

DND Loan Agreement Number:
10026-7-99/00A927

AGREEMENT
BETWEEN THE
DEPARTMENT OF DEFENSE OF THE
UNITED STATES OF AMERICA
AND
HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF
NATIONAL DEFENCE
FOR THE LOAN OF
LIGHT ARMoured VEHICLES (LAV III_s) FOR CONCEPT EVALUATION

The Department of Defense (DOD) of the United States of America, hereinafter referred to as the "Receiving Participant," and Her Majesty the Queen in Right of Canada as represented by the Minister of the Department of National Defence (DND) of Canada, hereinafter referred to as the "Providing Participant," (collectively referred to as the "Participants") hereby enter into the Agreement set out below. The agreement between the Government of the United States of America and the Government of Canada concerning the establishment of certain mutual defence commitments between the two countries of 19 August 1994 shall apply to this Agreement.

**ARTICLE I
DESCRIPTION AND QUANTITY**

1.1. The following items shall be loaned by the DND to the DOD:

<u>Quantity</u>	<u>Description</u>	<u>NSN</u>
26 Infantry Carrying Vehicles (ICV)	LAV IIIs	2320-21-913-7470
6 Command Post (CP) Vehicles	LAV IIIs	2320-21-913-7471

Value: \$ 58.88M US (\$1.84M US each)

**ARTICLE II
OBJECTIVES AND BENEFITS**

- 2.1. The objective is to develop tactics, techniques and procedures (TTP) for a US force equipped with medium armored wheeled vehicles. Toward this end, a DOD force equipped with LAV IIIs will be tested through varied comparative field evaluations as prescribed in a mutually agreeable Test Plan. Groups of soldiers from varied operational units, including mechanized infantry, armored and reconnaissance, will be used to assist in carrying out the various tests/missions.
- 2.2. This Agreement benefits both Participants in that it facilitates analysis of LAV III Coalition Operations.

**ARTICLE III
MANAGEMENT AND RESPONSIBILITIES**

- 3.1. Each Participant shall establish a point of contact who shall be responsible for coordinating the overall evaluation effort.
 - 3.1.1. The DND point of contact is:
CANADA
Project Manager Light Armoured Vehicles
ATTN: Colonel Peter Holt
National Defence Headquarters
101 Colonel By Drive
Ottawa, Ontario, Canada K1A 0K2
Telephone: 819-994-2392
Facsimile: 819-997-5198
Email: pjholt@travel-net.com

3.1.2. The DOD point of contact is:

UNITED STATES ARMY
Project Manager
ATTN: LTC Edward Healy
Fort Monroe, Virginia
Tel (757) 728-5927
Facsimile (757) 727-3445
Email: healye@monroe.army.mil

3.2. EVALUATION PROJECT OFFICERS. Each Participant will appoint one or more Evaluation Project Officers who shall perform the functions set forth at Articles 3.3.6 and 3.4.

3.2.1. The DND Evaluation Project Officer is:

CANADA
Evaluation Officer
ATTN: LCol Ross Carruthers
National Defence Headquarters
101 Colonel By Drive
Ottawa, Ontario, Canada K1A 0K2
Telephone: (819)997-6883
Facsimile: (819)997-5198
Email:

3.2.2. The DOD Evaluation Project Officer is:

UNITED STATES ARMY
Evaluation Officer
ATTN: MG James M. Dubik
Fort Lewis, Washington
Telephone: (253) 967-0654, DSN: 357-0654
Facsimile: (253) 967-0652
Email: dubikjm@lewis.army.mil

3.3. RESPONSIBILITIES.

3.3.1. Loan of the property - The DND shall make available the LAV IIIs to the DOD in the quantities and on the dates as follows:

8 LAV IIIs (6 ICV, 2 CP) on 29 February 2000;
8 LAV IIIs (7 ICV, 1 CP) on 31 March 2000; and
16 LAV IIIs (13 ICV, 3 CP) on 31 August 2000.

The DOD shall return the 32 LAV IIIs to Diesel Division General Motors (DDGM), London, Ontario to be restored to Canadian Forces (CF) specifications and standards, less reasonable wear and tear, no later than 1 January 2002.

3.3.2. Delivery & transportation costs - The DOD shall transport at DOD expense the LAV IIIs to Ft. Lewis, Washington, from DDGM, London, Ontario. The Evaluation Project Officer shall provide shipping details and confirm receipt of LAV IIIs. Possession of the LAV IIIs shall be deemed to have passed from the DND to the DOD upon written receipt by the DOD Evaluation Project Officer or his designated representative.

At the expiration of the loan, the DOD at no cost to the DND, shall transport at DOD expense the LAV IIIs to DDGM, London, Ontario.

3.3.3. Condition - The DND shall ensure that the LAV IIIs are provided in serviceable condition to Canadian Forces specifications and standards in effect at the time of delivery. The DOD shall return the LAV IIIs in the same condition as received less reasonable wear and tear at an average refurbishment cost per vehicle not to exceed US\$120,000 or a maximum total of US\$3,840,000.

3.3.4. Documentation - The DND shall furnish at time of transfer of possession to the DOD such operation and maintenance information as is necessary to operate and maintain the LAV IIIs during the period of this Agreement.

3.3.5. Support spares - The DOD shall contract separately for all support spares it deems necessary for the proper operation of the LAV IIIs.

3.3.6. Inspection and inventory - DOD & DND Evaluation Project Officers shall inspect, inventory and document the receipt of the LAV IIIs upon each transfer of possession and shall jointly determine the repair and overhaul required to return the vehicles back to the original CF specifications and standards, reasonable wear and tear excepted. DND will provide the LAV IIIs with a kit list as well as recommendations on stowage and kitting for additional items.

3.3.7. Training - The DOD, at no cost to the DND, shall be responsible for obtaining operator and operator maintenance training for those US military personnel assigned to operate and maintain the LAV IIIs.

3.3.8. Operation and Maintenance of the LAV IIIs - The DOD shall be responsible for all operation and maintenance services while the LAV IIIs are in the DOD's possession.

3.3.9. Evaluation Site - Evaluation shall be conducted by or on behalf of the DOD at Fort Lewis, Washington and other US sites as necessary at the discretion of the DOD.

3.3.10. Concept Evaluation Report - The DOD shall furnish the DND at no charge a report detailing the evaluation of doctrine, tactics and procedures of the force equipped with the LAV IIIs. The report will be provided within 90 days of the termination of this Agreement.

3.4. ADDITIONAL EVALUATION PROJECT OFFICERS RESPONSIBILITIES:

3.4.1. The Canadian POC for all matters dealing with logistics and support is:

LCol Tom Temple
PMO LAV/ILS
National Defence Headquarters
101 Colonel By Drive
Ottawa, Ontario, Canada K1A 0K2
Telephone: (819) 997-5204
Facsimile: (819) 997-5198

3.4.2. The Canadian POC for all matters dealing with communications is:

LCol Al Hamel
PMO TCCCS/DLCSPM 2
National Defence Headquarters
101 Colonel By Drive
Ottawa, Ontario, Canada K1A 0K2
Telephone: (819)994-6184
Facsimile: (819)994-3460
Email: ae260@issc.debbs.ndhq.cnd.ca

3.5. FOLLOW-ON EFFORTS EXCLUDED. This Agreement provides only for the loan of the LAV IIIs for concept evaluation purposes. Participation in this Agreement does not imply any commitment by either Participant to participate in any follow-on efforts beyond the scope of this Agreement, including the exchange of any additional information. Any other effort(s) shall be established through separate arrangements.

ARTICLE IV FINANCIAL ARRANGEMENTS

- 4.1. Subject to Article 3.3, the DND shall not charge the DOD for use of the LAV IIIs. The DOD shall not charge the DND for provision of the concept evaluation report. All risk of, or damage to, the property during the term of this loan from the time DOD takes possession of the property and until its return to the DND's possession, shall be borne by DOD. In the case of loss or damage beyond economical repair, the DOD shall pay to the DND an amount equal to the cost of replacing the lost or damaged property, but such amount shall not exceed the value in Article I above.
- 4.2. Subject to other provisions set forth herein, each Participant shall fully bear all costs it incurs for performing, managing, and administering its activities under this Agreement.

ARTICLE V PROPERTY RIGHTS AND RESTRICTIONS

- 5.1. The DND retains title to all property loaned under this Agreement.
- 5.2. The DOD may make changes or alterations to the loaned property but will restore to original configuration prior to return. All changes made by the DOD, which could affect the structural integrity of the loaned item, will require a prior written DOD request and receipt of written approval by the DND. The DOD will notify the DND in writing within 48 hours of having made any other changes.
- 5.3. The property shall be loaned only for the purposes set forth in Article II. No other use of the LAV IIIs by the DOD is authorized.
- 5.4. Information and property provided by the DND shall be used by the DOD for operation and maintenance of the LAV IIIs only, except as otherwise stated in this Agreement. The DOD shall ensure, by all means available, protection of proprietary rights in any equipment and any

plans, specifications, or information furnished, whether subject to patent or like protection or not. Information and property provided by the DND may not be licensed or transferred by the DOD without prior written approval of the DND.

- 5.5. Information generated under this Agreement may be used by either Participant for defense purposes only.
- 5.6. No intellectual property rights, other than as set out in this Agreement, are created or conveyed by this Agreement. The Participants agree to ensure, by all means available to them, the protection of property rights, test data, and other information provided or generated under this Agreement, whether subject to patent (or like protection) or not.
- 5.7. Any specification, production information, or manufacturing know-how incidentally derived from the performance of the terms of this Agreement shall be used and fully protected in accordance with this Agreement.

ARTICLE VI RELEASE OF INFORMATION

- 6.1. Each Participant shall take all lawful steps available to it to keep information provided or generated under this Agreement from unauthorized disclosure. If it becomes probable that a Participant may be compelled to disclose such information to a third party or to a judicial body, immediate notification shall be given to the other Participant.
- 6.2. Information provided by the DND under this Agreement shall be safeguarded in a manner that ensures its proper protection from unauthorized disclosure. Toward that end, such information shall be marked with a legend containing the country of origin, a reference to this Agreement, and the appropriate security classification.

ARTICLE VII VISITS TO ESTABLISHMENTS

- 7.1. The Receiving Participant will provide the Providing Participant (and its representatives) reasonable access to its facilities where the concept evaluation is taking place. Visits will be accomplished so as to minimize interference with host activities.
- 7.2. All visiting DND personnel shall be required to comply with security regulations of the host Participant. Any information disclosed or made available to visitors shall be treated as if supplied to the Participant sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.
- 7.3. DND visits shall be coordinated through official visit request channels, shall cite this Agreement, and shall conform to the established visitation procedures of the host Participant.

- 7.4. The Participants shall provide one another a listing of representatives required to visit on a recurring basis. The listing will be updated as changes occur.

**ARTICLE VIII
SECURITY**

- 8.1. Any classified information or property transferred pursuant to the provisions of this Agreement shall be stored, handled, transmitted and protected in accordance with the Canada and the United States General Security Agreement of 30 January 1962, as amended, as well as the Industrial Security Annex thereto, dated 8 February 1965.
- 8.2. The following security classifications apply:
- 8.2.1. The LAV IIIs - UNCLASSIFIED
 - 8.2.2. The Project - UNCLASSIFIED
 - 8.2.3. Concept Evaluation Report - UNCLASSIFIED
 - 8.2.4. DND communications equipment (as detailed in Annex A) - SECRET

**ARTICLE IX
THIRD PARTY TRANSFERS**

- 9.1. The Receiving Participant agrees not to disclose or transfer any property, test data, or other information provided to it under this Agreement to any Third Party without prior written consent of the Providing Participant. The Participants agree not to disclose any information generated under this Agreement to any Third Party without prior written consent of the other Participant. For the purposes of this Agreement, the term "Third Party" means, a government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.
- 9.2. Disclosures or transfers requiring authorization under paragraph 9.1 shall not be made or authorized unless the Third Party recipient agrees in writing that it shall not use any such equipment or information for purposes other than those for which it was furnished nor permit any further transfer without the prior written consent of both Participants.

**ARTICLE X
LIABILITY**

10. Except as set forth in Article 3.3 of this Agreement, the agreement between the Government of the United States of America and the Government of Canada concerning the establishment of certain mutual defence commitments between the two countries of 19 August 1994 shall apply for any liability arising out of the implementation of this Agreement.

ARTICLE XI
SETTLEMENT OF DISPUTES

11. Disputes between the Participants arising under or relating to this Agreement shall be resolved by consultation between the Participants and shall not be referred to a national court, to an international tribunal, or to any other person or entity for settlement.

ARTICLE XII
SPECIAL TERMS AND CONDITIONS

- 12.1. The Participants agree that the DOD will award a sole source contract to DDGM to perform the following work: new equipment training for US personnel; maintenance of the vehicles; engineering, prototyping, and integration of US communications equipment and any other necessary modification to the LAV IIIs loaned under this Agreement; and restoration the vehicles in accordance with Article III. DOD will provide to DND maintenance records prepared and maintained by DDGM for the LAV IIIs described in Article I.
- 12.2. The DND shall invoke for the DOD the benefit of any warranties provided by DDGM and/or its subcontractors with respect to any LAV III or spare part supplied by the DND under this Agreement, to the extent provided by those warranties. DOD is not responsible for any costs, repair or refurbishment associated with warranty defects.
- 12.3. The DOD shall permit DND to observe, as appropriate, all aspects of the evaluation in accordance with Article VII.
- 12.4. DND will modify the configuration of the LAV IIIs during the period of the loan. Subject to mutual agreement, DOD will allow these retrofits to occur at DOD facilities, upon a cost apportionment to be mutually decided.

ARTICLE XIII
AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

- 13.1. This Agreement may be amended or extended by written mutual consent of the Participants.
- 13.2. This Agreement may be terminated at any time:
- 13.2.1. by mutual agreement of the Participants; or
 - 13.2.2. by either Participant unilaterally upon 60 days written notice; or
 - 13.2.3. by DND at a time of national or international heightened crisis with immediate notice and without prejudice to its right to refurbishment costs incurred prior to termination.
- 13.3. Commitments and obligations regarding security and protection of property rights against unauthorized use, disclosure, or transfer that accrued prior to termination or expiration of this Agreement shall continue to apply without limit of time.

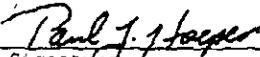
13.4. All obligations of the Participants under this Agreement are subject to the laws and regulations of the Participants and, with respect to financial obligations, the availability of appropriated funds for such purposes.

13.5. This Agreement, which consists of thirteen Articles and one Annex, shall enter into force upon signature by both Participants and shall remain in force until 31 January 2002, unless earlier terminated under Article 13.2. or extended under Article 13.1.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Departments, have signed this Agreement on the dates indicated below.

FOR THE DEPARTMENT OF DEFENSE OF THE
UNITED STATES OF AMERICA

FOR THE DEPARTMENT OF NATIONAL
DEFENCE OF CANADA


Signature


Signature

PAUL J. HOEPFER
Name

ALAN WILLIAMS
Name

Assistant Secretary of the Army
(Acquisition, Logistics and
Technology)
Title

Assistant Deputy Minister
(Material)
Title

February 15, 2000
Date

17 February 2000
Date

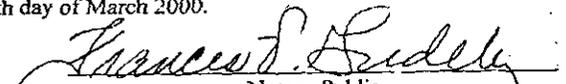
Washington DC
Location

Ottawa, Ontario, Canada
Location

City of Alexandria

State of Virginia

I hereby certify that the attached document, consisting of nine pages with text on front only is a true and complete copy of a Power of Attorney dated 17 February 2000 and presented to me this 7th day of March 2000.


Notary Public

My commission expires: 28 February 2002