2010 - 0160

ACQUISITION AND CROSS-SERVICING AGREEMENT

BETWEEN

**THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA**

AND

**THE MINISTRY OF NATIONAL DEFENSE
OF ROMANIA**

US-RO-01

This Agreement is concluded by and between the Department of Defense of the United States of America and the Ministry of National Defense of Romania, hereinafter referred to as" the Parties", wishing to develop the bilateral cooperation in acquisition and cross-servicing area.

Now, therefore the Parties mutually agree as follows:

ARTICLE 1
PURPOSE

This Agreement is entered into for the purpose of establishing basic terms, conditions, and procedures to facilitate the reciprocal provision of logistic support, supplies, and services as these terms are defined in Article 3 of this Agreement.

ARTICLE 2
APPLICABILITY

1. This Agreement is designed to facilitate reciprocal logistic support between the Parties to be used primarily during combined exercises, training, deployments, operations, or other cooperative efforts, and for unforeseen circumstances or exigencies in which one of the Parties may have a need of logistic support, supplies, and services.

2. This Agreement applies to the reciprocal provision of logistic support, supplies, and services to the military forces of one Party by the other Party in return for either cash payment or the reciprocal provision of logistic support, supplies and services to the military forces of the other Party.

3. It is understood by and between the Parties that acquisitions and transfers under this Agreement and any implementing arrangements executed hereunder are made subject to the availability of appropriations for such purposes and acquisition and transfer limitations established by United States and Romanian laws and regulations.

4. The Parties agree that the following items are not eligible for transfer under this Agreement, and are specifically excluded from its coverage:

a. weapons systems;

b. major end items of equipment, except for the lease or loan of general purpose vehicles and other items of nonlethal military equipment not designated as part of the United States Munitions List or on Romanian similar lists;

c. initial quantities of replacement and spare parts associated with the initial order quantity of major items of organizational equipment covered in tables of allowances and distribution, tables of organization and equipment, and equivalent documents.

5. Also excluded from transfer by either Party under this Agreement are any items that transfer are prohibited by the legislation and regulations of the state to which the Party belongs. Specifically excluded from transfer by United States law and regulation under this Agreement are the following:

a. guided missiles;

b. naval mines and torpedoes;

c. nuclear ammunition and included items such as warheads, warhead sections, projectiles, demolition munitions, and training ammunition;

d. cartridge and aircrew escape propulsion system (AEPS) components;

e. chaff and chaff dispensers;

f. guidance kits for bombs or other ammunition;

g. chemical ammunition, other than riot control agents;

h. source, byproduct, or special nuclear materials, or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954, title 42, United States Code , section 2011, et seq.

ARTICLE 3
DEFINITIONS

1. Within this Agreement and in any Implementing Arrangements, which provide specific procedures, the following definitions apply:

a. *Logistic support, supplies and services*: Food, water, billeting, transportation including airlift, petroleum, oils, lubricants, clothing, communication services, medical services, ammunition, base operations support and construction incident thereto, storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and airport and seaport services. Such term also includes the temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List or similar Romanian list.

b. *Implementing Arrangement*: A written supplementary agreement related to the specific acquisition and/or transfer of logistic support, supplies and services, which sets forth additional details, terms and conditions which further define and carry out this Agreement.

c. *Order*: A request that, when correctly formulated and signed by an authorized official according to Article 4, paragraph 2, is a request for the provision of specific logistic support, supplies and services pursuant to this Agreement and any applicable Implementing Arrangement.

d. *Invoice*: A document from the supplying Party which requests reimbursement or payment for specific logistic support, supplies and services rendered pursuant to this Agreement and any applicable Implementing Arrangements.

e. *Transfer*: Selling against payment in currency, replacement-in-kind or exchange of supplies or services of equal value, leasing, loaning, or otherwise temporarily provided logistic support, supplies, and services under the terms of a Cross-servicing Agreement between the Parties.

ARTICLE 4
TERMS AND CONDITIONS

1. Each Party shall make its best efforts, consistent with national priorities, to satisfy requests from the other Party, under this Agreement for logistic support, supplies, and services, during peacetime and during periods of national emergency, international regional tension or active hostilities. When an Implementing Arrangement contains a stricter standard for satisfying such requests, it shall apply over this paragraph.

2. The Parties agree that the transfer of logistic support, supplies and services between the Parties shall be accomplished by Orders issued and accepted under this Agreement and any applicable Implementing Arrangement.

3. An Order may be issued against this Agreement alone without an Implementing Arrangement only in those cases set forth in Annex A in this Agreement.

4. An Implementing Arrangement may be negotiated, on the part of the United States, by HQ US European Command (USEUCOM) or designated component Commands for operations conducted within USEUCOM area of responsibility or with USEUCOM units. For operations conducted outside USEUCOM area of responsibility, authorized U.S. Headquarters in coordination with USEUCOM Headquarters may negotiate Implementing Arrangements on the part of the United States. On behalf of the Ministry of National Defense of Romania, Implementing Arrangements may by negotiated by Logistics Directorate of General Staff. Implementing Arrangements, if used, must identify points of contact and specific authorizations or limitations.

5. When operations are conducted outside USEUCOM or with U.S. forces from another Unified Command, the respective USEUCOM Service Component will assist in processing requirements from Romanian Ministry of National Defense.

6. Whether the transfer is accomplished by an Order under this Agreement alone or in conjunction with an Implementing Arrangement, the documents taken together must set forth all necessary details, terms, and conditions to carry out the transfer including the data elements in Annex B.

7. The parties shall endeavor to adopt a standard Order form. An Implementing Arrangement shall generally identify those personnel authorized to issue and accept Orders under that agreement. The Parties shall notify each other of specific authorizations or limitations on those personnel able to issue or accept Orders directly under this Agreement or under an Implementing Arrangement when the respective Implementing Arrangement does not state this information. In the case of the United States Armed Forces, these notifications shall go directly to the Component Command concerned. In the case of Romania Armed Forces, notifications shall go to the individual Service concerned, as well as to the Logistics Directorate of General Staff.

8. In all transactions, involving the transfer of logistic support, supplies and services, the receiving Party agrees that such logistic support, supplies and services shall not be retransferred, either temporarily or permanently, by any means, to other than the forces of the receiving Party without prior written consent of the supplying Party.

ARTICLE 5
REIMBURSEMENT

1. For any logistic support, supplies and services transactions, the Parties shall negotiate for payment either in cash in the currency specified by the supplying Party, - a "reimbursable transaction", or in equal value to be defined in monetary terms only -an "exchange transaction". The receiving Party shall pay the supplying Party under the conditions set out in either paragraph 1a. or paragraph 1b.of this Article.

a. *Reimbursable transaction.* The supplying Party shall submit Invoices to the receiving Party after delivery or performance of the logistic support, supplies and services. Both Parties shall maintain records of all transactions, and each Party shall provide for the payment of outstanding accounts not less frequently than every twelve months, but not later than 15 December of the current year. Bills prepared by the supplying Party shall be accompanied by necessary support documentation and paid within 30 days from the receiving date. In pricing a reimbursable transaction, the Parties agree to the following reciprocal pricing principles:

(1) In the case of specific acquisition, by the supplying Party, from its contractors, for the receiving Party, the price shall be no less favorable than the price charged the Armed Forces by the contractor of the supplying Party for identical items or services, less any amount excluded by Article 6 of this Agreement. The price charged may take into account differentials due to delivery schedules, points of delivery, and other similar considerations.

(2) In the case of transfer from the supplying Party's own resources, the supplying Party shall charge the same price it charges its own forces for identical logistic support, supplies and services, as of the date the Order is accepted, less any amounts excluded by Article 6 of this Agreement. This price will be no less than the supplying Party's replacement acquisition cost. In any case where a price has not been established or charges are not made for one's own armed forces, the Parties shall agree on a price in advance, excluding charges that are precluded under these reciprocal pricing principles.

b. *Exchange transaction.* Both Parties shall maintain records of all transactions. The receiving Party shall pay by transferring to the supplying Party logistic support, supplies and services that are agreed between the Parties to be of equal monetary value to the logistic support, supplies and services delivered or performed by the supplying Party. If the receiving Party does not complete the exchange within the terms of a replacement schedule, agreed to or in effect at the time of the original transaction, within time frames which may not exceed one year from the date of the original transaction, but no later than 15 December of the current year, the transaction shall be deemed reimbursable and governed by paragraph 1a above, except that the price shall be established using actual or estimated prices in effect on the date when payment would otherwise have been done.

2. When a definitive price for the Order is not agreed upon in advance, the

Order, pending agreement on final price, shall set forth a maximum limitation of liability for the Party ordering the logistic support, supplies and services. The Parties shall then promptly enter into negotiation to establish the final price.

3. The Invoice shall contain identification of the applicable Implementing Arrangement or in the absence thereof, refer to this Agreement and shall be in the format set forth by the supplying organization. The Invoice shall be accompanied by evidence of receipt by the Party receiving the logistic support, supplies and services.

4. The Parties agree to grant each other access to documentation and information sufficient to verify, when applicable, that reciprocal pricing principles have been followed and prices do not include waived or excluded costs. Points of contact will be identified on each Implementing Arrangement to validate expenses or research charges on an as-required basis.

5. No provision in this Agreement shall serve as a basis for an increased charge for logistic support, supplies and services, if such logistic support, supplies and services would be available without charge or for a lesser charge under the terms of another agreement.

ARTICLE 6
WAIVED OR EXCLUDED COSTS

The provisions of any tax and customs relief agreements applicable to the acquisition of materials, services, supplies, and equipment by the receiving Party shall apply to logistic support, supplies and services transferred under this Agreement. The Parties shall cooperate to provide proper documentation to maximize tax and customs relief. The supplying Party shall inform the ordering Party whether the price charged for logistic support, supplies, or services includes taxes or customs duties, which the supplying Party cannot recover. In such cases, the price paid by the receiving Party shall include only those taxes or customs duties not recoverable by the supplying Party.

ARTICLE 7
INTERPRETATION, MODIFICATION AND AMENDING

1. Disagreements between the Parties with respect to the interpretation or application of this Agreement or any Implementing Arrangements shall be resolved exclusively between the Parties.

2. Either Party may, at any time, request amending or modifying of this Agreement by giving the other Party 90 days advance written notice. In the event such a request is made, the two Parties shall promptly enter to negotiations. This Agreement may only be amended by written agreement between the Parties. The agreed modifications and amendments will enter to force in accordance to the provisions of Article 8.

3. Classified information and material provided or generated pursuant to this Agreement shall be protected in compliance with the Security Agreement Between the Government of the United States of America and the Government of Romania Concerning Security Measures for the Protection of Classified Military Information, 21 June 1995.

ARTICLE 8
EFFECTIVE DATE AND TERMINATION

This Agreement shall come into force on the receiving date by the American Party of the Romanian Party's notification regarding the completion of the internal legal procedure necessary for entry to force of the Agreement. The Agreement shall remain into force for a period of ten years unless terminated by the Parties, provided that it may be terminated by either Party giving not less than 180 days written notice to the other Party. At any time during the final year of the ten-year term of this Agreement, the Parties may agree to extend its term for an additional ten years. This extension shall be executed by an exchange of letters signed, on behalf of the United States by the Headquarters, U.S. European Command, Director of Logistics and Security Assistance, and on behalf of Romania, by the Chief of Logistics Directorate of Romanian General Staff, or by their formal successors.

In witness whereof, the undersigned, being duly authorized by their competent authorities, have signed this Agreement.

Signed at Bucharest on 17 May 2002 and at Stuttgart on 20 May 2002, in two originals, each one in the English language and in the Romanian language, both being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

MAJOR GENERAL, USAF
CRAIG P. RASMUSSEN

DIRECTOR OF LOGISTICS AND SECURITY ASSISTANCE

FOR THE MINISTRY OF NATIONAL DEFENSE OF ROMANIA

GEORGE CRISTIAN MAIOR

SECRETARY OF STATE AND HEAD OF DEPARTMENT FOR EUROATLANTIC INTEGRATION AND DEFENCE POLICY

LIST OF ANNEXES

Annex A - Conditions for Issuing Orders
Annex B - Minimum Essential Data Elements
Annex C – Standard Form Request, Receipt and Return or Invoice

ANNEX A
CONDITIONS FOR ISSUING ORDERS

Pursuant to Article 4, paragraph 3, Orders for support request may be issued against this Agreement alone, in the following circumstances:

a. Orders for logistic support, supplies and services placed during times of national emergency, international tension, active hostilities, combined exercises, training, deployments, operations, or other cooperative efforts, and for unforeseen circumstances or exigencies in which the recipient may have a need of logistic support, supplies, and services.

b. Orders for logistic support, supplies and services urgently required and not covered by an Implementing Arrangement, provided the Parties to the transaction, or their designated representatives agree.

ANNEX B
MINIMUM ESSENTIAL DATA ELEMENTS

1) *Implementing Arrangements or Support Agreement*
2) *Date of Order*
3) *Designation and address of office to be billed*
4) *Numerical listing of stock numbers of items, if any*
5) *Quantity and description of material/services requested*
6) *Quantity furnished*
7) *Unit of Measurement*
8) *Unit price in currency of billing country*
9) *Quantity furnished (6) multiplied by unit price (8)*
10) *Currency of billing country*
11) *Total Order amount expressed in currency of billing country*
12) *Name (typed or printed), signature, and title of authorized Ordering or requisitioning representative*
13) *Payee to be designated on remittance*
14) *Designation and address of office to receive remittance*
15) *Recipient's signature acknowledging service or supplies received on the Order or requisition or a separate supplementary document*
16) *Document number of Order or requisition*
17) *Receiving organization*
18) *Issuing organization*
19) *Transaction type*
20) *Fund citation or certification of availability of funds when applicable under Parties' procedures*
21) *Date and place of original transfer; in the case of an exchange transaction, a replacement schedule including time and place of replacement transfer*
22) *Name, signature and title of authorized acceptance official*
23) *Additional special requirement, if any, such as transportation, packaging, etc.*
24) *Limitation of government liability*
25) *Name, signature, date and title of supplying Party official who actually issues supplies or services*

ANNEX C

Standard form for Request, Receipt and Return or Invoice

PART A (Select One) ☐ Request ☐ Return					PART C. INVOICE			
1. Requst Number:		4. From:		5. Nation	22. Invoice Authority			
2. Support Agreement:		6. To:		7. Nation	23. Invoice Number			
3. Means of Transport:		8.Time and Place delivery requested			24. Transportation Document			
		9. Receiving Party:						
		10A. Authorizing Official Requesting Party (Name, Rank, Signature)		10.B. Date				
11. No	12. Stock Number	13. Description	14. Units of Measure	15. Quantity Requested	27. Quantity Delivered	28. Unit price	29. Total	30. Attachments and Vouchers
1								
16. Other Costs								
17. Method of Payment ☐ Cash ☐ Replacement in Kind ☐ Equal-Value-Exchange					31. Total Amount Claimed		32. Currency Used:	
18. Authorizing Official for Supporting/Supplying Party (Provide Name, Rank, Signature and Date signed)			19. Date of Return		33A. Payable to: _____ 33B. Account Number: _____ 33C. For: _____			
Part B – Acknowledgement of Receipt 20. Receipt Accepted: (Enter Place, Date, Name, Rank and Signature)			21. Transportation ☐ Free of Charge ☐ With Charges		34. I certify that the amount invoiced is exclusive of all taxes for which exemption has been granted under provision of existing agreements and that the invoice is correct 35. Name, rank and Signature			