

**ACQUISITION AND CROSS-SERVICING AGREEMENT**  
**between the European Union and the United States of America**  
**(US-EU-01)**

PREAMBLE

The European Union (EU) and the United States of America, hereinafter referred to as the Parties, desiring to further the interoperability, readiness, and effectiveness of their respective Military Forces through increased logistic cooperation, have resolved to conclude this Acquisition and Cross-Servicing Agreement (this Agreement).

*Article I*

**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 that term is defined in Article II of this Agreement.

*Article II*

**Definitions**

1. As used in this Agreement and in any Implementing Arrangements that provide specific procedures, the following definitions apply:

- (a) Administrator. The administrator of Athena.
- (b) Athena. The mechanism that is the subject of Council Decision (CFSP) 2015/528.
- (c) Classified Information. Information and material (i) the unauthorized disclosure of which could cause varying degrees of damage or harm to the interests of the United States of America, or of the EU or one or more of its Member States; (ii) which requires protection against unauthorized disclosure in the security interest of the United States of America or the EU; and (iii) which bears a security classification assigned by the United States of America or the EU. The information may be in oral, visual, electronic, magnetic, or documentary form, or in the form of material, including equipment or technology.
- (d) Equal-Value-Exchange. Payment for a transfer conducted under this Agreement in which it is agreed that the Receiving Party shall replace Logistic Support, Supplies, and Services that it receives with Logistic Support, Supplies, and Services of an equal monetary value.
- (e) EU Member States. States having established among themselves a European union called 'the Union' on which they confer competences to obtain objectives they have in common.
- (f) EU Operation Commander. The EU military authority exercising the command of an EU military operation or exercise. This includes any EU Mission Commander exercising the command of an EU military mission, where that command includes the functions normally exercised by an Operation Commander.

- (g) Implementing Arrangement. A written supplementary arrangement for Logistic Support, Supplies, and Services that specifies details, terms, and conditions to implement this Agreement.
- (h) Invoice. A document from the Supplying Party that requests reimbursement or payment for specific Logistic Support, Supplies, and Services rendered pursuant to this Agreement and any applicable Implementing Arrangements.
- (i) 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 to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. The term also includes the temporary use of general purpose vehicles and other nonlethal items of military equipment, where such lease or loan is permitted under the respective laws and regulations of the United States of America and of the relevant EU Member States participating in the EU operation. The term 'Logistic Support, Supplies, and Services' refers to support, supplies or services from any or all of the foregoing categories.
- (j) Military Forces of a Party. The military forces of the United States of America or the military forces of the EU understood as contingents put at the disposal of the EU by the EU Member States participating in the EU operation or exercise including headquarters and national elements supporting the operation or exercise.
- (k) Order. A written request, in an agreed-upon format and signed by an authorized individual, for the provision of specific Logistic Support, Supplies, and Services pursuant to this Agreement and any applicable Implementing Arrangement.
- (l) Point of Contact (POC). An office, agency, individual, or in the case of the European Union, an Authorizing officer of Athena, that is authorized by a Party to sign an Order requesting or agreeing to supply Logistic Support, Supplies, and Services under this Agreement, or to collect or make payments for Logistic Support, Supplies, and Services supplied or received under this Agreement. The POCs are listed in the separate notifications exchanged between Athena and the Department of Defense of the United States of America.
- (m) Receiving Party. The Party ordering and receiving Logistic Support, Supplies and Services.
- (n) Replacement-in-Kind. Payment for a Transfer conducted under this Agreement in which it is agreed that the Receiving Party shall replace Logistic Support, Supplies, and Services that it receives with Logistic Support, Supplies, and Services of an identical, or substantially identical, nature under agreed conditions.
- (o) Supplying Party. The Party providing Logistic Support, Supplies, and Services.
- (p) Transfer. Selling (whether for payment in currency, Replacement-in-Kind, or Equal-Value-Exchange), leasing, loaning, or otherwise temporarily providing Logistic Support, Supplies, and Services under the terms of this Agreement.

### Article III

#### Applicability

1. This Agreement is designed to facilitate reciprocal provision of Logistic Support, Supplies, and Services between the Parties to be used primarily during combined exercises, training, deployments, port calls, operations, or other cooperative efforts, or for unforeseen circumstances or exigencies in which one of the Parties may have a need for Logistic Support, Supplies, and Services.

2. This Agreement applies to the provision of Logistic Support, Supplies, and Services from the Military Forces of one Party to the Military Forces of 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 Supplying Party.

3. All activities of the Parties under this Agreement and any Implementing Arrangements shall be carried out in accordance with their respective laws and regulations. All obligations of the Parties under this Agreement and any associated Implementing Arrangements shall be subject to the availability of funds for such purposes. Unless otherwise agreed in advance, a Party shall not place an Order and receive support under this Agreement and any associated Implementing Arrangement unless it has funds (or agreed-upon in-kind support) available to pay for such support. If a Party discovers that it does not have the funds to fulfill its obligations, it shall promptly notify the other Party, which shall have the right to discontinue its provision of any support that was to be paid for with such funds. This shall not affect the obligation of a Party to pay for support already received.

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

- (a) weapon systems;
- (b) major end items of equipment (except for the lease or loan of general purpose vehicles and other nonlethal items of military equipment where such lease or loan is permitted under the respective laws and regulations of the United States of America and of the relevant EU Member States participating in the EU operation); and
- (c) initial quantities of replacement and spare parts associated with the initial order of major items of organizational equipment; however, individual replacement and spare parts needed for immediate repair and maintenance services may be transferred.

5. Also excluded from transfer by either Party under this Agreement are any items the transfer of which is prohibited by the respective laws and regulations of the United States of America or of the relevant EU Member States participating in the EU operation. In accordance with U.S. law and regulation, the United States of America currently may not transfer the following items under this Agreement:

- (a) guided missiles;
- (b) naval mines and torpedoes;
- (c) nuclear ammunition (including such items such as warheads, warhead sections, projectiles, demolition munitions, and training ammunition);
- (d) cartridge and propellant-actuated devices;
- (e) chaff and chaff dispensers;
- (f) guidance kits for bombs or other ammunition;
- (g) chemical munitions or ammunition (which do not include riot-control agents);
- (h) source, by-product, 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.); and
- (i) items of military equipment designated as Significant Military Equipment on the United States Munitions List (Part 121 of Title 22 of the U.S. Code of Federal Regulations), except as allowed under the definition of Logistic Support, Supplies, and Services under U.S. law.

*Article IV***terms and conditions**

1. Each Party shall make its best efforts, consistent with its respective priorities, to satisfy requests from the other Party under this Agreement for Logistic Support, Supplies, and Services. However, when an Implementing Arrangement contains a stricter standard for satisfying such requests, the standard in the Implementing Arrangement shall apply.
2. Orders may be placed or accepted only by the POCs, or designees, identified by the Parties in a notification exchanged between Athena and the Department of Defense of the United States of America.
3. An Implementing Arrangement under this Agreement may be negotiated on behalf of the United States of America by the Department of Defense, represented by Headquarters, U.S. European Command (USEUCOM), the Headquarters of other U. S. Combatant Commands, or their designees. Implementing Arrangements may be negotiated on behalf of the EU by Athena, represented by the Administrator or the Administrator's designee, or by the EU Operation Commander. Implementing Arrangements may identify POCs and their specific authorizations or limitations.
4. Prior to submitting a written Order, the Receiving Party should initially contact the Supplying Party's POC, including by telephone, fax, or email, to ascertain availability, price, and desired method of repayment for required materiel or services. Orders shall include all the data elements in Annex A, as well as any other terms and details necessary to carry out the Transfer. A Standard Order Form is attached as Tab A to Annex A. The number of this Agreement, US-EU-01, should be annotated on all Orders and related correspondence.
5. Both Parties shall maintain records of all transactions.
6. The Receiving Party is responsible for:
  - (a) Arranging pick-up and transportation of supplies acquired under this Agreement. This does not preclude the Supplying Party from assisting with loading supplies acquired under this Agreement onto the transportation conveyance.
  - (b) Obtaining any applicable customs clearance and arranging other official actions required by the applicable customs regulations.
7. The individual designated by the Receiving Party to receive the Logistic Support, Supplies, and Services on behalf of the Receiving Party shall sign the Standard Order Form (Annex A, Tab A) in the appropriate block as evidence of receipt. If the Standard Order Form is not available at the Supplying Party's point of issue, the individual receiving the Logistic Support, Supplies, and Services shall sign the receipt document provided by the Supplying Party as a substitute. The number of this Agreement, US-EU-01, shall be entered on the receipt document.
8. The Supplying Party shall be responsible for:
  - (a) Notifying the Receiving Party when and where Logistic Support, Supplies, and Services are available to be picked up; and
  - (b) Forwarding the signed receipt document to the POC authorized to accept Orders under this Agreement. The signed receipt document shall be attached to the original Order Form.
9. Logistic Support, Supplies, and Services received through this Agreement shall not be retransferred, either temporarily or permanently, to any other country, international organization, or entity (other than the personnel, employees, or agents of the Military Forces of the Receiving Party) without the prior written consent of the Supplying Party obtained through applicable channels.

*Article V***Reimbursement**

1. The European Union shall ensure that its Member States, directly or through Athena, reimburse the United States of America for all Logistic Support, Supplies, and Services provided by the United States of America pursuant to this Agreement, in accordance with the procedures set forth in Annex B.
2. The United States of America shall reimburse Athena for all Logistic Support, Supplies, and Services provided by the European Union pursuant to this Agreement, in accordance with the procedures set forth in Annex B.

*Article VI***Waived or excluded costs**

Insofar as the applicable laws and regulations permit, the Parties shall ensure that any readily identifiable duties, taxes, and similar charges are not imposed on activities conducted under this Agreement. The Parties shall cooperate to provide proper documentation to maximize tax and customs relief, including under any applicable tax and customs relief agreements. The Parties shall inform each other whether the price charged for Logistic Support, Supplies, and Services includes taxes or duties. In determining whether duties, taxes, or similar charges should be levied, the pricing principles in Article V and Annex B govern the value of the Logistic Support, Supplies, and Services provided by the Supplying Party.

*Article VII***Liability**

Each Party waives all claims it may have (other than claims associated with the reimbursement for assistance provided hereunder) against the other Party for damage to, or loss or destruction of, its property or injury or death to its personnel arising out of activities of the Military Forces, personnel, employees, agents, and contractors (including subcontractors) of the other Party pursuant to this Agreement. Claims of third parties filed against the United States of America or the EU for damages or loss caused by their respective Military Forces, personnel, employees, agents, or contractors (including subcontractors) arising from activities under this Agreement shall be resolved by the Party against which such claims are filed in accordance with that Party's applicable laws, rules and regulations.

*Article VIII***Security of information**

It is the intent of the Parties that activities under this Agreement and any Implementing Arrangements be carried out at the unclassified level. No Classified Information shall be provided or generated under this Agreement or any Implementing Arrangements.

*Article IX***Interpretation and amendments**

1. Any disagreements regarding the interpretation or application of this Agreement, any Implementing Arrangements, or transactions executed hereunder shall be resolved through consultation between the Parties and shall not be referred to any national or international tribunal, or third party for settlement.

2. Either Party may, at any time, request amendment of this Agreement by providing written notice to the other Party. In the event such a request is made, the Parties shall enter into negotiations promptly. This Agreement may be amended only by written agreement between the Parties.

*Article X*

**Entry into force and termination**

This Agreement, which consists of a Preamble, Articles I-X, and Annexes A and B, shall enter into force upon the date of the last signature. This Agreement shall remain in force unless terminated by the mutual written consent of the Parties or by either Party giving not less than 180 days' notice in writing to the other Party of its intent to terminate. Notwithstanding termination of this Agreement, all reimbursement obligations incurred pursuant to its terms shall remain binding on the responsible Party until satisfied.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

DONE at Brussels, on this sixth day of December 2016, in duplicate, in the English language.

*For the European Union*



*For the United States of America*



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## LIST OF ANNEXES

ANNEX A	Minimum Essential Data Elements for Orders
TAB A	Standard Order Form
ANNEX B	Reimbursement

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## ANNEX A

## MINIMUM ESSENTIAL DATA ELEMENTS FOR ORDERS

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

STANDARD ORDER FORM

ACQUISITION AND CROSS-SERVICING AGREEMENT (ACSA)/MUTUAL LOGISTICS SUPPORT (MLS)

STANDARD ORDER FORM

1. Requisition No.	2. Support Agreement	3. Operation/Theater	4. Order Date
5. Requesting Unit	6. Requesting Nation	7. Providing Unit	8. Providing Nation
9. Deliver to Unit	10. Deliver to Country	11. Deliver Place	12. Deliver Time

13. REQUESTED LINE ITEM SUMMARY (SEE ATTACHED LINE ITEM DETAIL SHEET)

No.	Sub	Atch	Stock No. & Description	Unit of Mes	Quantity Request (Less Previously Received)	Quantity Received	Unit Price	Total



## ANNEX B

## REIMBURSEMENT

1. For transfers of Logistic Support, Supplies, and Services under this Agreement, the Parties shall agree on payment either by cash ('Reimbursable Transaction'), or by Replacement-in-Kind or an Equal-Value-Exchange (both of which are 'Exchange Transactions'). The Receiving Party shall pay the Supplying Party as provided in either paragraph 1.a. or paragraph 1.b. of this Annex.
  - (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 provide for the payment of all transactions, and each Party shall invoice the other Party at least once every three (3) months for all transactions not previously invoiced. Invoices shall be accompanied by necessary support documentation and shall be paid within sixty (60) days of the date prepared and entered upon the invoice. Payment shall be made in the currency of the Supplying Party or as otherwise agreed in the Order. In pricing a Reimbursable Transaction, the Parties agree to the following reciprocal pricing principles:
    - (1) In the case of a specific acquisition by the Supplying Party from its contractors on behalf of a Receiving Party, the price shall be no less favorable than the price charged the Military Forces of the Supplying Party by the contractor of the Supplying Party for identical items or services, less any amounts excluded by Article VI. 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 or, in the case of the EU, the resources of its Member States, the Supplying Party shall charge the same price charged its own Military Forces for identical Logistic Support, Supplies, and Services, as of the date delivery or performance occurs, less amounts excluded by Article VI of this Agreement. In any case where a price has not been established or charges are not made for one's own Military Forces, the Parties shall agree on a price in advance, reflecting reciprocal pricing principles, excluding charges that are precluded under these same reciprocal pricing principles.
  - (b) Exchange Transaction. Exchange Transactions may be by Replacement-in-Kind or Equal-Value-Exchange. The Receiving Party shall pay by transferring to the Supplying Party Logistic Support, Supplies, and Services that are agreed between the Parties to be identical (or substantially identical) or to be of equal monetary value to the Logistic Support, Supplies, and Services delivered or performed by the Supplying Party. When Equal-Value-Exchange is the agreed method of payment, prior to the provision of the requested support both Parties will agree, to the extent possible, on the goods and services that will be accepted for payment. The Receiving Party is responsible for arranging return transportation and delivery of the replacement Logistic Support, Supplies, and Services to the location mutually agreed between the Parties at the time the Order is signed. 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, which may not exceed one year from the date of the original transaction, the transaction shall be deemed reimbursable and governed by paragraph 1.a. above, except that the price shall be established using actual or estimated prices in effect on the date payment otherwise would have been due.
  - (c) Establishment of Price or Value. The following pricing mechanisms are provided to clarify application of the reciprocal pricing principles. The price established for inventory stock materiel shall be the Supplying Party's stock list price, which, in the case of the EU, shall be the relevant Member State's stock price. The price for new procurement shall be the same price paid to the contractor or vendor by the Supplying Party. The price for services rendered will be the Supplying Party's standard price, or, if not applicable, the costs directly associated with providing the services. Prices charged should exclude all taxes and duties that the Receiving Party is exempted from paying under other applicable agreements. Upon request, the Parties agree to provide information sufficient to verify that these reciprocal pricing principles have been followed and that prices do not include waived or excluded costs.

2. When a definitive price for the Order is not agreed to in advance, the Order, pending agreement on final price, shall set forth a maximum liability to the Party ordering the Logistic Support, Supplies, and Services. Then the Parties shall enter into negotiations promptly to establish the final price.
  3. POCs for payments and collections for each Party are identified in the notifications exchanged between Athena and the Department of Defense of the United States of America.
  4. The price for Logistic Support, Supplies, and Services under this Agreement shall not be higher than the price for the same Logistic Support, Supplies, and Services available under any other applicable agreement.
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