a prototype. The quantity should be limited to that needed to evaluate technical or manufacturing feasibility or military utility.

“Request for Ordnance Technology Initiatives” (ROTI) refers to the document that is released to the NAC membership as the official request for prototype proposals against a project requirement. The intent of the ROTI is to solicit proposals from the NAC in order to competitively award projects under this Agreement.

"Technical Direction Letter (TDL)" refers to the Government document issued to the CMF, on behalf of the NAC, reflecting the Government's decision to select and fund all or part of a particular proposal submitted by a NAC Member. The TDL shall establish the contractual information regarding the scope of work, project specific terms and conditions, and payment information for the project.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**

Reports

The following Reports to shall be required.

1. Quarterly Report: The Quarterly Report has two major sections – Technical Status and Business Status.
 - a. Technical Status: Details the technical progress to date of the OTIA and reports all problems, technical issues or major developments during the reporting period. At a minimum, each report shall include:
 - i. A comparison of actual accomplishments with the goals and objectives established for that period.
 - ii. Reasons why established goals and objectives were not met, if appropriate.
 - iii. Other pertinent information, including, when appropriate, analysis and explanation of cost variance.
 - iv. New discoveries, inventions or potential patents, as well as the specific applications or technology transfers stemming from the discoveries, inventions or potential patents. Such disclosures shall be in a form that does not compromise any intellectual property or patent rights.
 - v. A cumulative chronological list of written publications in technical journals, including those in press and manuscripts in preparation for later submission. Indicate likely journals, authors and titles.
 - vi. Any other papers or information presented at meetings, conferences, or seminars.
 - b. Business Status: Details the resource status of the OTIA. This will include a quarterly accounting of expenditures and participant cost share contributions. Any major deviations from the Payable Milestones in the OTIA shall be explained with discussion of proposed actions to address the deviations.
2. Final Report: The NAC Member shall submit a Final Report to the CMF within thirty (30) calendar days of completion of an OTIA. The Final Report will provide a comprehensive, cumulative, and substantive summary of the progress and significant accomplishments achieved during the total period of performance. Each of the topics described above shall be addressed as appropriate. The Final Report will include a final accounting of cumulative expenditures, including the status of the cost share contributions of all participants. The CMF shall submit the Final Report to the Agreements Officer and cognizant AOR, who will have thirty (30) calendar days to provide comments or request that additional information be included for final approval. The Final Report is also required in the event of a termination in accordance with Article II, Section C.

**SUPPLEMENTAL TERMS & CONDITIONS FOR
Ordnance Technology Base Agreement No. 2018-356**