Delegating authority to the Agency to conclude the Consortium Agreement for the establishment of the SESAR Deployment and Infrastructure Partnership and to sign accordingly all legal commitments required for the performance of the Consortium’s activities.

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:
Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 6.1 (b), 7.3 and 13 thereof;

Having regard to Article 2.1 of the revised Convention, as implemented early by Decision No. 71 of the Permanent Commission of 9 December 1997;

Whereas EUROCONTROL has been appointed as the Network Manager by Commission implementing Decision (EU) 2019/709 of 6 May 2019 on the appointment of the network manager for air traffic management (ATM) network functions of the single European sky;

Whereas the Network Manager has become eligible to be a member of the SESAR Deployment Manager following the amendment on 1 February 2021 of Commission Implementing Regulation (EU) N° 409/2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan;

Whereas the European Commission has issued on 29 October 2021 a Call for proposals for the selection of the SESAR Deployment Manager and the awarding of a framework partnership agreement and the specific grant agreement, pursuant to Article 9 of Commission Implementing Regulation (EU) No. 409/2013 (CEF-T-2021-SESAR Deployment Manager);

Whereas EUROCONTROL and groupings of operational stakeholders (airspace users, airport operators and air navigation service providers) have negotiated a draft consortium agreement with a view to establishing an effective management of European Air Traffic Management Network deployment and infrastructure and, in particular, to reply to the Call for proposals issued by the European Commission (EC) on 29 October 2021;

Whereas the conclusion of the Consortium Agreement establishing the SESAR Deployment and Infrastructure Manager is considered of strategic importance for EUROCONTROL.

On the proposal of the Director General and the Provisional Council,

GIVES THE FOLLOWING DIRECTIVE TO THE AGENCY:

Sole Article

1. The Agency is hereby authorised to conclude, on behalf of the Organisation, the Consortium Agreement establishing the SESAR Deployment and Infrastructure Partnership, and to sign accordingly all legal commitments required for the performance of the activities of the Consortium, including the response to the Call for proposals issued by the European Commission (EC) on 29 October 2021 for the selection of the SESAR Deployment Manager, on the basis of the draft agreement attached at Annex.
2. The Consortium Agreement shall be signed, on behalf of the Organisation, by the Director General of the Agency.

Done at Brussels on 26.1.2022

Māris Gorodcovs
President of the Permanent Commission
CONSORTIUM AGREEMENT

for the implementation of the SESAR Deployment and Infrastructure Partnership
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preamble</td>
</tr>
<tr>
<td>Article 1 – Purpose and scope</td>
</tr>
<tr>
<td>Article 2 – Definitions and interpretation</td>
</tr>
<tr>
<td>Article 3 – Organisation of the Consortium</td>
</tr>
<tr>
<td>Article 4 – Responsibilities of the Members</td>
</tr>
<tr>
<td>Article 5 – Human Resources Policy</td>
</tr>
<tr>
<td>Article 6 – Procurement Policy</td>
</tr>
<tr>
<td>Article 7 – Financial Policy</td>
</tr>
<tr>
<td>Article 8 – Stakeholder Consultation</td>
</tr>
<tr>
<td>Article 9 – Confidentiality</td>
</tr>
<tr>
<td>Article 10 – Personal Data Protection</td>
</tr>
<tr>
<td>Article 11 – Liability</td>
</tr>
<tr>
<td>Article 12 – Indemnification and Claim procedure</td>
</tr>
<tr>
<td>Article 13 – Intellectual Property Rights</td>
</tr>
<tr>
<td>Article 14 – Accession of new Members</td>
</tr>
<tr>
<td>Article 15 – Succession</td>
</tr>
<tr>
<td>Article 16 – Removal from the Consortium</td>
</tr>
<tr>
<td>Article 17 – Withdrawal from the Consortium</td>
</tr>
<tr>
<td>Article 18 – Consequences of removal or withdrawal</td>
</tr>
<tr>
<td>Article 19 – Applicable law and Settlement of disputes</td>
</tr>
<tr>
<td>Article 20 – Ethics</td>
</tr>
<tr>
<td>Article 21 – Force Majeure</td>
</tr>
<tr>
<td>Article 22 – Amendment to the Consortium Agreement</td>
</tr>
<tr>
<td>Article 23 - Miscellaneous</td>
</tr>
<tr>
<td>Article 24 – Entry into force, duration and termination</td>
</tr>
<tr>
<td>Article 25 – Entirety of the Consortium Agreement</td>
</tr>
</tbody>
</table>
ANNEXES

Annex 1 – Definitions
Annex 2 – Annual Conference of Executives
Annex 3 – Supervisory Board
Annex 4 – Organisational structure
Annex 5 – Human Resources Policy
Annex 6 – Common Procurement Agreement
Annex 7 – Financial Policy
Annex 8 – Personal Data Processing Agreement
Annex 9 – Stakeholder Consultation diagram
Annex 10 – Network Manager cooperative arrangement
CONSORTIUM AGREEMENT

BETWEEN:

1. The following Air Navigation Service Providers:

   (Members of the A6 Group of ANSPs)

ENAV S.p.A. a company organized and existing under the laws of Italy with registered office at Via Salaria 716, 00138 Rome, Italy, tax code and registration number in the Register of Companies of Rome no. 97016000586 (“ENAV”);

The State of France, Ministry for an ecological transition, DGAC (Direction générale de l’aviation civile), DSNA (Direction des Services de la Navigation Aérienne), a government entity organised and existing under the laws of France, with registered office at 50 rue Henry Farman, 75720 Paris cedex 15, France (“DSNA”);

ENAIRE, Legal Public Business Entity, whose registered Office is located at Avenida de Aragón 330, Edificio 2 (28022), Madrid, Spain (“ENAIRE”);

Polish Air Navigation Services Agency – a state legal entity, organized and existing under the act of 8th December 2006 on the Polish Air Navigation Services Agency, with its registered office at Wieżowa 8 Street, 02-147 Warsaw (“PANSA”);

Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung, a company organised and existing under the laws of Austria, whose registered office is at Wagramer Straße 19, 1220 Wien, Austria, commercial register entry number (FN) 71000m (“ACG”);

Croatia Control Ltd, a state owned company organised and existing under the laws of Croatia, whose registered office is at Rudolfa Fizira 2, Velika Gorica, Croatia, company number 1475886 (“Croatia Control”);

Irish Aviation Authority (IAA), a stateowned company organised and existing under the laws of Ireland, whose registered office is at Times Building, 11-12 D’Olier street Dublin, Ireland, company number 211082 (“IAA”);

Luftfartsverket, a state enterprise organised and existing under the laws of Sweden, whose registered office is at Hospitalsgatan 30, 601 79 Norrköping, Sweden, company number 202195-0795 (“LFV”);

Naviair, a state owned company organised and existing under the laws of Denmark, whose registered office is at Naviair Allé 1 2770 Kastrup, Denmark, company number EAN5798000893375 (“NAVIAIR”);
NAVEGAÇÃO AÉREA DE PORTUGAL - NAV Portugal, EPE, with head office in Rua D, Edifício 121, Aeroporto de Lisboa, 1700-008 LISBOA, registered under company number 504448064 at Commercial Registry Lisbon 1st, with the same VAT (“NAV PORTUGAL”);

DFS Deutsche Flugsicherung GmbH, a company organised and existing under the laws of Germany, with registered office at DFS-Campus 10, 63225 Langen, Germany (“DFS”);

Skyguide, Swiss civil & military Air Navigation Services Ltd, an incorporation under Swiss law, registered and with its headquarters in route de Prébois 15-17, 1215 Geneva, Switzerland, registered under company number CHE-106.029.770;

(Non-members of the A6 group of ANSPs)

Romanian Air Traffic Service Administration – Regie Autonome whose registered office is at 10, Ion Ionescu de la Brad Blvd, 013813, Bucharest, Romania, with registration number J40/1012/1991 (“ROMATSA RA”);

HungaroControl Hungarian Air Navigation Services Private Limited Company, a state-owned legal entity organized and operating under the laws of Hungary, Company Registration Number: 01-10-045570, tax identification number: HU17783051, with registered seat at H-1185 Budapest, Igló Str. 33-35., Hungary, (“HungaroControl”);

2. The members of the A4 Group of Airlines:

Deutsche Lufthansa Aktiengesellschaft, a German company, whose registered office is at Venloer Str. 151-153, D-50672 Cologne, company number HR B 2168 (“Lufthansa”);

easyJet Europe Airline GmbH, registered under the Laws of Austria (registration number FN 452433 v), with its registered office at Wagramer Strasse 19, IZD Tower, 11. Stock, 1220 Vienna Austria (“easyJet Europe”);

société Air France, a French société anonyme, having its headquarters at 45 rue de Paris 95747 Roissy Charles de Gaulle Cedex, registered at Bobigny under n°420 495 178 (“Air France”)

Ryanair DAC, whose registered office is at Airside Business Park, Swords, Co. Dublin, Ireland with company number 104547 (“Ryanair DAC”)

3. ACI EUROPE (Airports Council International), Rue Montoyer 10, 1000 Brussels, Belgium;

4. EUROCONTROL¹, appointed as the Network Manager by Commission Implementing Decision (EU) 2019/709, having its headquarters at Rue de la Fusée 96, 1130 Brussels, Belgium,

¹ The European Organization for the Safety of Air Navigation.
(hereinafter individually referred to as “Member”, jointly referred to as "Members", and referred to as “Party or Parties” wherever reference is made to the four groups of Members listed above, either individually or collectively).

PREAMBLE

Whereas:

a) The Members signed on 17 December 2019, a letter of intent to the European Commission Director General for Mobility and Transport, whereby they presented their readiness to establish a strong and secure partnership for managing the modernisation and digitalisation of a sustainable European ATM;

b) The Members signed on 21 July 2020 a High Level Principles document that sets the key principles that underpin a New Partnership of the EUROCONTROL Network Manager and groupings of operational stakeholders, aimed at establishing an effective management of European Air Traffic Management deployment and infrastructure;

c) The Members signed on 27 July 2020 a Mutual Confidentiality Agreement;

d) The European Commission has launched on 29 October 2021 Call for proposals CEF-T-2021-SESAR Deployment Manager;

e) The Members intend to submit a joint response to the Call for Proposals and form, to that end, a consortium between themselves, it being recalled that the scope and objectives of the Consortium is intended to go beyond the duties and responsibilities that are expected to be entrusted to it by the European Commission following the above-mentioned Call for proposals;

f) The Consortium will be established by the signature of the present Consortium Agreement; the latter specifies and supplements any binding commitments the Members may have taken among themselves in the High Level Principles or the Mutual Confidentiality Agreement;

g) The Consortium shall have no legal personality.

The Members agree to enter into this CONSORTIUM AGREEMENT, as follows:
ARTICLE 1- PURPOSE AND SCOPE

1. The Consortium is set-up by the present Consortium Agreement.

2. The Consortium is composed of legal entities working together to establish an effective management of European Air Traffic Management Network deployment and infrastructure. It shall have no legal personality and will be legally represented by its Consortium Coordinator, pursuant to the provisions of Article 4 below.

3. The Consortium cannot - in any way - be interpreted as the arrangement of any type of permanent entity between the Members, being *affectio societatis* expressly excluded. Therefore, none of the Members will have the right to undertake commitments in the name and on behalf of the other Members without specific prior written agreement.

4. The Consortium aims notably at:

   a) Defining the “how” to implement the Common Projects and other deployment and infrastructure initiatives, which require synchronisation, co-ordination and support within the European ATM Network, to ensure an efficient, effective and performance-based approach;

   b) Coordinating deployment execution, synchronising and co-ordinating investments, supporting defragmentation and reinforcing programme management and coordination of major initiatives. This includes providing assistance to operational stakeholders regarding synchronisation and overall coordination of projects and related investments;

   c) Ensuring a closer link between the technology innovation cycle and its connection to the operational needs, by supporting the transition from R&D into full deployment through an early involvement in industrialisation, ensuring the maturity of interoperable solutions and, creating better synchronised and accelerated deployment;

   d) Proactively providing advice to the European Commission, in particular on the relevant contents of Common Projects and their implementation;

   e) Ensuring that the necessary rationalisation and modernisation of the ATM infrastructure is carried out in a timely manner to support the future evolution of the European ATM Network;

   f) Ensuring that plans for ATM rationalisation and modernisation are created and implemented with the full buy-in of ATM operational stakeholders.

   g) Elaborating the service portfolio of the SES Digital Backbone (SDB) and assessing its operational and cost benefits before inclusion within the overall programmes’ organisational arrangement of the Consortium, supporting de-fragmentation of services inclusive for all users. This activity could include executing programme management of the different SDB pillars in alignment and full cooperation with the
programme management exercised for all other Consortium programmes, from identification of services and their operational capability, up to operations.

5. The Consortium shall, in particular, if and once designated by the European Commission, perform the role of the SESAR Deployment Manager, and of coordinator of the on-going and future implementation projects according to Call for proposals CEF-T-2021-SESAR Deployment Manager and the application submitted thereof by the Consortium, in compliance with the requirements specified by the European Commission under the Call for proposals.

6. In accordance with the requirements of the Call for proposals, the Consortium shall undertake to manage the transition process from the SESAR Deployment Alliance AISBL which is currently acting as the Deployment Manager to the Consortium which intends to be designated as the Deployment Manager in the framework of the Call for proposals by means of a common transition plan. This plan shall include, for example and as appropriate in particular, arrangements for:

- transfer of existing cooperative arrangements;
- the accession and transfer of data included in the STAR Database;
- the novation of service, supply and technical support contracts;
- the transfer of physical infrastructure including IT equipment;
- the transfer of all supporting materials, properly structured and archived, that may be required in order to comply with future audits.

7. The common transition plan to be finalized with the SESAR Deployment Alliance AISBL shall provide for the transfer of obligations and liabilities from the current SDM mandate holder to the Consortium. The Members note that EUROCONTROL will undertake, in a timely manner as early as legally possible, following the submission of the application to the Call for proposals – and in any event prior to the signature of the related FPA and SGA, a due diligence exercise of the current holder of the SDM mandate, the findings of which will be shared with all the Members. The due diligence will be carried out by an external independent auditing company. The due diligence exercise aims at ensuring that all Members will get an independent picture of the status of tasks, responsibilities and liabilities that will be transferred to the Consortium, as well as to ensure that the transfer will enable the Consortium to respond to any future audit requirements.

8. It is agreed that Members that are not part of the current SDM mandate holder shall only bear liabilities for activities performed as from 1 June 2022 by the Consortium, except for the activities performed as part of Activity 7 of the Call for proposals (Transition from the current Deployment Manager).

9. The Consortium Agreement establishes the roles and responsibilities respectively of the Members and/or the Parties in the performance of the above-mentioned tasks, the management and organisation of the Consortium and the respective rights and obligations of the Members and/or the Parties concerning all matters that would require to be regulated.
10. The Consortium is established as a consortium of equal partnership with equal distribution of authority amongst the Parties, and this principle shall flow through all activities undertaken (wherever relevant) leading notably to joint governance, joint management and joint expert teams.

**ARTICLE 2 - DEFINITIONS AND INTERPRETATION**

1. For the purpose of this Consortium Agreement, the definitions and acronyms which are presented in Annex 1 or in the other Annexes themselves, shall apply.

2. In this Consortium Agreement, unless the context otherwise requires:
   - the singular includes the plural and vice versa;
   - any reference to a gender includes the other gender and the neutral;

3. The headings in this Consortium Agreement are for ease of reference only and shall not affect its interpretation.

4. In the event of a conflict between the terms of this Consortium Agreement and the Annexes, such conflict will be resolved by applying the following priority:
   - the main body of this Consortium Agreement;
   - the Annexes to this Consortium Agreement;
   - any other document referenced (such as the High-Level Principles and the Call for proposals).

5. If words used in this Consortium Agreement and beginning with capital letters are not defined the Consortium Agreement, they shall have the meaning given to them in the Call for proposals CEF-T-2021-SESAR Deployment Manager.

**ARTICLE 3 - ORGANISATION OF THE CONSORTIUM**

The Consortium is organised in three levels:

1. Level A is the Governance layer and is made of:

   a) An Annual Conference of Executives with an inspirational, facilitating and supporting role. It aims at securing the spirit of partnership and facilitating a joint political ambition towards European regulators. The roles, responsibilities and organisation of the Annual Conference of Executives are detailed in Annex 2.

   b) A Supervisory Board that is the decision-making body of the Consortium. It may take the necessary delegation decisions to the Executive Director (who may sub-delegate to the members of the Management Team), as required by the efficient day-to-day management of the Consortium operations. The roles, responsibilities and organisation of the Supervisory Board are detailed in Annex 3.
2. Level B is the Management Team of the Consortium (the ‘Management Team’). It shall work in a true collaborative spirit and is composed of an Executive Director, i.e. the individual accountable for leadership of the organisation who shall be duly empowered by the Supervisory Board to execute set of tasks and activities carried out by the Consortium (the ‘Executive Director’), and the other Management Team Members responsible for the execution of the tasks and activities. The organisational structure will initially be divided in four pillars: 1°) Strategy and Technical Execution; 2°) Stakeholders relations and Buy-in; 3°) Performance and CBA and 4°) Finance and Consortium Coordination. An overview of the organisational structure is attached in Annex 4. The organisational structure may be subject to review in view of the evolution of the tasks to be carried out by the Consortium.

3. The Executive Director may be empowered by the Supervisory Board (subject to the provisions of Article 4 below relating to legal representation of the Consortium):

   a) To execute the Consortium work program and all delegated tasks in accordance with the decision of the Supervisory Board;
   b) To sign – on behalf of the Members – any legal document or contract necessary for the performance of the tasks of the Consortium;
   c) To sign – on behalf of the Members – the reply to any other Call from the European Commission or any other entity to which the Consortium may decide to reply in execution of a decision of the Supervisory Board;
   d) To act as the primary interface towards external parties and/or partners, including but not limited to any European institutions and agencies.

4. Level C is the Resources performing the tasks and activities of the pillars.

**ARTICLE 4 - RESPONSIBILITIES OF THE MEMBERS**

1. The Members shall all contribute to the work of the Consortium and be collectively responsible for the performance of the tasks of the Consortium, namely:

   a) the ones entrusted to the Consortium by the European Commission pursuant to Call for proposals CEF-T-2021-SESAR Deployment Manager;
   b) any other task(s) that may be entrusted by the European Commission during the lifetime of the Consortium, if so decided by the Supervisory Board and, activities and tasks related to the management of all deployment and/or infrastructure initiatives that engage as investors more than two Parties, and require synchronization and coordination at pan-European level, which are not included into Common Projects and which do not fall under the scope of Call for proposals CEF-T-2021-SESAR Deployment Manager, if so decided by the Supervisory Board (hereinafter referred to as the “Extended scope”).

2. Strict segregation, as required, shall be maintained between the different tasks carried out by the Consortium.
3. The Members mandate EUROCONTROL appointed as the Network Manager to act as the Consortium Coordinator. The Consortium Coordinator shall legally represent the Consortium in all instances where such legal representation is necessary. Prior approval of the Supervisory Board as decision-making authority of the Consortium is required in all instances.

4. The roles and responsibilities of the Consortium Coordinator are without prejudice to the principle of joint responsibilities by all Members for the performance of the tasks of the Consortium. The Consortium Coordinator shall facilitate and support the work of the Consortium, while executing – besides its responsibilities as a Member of the Consortium and with the support of all Members – specific tasks pertaining to its responsibilities as Consortium Coordinator.

5. The Consortium Coordinator is notably mandated:
   a) To sign and submit – on behalf of the Members – the reply to Call for proposals CEF-T-2021-SESAR Deployment Manager;
   b) To co-sign and submit – on behalf of the Members – the reply to any other call from the European Commission or any other entity to which the Consortium may decide to reply;
   c) To co-sign – on behalf of the Members – any legal document or contract necessary for the performance of the tasks of the Consortium;
   d) To act as the legal interface towards the European Commission, CINEA or any other legal entity as so required by the set-up and the performance of the tasks of the Consortium;
   e) To act as the receiving legal entity for all payments made to the Consortium and distributing the latter to the Members, as per Annex 7.

6. The Consortium Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Member unless explicitly authorised to do so by the Supervisory Board.

7. Considering, as stated in the Call for proposals, that the costs for hosting internal meetings and costs for offices, running costs, office equipment are not eligible, the Consortium Coordinator undertakes:
   a) To put at the disposal of the Consortium its meetings facilities;
   b) To make available to the Consortium offices together with the related office (including IT) equipment and consumables as required.

**ARTICLE 5 - HUMAN RESOURCES POLICY**

1. The Consortium Human Resources Policy shall ensure efficient management of the human resources put at the disposal of the Consortium by the Members as well as of those contracted by the Consortium Coordinator on behalf of the Members as a result of a procurement procedure.²

² Either at the request of the Supervisory Board or at the request of a specific Member and subject to the approval by the Supervisory Board.
2. All Parties shall contribute to the work of the Consortium and provide the necessary human resources and expertise for the Consortium to fulfil its tasks to the highest possible standard. The Consortium shall be resourced in accordance with this principle and the Supervisory Board shall monitor its application and ensure compliance thereof.

3. The Consortium shall be principally resourced by its Members. The human resourcing shall be based on Contribution Agreements signed by the Executive Director - and co-signed by the Consortium Coordinator and all the concerned Members. The Contribution Agreements shall specify the conditions under which the human resources will be made available and any related provisions as required. These human resources shall remain at all times under the authority of the concerned Member and the employment conditions/contractual conditions thereof shall continue to apply.

4. The Consortium Human Resources Policy shall aim at ensuring the participation of all Members, as well as transparency and compliance in all matters as required.

5. The Consortium Human Resources Policy is detailed in Annex 5.

ARTICLE 6 - PROCUREMENT POLICY

1. The Members agree that the procurement procedures that may be required for the efficient performance of the Consortium operations shall be made jointly, being EUROCONTROL as Consortium Coordinator the Contracting Authorities Representative.

2. For that effect, the Members have concluded a Common Procurement Agreement which is attached to the present Consortium Agreement as Annex 6 and have mandated the Consortium Coordinator to prepare and launch the referred procurement procedures after the approval from the Supervisory Board.

3. The Contracting Authorities Representative is the one responsible to ensure compliance of the procurement procedures with the procurement applicable rules.

ARTICLE 7 - FINANCIAL POLICY

1. The cost of the execution of the tasks of the Consortium should, as a principle, be 100% funded by public funding, by in-kind contributions from the Members, by Implementing Partners via coordination fees and by eventual other fees. The Parties may also contribute to the funding where deemed relevant. These principles should not prevent the Consortium to deviate from this principle if deemed necessary by the Supervisory Board.

2. The Consortium Coordinator will be the recipient of all payments made to the Consortium, in particular those made by the European Commission, CINEA Agency and Implementing Partners, and will be responsible for the management of the financial flows to the relevant Members and to the Implementing Partners.
3. The financial liability of each Member will be limited to the amount of contribution it has actually received. Each Member is thus accountable and liable for the amount of contribution received and there is no joint and severable financial liability towards the European Commission and CINEA Agency between the Members on the funding received, except in the following instances as detailed below:

   a) The financial liabilities for the costs incurred by EUROCONTROL when acting as Consortium Coordinator shall be shared equally between the four Parties, unless it is established by the Supervisory Board that the ineligibility of costs is attributable solely to the fault of EUROCONTROL.
   
   b) The granting authority requires joint and several liability of affiliated entities with their respective beneficiary.
   
   c) In case costs incurred by a Member in bona fide and due diligence to execute activities of the Consortium are found ineligible to funding by European Commission and/or CINEA, the Supervisory Board may unanimously decide how to share such liability among Members and Implementing Partners.

4. The Supervisory Board may decide unanimously to undertake initiatives that are in the scope of work independently from the availability of dedicated funds coming from European funding programmes conditionally to the availability of:

   a. A robust estimate of costs and relevant benefits for the Consortium together;
   
   b. The financing model proposed to cover the costs;
   
   c. A consequent opinion of the Executive Director, which shall notably explain how the strict segregation of tasks will be ensured;
   
   d. The impact on each member.


ARTICLE 8 - STAKEHOLDER CONSULTATION

1. Stakeholder consultation will require the Consortium to consult all impacted operational stakeholders on – inter alia:

   a) Proposals by the Consortium to the European Commission, in particular for the Deployment Programme and the evolution thereof, revisions of the current Common Projects (CPs) and new CPs in the context of Implementing Regulation (EU) no 409/2013⁴, as amended. The purpose of the stakeholder consultation is to seek stakeholders’ support on proposals by the Consortium prior to endorsement by the Supervisory Board and their submission to the European Commission.

   b) Strategies, programmes, roadmaps and deliverables affecting stakeholders’ investments to implement Common Projects, infrastructure and other (deployment) initiatives, which require synchronisation at pan-European level.

---

⁴ Commission Implementing Regulation (EU) No 409/2013 of 3 May 2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan.(as amended by Commission Implementing Regulation (EU) 2021/116 of 1 February 2021)
2. The objective of the stakeholder consultation is to understand, assess and secure the buy-in of impacted stakeholders, and to share identified risks and possible mitigations.

3. The stakeholder consultation shall ensure fair treatment of all stakeholders (independently of whether these Implementing Partners are members of the Consortium or not, or if they are established in the European Union).

4. The consultation processes will be run using the modus operandi of the current SESAR Deployment Manager Stakeholder Consultation Platform (e.g. documentation availability, adequate time for consultation, management of comment responses, etc.).

5. The consultation process of the priorities set and elaborated by the Consortium (draft and preliminary deliverables and proposals) will be formally initiated by the Consortium and further continued within the underlying working arrangements of NDTECH (and NDOP, where relevant) for all items falling into CIR (EU) 123/2019 and all other activities covered under point 1 of this article.

6. Technical experts from the Consortium will be directly engaged into the Working Arrangements of the Network Manager and will be responsible for processing and replying any rising comments and/or remarks, ensuring that they are duly taken into account. The results of the stakeholder consultations within Network Manager Working Arrangements will be reported to NDTECH (and NDOP, where relevant).

7. The results of the technical consultation processes will be returned by NDTECH (and NDOP, where relevant) to the Consortium.

8. The Consortium will consider the outcomes of the consultation and start the decision making process sharing the output of consultation with the Investors Buy-in Group (based on terms of reference to be developed) for the final buy-in support, before delivery to the Supervisory Board.

9. The ultimate control and decision power lays with the operational stakeholders through the Consortium and its Supervisory Board.

10. A diagram of the Stakeholder Consultation process is attached in Annex 9.

ARTICLE 9 - CONFIDENTIALITY

1. Each Member hereby undertakes to the others that it shall, and shall ensure that its employees, agents, and its Affiliates’ employees, agents, consultants or subcontractors shall:

   i. not disclose any Confidential Information it receives from any other Member under this Consortium Agreement (irrespective of whether in the written, oral or any other form) and the other Member’s business that it shall have obtained or received as a result of the discussions leading up to or the entering into or performance of this Agreement (the “Confidential Information”);

   ii. not, without the other Member’s prior written consent, disclose the Confidential Information, in whole or in part, to any other person save those of its employees, agents, consultants or subcontractors, or save those of its Affiliates’ employees,
agents consultants or subcontractor, involved in the implementation of this Agreement and who have a need to know the same for the performance of their obligations; and

iii. use the Confidential Information solely in connection with the implementation and scope of this Consortium Agreement and not use or exploit commercially for its or any third party’s benefit. The Members further agree that companies and persons within the own organisation (Affiliates) of a Member shall not be deemed as a third party in the meaning of this section and that a Member shall pass on the confidentiality obligations of this Agreement to its Affiliates.

2. The above paragraph (1) shall not restrict any disclosure by the receiving Member or its Affiliates pursuant to law, regulatory requirements or the order of any court or governmental authority. Each of the Members (i) acknowledges that any use or disclosure of the Confidential Information in violation of this Agreement may cause irreparable injury to the Member or its Affiliates whose Confidential Information has been unlawfully disclosed (Affected Member) for which other remedies at law would be inadequate and (ii) agrees that the Affected Member or its Affiliates shall have the right to seek injunctive or other equitable relief as may be necessary or appropriate to prevent any use or disclosure of the Confidential Information in violation of this Agreement.

3. The obligations set forth in paragraph (1) above shall not apply to the Confidential Information which (i) is or becomes publicly available through no improper action of the receiving Member or its Affiliates, (ii) is in the receiving Member’s or its Affiliates’ possession independent of its relationship with the disclosing Member without an obligation of confidentiality, (iii) is independently developed by the receiving Member or its Affiliates without use of any Confidential Information of the disclosing Member, (iv) is obtained rightfully from a third party without an obligation of confidentiality or (v) is expressly intended for publication.

4. Nothing in this Article shall prohibit a Member from disclosing Confidential Information, on a need-to-know basis, to its Affiliates which shall not be deemed to be a third party within the meaning of this provision, so that Information may be disclosed to each Member’s Affiliates without the other Members’ prior consent. Where Confidential Information is disclosed to a Member’s Affiliates such Member will pass on the confidentiality obligations stipulated herein to the entities receiving such Confidential Information.

ARTICLE 10 – PERSONAL DATA PROTECTION

1. Any personal data included in or relating to this Consortium Agreement and its Annexes, including its execution shall be processed by the Members pursuant to the Applicable Personal Data Protection Legislation, which means any personal data protection regulation that may apply to them, including, where applicable, Regulation (EU) 2016/679 (“GDPR”), except for EUROCONTROL whose obligations in this matter shall be
2. Such personal data shall be processed by the Members solely for the purpose of the implementation, management and monitoring of the present Agreement by authorised personnel.

3. The subject matter and purposes of the processing, the categories of personal data and of data subjects, the obligations and rights of all the Members and other elements relevant to the processing of personal data will be specified in a Personal Data Processing Agreement among all Members which determines their respective responsibilities for compliance with their data protection obligations. This Personal Data Processing Agreement is added as Annex 8 to this Consortium Agreement.

ARTICLE 11 - LIABILITY

1. Liability towards the Consortium Members

Except in case of wilful misconduct or gross negligence, a Member shall not be liable to another Member for any cost, loss, claim or damage arising from the acts or omissions of one of its employees or any person appointed by it under a contract to carry out its obligations under this Agreement. Each Member agrees to hold harmless the other Members accordingly.

No Member shall be liable to any other Member for any indirect or consequential loss or similar damages including, but not limited to, any loss of profit, loss of revenue or loss of contracts howsoever, arising from any breach by it of any obligation of this Agreement to the fullest extent that such liability may be excluded under the laws of Belgium.

2. Liability towards third parties other than the European Commission

The terms of this Agreement shall not be construed to amend or limit any Member’s non contractual liability.

The Members agree that where a claim for cost, loss, liability or damage, arising from the acts or omissions of one or more Members in performing the Consortium’s obligations is made by a third party (other than the European Commission), any liability for such cost, loss, liability or damage shall be met by the Member or group of Members which can be identified as having caused such cost, loss, liability or damage.

In the event that a third party (other than the European Commission) makes a claim for cost, loss, liability or damage against one or more Members performing the Consortium’s obligations and such cost, loss, liability or damage cannot be attributed to the negligence or fault of an identifiable Member or group of Members, then such cost, loss, liability or damage shall:

---

4 EUROCONTROL protects personal data in accordance with the EUROCONTROL Regulation on Personal Data Protection adopted by its Member States, Office Notice 34/08 of 2.7.2008, and its Implementing Rules which were published by Office Notice 25/17 of 25.10.2017.
• be covered, if possible and available, by an insurance, acquired from an insurance company by the Consortium as a whole, to cover any cost, loss, liability or damage that the Consortium may cause to third parties in the course of performing its obligations under this agreement and the Members agree to take all reasonable steps to acquire such an insurance;
• be met and equally shared, on an equal share of 1/4, amongst the four Parties if those costs, loss, liability or damage is not be covered by an insurance or if their amount exceeds the insurance.

3. Liability towards the European Commission

The Members confirm that, as a principle, there is no joint and several liability of the Consortium Members towards the European Commission.

Without prejudice to the provisions of Article 7 “Financial policy” on financial responsibility, the Members agree that where a claim for cost, loss, liability or damage, arising from the acts or omissions which are due to gross negligence or wilful misconduct of one or more Members in performing the Consortium’s obligations, is made by the European Commission, such cost, loss, liability or damage shall be met as provided for in paragraph 2 of the present article.

Liability towards the European Commission extends to indirect or consequential losses or similar damage (such as loss of profit, loss of revenue or loss of contracts) provided such damage was caused by wilful misconduct or by a breach of confidentiality.

Notwithstanding the provisions above, the Members agree that when EUROCONTROL is acting as Consortium Coordinator the related potential liabilities towards the European Commission shall be equally shared amongst the Parties, except when such a liability is proven to be due to the negligence or fault of the Consortium Coordinator.

ARTICLE 12 – INDEMNIFICATION AND CLAIM PROCEDURE

1. In case of a claim made by any third party against any Member (the “Claimed Member”), such Claimed Member shall inform the Supervisory Board without delay. The Supervisory Board shall assess whether the Consortium, represented by the Consortium Coordinator, should respond to the claim and be either joined in the proceedings or, if legally and procedurally possible, assigned the claim by the Claimed Member. A settlement by the Consortium with the claimant shall only be agreed upon with the agreement of the Member(s) who is/are the recipient(s) of the claim. Unless the claim can be attributed to negligence or fault of the Claimed Members, costs associated with the management of the claim shall be equally shared amongst the Parties.

ARTICLE 13 – INTELLECTUAL PROPERTY RIGHTS

1. All copyright and other intellectual property rights (IPR) or proprietary rights existing prior to the entry into force of the Consortium Agreement shall belong to the Member that owned such rights prior to such date (Pre-Existing IPR). Wherever necessary, the concerned Member should declare such prior rights.
2. All rights, title and interests, including Intellectual Property Rights, created or conceived individually or jointly by the Members within the performance of the Consortium tasks shall be the joint and exclusive property of the Members (foreground IPR). The Members shall have the right to use these results free of charge for the fulfilment of their own tasks and they shall not dispose them to third parties for commercial reasons without the prior and express written consent of all Members.

ARTICLE 14 – ACCESSION OF NEW MEMBERS

1. A candidate which belongs to one of the Parties must comply with the definition of operational stakeholder as set out in article 2(10) of Implementing Regulation (EU) no. 409/2013 (as amended) and successfully pass the accession procedure described hereafter.

2. Candidates shall apply in writing to the Chair of the Supervisory Board to join.

3. In an effort to maintain a secure and stable membership, the Consortium foresees that there will be specific occasions at which accession could be available upon entry into force of the Consortium agreement:
   a) After publication of Commission’s decision selecting Implementation Projects as a result from the CINEA call 2022;
   b) After publication of Commission’s decision selecting Implementation Projects as a result from the CINEA call that will follow the update of the Deployment Programme after adoption of Common Project 1 revision by the Commission; and
   c) After publication of Commission’s decision selecting Implementation Projects as a result from the CINEA call that will follow the update of the Deployment Programme after adoption of a new Common Project by the Commission.

4. Upon receipt of an application by a candidate to accede to one of the Parties, the Chair of the Supervisory Board shall inform the Members. The concerned Party shall then consider the application on the basis of the accession criteria listed below:
   a) the applicant intends to commit to this Agreement;
   b) the applicant complies with the requirements set by the European Commission in Call for proposal CEF-T-2021-SESAR Deployment Manager;
   c) the applicant would bring value to the Consortium in the performance of its tasks;
   d) the applicant’s accession to the Consortium will continue to keep the size of the Consortium at a level that maintains and promote effective and efficient operations.

5. The concerned Party will submit its recommendation to the Supervisory Board for decision.

6. Subject to a positive decision of the Supervisory Board, the Consortium Coordinator will inform the European Commission, seeks its approval and initiate all amendments procedures that may be required.
7. The accession of the selected applicant (‘Acceding Member’) shall require the conclusion of an accession agreement (‘Accession Agreement’) duly signed by the Consortium Coordinator acting on behalf of all the Members and by the Acceding Member.

8. The Acceding Member shall take the obligations and shall have the rights, as if it were a Member from the Effective Date.

**ARTICLE 15 – SUCCESSION**

1. As an exception to Article 23.a, two or more Members from the same Party may be succeeded by a newly created legal entity, in which those Members or their Affiliates together hold the entire issued share capital, which will replace their membership to this Agreement. In such case, the newly created entity shall be assigned the rights and obligations under this Agreement of the Members forming such legal entity.

2. However, any such succession to this Agreement may only occur where the respective Members may be succeeded by the newly created legal entity as partners to the SESAR Deployment FPA.

3. The involved Members shall duly notify such decision to the Supervisory Board according to the internal procedure as notified to the Members by the Supervisory Board.

**ARTICLE 16 - REMOVAL FROM THE CONSORTIUM**

1. Without prejudice to any other rights or remedies open to the Consortium, the Supervisory Board may, via a written notice served on the Member, terminate a Member’s membership of the Consortium, if the Member:

   a) is in material breach of any of the terms of this Agreement and, where the breach is capable of remedy, the Member fails to remedy such breach within 30 days’ service of a written notice specifying the breach and requiring it to be remedied; or
   b) is considered incompetent, commits any act of gross or persistent misconduct and/or neglects or omits to perform any of its duties or obligations under this Agreement; or
   c) fails or refuses after written warning from the Supervisory Board to carry out the duties or obligations reasonably and properly required of it under this Agreement; or
   d) being a company, organisation, entity, summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts and has a receiver, manager or administrative receiver appointed over any of its assets, undertaking or income, has passed a resolution for its winding-up; or
   e) ceases to operate its business or undertaking; or
   f) provides the Supervisory Board, the Consortium Coordinator or the Consortium organisational structure with any false or misleading information with regard to its ability to perform its duties or obligations under this Agreement; or
g) has done anything which brings or might reasonably be expected to bring the Consortium or the European Commission into disrepute or otherwise damage other contractors, employees, agents, customers, other business associates or the general public including, but not limited to, committing an act of fraud or dishonesty, whether or not connected with the performance of the Consortium’s tasks.

2. Prior to taking such a decision, the Supervisory Board shall first invite the Party to which the concerned Member belongs to engage with the latter in order to resolve the matter and report back to the Supervisory Board. Should such an action reveal not feasible or appropriate given the circumstances, the Supervisory Board may initiate itself such discussions with a view to find an agreeable solution.

ARTICLE 17 - WITHDRAWAL FROM THE CONSORTIUM

1. Withdrawal from the Consortium by any Member shall require the prior decision of the Supervisory Board.

2. A Member wishing to withdraw from the Consortium shall notify the Chair of the Supervisory Board in writing at least six (6) months in advance of its proposed withdrawal date.

3. The Chair of the Supervisory Board shall inform the Members without delay. The Party to which such Member belongs shall assess the criteria listed hereunder and provide this assessment to the Chair of the Supervisory Board for distribution to the Supervisory Board no later than sixty (60) days upon receipt of the notice from the Chair. This assessment shall also include whether and how the remaining Members in the concerned Party can rearrange/reallocate among themselves the workload/tasks of the Member wishing to withdraw, so as to ensure the continued performance of the Consortium’s obligations.

4. The Supervisory Board shall only agree on the withdrawal of a Member if such withdrawal will not:

   e) have a significant detrimental impact upon the tasks to be performed by the Consortium, in particular the obligations as set by the European Commission in Call for proposals CEF-T-2021-SESAR Deployment Manager; or
   f) diminish the size of the Consortium to such a level that effective and efficient operations cannot be maintained or promoted; or
   g) have a significant impact upon the representation in the Consortium of the Party to which the Member wishing to withdraw belongs; or
   h) cause vitally important skills, knowledge and/or experience, which add tangible value to the Consortium or which are required by the Consortium for the delivery of its tasks, to be lost or severely diminished.

5. The Supervisory Board when making its decision on a Member’s withdrawal will take into consideration the capability of the concerned Party to secure a smooth handover of the tasks and its preparedness to rearrange the workload.
6. If the Supervisory Board does not agree with the withdrawal of a Member, the concerned Member shall notify the Supervisory Board its decision to nonetheless withdraw and the foreseen date of effect of the withdrawal. Such a date cannot be sooner that 6 (six) months from the date of receipt by the Supervisory Board of the notification and no such withdrawal can take place prior to the end date of the Special Grant Agreement in force at the time of the notification. These two conditions are cumulative.

**ARTICLE 18 – CONSEQUENCES OF REMOVAL OR WITHDRAWAL FROM THE CONSORTIUM**

1. In the event of withdrawal or removal of a Member, the Consortium will be liable to meet only the cost of any work undertaken up to the point at which a Member ceases to be part of the Consortium. The balance of any payments made to the Member will be returned to the Consortium Coordinator within 30 days of withdrawal or removal. In all cases, the Consortium reserves the right of access to any work produced in the course of the Member’s work as part of the Consortium.

2. The Member whose participation ends shall be relieved from further participating to the work of the Consortium, but the Articles of the Consortium Agreement on Confidentiality, Liability, Applicable Law and Settlement of Disputes shall survive the termination, but shall - as far as they refer to results - apply to results which have been generated before the termination has taken effect.

3. The removal or withdrawal of a Member shall in no way affect the obligation of that Member to grant access rights to the remaining Members.

4. The removal or withdrawal of a Member shall in no way affect the effectiveness of the Consortium Agreement for the remaining Members. The Consortium and the tasks thereof continue in such case.

5. Any Member withdrawing or removed, either by itself or as a part of a Party leaving the Consortium, shall remain liable for its tasks and shall not be released from any liability to the Consortium in respect of any obligations under this Agreement until the withdrawal or removal becomes effective. Regardless of withdrawal or removal, nothing in this Article shall exclude or limit any liability which a withdrawing or removed Member may have to another Member or the Consortium or a third party arising out of any act, omission, event or circumstances or series of acts, omissions, events or circumstances relating to this Agreement or with respect to the matters contemplated herein, for which the Supervisory Board may consider that Member responsible, prior to its withdrawal or removal.

**ARTICLE 19 - APPLICABLE LAW & SETTLEMENT OF DISPUTES**

1. This Agreement shall be construed in accordance with and governed by the laws of Belgium excluding its conflict of law provisions, and except for EUROCONTROL’s obligations relating to the protection of personal data which shall be governed by the EUROCONTROL Regulation on Personal Data Protection and its implementing rules.
2. All disputes arising out or in connection with this Agreement or any agreements entered into or documents executed pursuant to this Agreement shall be resolved in accordance with this Article. In the event of a Dispute, the Members shall first seek in good faith to resolve the dispute through negotiation. In the event that they are not able to resolve the dispute amicably, the concerned Members shall refer the matter to the Supervisory Board which shall strive to reach an amicable settlement of the dispute. If not possible, the Supervisory Board may decide to issue an opinion which is not binding upon the concerned Members. Such an opinion shall contain the position of each of the Parties.

3. The Supervisory Board shall meet as soon as reasonably practicable, and in any event not later than one (1) month after receipt of a notice served to settle the dispute. If the dispute has not been settled to the satisfaction of the Consortium Members involved in the dispute within one (1) month after such meeting, then any of the Consortium Members involved in the dispute may, by notice to such other Consortium Members, refer the dispute to arbitration.

4. Any disagreement that the Members could not settle amicably shall be finally settled under the rules of Arbitration of the International Chamber of Commerce ("ICC") by three (3) arbitrators appointed in accordance with the said Rules of Arbitration.

5. The arbitration shall take place in Brussels, Belgium and the language of the arbitration shall be English. The arbitrators shall determine the dispute in accordance with the material laws of Belgium. The arbitral award shall be final and binding upon the Members. The emergency arbitration provisions shall not apply.

ARTICLE 20 – ETHICS

1. The Members, their employees, agents, representatives and subcontractors shall at all times maintain high ethical standards and avoid conflicts of interest in the performance of their activities within the scope of this Agreement. They shall also always act in accordance and fully comply with the applicable national and foreign laws and regulations regarding anti-bribery and anti-corruption.

2. Whether directly or through third parties, the Members shall not offer or promise any gift or advantage to a person, for himself or for others, with the purpose that this person abuses or because this person would have made illegitimate use of its real or supposed influence in order to obtain distinctions, jobs, contracts or any other favorable decision.

3. The Members shall not solicit or accept for themselves any offer, promise, gift or advantage of any kind, to make illegitimate use of its influence for the purpose of making or obtaining any favorable decision.

4. Any violation by one of the Members of any provision of this article shall be deemed a material breach of its obligations under this Agreement and shall entitle the non-breaching Members to remove the breaching Member(s) from the Agreement pursuant to art. 16, without prejudice of any other remedy.
5. The implementation of the above provisions shall be further detailed by the Supervisory Board, in particular as regard the obligation to declare a potential conflict of interest and the management of the process thereof.

ARTICLE - 21 - FORCE MAJEURE

1. No Member shall be liable or deemed in default if it is prevented from fulfilling its obligations under this Agreement by an event of Force Majeure. A Member which is unable to perform any part of its obligations due to an event of Force Majeure shall notify the Chair of the Supervisory Board without delay, stating the nature of the Force Majeure event, its likely duration and foreseeable effects.

2. The other Members shall use reasonable endeavours to reach an agreement to reallocate any relevant part of such affected Member’s obligations in order to mitigate or avoid the detrimental consequences of such a Force Majeure event.

ARTICLE 22 - AMENDMENT TO THE CONSORTIUM AGREEMENT

1. The Consortium Agreement and its Annexes may be amended by decision of the Supervisory Board. Such a decision requires the unanimity of all Supervisory Board Representatives, who shall all hold voting rights in this specific decision.

2. The agreed amendments shall be made in writing, signed by the Chairperson of the Supervisory Board and communicated to all the Members, together with the updated version of the Consortium Agreement and/or its Annexes. The Members shall sign these final agreed Amendments. The decision of the Supervisory Board is executable as from the day it is taken.

3. A record of changes made shall be maintained by the Consortium Coordinator.

ARTICLE 23 – MISCELLANEOUS

a. Assignment

Without prejudice to Article 15 above, neither Member may assign or otherwise transfer any of its rights, its obligations, or delegate any of its duties under this Agreement, neither in whole nor in part, to a third party without the prior written consent of the Supervisory Board.

b. Severability

In the event of individual terms of this Agreement being or becoming invalid or unenforceable either in part or in full, this has no effect on the validity of the remaining terms of this Agreement. This also applies to any omissions or gaps the Agreement may have. The Members undertake to agree to replace the missing, invalid or unenforceable term with a valid term that complies as far as possible with the purpose pursued by this Agreement.
ARTICLE 24 - ENTRY INTO FORCE, DURATION & TERMINATION

1. The Consortium Agreement will enter into force on 31 January 2022 or the day of submission of the application to the Call for proposals CEF-T-2021-SESAR Deployment Manager, whichever is the earlier (the "Effective Date"). The Effective date shall be applicable to all Members as listed above upon their respective signature, irrespective of the actual date of the latter.

2. The Consortium Agreement shall remain in force up until the Supervisory Board takes the decision to terminate it.

3. In the event of termination of the funding by means of the Deployment Manager SGA(s), the Consortium Agreement shall continue to apply to the FPA Coordinator’s Tasks to be fulfilled by the Deployment Manager until the applicable SGAs have become ineffective.

ARTICLE 25 – ENTIRETY OF THE CONSORTIUM AGREEMENT

This Consortium Agreement and its Annexes constitute the entire Consortium Agreement between the Members hereto with respect to the subject matter contained in this Consortium Agreement and supersedes all prior agreements, understandings and negotiations between the Members.

-------------
ANNEX 1

DEFINITIONS

Words beginning with a capital letter shall have the following meaning:

‘Action Plan’: the Plan describing tasks and activities to be performed in the execution of the role of SESAR Deployment Manager, as stemming from the obligations established by CIR (EU) 409/2013 and the Framework Partnership Agreement;

‘Affiliate’: means any legal entity directly or indirectly owned or controlled by or owning or controlling or under the same ownership or control as any of the members, within the meaning of Article 187 of the EU Financial Regulation;

‘Agreement’ or ‘Consortium Agreement’: means this Consortium Agreement for the implementation of SESAR Deployment and Infrastructure Partnership, any Annex attached thereto, and any amendments to the Agreement or to any Annex;

‘Background or Pre-existing Intellectual Property Rights (IPR)’: means all patents, designs, copyright (including copyright in software), database rights, and any other intellectual property rights excluding Foreground IPR, owned by any of the Members, in the field and which are necessary for the exploitation of Foreground IPR in accordance with this Agreement;

‘Call for proposals CEF-T-2021-SESAR Deployment Manager’ or ‘Call for proposals’: means Call for proposals for the selection of the SESAR Deployment Manager and the awarding of a framework partnership agreement and the specific grant agreement (Article 9 of Commission Implementing Regulation (EU) N° 409/2013) published by the European Commission on 29th October 2021;

‘CDM’: means a cooperative decision-making referred to in article 2(9) of the Implementing Regulation (EU) 2019/123;

‘Common Projects’: means common projects referred to in article 4 of the Implementing Regulation (EU) no 409/2013 defined in the Implementing Regulation (EU) 2021/116;

‘Contribution Agreement’: means an exchange of letters between the Consortium Coordinator and the individual Members covering, in particular, the tasks, costs, planned efforts and duration of the human resources the individual Members will put at the disposal of the Consortium;

‘Consortium’: means the grouping formed by the Members by virtue of this Consortium Agreement for the purposes of executing, in particular, the tasks and responsibilities of SESAR Deployment Manager and the operation of the New Partnership and its work programme;

‘Commission’ or ‘EC’: means the European Commission (EU);

‘Consortium Coordination Manager’: is the natural person employed or contracted by the legal entity acting as the Consortium Coordinator and performing the tasks underpinning the role. The Consortium Coordination Manager is member of the Management Team, reporting to the Executive Director;

‘Consortium Coordinator’: means EUROCONTROL as the Consortium Member appointed as coordinator of the Consortium, represented by the Consortium Coordination Manager;
‘Deployment and Infrastructure Programmes’: Pan-European programmes resulting from the activities as agreed, amongst which the SESAR Deployment Programme;

‘Deployment Manager’: means the deployment manager referred to in article 9 of the Implementing Regulation (EU) no 409/2013;

‘Extended scope’: activities and tasks related to the management of all deployment and/or infrastructure initiatives that engage as investors more than two Parties, and require synchronization and coordination at pan-European level, which are not included into Common Projects and which do not fall under the scope of Call for proposals CEF-T-2021-SESAR Deployment Manager, if so decided by the Supervisory Board;

‘Force Majeure’: means any situation or event which is unforeseeable, exceptional and beyond a Member’s control and proves to be inevitable in spite of exercising all due diligence, which prevents it from fulfilling any of its obligations under this Agreement;

‘Foreground IPR’: means all patents, designs, copyright (including copyright in software), database rights and any other intellectual property rights arising as a direct result of and in the performance of this Agreement;

‘FPA Coordinator’: means the Consortium acting as coordinator of the implementation projects, performing the FPA Coordinator’s Tasks pursuant to (EU) No 409/2013;

‘Implementing Partner’: means a partner of SESAR Deployment FPA that is part of the implementation level, meaning that it will carry out implementation projects; the term refers to such partners which are of the implementation level as well as to Members in their implementing role;

‘Implementing Regulation (EU) no 409/2013’: means the Commission Implementing Regulation (EU) of 3 May 2013, as amended, on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan;


‘Intellectual Property Rights’: means patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world;

‘Internal Cooperation Agreement’: agreement between the SDIP and the Implementing Partners that provides for the appropriate internal arrangements for the management and coordination of the implementation projects.
‘Investors Buy-in Group’: consists of the operational stakeholder or their representatives, impacted by the implementation of Common Projects, proposals for deployment and infrastructure programmes and strategies;

‘Member”: means an individual entity that signed the Consortium Agreement;

‘Negotiation Team”: means the Parties’ representatives designated to lead the negotiations for the set-up of the SESAR Deployment Partnership;

‘Party”: means one of the four groups of Members, name the ANSPs, the members of the A4 Group of Airlines, ACI Europe or EUROCONTROL as the Network Manager;

‘Pool of Experts’: List of resources and experts made available by the Members as a reinforcement to the Structured Staff, to be activated for specific needs when additional expertise is required;

‘SES Digital Backbone (SDB)’: means a joint initiative launched by the A6 Alliance of air navigation service providers (ANSPs) and EUROCONTROL to underpin the essential data exchange infrastructure to create an over-arching framework for the wide range of SES implementation projects. Initially it proposes to build on the successful NewPENS approach to expand this to other key systems projects such as Data-Link and System Wide Information Management (SWIM) common components and ensuring interoperability support;

‘Specific Grant Agreement’ or ‘SGA’: means a specific grant agreement for a “action” as referred to in Article 2(a) of the Regulation (EU) 2021/1153 establishing the Connecting Europe Facility (“CEF2 Regulation”) awarded and managed by the Commission;

‘Structured Staff’: Core team of technical and administrative staff provided by the members of the Consortium working on the Work Programme of the Consortium for at least 50% of their time;

‘Transition phase’: means the transition as defined in Activity 7 of the Call for proposals CEF-T-2021-SESAR Deployment Manager;

“Work Programme”: means the entirety of the tasks and activities to be undertaken by the Consortium even beyond the scope of the SESAR Deployment Manager as per CIR (EU) 409/2013 and FPA provisions.
Annual Conference of Executives

1 Composition, Functions & Responsibilities

The Annual Conference of Executives (ACE) is part of the Governance layer, Level A, of the Consortium and has an inspirational, facilitating and supporting role. It aims at securing the spirit of partnership and facilitating a joint political ambition towards European regulators.

The ACE is composed of one (1) representative per each Member of the Consortium.

Each Member shall be represented by CEOs or senior executives of the Member and may nominate a delegate to stand in their place.

The ACE is not involved in the decision-making process of the Consortium and shall not interfere with the role and responsibilities of the Supervisory Board as sole decision-making body of the Consortium.

The ACE is the forum in which the CEOs/senior executives receive updates and reports from the Supervisory Board and the Accountable Person on the activities and running of the Consortium, namely with the purpose of reinforcing, in each year, the commitment of the Parties with regards to the ambitions of Consortium and, where appropriate, contributing to the dissemination of Consortium results and achievements beyond the partnership.

The ACE may agree to undertake initiatives of coordination, lobbying and advocacy activities in external fora (Ministers, national Authorities, ICB, EC and other meaningful bodies/entities for SESAR development and deployment), in areas relevant for the Consortium and in line with the strategy decided at Supervisory Board level.

2 Structure of the Annual Conference of Executives

2.1 Chairperson

1) The ACE will be chaired by a representative of one of the four Parties.

2) The Chairperson shall be appointed by the Members of the ACE by consensus, for a period of one (1) year, based on a rotation scheme to be decided by its members. Consensus means that no ACE Member is explicitly opposing to the nomination.

3) The first Chairperson shall be appointed by correspondence at least two months prior to the first meeting of the ACE.

3 Meetings of the Annual Conference of Executives

1) Meetings of the ACE shall take place at least once in each calendar year. Additional meetings may be convened at any time by the Chairperson or upon the request made by at least one of the Parties.

   a) Apart from Members of the ACE, participation to the meeting shall also include the Supervisory Board Members, the Accountable person and the Management Team. The Chairperson may further invite special guests at her/his discretion.
2) The meetings of the ACE shall be held in English.

3) The ACE discussions shall in principle be confidential.

4) The meetings will take place at the Consortium’s premises.

5) The Chairperson may decide to organise the meeting of the ACE at distance, using web or teleconference tools.

6) The Chairperson shall draw up a draft agenda. Standing agenda items of the ACE should include:
   a) The appointment of the next ACE
   b) Update from the Chair of the Supervisory Board
   c) Update from the Accountable Person.

7) The Members of the ACE may propose, in writing, at the latest seven (7) calendar days prior to the meeting, to add additional items to the draft agenda.

8) Any initiatives of coordination, lobbying and advocacy activities in external fora shall be undertaken only if there is a consensus to that end within the ACE.

9) The Chairperson shall draw up and circulate the minutes of the meetings.

10) All attendees of the ACE shall be responsible for their travel and accommodation costs. No co-funding from the European Union shall be claimed on behalf of the Consortium with reference to the ACE work.
Supervisory Board

1 Composition, Functions & Responsibilities

The Supervisory Board is the decision-making body of the Consortium.

It will be composed by high-profile representatives of the Members of the Consortium, independently nominated by each Member, hereinafter referred to as “Supervisory Board Representatives” or “Representatives”. Each Member may nominate one Representative for two (2) years, renewable.

Each Party may decide how best to participate to the Supervisory Board, with the understanding that all individual Members of the Consortium shall have the right to nominate their Supervisory Board Representative and attend the meetings.

Each Party shall nominate two (2) representatives among their Supervisory Board Representatives that will hold voting rights, hereinafter referred to as “Representatives holding voting rights”.

The Representatives holding voting rights will be nominated for two (2) years, renewable by a third year. They shall be the ones participating to the discussions, decision making and voting of the Supervisory Board. A Supervisory Board Representative without voting rights may nonetheless request to participate to the discussions on a specific item of the agenda pursuant to article 3.10 below.

The Supervisory Board has all decision-making powers for all decisions required by the operations of the Consortium - as referred to in the Consortium Agreement and its Annexes -, and may delegate decision-making powers - as required for the efficient day-to-day management of the Consortium - to the Executive Director and the Management Team unless otherwise specified below.

It shall, notably:

a) Approve the amendments to the Consortium Agreement and its Annexes, pursuant to Article 22 of the Consortium Agreement.
b) Approve the work programme of the Consortium;
c) Approve the budget and multiannual financial plan of the Consortium;
d) Endorse the proposals of deployment and infrastructure programmes and strategies;
e) Endorse the submission of proposals to the Commission for the revision of Common Projects contents or new contents;
f) Endorse the submission of proposals to the Commission on programmes and strategies related to deployment and infrastructure;
g) Approve the strategic agreements with third parties;
h) Take the acceptance decision of a new Member and the withdrawal of a Member pursuant to Articles 14 and 17 of the Consortium Agreement.

i) Approve a deviation from the financial principles as set out in Article 7.1 of the Consortium Agreement.

j) Take the delegations decision to the Executive Director pursuant to Article 3.3 of the Consortium Agreement.

k) Take the removal decision of a Member pursuant to Article 16 of the Consortium Agreement.

l) Take the decision to terminate the Consortium Agreement pursuant to Article 24 of the Consortium Agreement.

m) Monitor the performance of the Executive Director and the Management Team and take all the necessary decisions thereof.

The responsibilities of the Supervisory Board, as listed above, cannot be delegated.

(This list can be further elaborated but cannot be further limited)

2 Structure of the Supervisory Board

2.1 Chairperson and Vice Chairpersons

1) The Supervisory Board will be chaired by a Representative of one of the Parties.

2) The Chairperson will be elected by consensus, as defined in Art. 4 of this Annex 3, amongst the Supervisory Board Representatives holding voting rights for a period of two (2) years and renewable by a third year.

3) The Supervisory Board will elect up to three (3) Vice-Chairpersons amongst the Supervisory Board Representatives holding voting rights for a period of two (2) years and renewable by a third year, representing different Parties than the one the Chairperson represents.

4) The Chairperson shall proceed with all of the obligations set forth in the Agreement and its Annexes, control the proceedings of the Supervisory Board and maintain order during Supervisory Board meetings. The Chairperson shall notably, in cooperation with the Vice-Chairpersons as appropriate:

   a) convene the meetings and set the agendas;
   b) declare the opening and closing of each meeting;
   c) determine at the opening of each meeting if the quorum in as per Article 5.1 is achieved;
   d) direct and sum up the discussions;
   e) grant or withdraw the right to speak to the Representatives;
   f) decide points of order;
   g) put proposals to the vote and announce decisions;
   h) sign decisions of the Supervisory Board;
   i) sign the minutes of the Supervisory Board prepared by the secretary;
j) determine before each voting process if a quorum is achieved;
k) announce the deferment or closure of the debate or deferment or suspension of a meeting; and;
l) decide upon a request from a Supervisory Board Representative without voting rights to participate to the discussions on a specific topic on the agenda following the process defined in Article 3.

2.2 Secretariat

1) The Supervisory Board shall appoint a secretary.

2) The secretary shall establish an attendance list and draft the minutes for each meeting. The minutes shall include all decisions taken by the Supervisory Board at the meeting.

3) After approval by the Chairperson, the secretary shall, within ten (10) calendar days after the meeting, submit the draft minutes to the Supervisory Board Representatives which attended to the meeting for their approval.

4) The Supervisory Board Representatives shall be deemed to have approved the minutes if they have not transmitted comments to the secretary within fifteen (15) calendar days after receipt of the minutes.

5) The approved minutes shall be signed by the Chairperson and the secretary and electronically saved under the responsibility of the Secretary. The secretary shall send to the Supervisory Board Representatives a copy of the final minutes within seven (7) calendar days after their approval.

6) The secretary shall send a copy of the decisions of the Supervisory Board to all the Supervisory Board Representatives and the Management Team Members.

2.3 Working groups & Advisory groups

1) The Supervisory Board may establish specific working groups or advisory groups.

2) On the basis of a proposal of the Chairperson, the Supervisory Board shall adopt the mandate of the working/advisory group. The mandate shall include the scope and duration of the working/advisory group, its composition and the respective roles of its participants and provisions on reporting.

3 Meetings of the Supervisory Board

A first Supervisory Board Meeting shall occur thirty (30) days after the entering into force of the Agreement. It shall elect the Chairperson and up to three (3) Vice-Chairpersons, which may also be elected by correspondence.

1) The Meetings of the Supervisory Board will be convened by the Chairperson.

2) The meetings of the Supervisory Board shall be held in English.

3) The Supervisory Board’s discussions held in the meeting or by correspondence shall be confidential, subject to article 9 Confidentiality in the Consortium Agreement.

4) The Supervisory Board shall meet at least four (4) times a year and in as many occasions as may be deemed necessary by the Chairperson or following a request of a Party submitted to the Chairperson.
5) The meetings will take place at the Consortium’s premises. The Chairperson may decide to organise a meeting of the Supervisory Board at distance, using web or teleconference tools or in a different location.

6) The Chairperson shall draw up a draft agenda. On the Chairperson’s behalf, the Secretary shall send via email to the Supervisory Board Representatives, as a general rule no later than fourteen (14) calendar days before the date of the meeting: the invitation to the meeting, the draft agenda, any proposal on which the Supervisory Board is required to take a decision and the drafts of any such decisions.

7) The Supervisory Board Representatives may propose, in writing, at the latest seven (7) calendar days prior to the meeting, to add additional items on the draft agenda.

8) The organization of the meetings of the Supervisory Board will foster efficient decision-making facilitated by a manageable and efficient configuration, however, duly representing all the members of the Consortium.

9) For the sake of efficiency and manageability of the Supervisory Board meetings, the Representatives holding voting rights shall be the ones participating in discussions, decision-making and voting of the Supervisory Board.

10) Nevertheless, Supervisory Board Representatives without voting rights shall have the right to request, at least seven (7) calendar days before the meeting, the authorization from the Chairperson to participate to the discussions on a specific topic of the agenda. The rationale for making such a request shall be duly explained. Upon receipt of the request, the Chairperson shall – within four (4) calendar days - either grant it or refer the matter to the Representatives holding voting rights for decision. The Representatives holding voting rights shall take its decision by consensus. If consensus cannot be reached, the rejection of the request requires a qualified majority of three quarters (¾) of the votes cast.

11) The Executive Director shall be invited on a permanent basis to attend the meetings of the Supervisory Board. The Executive Director can take part in the debate but shall not participate in the decision-making and voting of the Supervisory Board. Depending on the subject, the Executive Director may be supported by members of the Management Team for a specific agenda item.

12) Depending on the subject, the Chairperson may also decide to invite a member of the Management Team to participate to the meeting for a specific agenda item.

4 Voting rules

1) The decisions of the Supervisory Board be made in principle by consensus, with the understanding that consensus means no Supervisory Board Representative holding voting rights is explicitly opposing to the decisions.

2) The Chairperson or any Representative holding voting rights may request for a voting procedure to be launched.

3) The decisions as listed in Article 1.a to 1.j above shall require unanimity of the votes cast to be adopted. For the decision listed in Article 1.a above, unanimity shall mean that all
Representatives shall approve, irrespective of whether they are Representatives holding voting rights or not.

4) With regard to other decisions than those listed in the above-mentioned articles, a qualified majority of at least 75% of the votes casted should apply for any of these decisions.

5) The Chairperson shall ensure that the quorum indicated in Section 5 is valid before a decision is put to the vote of the Supervisory Board.

6) Each Party shall have two (2) votes.

7) Abstentions shall not count as a vote and shall not block a unanimity decision.

8) The Supervisory Board may adopt decisions through written procedure in accordance with Article 6.

5 Quorum

1) The quorum for the validity of the Supervisory Board's meeting and its decisions is considered to be met when at least three-quarters (¾) of the 8 (eight) Representatives holding voting rights are present or represented at the meeting, and at least one Representatives holding voting rights of each of the Parties is present.

2) Representation of a Representative holding voting rights by another Representative holding voting rights shall be notified to the Chairperson in writing.

3) Should the quorum referred to in Article 5.1 above not be met, the Chairperson shall convene without delay another meeting of the Supervisory Board, bearing in mind the timelines foreseen in Article 3, in particular 3.6. Should the quorum be again not met for this second attempt, the Chairperson shall convene a third meeting for which no quorum requirements will be applicable.

6 Written procedure

1) If necessary and justified, the Supervisory Board's decision or opinion can be obtained by a written procedure. To this end, the Chairperson shall send to all the Supervisory Board Representatives the proposed measures on which the decision or opinion is sought aiming at duly casting from the 8 (eight) representatives holding voting rights the corresponding voting from the Representatives holding voting rights of the Parties.

2) Any Representative holding voting rights not expressing his or her opposition or intention to abstain before the deadline laid down will be considered to have given his or her tacit agreement to the proposal.

3) Abstentions shall not count as a disagreement and shall not block the required decision or opinion.

4) Quorum will be considered to be met if at least three-quarters (¾) of the 8 (eight) Representatives holding voting rights submit their vote.

5) However, if a Supervisory Board Representative holding voting rights requests that the proposed measures be examined at a Supervisory Board meeting, the written procedure
shall be terminated without result; the Chairperson shall then call a Supervisory Board meeting as soon as possible.

6) The Chairperson shall inform all the Supervisory Board Representatives of the result of the written procedure within seven (7) calendar days after the deadline.

7 Conflict of interest

1) All Representatives (with and without voting rights) shall, when taking up their duties, make a written declaration for the absence of any direct or indirect personal or corporate interest in the outcome of the discussions of the Supervisory Board. The model of the “Declaration of absence of causes of incompatibility, conflict of interest and protection of confidentiality” shall be developed and approved by the Supervisory Board.

2) Upon receiving the agenda for the meetings of the Supervisory Board, the Representatives shall disclose to the Chairperson and the Secretariat, prior to the meeting, any direct or indirect personal or corporate interest in relation to any matter on the agenda.

3) At the beginning of each meeting and at the time of the adoption of the agenda, the Chairperson shall again invite the Representatives and other participants present in the meeting, to declare any direct or indirect personal or corporate interest, if not done prior to the Supervisory Board meeting.

4) Based on the disclosures as referred to in paragraphs above, the Chairperson shall decide to exclude Representatives and other participants from discussions, decisions or tasks where there is likely to be a conflict of interests. They shall not have access to information relating to the subjects deemed to constitute potential conflict of interests.

5) Declarations made prior to or at the meetings and the outcome of discussions relating to declarations of interest shall be duly recorded in the minutes of the meeting.

8 Code of conduct

To be further elaborated by the Supervisory Board as required.
ANNEX 5

HUMAN RESOURCES POLICY

1. The Human Resources of the Consortium will be composed of:
   - **Structured staff** engaged by the Members for at least 50% of their working time on activities of the Consortium;
   - **Pool of Experts** engaged to be made available by the Members for specific tasks when additional expertise is needed;
   - **Outsourced efforts**, where needed and appropriate.

2. A Contribution Agreement will be signed between the Consortium Coordinator and each Member. The Contribution Agreement is an exchange of letters between the Consortium Coordinator and the individual Members covering, in particular, the tasks, costs, planned efforts and duration of the human resources the individual Members will put at the disposal of the Consortium. The Contribution Agreement is made at the level of the Member, so it may cover several human resources put at the disposal of the Consortium by the Member.

3. As part of the transition between the current SESAR Deployment Manager (SDM) and the Consortium, the Consortium should strive to preserve SDM key resources to avoid disruption in the operations.

I. **Resources types and categories**

   **Structured staff**

Structured staff constitute the core of the Consortium resources. They are, as a principle, provided by the Members (in particular as regard ATM expert profiles) and shall dedicate a minimum of 50% (80% for the Management Team) of their monthly working time on the Consortium’s activities (excluding holidays). Exceptions to the principle of sourcing by the Members may be made subject to decisions by the Supervisory Board.

Structured staff from the Members will be put at the disposal of the Consortium. These may include, on an exceptional basis:
- Structured staff contracted by the Consortium Coordinator on behalf of the Consortium at the request of a specific Member, in order to overcome exceptional circumstances and/or temporary constraints; the conditions applicable thereof shall be agreed between the Consortium Coordinator and the concerned Member, be transparent and cost-neutral for the other Members; the identity of the resource – namely its strong link with the concerned Member – shall be preserved and the resource shall be included in the Human Resources Service Agreement of the concerned Member;
- Structured staff seconded to EUROCONTROL by specific Members; the conditions applicable thereof shall be agreed between EUROCONTROL and the concerned Member, be transparent and ensure that the identity of the resource – namely its strong link with the concerned Member – is preserved;
As deemed necessary by the relevant Consortium decision-making authority, the Consortium may also call for outsourced efforts for structured staff. The related procurement procedure will be carried out by the Consortium Coordinator on behalf of the Consortium pursuant to the provisions of Annex 6 to the Consortium Agreement.

**Pool of Experts**

The Pool of Experts, including ATM experts, is complementary to the structured staff and comprises the resources needed either for specific tasks or projects that amount to less than 50% of monthly working time or that are temporary (while amounting to less than 50% of working time on a yearly basis), such as when additional expertise is required or for a workload peak.

The sourcing means by the Members (and conditions thereof) are identical as per the ones applicable to structured staff, with the exceptions that the two exceptional sourcing possibilities (secondment to EUROCONTROL and contract on behalf of the Consortium at the request of a specific Member) will not be applicable for the pool of experts.

**Resource profiles**

Four resource profiles are identified:
- Management: will comprise the members of the Management Team, namely the Executive Director and the Managers responsible for the execution of the tasks and activities;
- Liaison officers (one full-time per Party): the liaisons to the Parties organize the two-way information stream between the Consortium and the Parties and vice versa; the liaison function requires trust and will for some Parties be the pivotal role of the Party in the Consortium;
- Experts (ATM Experts and non-ATM Experts);
- Assistants: support activities for the Supervisory Board, the Management Team or the Experts.

**II. Selection of the Resources**

The resource requirements will be defined by the Consortium work plan, in relation to the tasks to be carried out by the Consortium and budget availability.

The resource selection must be divided in two different phases of the lifetime of the Consortium, namely the transition phase (prior to the date as from which the Consortium will be the new SDM pursuant to the appointment by the EC) and the operational phase (date as from which the Consortium will officially take over the role of SDM).

**Transition phase**

Transition phase for structured resources

The purpose of the transition phase is to ensure seamless transition between the current SDM – the SDA AISBL – and the Consortium, so as to enable the appropriate level of knowledge transfer from the SDA AISBL to the Consortium. To that end, the Consortium will notably strive to preserve SDM key resources to avoid disruption in the operations.
The profiles and positions for the key resources referred to above will be defined by the four Head negotiators in the Negotiation Team, which will further carry out a selection process and set-up the related selection board(s) with a view – to the extent possible - to provide the relevant details (including the relevant CVs) in the reply to the European Commission Call for proposals CEF-T-2021- SESAR Deployment Manager. The Head negotiators may delegate the selection process in part or in full to the members of the Management Team, once selected.

In doing so, the Negotiation Team will notably:

a) Establish a mapping of the human resources needed by the Consortium to carry out its work for both the roles of SDM and FPA coordinator;
b) Determine the existing SDM resources (including both those provided by the SDA AISBL members and those contracted directly by the SDA AISBL) that are considered key to ensure smooth transition;
c) Determine the profiles for which it is expected EUROCONTROL as the Network Manager to provide the necessary resources;
d) Carry out a gap analysis to determine the vacant positions requiring a call for proposals to be issued to all the Members; the choice of the selected candidate(s) will take into account, among the other criteria, the principle that all Members should be able to contribute to the work of the Consortium.
e) Carry out a gap analysis to determine whether there would be a need for the launch of procurement procedures in order to secure additional support and/or provide medium-term stability to the Consortium.

The selection board for the Management Team will be composed by the four Head negotiators of the Parties in the Negotiation Team.

The selection boards for the remaining profiles will, in principle, be composed by the relevant member(s) of the Management Team plus the Management Team member responsible for the HR management and, wherever appropriate, second layer managers/team leaders.

It is being understood that the selection board should be composed of two members as a minimum. The Head negotiators may participate as a member in any selection board.

The selection board(s) will prepare and carry out all actions required for the selection of the resources in a fair and transparent manner. The job profiles will be, wherever appropriate, similar to the ones currently used by the SDA AISBL; the selection process will be conducted to confirm compliance of the resources with the profile e.g. through interviews and/or assessments.

The four Head negotiators of the Parties in the Negotiation Team will ensure the transparency of the transition phase towards all the Members. The job profiles for the vacant positions referred to in d) above will be communicated to all the Members of the Consortium.

Notwithstanding the above, the selection process for the Liaison officers will be carried out by the respective Parties, given the special relationship of trust that is required. Each Party will define and communicate the process followed together with the rationale thereof, including, if deemed appropriate, the requirement for a seamless transition as stated above.

**Transition phase for the Pool of Experts**

The Pool of Experts will be established having in mind the same principle of the seamless transition. As a consequence, it will be primarily composed of experts currently put at the disposal of the SDA
AISBL for less than 50% of their working time, as complemented by experts from EUROCONTROL, following the same process as for the structured staff above.

An initial list of resources in the Pool of Experts should ideally be included in the reply to Call for proposals CEF-T-2021-SESAR Deployment Manager.

**Operations phase**

Resource needs, as proposed by the Management Team, will be filled in either through internal mobility of resources already assigned to the Consortium or following a selection procedure based on the required job profiles communicated to the contact points of all the Members, similar to the selection process followed in the transition phase. The choice of the selected candidate(s) will take into account, among other criteria, the principle that all Members should be able to contribute to the work of the Consortium.

Based on the outcome of such a selection, the Supervisory Board may decide to complement the resources from the Members with outsourced efforts, and initiate to that end the relevant procurement procedure to be carried out by the Consortium Coordinator pursuant to Annex 6.

**III. Resources management**

The resources coming from the Members or that are outsourced shall remain at all times under the authority of the concerned Member/employer, and the respective employment conditions/contractual conditions thereof shall continue to apply.

With a view to ensure efficient Consortium operations, practical elements are specified herewith and may be further complemented in the Contribution Agreement to be signed between the Consortium Coordinator and the concerned Member.

**Working conditions**

The working conditions of resources put at the disposal of the Consortium shall be, as appropriate, the ones defined by their home-based organisation for the staff under an employment contract with a Member or the ones contained in the contract for the contractors of a Member.

To ensure the Consortium’s efficient operations a few elements should nonetheless be harmonised and referred to in the Contribution Agreements:

- The normal (Monday-Friday) working day shall be considered for 8 hours.
- Considering the variety of Members and the potentially significant difference between the various starts/ends of a working day, there is a need to define a core period applicable to all; this core period will start at 9:30 AM and end at 04:30 PM, Brussels time.
- Leave requests should be coordinated with the relevant Consortium manager before being formally approved by the home organisation.
- Remote working or teleworking (for resources based at the Consortium premises) should be coordinated with the relevant Consortium manager before being formally approved by the home organisation if need be.
- The resources shall comply with the relevant security, health, and safety regulations in force at the Consortium’s premises.
Ways of working

The Management Team members shall define, in a consensus mode with the resources, the most effective ways of organising the work of the Consortium resources, bearing in mind the particularities of the Consortium operations, with structured staff assigned, working at least 50% of their working time for the Consortium activities, and the need for flexibility regarding physical presence at the Consortium’s premises.

Considering the above, structured staff and members of the Pool of experts (whose home organisation is based outside the Brussels’ area) will either be based in the Consortium’s premises in Brussels or commute from their home organisations.

The members of the Management Team should, in principle, be based in the Consortium’s premises.

For structured staff based at their home organisations, a minimum of days per month of physical presence at the Consortium’s premises is nonetheless required and this in coordination between resources and the respective Management Team member, bearing in mind that:

- the total number of days should not exceed, in principle, six days per month;
- the number of commuting occurrences should not exceed, in principle, two per months.

Time recording

The Members shall inform the Consortium of the time recording system or mechanism in place in their organisation and provide the Consortium with the relevant documentation.

Pursuant to the Annex to EC Decision of 3.2.2016 on the reimbursement of personnel cost of beneficiaries of the CEF Facility, the respective in-house time recording systems should record all working times including the absences.

In addition, the resources shall enter, on a monthly basis, their working time on Consortium related work – to be approved by the relevant Management Team member- in the Consortium time recording system. The resources shall ensure that the data entered in their in-house system and in the Consortium system are fully consistent and aligned with the requirements for eligibility of costs. Should a resource be prevented to enter his/her working time directly in the Consortium system, the rationale thereof should be provided and an alternative proposed.

Staff engagement

Both the resources put at the disposal by the Members and those directly contracted by the Consortium Coordinator shall be high performers with the demonstrated interpersonal skills to work in the Consortium’s specific environment.

Performance-related exchanges, be it that they do not have a hierarchical nature, should take place on a regular basis between the resource and his/her Management Team member. A performance assessment feedback shall further be provided to the resource home organisation at least on a yearly basis. The relevant Management Team member may recommend trainings to be undertaken by the concerned resources and the home organisation shall strive to initiate such development
programmes, in accordance with the concerned Member’s respective training policies. The training costs will be borne by the concerned Member and will not be eligible for funding, with the exception of training costs directly related to the specificities of the Consortium operations upon decision of the Supervisory Board.

Any potential issue shall be addressed without delay, with the full cooperation of the home organisation whenever required, to avoid any potential disruption of the Consortium operations.

As a last resort, in the event of continuous non-performance, the matter might be escalated to the Management Team (for the Consortium experts & assistants) and the Supervisory Board (for the members of the Management Team and the Liaison Officers), which may decide to propose to amend the relevant Contribution Agreement or the contract, including the termination of such an agreement or contract, and so without delay when so required. Consensus shall be reached at the Management Team level for the proposal to terminate an agreement or contract, otherwise the matter may be referred to the Supervisory Board. Consensus shall also apply at the Supervisory Board level for decision-making in such matters. The Member concerned will be invited to propose a replacement for the said resource and the evaluation of such a proposal will follow a selection procedure. Should the outcome of this selection procedure be unsuccessful, the Supervisory Board may decide to open a selection procedure to all Members.

Members shall accept the unanimous proposal to terminate the disposal of the resource and to amend the Contribution Agreement in this way whenever all the steps to mitigate poor performance have been exhausted.

IV. **HR claimable costs**

1. Preliminary remarks:

   - The use of the words “resource cost” or “cost of resources” in this chapter, is referring to the cost of resources claimed by the Member that puts the resource at the disposal of the Consortium or claimed by the Consortium Coordinator. It is to be stressed that the words ‘resource cost’ or ‘cost of resources’ is not used in relation to what a resource receives from their respective employer as salary and allowances nor from the Member that it has a contract with for the daily rate and allowances (meaning that these salary/allowance/daily rate received could be higher than the claimable costs).

   - It is to be stressed that for resources put at the disposal of the Consortium by Members, the respective internal regulatory framework of the Member concerned remains fully applicable as far as concerns allowances. The provisions in the Consortium Agreement relate only to the claim of costs by Members that weigh in on the budget of the Consortium.

   - The financial provisions as detailed below are subject to the availability of funding.

2. Principles governing HR claimable costs:

   a) The costs claimed by a Member shall at all times be transparent to the Supervisory Board and the Management Team;
b) The cost claimed shall be compliant with European Commission requirements on eligible costs and in full alignment with the Guidelines on the Eligibility of Cost under the Connecting Europe Facility as published by CINEA;

c) The cost claimed by a Member shall be fully aligned with the internal HR policies of the Member concerned in such matters;

d) The Supervisory Board may at all times request any Member to provide supporting evidence necessary to demonstrate full compliance with the Contribution Agreement, such as a Member salary scale or the HR related policies. These shall be provided by the Member without delay upon request by the Supervisory Board. The request shall be proportionate to the compliance enquiry at stake.

e) All costs claimed shall be pro-rata to the work performed.

3. Costs of Structured Staff:

From a cost perspective, three groups of Structured Staff can be differentiated:

a) The “commuters”, meaning the Structured Staff that remain physically based at their home organisation:
   For employees of Members, the claimable costs for the commuters will be composed of the salary\(^1\), travel costs (economy ticket for flights and second class for train) and a maximum daily amount based on the one in force for members of the European Parliament\(^2\) (currently set at 324 Euros and covering all other costs).
   For contractors (either of the Members or contracted by the Consortium coordinator), only the daily rate can be a claimable (except for missions costs referred to in section 5 below).

b) The “expatriates”, shall mean the Structured Staff that will be physically based in the Consortium premises in Brussels that are not originally based in the Brussels area:
   The claimable costs for the expatriates will be composed of the salary and allowance(s) with an overall yearly ceiling of claimable costs set at 235,000 Euros (the ceiling being prorated to the work performed for the Consortium), except for the missions costs referred to in section 5 below.
   For contractors (either of the Members or contracted by the Consortium Coordinator), the claimable costs will be composed of the daily rate and the above-mentioned ceiling of 235,000 Euros shall apply (except for missions costs referred to in section 5 below).
   The ceiling shall not apply to the members of the Management Team.

c) The “locals”, shall mean the Structured Staff working as contractors who are based in the Brussels area at the time of being contracted and those employees whose home organisations are based in the Brussels area:
   For locals who are employees of Members, the claimable costs will be made of the salary only (except for the missions costs referred to in section 5 below).

---

\(^1\) By salary, it should be understood - here and throughout this annex - all the elements that form part of the remuneration.

For locals who are contractors based in Brussels’ area (either of the Members or contracted by the Consortium coordinator), the claimable costs will be composed of the daily rate (except for the missions costs referred to in section 5 below).

4. Cost of staff from the Pool of Experts:

The same principles as set above for Structured Staff apply, mutatis mutandis, to the resources from the Pool of Experts. It is recalled that such resources will be either “commuters” or “locals”, therefore the above provisions relating to “expatriates” are not applicable to them.

5. Mission costs:

- A mission is a travel of the resource at the request or instruction of the Consortium. This is different to the travel needed for the resource to come to work at the Consortium’s premises. For the purpose of this HR policy these travels are called commuting.
- Claimable mission costs within Europe will be made of:
  - Cost of travel (economy ticket for flights and second class for train)
  - The cost of accommodation and daily subsistence allowance, as set by the provisions in force within the members concerned, with an overall maximum daily amount based on the one in force for members of the European Parliament\(^3\) (currently set at 324 Euros and covering all other costs).
- Claimable mission costs outside Europe will be based on the mission policy of the applicable Member(s) concerned.
- The provision for missions will be part of the Contribution Agreement between the Consortium Coordinator and the Member concerned.
- The provision for missions for contractors put at the disposal of the Consortium by Members will be added to the daily rate.

ANNEX 6

COMMON PROCUREMENT AGREEMENT
TO PROCURE GOODS AND SERVICES NEEDED
FOR THE CONSORTIUM OPERATIONS

WHEREAS:

i) The Members have formed the SESAR Deployment and Infrastructure Partnership consortium;

ii) To achieve the aforementioned objective, the Members wish to procure goods and services needed by the Consortium operations;

iii) Most of the Members are contracting authorities or contracting entities within the meaning of the EU Directives on Public Procurement i.e. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2024 on public procurement and repealing Directive 2004/18/EC and Directive 2014/25/EU of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC and they need to comply with the applicable national law on public procurement while awarding public contracts. Given that, however, it is assumed that in principle public contracts awarded by the Consortium for acquiring the goods and services will be fully financed by EUROCONTROL, the abovementioned EU Directives and respective national law on public procurement will not be considered as applicable pursuant to art. 9 of the Directive 2014/24/EU and 20 of the Directive 2014/25/EU;

iv) EUROCONTROL, as an intergovernmental organisation, has its own rules of procurement established in the “Contract Regulations of EUROCONTROL Text approved by Measure No. 19/243 of the Permanent Commission dated 29 August 2019” (the “EUROCONTROL Contract Regulations”);

i) Pursuant to Article 21.1 of the EUROCONTROL Contract Regulations, EUROCONTROL may proceed with a common procurement procedure at the request of one or more Member State(s) and/or appropriate air navigation service providers or where there are possible synergies in procuring identical products, services or works with a party which is not a Member State or an air navigation service provider;

ii) In accordance with Article 21.2 of the EUROCONTROL Contract Regulations, whenever it is decided to proceed with a common procurement, entities involved shall enter into a common procurement agreement;

iii) EUROCONTROL Contract Regulations offer similar safeguards as the European Directives on Public Procurement in compliance with the main principles of the said European Directives and shall apply to the applicable rules for the present Common Procurement;

iv) The Members are entering into this CPA pursuant to Article 21 of the EUROCONTROL Contract Regulations;
All the Members agree to enter into this Common Procurement Agreement in good faith, which is governed by the following clauses, obligations and annexes:

TITLE I
GENERAL PROVISIONS

Article 1
Subject matter

1. This Common Procurement Agreement defines the framework under which EUROCONTROL shall acquire in the name and on behalf of the Members the goods and services needed by the Consortium operations through the award of contracts on the basis of common procurement procedures, and the conditions thereof including the practical modalities wherever required.

2. This Agreement also covers ancillary matters such as:
   a. the management of contracts;
   b. the conduct of any legal proceedings arising from the common procurement procedure or contracts;
   c. the management of procurement procedures for acquiring the goods and services which will be financed by the Consortium pursuant to Article 23.5 below.

Article 2
Definitions

1. For the purpose of the present CPA, words beginning with a capital letter shall have the meaning defined herein.

   a) Contracting Authorities/Entities – the Members of the Consortium.

   b) Contracting Authorities Representative – means the Consortium Coordinator as the designated Member that is responsible for the procurement procedures carried out on behalf of the Consortium to ensure compliance of the procurement according to the specific mandate in the framework of this CPA.

2. If words used in this CPA and beginning with capital letters are not defined in the article 1 above, they shall have the meaning given to them in the EUROCONTROL Contract Regulations or in the Call for proposals CEF-T-2021-SESAR Deployment Manager published on 29 October 21 (the “SDM Call for proposal”).

Article 3
Rules governing the Common Procurement Procedure

1. Common Procurement procedures of the Consortium operations will be launched pursuant to EUROCONTROL Contract Regulations and the provisions stated in the present CPA.
2. In case of differences between the provisions of the present CPA and the provisions of EUROCONTROL Contract Regulations, the former shall prevail to the extent they do not contradict with EUROCONTROL Contract Regulations.

**TITLE II**

**ORGANISATION**

**SUBTITLE I – CONTRACTING AUTHORITIES’ REPRESENTATIVE**

**Article 4**

**Contracting Authorities’ Representative**

1. The Members agree and mandate EUROCONTROL, in its role as Consortium Coordinator subject to the terms of this CPA, to be the Contracting Authorities’ Representative and to act in their name and on their behalf in all procurement procedures required by the Consortium operations, coordinating all the activities related to procurement and to act as the sole responsible towards tenderers and contractors for administrative and process related topics.

2. The Members herewith authorize the Consortium Coordinator to act as their sole representative in instituting or defending any legal proceedings related to procurement actions on behalf of the Consortium.

3. The Members hereby authorize the Consortium Coordinator to act as their sole representative in bringing any legal proceedings related to procurement actions on behalf of the Consortium.

4. The Consortium Coordinator, as sole representative of the Members, shall seek the prior opinion and approval of the relevant Consortium decision-making authority on the conduct of any legal proceedings.

5. The Consortium Coordinator shall be the sole representative of the Members with regard to economic operators, candidates or tenderers throughout the common procurement procedure(s), including any matters arising in relation to the common procurement procedure(s) following the award of contracts.

**Article 5**

**The Contracting Authorities’ Representative role in the common procurement procedure**

1. The Consortium Coordinator shall, notably:

   a. manage the overall preparation, organization and coordination of the common procurement procedure(s) according to the principles of fair competition and transparency;
   
   b. lead the negotiations with economic operators, candidates, or tenderers where opportunities are noted for price reductions and/or technical improvements;
   
   c. award the contract(s) and lead the final negotiation, when applicable, with the best-ranked tenderer with the objective to obtain the best terms, conditions and price and in order to satisfy the needs of the Consortium in terms of goods and services to be compliant with the Consortium’s tasks;
d. sign contract(s) and any amendments thereof with the selected Contractors in the name and on behalf of the Members;

e. ensure the overall execution of procurement contract(s);

f. manage the contractual relations with the contractors in the name and on behalf of the Members;

g. act on behalf of the Members and in interest of the Consortium, as provided for in this CPA.

2. The Consortium Coordinator shall carry out such tasks in full collaboration with the Consortium organisational structure (bearing also in mind the overarching principles of equal partnership and joint governance/management/teams) and with the support of the Members.

**SUBTITLE II – DECISION MAKING AUTHORITY**

**Article 6**

Decision Making Authority

1. The decision-making authority in all contractual related matters shall be the Supervisory Board or the person(s) that received delegation/sub-delegation thereof according to the thresholds set by the Supervisory Board.

2. In particular, the decision to launch a procurement procedure, the choice of procedure and the decision to award contracts, to negotiate with tenderers, to cancel the procurement procedure and to review the procurement procedure including the related compensation shall be endorsed by the relevant decision-making authority (based on the delegation / sub-delegation) before any action is taken by the Consortium Coordinator.

**SUBTITLE III – COMMON PROCUREMENT TEAM**

**Article 7**

Common Procurement Team

1. The content of all tender related documents concerning a procurement procedure initiated in accordance with this Agreement, shall be determined by the Consortium Coordinator in accordance with the relevant provisions of the EUROCONTROL Contract Regulations together with the Common Procurement Team.

2. The Members shall jointly provide by means of the Common Procurement Team for the drafting of the technical and operational specifications and of any other relevant acts or deeds relating to the common procurement procedure(s).

3. The Common Procurement Team, when applicable, shall be composed, as a minimum by one representative of the Consortium Coordinator and one representative of two of the other Parties as effective members of the evaluation panel and one representative of the Consortium Coordinator and one representative of the other Parties as alternate members.
SUBTITLE IV – EVALUATION PANEL

Article 8
Composition of the Evaluation Panel

1. The Evaluation Panel, when applicable, in order to ensure the majority principle, shall be composed of an odd number of members: as a minimum by one representative of the Consortium Coordinator and one representative of two of the other Parties as effective members of the evaluation panel and one representative of the Consortium Coordinator and one representative of the other Parties as alternate members.

2. Members of the Evaluation Panel shall be competent in the specific sector to which the subject of the assignment refers and shall possess suitable legal/administrative or technical qualifications.

3. The following categories of persons shall not be appointed as members of the Evaluation Panel:
   a. those who are responsible for signing the tender procedure documents;
   b. those who have a personal or professional interest in one or more participants, directly or indirectly, in the tender procedure or execution of the contract; these persons, if appointed, have in any case the obligation to abstain, after communicating the reasons for incompatibility with the appointment.

Article 9
Duties of the Evaluation Panel

1. The Evaluation Panel shall comply with the provisions of the tender procedure documents and shall carry out its own activities with the presence of all members during specific sessions.

2. Every decision taken by the Evaluation Panel shall be documented, indicating if it has been taken unanimously or by majority; in the latter case, the names of the members in favour and those of the members against and the reasons for this divergence shall be indicated. Each session of the Evaluation Panel shall be minuted.

3. The minutes of each session shall be numbered consecutively, signed by all the members and shall contain:
   a. the details of the tender procedure;
   b. place, date and time of opening of the session;
   c. the names of the members of the evaluation panel;
   d. the reference to the number of packages received, the indication of the competitors to whom they refer, day and time of arrival;
   e. the exact indication of the operations carried out by the Evaluation Panel and the results summaries;
   f. any further fact, declaration or element, pertaining to the tender operations, that is deemed appropriate to record;
   g. the date and time of the closing of the session;
   h. any reasons for the exclusion of a candidate tenderer.
4. The Evaluation Panel, at the end of its evaluation activities, indicates in the last minutes the ranking of the tenderers and sends to the Head of the Procurement Department of the Consortium Coordinator the minutes with the award proposal for the candidate who was the best tenderer.

TITLE III

PROCUREMENT PROCEDURE

Article 10
General principles

1. The present section highlights the major milestones of the most commonly used procurement procedures.

2. Simple procurement actions having value below € 2,000 do not require a written contract and may be handled on the strength of an invoice. For these cases the Consortium Coordinator may organise/authorise the acquisition of goods or services directly with the supplier and submits to the decision-making authority a report informing of such acquisitions.

Article 11
Start of a procurement procedure

1. The Consortium Coordinator, in accordance with the relevant provisions of the EUROCONTROL Contract Regulations, calculates the estimated value of the procurement contract together with the Common Procurement Team and identifies the procedure that seems the most appropriate to the project.

2. The Consortium Coordinator, together with the Common Procurement Team, draft:
   a. the Technical and Operational specifications;
   b. the Tendering and Evaluation Procedure document;
   c. any other relevant acts or deeds relating to the common procurement procedure.

3. After the finalization of the tender related documentation, the Consortium Coordinator submits to the Decision Making Authority a report containing:
   a. the contract notice;
   b. the letter of invitation to tender setting up submission requirements including all relevant annexes;
   c. the technical specifications, and the tendering evaluation procedure document including the exclusion, selection and award criteria (as applicable);
   d. Letter of Acceptance(s).

4. The procurement procedure shall be launched following approval by the Decision Making Authority.
Article 12
Publication of a contract notice

1. When the Members decide to carry out a competitive tendering procedure, the Consortium Coordinator shall publish a contract notice on the Consortium Coordinator website and through the electronic tool dedicated to procurement to the most relevant categories of suppliers identified in such tool. The Consortium Coordinator shall also place the advertisements on the Consortium dedicated website.

2. The contract notice shall contain the technical subject-matter, the main selection and award criteria, the admissibility conditions, the closing date and the contact person within the Consortium Coordinator responsible for the call for tenders.

Article 13
Evaluation procedure

1. The administrative, technical and financial evaluation shall be carried out by the Evaluation Panel pursuant to the EUROCONTROL Contract Regulations as modified and complemented by the present CPA.

2. The evaluation process shall be based on pre-defined qualification criteria, to be agreed upon before the launch of the procurement procedure and to be laid down in the procurement procedure documentation; it shall take place in the following phases:
   
   a. Admissibility check to verify the compliance with the formal tender submission requirements;
   b. Technical Evaluation based on the technical selection criteria;
   c. Technical Evaluation based on the technical award criteria;
   d. Financial Evaluation;
   e. Final overall score and award procedure.

3. Once the evaluation is concluded, the Evaluation Panel shall transmit to the Head of the Procurement Department of the Consortium Coordinator the proposal to award the contract to the tenderer whose tender best meets the award criteria.

4. The evaluation procedure shall remain confidential; the members of the Evaluation Panel and persons involved in the evaluation are not allowed to disclose information about the evaluation.

Article 14
Negotiations

1. The Consortium Coordinator may at the request of the Decision Making Authority, where opportunities are noted for price reductions and/or technical improvements, undertake negotiations with the tenderer(s) on the list of tenderers meeting the technical requirements, for the purpose of obtaining the best terms and conditions and price.

2. The strategy with regard to the technical improvements and/or price negotiations shall be coordinated between the Consortium Coordinator and the relevant Decision Making Authority.

3. Below are the most frequent types of negotiations:
a) during the evaluation phase, the Consortium Coordinator shall take the lead for the negotiations:

i) for technical improvements on the terms of the contract, under no circumstances this kind of negotiations shall lead to a reduction of the technical requirements in case of a competition; if such reduction is necessary, a new procurement procedure shall be issued. These negotiations may result in a request for an updated tender; or

ii) on the contractual/legal terms of the contract.

b) when the evaluation phase is concluded, the Consortium Coordinator shall take the lead for the negotiations on the financial terms (i.e. price negotiations) of the contract.

Contract award, where applicable, can only take place after the negotiations with the best-ranked tenderer in order to conclude the contract.

**Article 15**

**Award of a contract**

1. The contract shall be awarded to the tenderer identified by the Evaluation Panel on the basis of the award criteria chosen and the type of procedure adopted.

2. The notification of the award of the contract shall be carried out by the Consortium Coordinator after the approval of the relevant Decision Making Authority about the status of such procurement procedure.

**Article 16**

**Publication of the award notice**

1. The notice of contracts awarded with a value over € 5,000 shall be published on the Consortium Coordinator’s and the Consortium’s websites.

2. The award notice shall contain at least the following information:
   a. the name of the contractor;
   b. the date on which the contract was entered into;
   c. the value of the contract;
   d. the duration of the contract.

3. Publication may be withheld for reasons of confidentiality and security, for example, if publication would prejudice the legitimate commercial interests of a particular supplier, whether public or private or would impede law enforcement or would otherwise be contrary to the public interest.

4. The award notice must be published within 5 (five) working days from the letting of the contract.

**Article 17**

**Notification to unsuccessful tenderers**

1. The Consortium Coordinator shall notify the final decision on the award of the contract in writing and without undue delay within 5 (five) working days to all candidates or tenderers whose applications or tenderers were not selected, communicating:
a) the criteria for the award of the contract;
b) a summary of the reasons for the decision;
c) the score (if any) obtained by the rejected candidate or tenderer;
d) the duration of the standstill period;
e) the date at which the contract is due to be signed.

2. Where a tenderer is eliminated from the procurement procedure due to non-admissibility for administrative reasons or where the tender is not selected to a subsequent step in the evaluation procedure, the Consortium Coordinator shall notify the decision not to retain such tenders without undue delay within 5 (five) working days giving a summary for the decision.

3. The Consortium Coordinator shall sign the contract with the successful tenderer when the standstill period elapsed, unless otherwise decided by the Decision Making Authority. The standstill period shall have a duration of 10 (ten) days when the notification to candidates or tenderers has been made.

**Article 18**
**Signature of a contract**

The contract signature, when applicable, shall be adopted by the Consortium Coordinator on behalf of all Members after approval by the Decision Making Authority (based on the delegation / sub-delegation).

**Article 19**
**Appeal Mechanism**

1. Candidates and tenderers have the right to appeal against any decision regarding the procurement procedure pursuant to the applicable procedure of EUROCONTROL Contract Regulations.

2. In case any appeal is presented the Consortium Coordinator shall inform the Decision Making Authority.

3. The Consortium Coordinator shall analyse the appeal and present a proposal of decision following the recommendation issued by the EUROCONTROL Procurement Review Panel, if any, to the Decision Making Authority.

4. The Decision Making Authority shall decide on the appeal and the Consortium Coordinator shall transmit to the application or tender the final decision.

5. Where after the appeal procedure the Decision Making Authority decides to grant a compensation to the appellant for the loss or injury suffered, such compensation shall in all case be limited to reasonable costs incurred in the preparation of the tender.

6. Where after the appeal procedure referred to above, the concerned candidate and tenderer files an appeal against the final decision pursuant to EUROCONTROL Contract Regulations, the Consortium Coordinator shall keep the Decision Making Authority fully informed about the procedure and its outcome, obtaining the applicable prior approval(s) of the Decision Making Authority regarding any legal proceedings.

**TITLE IV**
MANAGEMENT OF THE CONTRACT

Article 20

1. Unless otherwise established by the Members, the contract(s) shall be managed by the Consortium Coordinator throughout its (their) entire duration.

2. The Consortium Coordinator shall ensure that the supplier conforms fully to contractual obligations, financial guarantee (if applicable), delivery dates, service levels, KPIs and prices offered.

3. The Consortium Coordinator shall inform the relevant Decision Making Authority when breaches or delays occur so that the appropriate remedial action can be taken and, where necessary, penalties applied or damages sought.

4. In case of any disruption in the contract that leads to a pre-litigation discussion, the Consortium Coordinator shall inform the relevant Decision Making Authority in order to resolve together the legal and contractual issues in the best interests of the Consortium.

5. Amendments to a contract shall always be in writing and signed by after the approval of the relevant Decision Making Authority.

Article 21

Amendments

Any amendments to this CPA shall be subject to approval by the Supervisory Board, pursuant to the provisions foreseen in the Consortium Agreement.

TITLE V

FINAL PROVISIONS

Article 22

Miscellaneous

The provisions of the Consortium Agreement shall complement, wherever relevant, the provisions of this CPA.

Article 23

Applicable law, severance and applicability

1. The law applicable to the contracts concluded pursuant to this CPA and the competent court for the hearing of disputes under these contracts shall be determined in these contracts.

2. If any one or more of the provisions of this CPA should be or become fully or partly invalid, illegal or unenforceable in any respect under the applicable law foreseen in the Consortium Agreement, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.
3. This CPA shall cover all procurement actions required in order to enable the Consortium to carry out the tasks of SESAR Deployment Manager as defined in the SDM Call for proposal, including those related to the coordination of the on-going Implementation Projects under the Specific Grant Agreements and of the future implementation projects under Model Grant Agreements managed by the European Climate, Environment and Infrastructure Executive Agency (Cinea).

4. Should additional procurement actions be required for the efficient performance of the Consortium’s operations or the underlying assumptions pertaining to conclusion of this CPA will change, the Supervisory Board shall decide whether the provisions of the CPA should remain applicable or whether different rules on public procurement should apply.

5. Should different rules apply, they shall be included in dedicated agreements based on procurement procedures including a mandate to a Member by the others to act as Contracting Authority in their name and on their behalf. Such agreements shall also define criteria regarding the apportionment of costs among the Members.

Appendix I - Declaration of absence of conflict of interest and protection of confidentiality to be given by member(s) of the evaluation committee(s) – this Appendix will be elaborated at a later stage and approved by the Supervisory Board
FINANCIAL POLICY

1. **General Principles**

1.1 The financial contribution to the work of the Consortium received, in particular, from the European Commission, CINEA and the Implementing Partners as a result of the Coordination fee shall be distributed by the Consortium Coordinator according to:

- the Contribution Agreement(s);
- the approval of reports, as appropriate by the European Commission and CINEA;
- the provisions of payment in Section 2.

A Member shall be funded only for its tasks carried out in accordance with the respective Contribution Agreements and justified actual costs.

1.2 The Consortium shall define processes and undertake central checks to ensure that costs-claims submitted by Members comply with guidance and regulations relating to eligible costs to avoid rejected costs for the consolidated claim.

1.3 In accordance with its own usual accounting and management principles and practices, each Member shall be solely responsible for justifying its costs with respect to the relevant activity towards the funding authority. Neither the Consortium Coordinator nor any of the other Members shall be in any way liable or responsible for such justification of costs towards the funding authority.

1.4 A Member that spends less than its allocated share of the budget as set out in the respective Contribution Agreement will be funded in accordance with its actual duly justified eligible costs only.

A Member that spends more than its allocated share as set out in the respective Contribution Agreement will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. Any change to funding entitlements will require an amendment to the concerned Contribution Agreement(s).

1.5 A Member having received excess payments has to return the relevant amount to the Consortium Coordinator as soon as possible and anyhow within 30 (thirty) days from the request from the Consortium Coordinator.

1.6 The Consortium Coordinator shall ensure effective activity tracking and financial running of the Consortium in its role as SESAR Deployment Manager by means of the accounting and financial system, including keeping books, accounts and records, which register all liabilities, credits and payments done in execution of the Consortium operations. In particular, the accounting and financial system shall provide a detailed view per member per funding/financing stream as well as a fully integrated view at Consortium and Member level.

1.7 The Consortium Coordinator shall provide the Supervisory Board with an annual report on planned costs versus actual, planned financing flows versus actual and the replanning of costs and financial resources for the remaining period of all the activities in the scope of the Consortium.
2. Payments

2.1 Management of Technical Assistance Specific Grant Agreement (SGA) payments

2.1.1 Within 30 (thirty) calendar days of the day from which the bank account of the Consortium Coordinator has been credited (and subject to the timely provisions by all the Members of the required information), the Consortium Coordinator shall transfer to each Member the amount corresponding to their contribution to the related activity of the Consortium in accordance with their share of validated costs actually incurred.

2.1.2 In case of pre-financing by the Commission, the Consortium Coordinator shall transfer to each Member the amount determined pro rata to its participation in the concerned activity within the scope of SDM activities.

2.1.3 In particular, the Consortium Coordinator shall:

- notify the Member concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds, maintaining financial accounts and appropriate reconciliation between planned/actual costs and planned/actual funding.

2.2 Management of SGA Payments to Implementing Partners in relation to the implementation actions

2.2.1 Within 30 (thirty) calendar days of the day from which the bank account of the Consortium Coordinator has been credited (and subject to the timely provisions by all the relevant Implementing Partners of the required information), the Consortium Coordinator shall transfer to each Implementing Partner the amount corresponding to their contribution to the related implementation activities in accordance with their share of validated costs actually incurred.

2.2.2 In case of pre-financing by the CINEA, the Consortium Coordinator shall transfer to each Implementing Partner the amount determined pro rata to its participation in the concerned implementation activities in line with CINEA procedures, deducted by the due coordination fee as per the relevant Internal Cooperation Agreement (ICA).

2.2.3 In particular, the Consortium Coordinator shall:

- notify the Implementing Partner concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references, and
- perform diligently its tasks in the proper administration of any funds, maintaining financial accounts and appropriate reconciliation between planned/actual costs and planned/actual funding.

2.3 Management of SGA Payments to Members in relation to the Consortium as FPA coordinator

2.3.1 Within 30 (thirty) calendar days of the day from which the bank account of the Consortium Coordinator has been credited by CINEA (and subject to the timely provisions by all the Members of the required information), the Consortium Coordinator
shall transfer to each Member the amount corresponding to their contribution to the related activity of the Consortium in accordance with their share of validated costs actually incurred.

2.3.2 In case of pre-financing by the CINEA, the Consortium Coordinator shall transfer to each Member the amount determined pro rata to its participation in the concerned activity within the scope of the FPA Coordinator activities.

2.3.3 The Consortium Coordinator will levy from the first payments received by CINEA the total amount of the set coordination fee and consequently deduct such an amount from the amounts to be transferred to Implementing Partners pursuant to articles 2.2.1 and 2.2.2 above.

2.3.4 The Consortium Coordinator shall transfer, on an annual basis, to each Member the respective amount of FPA coordination fee determined pro rata to its participation in the concerned activity within the scope of FPA Coordinator activities for the given year, as per the respective Contribution Agreements and keeping consideration the relevant part of the non-HR costs.

2.3.5 The annual period shall be the calendar year; the calculation will be made pro-rata in case of a start in the course of the year. At the end of each annual period, and before proceeding with the next payments, the Consortium Coordination shall reconcile the transferred annual amount with the validated costs actually incurred by each Member. Partial annual payments may nonetheless be processed wherever a delay would entail cash flow issues for a Member.

2.3.6 In case of overpayment, the balance will be retained by the Consortium Coordinator from the next annual payment or, if not relevant, the Member concerned will be requested to return the amounts paid in excess.

2.3.7 In particular, the Consortium Coordinator shall:

- notify the Member concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds, maintaining financial accounts and appropriate reconciliation between planned/actual costs and planned/actual funding.

3. Special provisions

3.1 Where duly justified, and subject to the availability of funds, a temporary cash flow facility may exceptionally be provided to a Member, in particular to overcome a cash flow issue related to the completion of its tasks by the concerned Member while the payments by the Consortium Coordinator are awaiting the full completion of the project/action at stake. The Supervisory Board shall define the conditions under which such a facility may be awarded, in compliance with the principles of transparency and segregations of tasks. The facility shall entail no financial risks for the other Members or the Consortium Coordinator.

3.2 The costs related to ex-post audits shall be fully funded by public funding and/or, as appropriate, by the Implementing Partners via coordination fees or other fees.
3.3 The Members agree that the coordination fee to be levied on implementing partners may, whenever necessary, not only finance the Consortium’s tasks as coordinator of implementing projects but also the tasks carried out by the Consortium within the frame of Call for proposals CEF-T-2021-SESAR Deployment Manager), should the funding by the EC reveal insufficient to cover all the related costs. Full transparency shall be ensured in implementing such a provision. This provision shall further be duly reflected in the Internal Cooperation Agreement with the implementing partners.
PERSONAL DATA PROCESSING AGREEMENT

The processing of personal data by the Joint controllers in the context of the Consortium Agreement ("the Agreement") is subject to the conditions set out in this Annex "Personal Data Processing Agreement".

The Joint controllers have agreed on the following terms in order to adduce appropriate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the provision of the personal data processed pursuant to the Agreement.

**Article 1 – Definitions**

For the purpose of this Annex, the following definitions apply:

a) “Personal Data” shall mean any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, psychological, mental, economic, cultural or social identity of that natural person;

b) “Processing” shall mean any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

c) “Personal Data Processing Principles” shall mean the Principles outlined in Appendix 1, based on the legislation protecting the fundamental rights of freedom of individuals and, in particular, their right to privacy with respect to the Processing of Personal Data as set-out in the Applicable Personal Data Protection Legislation defined in article 10 of the Agreement, “PERSONAL DATA PROTECTION”;

d) “Controller” shall mean the natural or legal person, public authority, agency or any other body which determines the purposes and means of the Processing of Personal Data carried out under his or her authority;

e) “Joint controllers” shall mean two or more Controllers, which jointly determine the purposes and means of the Processing of Personal Data carried out under their authority.

f) “Processor” shall mean a natural or legal person, public authority, agency or any other body which is authorised to process Personal Data on behalf of the Joint controllers;

g) “Subprocessor” shall mean any Processor engaged as contractor by a Processor to process Personal Data in accordance with the Personal Data Processing Principles set out in Appendix 1 and with the terms of the Agreement;

h) “Data Protection Officer” ("DPO") shall mean the responsible for monitoring an organisation’s correct application of the Personal Data Protection Principles and of the Applicable Personal Data Protection Legislation;

i) “Security Measures” shall mean those technical and organisational measures aimed at protecting Personal Data against accidental or unauthorised destruction or loss, as well as against non-authorised access, alteration or transmission;
j) “Personal Data breach” shall mean a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed under this Agreement and potentially posing a risk to an individual’s rights and freedoms.

Any other defined terms will have the same meaning as in the Agreement.

**Article 2 – Purposes of Processing / Controller of the Personal Data**

1. The Joint controllers jointly determine the purposes and means of the Processing of Personal Data for the establishment of the implementation, management and monitoring of the Agreement by authorised personnel, in compliance with the Agreement.

2. The Joint controllers consider the Joint Processing of Personal Data necessary to support the Purposes described at article 1 of the Agreement, “PURPOSE AND SCOPE”.

3. A detailed description of the specific purpose(s) of each of the activities covered by the Agreement shall be specified in the dedicated privacy statements, a template of which is set out in Appendix 2, or respectively in the Personal Data Protection Registers of the Joint controllers.

**Article 3 – Obligations of the Joint controllers**

This Annex defines the respective responsibilities of the Joint controllers as regards to Personal Data processed in the framework of the implementation of the Agreement between the Members (“the Joint Processing”).

3.1 Information to the data subject

a. The Joint controllers shall maintain a record of the Joint Processing under their responsibility in accordance with the Applicable Personal Data Protection Legislation.

b. The Joint controllers have agreed on a common privacy statement (enclosed as Appendix 2 of this Annex), providing the information required in the Applicable Personal Data Protection Legislation. The common privacy statement shall be jointly updated where and when necessary.

c. The essence of this Annex is reflected in the common Privacy statement.

d. The common Privacy statement shall be made accessible by the Joint controllers on the respective website of the Joint controllers and the website of the project.

3.2 Single Contact Point

The Joint controllers shall jointly agree on a Single Contact Point for data subjects (“Single Contact Point”). The details of the Single Contact Point shall be indicated in the common privacy statement referred to in Article 3.1 above.

3.3 Confidentiality, security and Data breach reporting

a. When Processing Personal Data the Joint controllers and every Processor shall take all necessary technical and organisational Security Measures to ensure availability, integrity, confidentiality, non-repudiation and authentication of the Personal Data processed.
b. The Joint controllers shall cooperate in good faith with each other in order to mitigate the adverse effects of a security incident impacting Personal Data processed by one of them and/or its Processor(s).

c. In particular, in the event of a Personal Data breach, the Joint controller suffering the breach shall promptly notify the other Joint controllers of the occurrence of that Personal Data breach, and shall inform them at regular intervals of the details of the Personal Data breach as they become available, the mitigating measures taken, any notifications and legal notifications, made or to be made to other entities involved as well as any response procedures the Joint controller suffering the breach intends to follow; the Joint controller suffering the breach shall require its Processor(s) to provide it with the same information should a Personal Data breach take place at the Processor; the information received from the Processor(s) should be promptly relayed to the other Joint controllers.

d. The Joint controllers, except EUROCONTROL, shall notify any Personal Data breach to the competent Data Protection supervisory authority if there is a risk for the data subject respecting the deadline foreseen in the Applicable Personal Data Protection Legislation. The Joint controllers shall render the Joint controller(s) concerned all the assistance required and provide information necessary for the Joint controllers to comply with their obligation.

e. The Joint controller suffering the breach and its Processor(s) shall assess the need to modify their information security policies, after the occurrence of a Personal Data breach in order to ensure that such a breach can be avoided in the future.

f. In the event of Personal Data breaches, the Joint controllers shall assist each other and shall provide each other all information required in order to comply with their respective Personal Data breach reporting obligations, coordinating as appropriate.

3.4 Personal Data retention periods

a. The Joint controllers agree that the Personal Data will be kept for a reasonable period of time only, and that the Joint controllers will exercise a yearly review of the Personal Data to assess whether their storage is in line with the purposes for Processing as described in Article 2 above.

b. A detailed description of the specific Personal Data retention periods per each category of data covered by the Agreement shall be found in the dedicated privacy statements or respectively in the Personal Data protection registers of the Joint controllers.

3.5 Responsibility over Processor

a. Where one of the Joint controllers uses Processor(s), it shall ensure that the Processing activities entrusted to the Processor(s) enjoy a level of protection equivalent to the one provided by the Joint controllers in accordance with this Annex.

b. For the purpose of this Article 3.5, Processor shall only refer to any Processor engaged by one of the Joint controller(s) to provide goods or services that directly relate to the activities identified in the Agreement that will be Processing Personal Data of another Joint controller.

Article 4 – Rights of the data subject

1. Data subjects may exercise their rights in application of the Applicable Personal Data Protection Legislation by sending a request to the Single Contact Point referred to in Article 3.2 above.
2. Upon receipt, the Single Contact Point shall forward the request to the responsible Joint controller who shall communicate in due time the necessary information to the Single Contact Point in order to allow the Single Contact Point to reply to the data subject within the deadlines established by the Applicable Personal Data Protection Legislation. Responsibility towards data subjects requests remains vested to the Joint controller according to the Applicable Personal Data Protection Legislation.

3. All data subject’s requests received by the Joint controllers shall be redirected in due time to the Single Contact Point who shall forward the request to the responsible Joint controller. The responsible Joint controller shall communicate in due time the necessary information to the Single Contact Point in order to allow the latter to reply to the data subject within the deadlines established by the Applicable Personal Data Protection Legislation. Responsibility for data subjects requests remains vested to the Joint controller according to the Applicable Personal Data Protection Legislation.

Article 5 - Authorised transfers within the European Union

1. The Joint controllers may transfer Personal Data to permitted recipients and Processors under Article 3.5 in line with the purposes under Article 2 above.

2. The Joint controllers shall only transfer Personal Data to recipients established in the European Union based on the Applicable Personal Data Protection Legislation.

Article 6 - Transfers outside the European Union

1. The Joint controllers shall only transfer Personal Data to recipients outside the European Union or to international organisations where such transfer is necessary for the purposes agreed under Article 2 above.

2. The transferring Joint controller shall obtain adequate safeguards from the recipient in accordance with the Applicable Data Protection Legislation applicable to the Joint controller making the transfer. In particular are authorised:

   a) transfers to recipients in countries covered by Adequacy Decisions, namely a decision of the European Commission that a third country or an international organisation ensures an adequate level of protection of Personal Data;

   b) transfers to recipients in the European Economic Area (EEA).

3. The Joint controllers shall inform each other and the data subject through privacy statements under article 3.1 above, about transfers outside the European Economic Area or to international organisations.

4. For any new category of transfer, not falling in the scope of this Annex, prior consultation according to Article 8 below is mandatory.

Article 7 – Liability

1. The Joint controllers agree that any data subject, who has suffered damages as a result of a Personal Data breach, is entitled to receive compensation from the Joint controller who is responsible for the Personal Data breach.

2. The Joint controllers agree that they shall indemnify each other and hold each other harmless against any claim brought by a data subject who has suffered damage as a result of a Personal Data breach. The indemnity shall cover all direct damages suffered by the non-breaching Joint controller resulting from such a claim, including legal expenses and
expenses incurred for damage assessments up to a limit of 100,000€ per data subject and occurrence. This limitation shall not apply to damages resulting from gross negligence or wilful misconduct.

3. The Joint controllers acknowledge and agree that any breach of the terms contained in this Annex shall constitute a material breach of the Agreement.

Article 8 – Cooperation

1. The Joint controllers meet regularly, at least once per year at the request of the Consortium Coordinator and as required at the request of any other Joint controller, to discuss specific Personal Data protection, legal and technical issues.

2. Whenever responsibilities between Joint controllers are not clear or not covered by Article 3 above, the issue shall be discussed between the DPOs and legal team of the Parties, and reported if relevant to the periodical meeting.

3. In circumstances where responsibilities for Processors acting under the Joint controllers’ instructions require further clarification, this shall be discussed between the DPOs and legal team of the Parties, and reported if relevant to the periodical meeting.

4. At the moment of the entry into force of this Annex, the Joint controllers will designate and communicate to the Consortium Coordinator the contact details of their DPO.

Article 9 – Contact Points

Contact points are mentioned, as applicable, for every specific Processing operation, in the relevant privacy statement referred to in Article 3.1 above. The contact details of the relevant Joint controller(s) are available in the privacy statements available in Appendix 2.

Article 10 – Resolution of disputes

In the event of a dispute concerning the Processing of the Personal Data, Article 19 of the Agreement shall apply.

Article 11 – Entry into force, amendment

This Annex shall enter into force on the same date as the Agreement.
Appendix 1

PERSONAL DATA PROCESSING PRINCIPLES

1. **Purpose limitation**: Personal Data may be processed and subsequently used or further communicated only for explicit and legitimate purposes communicated to the data subject and no further processed in a way incompatible with those purposes. Personal Data must not be kept longer than necessary for the purposes for which they are originally collected and/or further processed.

2. **Data quality and proportionality**: Personal Data must be accurate and, where necessary, kept up to date. The Personal Data must be adequate, relevant and not excessive (data minimisation) in relation to the purposes for which they are originally collected and/or further processed.

3. **Transparency**: Data subjects must be provided with information necessary to ensure fair Processing (such as information about the purposes of Processing and about the transfer) and the identity of the Joint controllers and any other information necessary to ensure fair Processing.

4. **Security**: Technical and organisational Security Measures must be taken by the Joint controllers that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the Processing. Any person acting under the authority of the Joint controllers, including a Processor, must not process the data except on instructions received from them.

5. **Rights of access, rectification, erasure and blocking of Personal Data**: the data subject must have a right of access to all Personal Data relating to her/him that are processed subject only to the limitations set out in the law and, as appropriate, the right to the rectification, erasure or blocking of Personal Data the Processing of which does not comply with the principles set out in this Appendix, in particular because the data are incomplete or inaccurate. (S)He should also be able to object to the Processing of the Personal Data relating to her/him on compelling legitimate grounds relating to her/his particular situation.

6. **Restrictions on onward transfers**: further transfers of Personal Data to another Controller established in a third country not providing adequate protection may take place only if either:

   (a) the data subjects have given their unambiguous consent to the onward transfer

   The minimum information to be provided to data subjects must contain in a language understandable to them:

   1. the purposes of the onward transfer,
   2. the categories of further recipients of the Personal Data and the countries of destination, and
   3. an explanation that, after the onward transfer, the Personal Data may be processed by a Controller established in a country where there is not an adequate level of protection of the privacy of individuals; or

   (b) The Joint controllers agree to the adherence to this Appendix of another Controller established in a third country which thereby becomes a party to this Appendix and assumes the same obligations as the Joint controllers.
Appendix 2

PRIVACY STATEMENT TEMPLATE

PRIVACY STATEMENT ON THE PROTECTION OF PERSONAL DATA

[NAME OF PROCESSING]

The Members of the Consortium for the implementation of the SESAR Deployment and Infrastructure Partnership (hereinafter referred to as the “Consortium”) protect your personal data in accordance with the applicable personal data protection legislation, including, where applicable, Regulation (EU) 2016/679 (“GDPR”), except for EUROCONTROL whose obligations in this matter shall be governed by the EUROCONTROL Regulation on Personal Data Protection and its Implementing Rules.

1. What is [NAME OF PROCESSING]? Why do we collect, store and process your personal data?

Please provide a description of the processing and outline the purposes for which we use the personal data.

[Please complete]

2. What personal data do we collect, store and process about you?

Please outline the categories of personal data being processed. Personal data is any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, mental, economic, cultural or social identity of that natural person.

If relevant, please specify the source of the personal data and whether the personal data were transferred to the Consortium Members by third parties.

[SAMPLE TEXT: We hold the following categories of personal data related to you: [please complete]]

3. Who is your personal data disclosed to? Who has access to your personal data?

Please specify the recipients or categories of recipients of personal data. Recipient means a natural or legal person, public authority, agency or another body, to whom the personal data are disclosed, whether a third party or not. This includes persons having read-only access to a database or shared folders etc. Recipients may be staff of the Consortium Members or persons from outside the Consortium, including processor(s)/contractor(s) to whom the personal data is disclosed.

4. How long is your personal data kept?

Please specify the retention period i.e. when the data will be deleted, or if that is not possible, the criteria used to determine that period. It is important to be aware that personal data must be kept no longer than is necessary for its purposes.
5. What are your rights under the applicable personal data protection legislation?

[SAMPLE TEXT: You have the right to access, rectify, complete and update your personal data a) by using self-service interfaces (i.e. online tool function to edit your profile) and the update is immediate/option b) by contacting [insert functional generic email address].] You have the right to object to the use of your personal data in some circumstances. You may also delete your personal data. You have the right to request additional information about the handling of your personal data by contacting [insert functional generic email address].]

Please note that the Privacy Statement should preferably not contain any individual contact details. Therefore, you should use a generic email address instead of nominative one.

6. How can you withdraw consent you have given to the Consortium Members?[only if data are acquired based on the data subject’s consent]

In the limited circumstances where individuals may have provided consent to the collection, processing and transfer of personal data for a specific purpose (cfr. above under n.1), they should be informed of the right to withdraw this consent for that specific processing at any time and to the modalities.

[SAMPLE TEXT: You may withdraw your consent in any moment by contacting [Insert functional generic email address]; once we have received notification that you have withdrawn your consent, we will no longer process your personal data for the purpose or purposes you originally agreed to.]

7. What do we do to avoid misuse or unauthorised access to data concerning you?

Please provide information on how the personal data will be kept secure. If applicable, please specify whether staff handling the personal data has signed a specific confidentiality agreement or whether other safeguards are in place.

8. What safeguards do we apply when we transfer your personal data to third parties?

We provide below a few sample texts that should be adapted to the specific transfer.

[SAMPLE TEXT I: We will not, under any circumstances, share with or sell your personal data to any third party for marketing purposes, and you will not receive offers from other companies or organisations as a result of giving your details to us.]

[SAMPLE TEXT II: Your personal data is only given to a very limited set of contractors for the performance of their tasks (see section 3 above). Contracts with our contractors contain appropriate confidentiality obligations.]

[SAMPLE TEXT III: Where you have given consent to transfer your personal data to a third party, we may disclose your personal data: [please insert case of possible transfer, if applicable] We may also share your personal data where you ask us to, for example where we make a referral to another organisation (e.g. EC, ICAO, ANSPs etc.)]
[SAMPLE TEXT IV: in the case of personal data transfer to a processor located outside the EEA, the Consortium Members have implemented contractual safeguards that ensure your personal data is managed in accordance with the applicable personal data protection legislation and that [the processor] acts only on the Consortium Members’ instructions and implements all technical measures necessary on an ongoing basis to keep your personal data secure.]

9. Who can you contact if you have questions or want to make a complaint?

[SAMPLE TEXT: For any queries related to your personal data, please contact: [insert functional generic email address of data controller] which is the entity/team responsible for the processing of the personal data concerning you.

Complaints can be addressed to add@genericDPO.email]
The SDIP elaborates the preliminary version of a "deployment strategy".

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH launch of the Consultation for all items falling into CIR (EU) 123/2019 and all other activities covered under Principle 1 in the Vision.

NDTECH notes the result of the technical consultation and sends the document back to the SDIP.

Technical consultation is run within NDTECH Working Arrangements and NDOP for operational topics.

SDIP teams are involved into the WA to jointly process and reply to comments.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

The SDIP takes into account the consultation output and shares for final buy-in with the Investors Buy-in Group.

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH distributing the draft to the relevant Working Arrangement.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

Final draft of the "deployment strategy" goes to the SDIP Supervisory Board for final endorsement.

NDTECH notes the result of the technical consultation and sends the document back to the SDIP.

Final draft of the "deployment strategy" goes to the SDIP Supervisory Board for final endorsement.

Final decision-making gate: endorsement from the SDIP Supervisory Board.

The SDIP elaborates the preliminary version of a "deployment strategy".

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH launch of the Consultation for all items falling into CIR (EU) 123/2019 and all other activities covered under Principle 1 in the Vision.

NDTECH notes the result of the technical consultation and sends the document back to the SDIP.

Technical consultation is run within NDTECH Working Arrangements and NDOP for operational topics.

SDIP teams are involved into the WA to jointly process and reply to comments.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

The SDIP takes into account the consultation output and shares for final buy-in with the Investors Buy-in Group.

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH distributing the draft to the relevant Working Arrangement.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

Final draft of the "deployment strategy" goes to the SDIP Supervisory Board for final endorsement.

Final decision-making gate: endorsement from the SDIP Supervisory Board.

The SDIP elaborates the preliminary version of a "deployment strategy".

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH launch of the Consultation for all items falling into CIR (EU) 123/2019 and all other activities covered under Principle 1 in the Vision.

NDTECH notes the result of the technical consultation and sends the document back to the SDIP.

Technical consultation is run within NDTECH Working Arrangements and NDOP for operational topics.

SDIP teams are involved into the WA to jointly process and reply to comments.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

The SDIP takes into account the consultation output and shares for final buy-in with the Investors Buy-in Group.

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH distributing the draft to the relevant Working Arrangement.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

Final draft of the "deployment strategy" goes to the SDIP Supervisory Board for final endorsement.

Final decision-making gate: endorsement from the SDIP Supervisory Board.

The SDIP elaborates the preliminary version of a "deployment strategy".

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH launch of the Consultation for all items falling into CIR (EU) 123/2019 and all other activities covered under Principle 1 in the Vision.

NDTECH notes the result of the technical consultation and sends the document back to the SDIP.

Technical consultation is run within NDTECH Working Arrangements and NDOP for operational topics.

SDIP teams are involved into the WA to jointly process and reply to comments.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

The SDIP takes into account the consultation output and shares for final buy-in with the Investors Buy-in Group.

The SDIP shares the "deployment strategy with NDTECH" to initiate the process.

NDTECH distributing the draft to the relevant Working Arrangement.

Working Arrangement sends back to NDTECH technical comments and remarks.

Advise / recommendations on "how to update the strategy" are provided back to SDIP.

Final draft of the "deployment strategy" goes to the SDIP Supervisory Board for final endorsement.

Final decision-making gate: endorsement from the SDIP Supervisory Board.
I. REGULATORY FRAMEWORK

1. Pursuant to Article 7.3.(f) of Commission Implementing Regulations (EU) 2019/123\(^1\), the Network Manager "shall enter into cooperative arrangements with the deployment manager in accordance with point (a) of Article 9(7) and Article 12(2) of Implementing Regulation (EU) No 409/2013”\(^2\).

2. Point (a) of Article 9(7) of Implementing Regulation (EU) No 409/2013 provides for the following:

   7. The deployment manager shall make appropriate cooperative arrangements with the Network Manager, the SESAR Joint Undertaking and the military. The appropriate cooperative arrangements shall be submitted to the Commission for approval. The cooperation shall be as follows:

   (a) the deployment manager and the Network Manager shall cooperate to ensure their tasks are fulfilled without any form of duplication or competition, in particular, for the deployment aspects that have an impact on the network infrastructure, airspace organisation and performance as well as coherence with the Network Strategy Plan and the Network Operations Plan; the Network Manager shall also support, within its mandate, the members of the deployment manager in accordance with Articles 4(1)(i) and 4(3)(b) of Regulation (EU) No 677/2011;

3. Article 12(2) of Commission Implementing Regulation (EU) No 409/2013 provides for the following:

   2. In preparing the proposal for the deployment programme or proposals to amend it, the deployment manager shall coordinate with the Network Manager, the SESAR Joint Undertaking and the military in accordance with Article 9(7).

4. On 7 March 2017, EUROCONTROL appointed as the Network Manager (EUROCONTROL) signed cooperative arrangements with the SESAR Deployment Manager.

---

\(^1\) Commission Implementing Regulations (EU) 2019/123\(^1\) of 24 January 2019 laying down the detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011

5. Call for proposals CEF-T-2021-SESAR DEPLOYMENT MANAGER foresees the following on the participation of the Network Manager:

**Participation of the Network Manager**

The Network Manager, falling under the definition of operational stakeholder under the Deployment Regulation, is eligible to become a member of the SESAR Deployment Manager. Its contribution to the work of the Deployment Manager must be compliant with the mandate defined in Regulation (EU) 2019/123, in particular, concerning the tasks identified in Article 7(2)(g) and 7(3)(d), (e) and (f). Task 7(3)(d) aims to support operational stakeholders in executing their obligations that are placed on them, in deploying air traffic management or air navigation services (ATM/ANS) systems and procedures in accordance with the ATM Master Plan, in particular the common projects set up in accordance with Commission Implementing Regulation (EU) No 409/2013. The Commission expects that the Network Manager will provide the widest support to all Deployment Manager responsibilities, including, potentially, coordination tasks also under the MGAs.

As the Network Manager is solely financed by Member States through the air navigation charges (Article 25 of Regulation (EU) 2019/123), all the costs resulting from its contribution to the Deployment Manager function are not eligible for EU funding.

You must clearly and in an exhaustive manner indicate in your application all the tasks that would be carried out by the Network Manager, which may also include FPA tasks.

The European Commission has appointed EUROCONTROL as the legal entity fulfilling the role of Network Manager. Consequently, if the Network Manager will be part of the Deployment Manager Consortium, EUROCONTROL will sign the FPA and the SGA. EUROCONTROL shall ensure a clear separate reporting and accounting of its Network Manager and non-Network Manager resources.

If the Network Manager is a member of the consortium, the cooperative arrangements with the Network Manager mentioned above shall be included in the Consortium Agreement. These arrangements shall address the usage of the Network Manager’s tools, processes and experts to support the tasks of the Deployment Manager.

II. **NETWORK MANAGER INVOLVEMENT AND CONTRIBUTIONS TO THE WORK OF THE CONSORTIUM AS SESAR DEPLOYMENT MANAGER**

6. EUROCONTROL is a Member of the Consortium and constitutes one of the four Parties, together with ANSPs, the members of the A4 Group of Airlines and ACI Europe.

7. EUROCONTROL will be represented in the Supervisory Board, the decision-making authority of the Consortium, as a Member holding voting rights. EUROCONTROL will further be duly represented in the Management Team and provide technical expertise and support, as required pursuant to Commission Implementing Regulations (EU) 2019/123 and in compliance with its obligations pursuant to the Consortium Agreement.

8. Accordingly, and in compliance with the principle of equal partnership, translated into “joint governance, joint management and joint team”, EUROCONTROL will fully contribute to the work of the Consortium as per the provisions of the Consortium Agreement and pursuant to
the Consortium work programme and distribution of activities as reported in the response to the Call for proposals CEF-T-2021-SESAR DEPLOYMENT MANAGER.

9. As stated in Article 8 of the Consortium Agreement, the Stakeholder Consultation provisions ensure the coordination between the Consortium dedicated processes and the Network Manager Working Arrangements, including the coordination with and support from NDTECH and NDOP (and the underlying groups of NDOP/NDTECH). These principles are developed in Articles 8.5 to 8.7 of the Consortium Agreement and also reflected in the diagram of Annex 9.

10. The SDM will be hosted in EUROCONTROL headquarters in Brussels. Pursuant to the provisions of Article 4.11 of the Consortium Agreement, EUROCONTROL will put at the disposal of the Consortium its meetings facilities and make available to the Consortium offices together with the related office (including IT) equipment and consumables as required.

11. EUROCONTROL will further embed in the Consortium structure a Liaison officer (as will do the other Parties) to further ensure the full coordination between the SESAR Deployment Manager and EUROCONTROL in all the required domains of activities.

12. The EUROCONTROL Agency Business Plan 2022-2026 identifies the modernisation of the Network Manager as one of the Agency’s key priority areas. The above foreseen contributions and the support to the SDM will be accommodated within the resources identified in the ABP.

13. EUROCONTROL will further take on the role of Consortium Coordinator pursuant to the provisions of the Consortium Agreement and participate in the coordination of the implementation projects. The efforts required to carry out such tasks will be eligible for funding by the European Commission (and CINEA as required), since the costs of such a support are not currently planned in the EUROCONTROL Network Manager budget; therefore the contribution of the other Agency’s relevant services will be essential to carry out the consortium coordinator tasks.

14. The participation of the Network Manager in the SESAR Deployment Manager shall be considered in continuity of the cooperation and coordination already underway prior to the signature of the Consortium Agreement under the frame of the above-mentioned Cooperative Arrangement. This applies, as an example, for the use of the LSSIP+ database (used both for the planning and reporting in the context of Master Plan Level 3 and Common Project One).

15. The Consortium Members consider that the Consortium Agreement, including the present Annex, constitutes appropriate cooperative arrangements in the meaning of Commission Implementing Regulation (EU) No 409/2013.

---

3 The EUROCONTROL NM will review the situation should the currently foreseen level of support and contribution evolve in the future.