



Call: CEF-T-2021-SIMOBGEN
(CEF 2 Transport - Actions related to smart and interoperable mobility –
General envelope)

Topic: CEF-T-2021-SIMOBGEN-NEWTECH-STUDIES

Consortium Agreement
on
the Digital Capacity Management
Implementation 2022-2024
(DCM IMP 22_24)

Table of Contents

Article 1: Introduction	3
Article 2: Interpretation	4
Article 3: Purpose and Scope of the CONSORTIUM AGREEMENT	7
Article 4: Organisation of the PROJECT	7
4.1 General Principles and structure	7
4.2 PROJECT Level	8
4.2.1 CONSORTIUM ASSEMBLY	8
4.2.2 STEERING COMMITTEE	8
Article 5: CO-ORDINATOR	8
Article 6 ADMINISTRATIVE OBLIGATIONS of the BENEFICIARIES	9
Article 7: DELIVERABLES	9
Article 8: BUDGET and UNION FINANCIAL CONTRIBUTION	10
Article 9: Confidentiality	10
Article 10: Ownership of RESULTS	11
Article 11: ACCESS RIGHTS	11
Article 12: Liability	12
12.1 General Principles	12
12.2 Liability towards the BENEFICIARIES	12
12.3 Liability towards the FUNDING AUTHORITY and THIRD PARTIES	12
Article 13: FORCE MAJEURE	13
Article 14: Dissemination, Publicity and Press Releases	13
Article 15: Notices and other communication	13
Article 16: Amendments to the CONSORTIUM AGREEMENT	13
Article 17: Term and Termination of the CONSORTIUM AGREEMENT	13
Article 18: Settlement of Disputes	14
Article 19: Applicable Law	14
Article 20: No legal entity	14

Article 1: Introduction

1.1 Short Project Description

The overall objective of the project 'Digital Capacity Management – Implementation 22-24 [DCM IMP 22_24]' (a study without physical interventions) is to continue the Europe-wide implementation of the programme 'Timetabling Redesign for a Smart Capacity Management' (TTR) which was launched as a project in 2014 with the overall aim to increase international rail attractiveness and efficiency, so that rail can increase its competitiveness and market share on the European transport market.

This proposed new project intends to continue the valuable work started by previous EU-funded actions. It will do so by:

- » Supporting rail stakeholders in implementing the agreed and committed activities in the frame of the programme 'TTR for a Smart Capacity Management'
- » Implementing an additional market-oriented application for Short Term Path requests – the so-called 'Automated Short Term Path Request' at international level (reduction of lead time from 2-3 weeks to 1-2 days)
- » Adjusting IM legacy systems to allow cross-border data exchange, to facilitate integrated infrastructure capacity and traffic management
- » Supporting rail stakeholders in developing common Telematics Reference Files, merging the existing TAF and TAP Reference File sets to be used in the telematics framework and by other registers managed by the ERA or the rail sector
- » Supporting Infrastructure Managers and Railway Undertakings in implementing and ensuring the compliance of the rail system and its sub-systems with the TAP and TAF TSI.

The proposed project has been approved by the RailNetEurope General Assembly on 7 December 2021 and enjoys the support of all 38 RNE's Members – including all major rail Infrastructure Managers (IMs). Five IM Members (i.e., SNCF Réseau, Infrabel, DB Netz, SZCZ, RFI) and Rail Freight Corridor 'North Sea – Mediterranean' (RFC 2) decided to jointly implement the activities and be active as Joint Applicants in this Action to ensure full interoperability in the sector. SBB AG, Switzerland decided to join the project but would not receive any financing from the EU, thus would not sign this CONSORTIUM AGREEMENT.

The Grant Agreement for the PROJECT 101079600-21-EU-TG-DCM IMP 22_24 was signed by CINEA on 19.10.2022.

This CONSORTIUM AGREEMENT is made on _____ (herein referred to as 'EFFECTIVE DATE') by and among:

1. RNE – BENEFICIARY and CO-ORDINATOR
2. DB Netz AG – BENEFICIARY
3. Infrabel – BENEFICIARY
4. RFI - BENEFICIARY
5. SNCF Réseau – BENEFICIARY
6. SZCZ – BENEFICIARY
7. RFC North Sea-Mediterranean EEIG (RFC 2) – BENEFICIARY

(hereinafter referred to as "the BENEFICIARIES")

- 1.2 The BENEFICIARIES prepared a proposal for the implementation of the action as defined in Annex A (PROPOSAL), which was submitted on 19 January 2022, and, if the FUNDING AUTHORITY provides a GRANT AGREEMENT for the PROJECT that does not materially deviate from the PROPOSAL, shall accede to the GRANT AGREEMENT as a beneficiary and shall implement the PROJECT to the extent possible according to the applicable legislation.

- 1.3 The BENEFICIARIES wish to define in more detail their rights and obligations towards each other in relation to the GRANT AGREEMENT and have agreed that the following additional terms and conditions shall apply to their performance of the GRANT AGREEMENT.
- 1.4 Where a stipulation in the CONSORTIUM AGREEMENT complements or modifies any stipulation in the GRANT AGREEMENT in a way that is not allowed under the GRANT AGREEMENT, the stipulation in the GRANT AGREEMENT shall prevail.

Article 2: Interpretation

In this CONSORTIUM AGREEMENT, the following expressions shall have the following meanings:

ACCESS RIGHTS	means licenses and user rights in respect of RESULTS and BACKGROUND
ADMINISTRATIVE OBLIGATIONS	means the obligations of the BENEFICIARIES defined in Article 6
APPLICANT	means a railway undertaking or an international grouping of railway undertakings or other persons or legal entities, such as competent authorities under Regulation (EC) No 1370/2007 and shippers, freight forwarders and combined transport operators, with a public-service or commercial interest in procuring infrastructure capacity
BACKGROUND	means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that is: (a) held by the beneficiaries before they acceded to the Agreement and (b) needed to implement the action or exploit the results.
BENEFICIARY	means a signatory to this CONSORTIUM AGREEMENT
BUDGET	means the estimated cost of the PROJECT
UNION FINANCIAL CONTRIBUTION	means the European Union financial contribution by the FUNDING AUTHORITY under the GRANT AGREEMENT
CONSORTIUM AGREEMENT	means this consortium agreement
CO-ORDINATOR	has the meaning defined in Article 5.1
DELIVERABLES	means all reports, certificates, data and other information required to be provided to the FUNDING AUTHORITY according to the GRANT AGREEMENT
EFFECTIVE DATE	means the date of this CONSORTIUM AGREEMENT as defined in Article 1.1

END DATE	means the end date of the PROJECT plus the period needed for the final report and the final payment
FAIR AND REASONABLE CONDITIONS	means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the RESULTS or BACKGROUND to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged
FAULT	means any wrongful act, omission, breach of applicable laws or failure to comply with the terms of this CONSORTIUM AGREEMENT and/or the GRANT AGREEMENT
FORCE MAJEURE	means any act, event or condition beyond the reasonable control of a BENEFICIARY that was not reasonably foreseeable and is not avoidable under normal circumstances, including but not limited to natural disasters, war, riot, acts of Governments or any political subdivision thereof, fires, floods, explosions, or other catastrophes.
FUNDING AUTHORITY	means the body awarding the grant for the PROJECT
INFRASTRUCTURE MANAGER	means any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, as well as responsible for participating in its development as determined by the Member State within the framework of its general policy on development and financing of infrastructure;
CONSORTIUM ASSEMBLY	has the meaning defined in Article 4.2.1
GENERAL MODEL GRANT AGREEMENT	means the grant agreement provided by the EU Commission/CINEA in its version 1.0 dated 1 September 2021
GRANT AGREEMENT	means the signed on 19.10.2022 grant agreement between the FUNDING AUTHORITY CINEA and the BENEFICIARIES regarding the PROJECT
LEGITIMATE INTERESTS	means a BENEFICIARY's interests of any kind, particularly a commercial interest, which may be claimed in the cases provided for in this CONSORTIUM AGREEMENT, if failure to take account of this interest would

	result in such BENEFICIARY's suffering disproportionately great harm
NEEDED FOR USE	means needed as necessary to enable the USE
PROJECT	means the project defined in Article 1.2
PROPOSAL	means the proposal referred to in Article 1.2
REPRESENTATIVE	means the one representative designated by each of the BENEFICIARIES in accordance with Article 4.1.1
RESULTS	means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.
SERVICE FACILITY OPERATOR	means any public or private entity responsible for managing one or more service facilities or supplying one or more services to railway undertakings referred to in points 2 to 4 of Annex II to Directive 2012/34/EU
STEERING COMMITTEE	has the meaning defined in Article 4.2.2
SUB-CONTRACT	means an agreement between one or more BENEFICIARIES and a THIRD PARTY, in order to carry out part of the work of the PROJECT
SUB-CONTRACTOR	means a THIRD PARTY which has entered into an agreement with one or more BENEFICIARIES, in order to carry out part of the work of the PROJECT
THIRD PARTY	means any natural or legal person other than the BENEFICIARIES
USE	means the direct or indirect utilisation of RESULTS or BACKGROUND in research activities or for developing, creating, making (including have made) and marketing a product or process, or for developing, creating and providing a service, including the right to grant sub-licences
WRITTEN FORM	means (i) documents duly signed by an authorized representative of the BENEFICIARY with authority to legally bind such BENEFICIARY or (ii) electronic documents delivered with advanced electronic signatures which are based on a qualified certificate and which are created by a secure-signature-creation device.

Article 3: Purpose and Scope of the CONSORTIUM AGREEMENT

The CONSORTIUM AGREEMENT is intended to define more precisely the terms on which the BENEFICIARIES will co-operate within the scope of the GRANT AGREEMENT. Accordingly, the BENEFICIARIES agree amongst themselves to take all reasonable and necessary measures to ensure that the PROJECT is carried out in accordance with the terms and conditions of the GRANT AGREEMENT and the CONSORTIUM AGREEMENT.

Article 4: Organisation of the PROJECT

4.1 General Principles and structure

The organisational structure of the Consortium shall comprise the following Consortium Bodies:

- The CONSORTIUM ASSEMBLY
- The STEERING COMMITTEE

4.1.1 Each BENEFICIARY shall designate a person as a representative (herein referred to as "REPRESENTATIVE") in the CONSORTIUM ASSEMBLY and the STEERING COMMITTEE (Annex C).

4.1.2 General Principles for the CONSORTIUM ASSEMBLY and the STEERING COMMITTEE

The chairman of each of the referred bodies shall convene all meetings and shall give each of the members at least fourteen calendar days' notice of such meetings. Such invitation should set an agenda including the items to be discussed and the decisions proposed to make. The members shall be represented by their REPRESENTATIVES. Each member may appoint a substitute for its REPRESENTATIVE to attend and vote at any meeting. The chairman shall convene meetings on the request of a third of the members.

The CONSORTIUM ASSEMBLY and the STEERING COMMITTEE making a decision shall be obliged to allow the BENEFICIARIES concerned to invoke objections and shall take into account, and draw the appropriate conclusions from, any objection by any BENEFICIARY based on LEGITIMATE INTERESTS. If a consensus cannot be reached, the matter shall be resolved by a vote of the members. Each member shall have one vote.

The adoption of a decision shall require the favourable vote with simple majority of all members (whether present or not), unless a unanimous decision is required under this CONSORTIUM AGREEMENT.

Subject to the procedures herein defined being correctly followed and unless prevented by applicable legislation or third-party rights from doing so, the BENEFICIARIES agree to abide by all decisions of the CONSORTIUM ASSEMBLY and the STEERING COMMITTEE.

A BENEFICIARY who can show that its own work, time for performance, costs or liabilities, or intellectual property rights would be severely impacted and who can claim LEGITIMATE INTERESTS, may veto the relevant part of the decision of the CONSORTIUM ASSEMBLY/the STEERING COMMITTEE, within the following timeframe:

- a) When the decision is foreseen on the original agenda, a member may veto such a decision during the meeting only.
- b) When a decision has been taken on a new item added to the agenda after the original agenda has been distributed, a member may veto such decision during the meeting and within 15 calendar days after the draft minutes of the meeting are sent.

Each of the BENEFICIARIES shall have the right to refuse to undertake any kind of work without its consent that is outside the scope of the work assigned to him, or if the cost of performance of that work would exceed the BUDGET identified for that BENEFICIARY.

If there is any contradiction between the decisions taken by the CONSORTIUM ASSEMBLY and the STEERING COMMITTEE, the decision of the CONSORTIUM ASSEMBLY shall prevail over the decisions taken by the STEERING COMMITTEE.

4.2 PROJECT Level

4.2.1 CONSORTIUM ASSEMBLY

All BENEFICIARIES shall be members of the CONSORTIUM ASSEMBLY. The person who has already been nominated in the PROJECT's application shall be the member of the CONSORTIUM ASSEMBLY on the side of the BENEFICIARY. The CO-ORDINATOR shall chair all meetings of the CONSORTIUM ASSEMBLY. The CONSORTIUM ASSEMBLY shall have, at least, an annual meeting for reviewing and monitoring the progress of the PROJECT as well as identifying appropriate actions for the successful performance of the PROJECT.

The CONSORTIUM ASSEMBLY shall be in charge of making any decisions, particularly of major and strategic relevance.

4.2.2 STEERING COMMITTEE

All BENEFICIARIES may be members of the STEERING COMMITTEE. The STEERING COMMITTEE shall be in charge of supervising the progress of the PROJECT, taking decisions regarding the day-to-day operation of the PROJECT. These decisions shall be always consistent with the decisions taken by the CONSORTIUM ASSEMBLY. The STEERING COMMITTEE shall report to the CONSORTIUM ASSEMBLY.

The adoption of a decision shall require the favourable vote with simple majority of all members (whether present or not).

The CO-ORDINATOR shall chair all meetings of the STEERING COMMITTEE. The CO-ORDINATOR shall convene meetings upon request if at least 30% of the BENEFICIARIES with at least four (4) weeks prior notice or at least once every six months during the term of the CONSORTIUM AGREEMENT. All BENEFICIARIES shall receive notice of the STEERING COMMITTEE meeting. The minutes of the STEERING COMMITTEE meetings shall be circulated to the BENEFICIARIES.

Article 5: CO-ORDINATOR

5.1 RailNetEurope (RNE) is the CO-ORDINATOR.

5.2 The CO-ORDINATOR shall represent the PROJECT towards the FUNDING AUTHORITY and other THIRD PARTIES, but shall not be entitled to act or to make legally binding declarations on behalf of any other BENEFICIARIES.

5.3 In addition to the obligations of the CO-ORDINATOR under the GRANT AGREEMENT, the CO-ORDINATOR shall be responsible for the following additional co-ordination responsibilities:

- interacting with the FUNDING AUTHORITY and THIRD PARTIES about the PROJECT, including the submission of DELIVERABLES to the FUNDING AUTHORITY;
- receiving, compiling, and distributing to the BENEFICIARIES and other relevant recipients' documents, reports, statements of expenditure, minutes of meetings of the CONSORTIUM ASSEMBLY and of the STEERING COMMITTEE, and any other relevant information from the BENEFICIARIES or regarding the PROJECT.

5.4 Without prejudice to the provision of point 5.5 all costs incurred by the CO-ORDINATOR in its performance of its co-ordination responsibilities (including costs incurred under any SUB-

CONTRACT for the performance of such responsibilities) shall be borne by the CO-ORDINATOR as part of the CO-ORDINATORS's work in the PROJECT.

- 5.5 For the overall project coordination and management the CO-ORDINATOR shall be entitled to remuneration in amount of 0.6 % of the total budget of the BENEFICIARIES included in the GRANT AGREEMENT. RNE shall invoice 0.3% of the handling fee and include the other 0.3% as RNE eligible costs in the WP 1 Project Management. The CO-ORDINATOR shall invoice 0,3% of the costs to the BENEFICIARIES once per year by the end of July of the respective year based on the budget included in the GRANT AGREEMENT.

Article 6 ADMINISTRATIVE OBLIGATIONS of the BENEFICIARIES

- 6.1 Upon request of any CONSORTIUM body or the FUNDING AUTHORITY the BENEFICIARIES shall in a timely manner supply to the requesting body all such information, reports, documents and DELIVERABLES that are relevant and necessary in order to fulfil their obligations under the GRANT AGREEMENT and the CONSORTIUM AGREEMENT unless prevented from doing so following applicable legislation or third party rights.
- 6.2 The BENEFICIARIES shall support the CO-ORDINATOR in fulfilling the obligations of the CO-ORDINATOR under the GRANT AGREEMENT and under this CONSORTIUM AGREEMENT. In particular, the BENEFICIARIES shall
- (a) comply with their obligations under the GRANT AGREEMENT and the CONSORTIUM AGREEMENT;
 - (b) give immediate notice to the CO-ORDINATOR about any awareness about non-compliance of any BENEFICIARY in the PROJECT with its obligations under the GRANT AGREEMENT;
 - (b) make sure that they complete the necessary formalities for accession to the GRANT AGREEMENT;
 - (c) check the compliance of any receipt of financial contribution with the provisions of the CONSORTIUM AGREEMENT and the GRANT AGREEMENT and give immediate notice to the CO-ORDINATOR about any awareness about non-compliance;
 - (d) submit to the CO-ORDINATOR all information necessary for the records and financial accounts relevant for the financial contribution;
 - (e) make its communication to the FUNDING AUTHORITY via the CO-ORDINATOR and to submit to the CO-ORDINATOR all information necessary to report to the FUNDING AUTHORITY on the progress of the PROJECT;
 - (f) verify consistency of its reports with the PROJECT tasks before transmitting them to the CO-ORDINATOR;
- 6.3 Each BENEFICIARY shall inform the CO-ORDINATOR about any relevant change in persons, addresses, telephone, fax numbers and e-mail addresses and other relevant means of communication as soon as possible. The CO-ORDINATOR shall in turn make the information available to all BENEFICIARIES without undue delay.
- 6.4 Where a BENEFICIARY designates a SUB-CONTRACTOR, the BENEFICIARY shall ensure that the terms and conditions on which the SUB-CONTRACTOR is appointed are fully consistent with those of the CONSORTIUM AGREEMENT and the GRANT AGREEMENT. The BENEFICIARY shall be responsible towards the PROJECT and also towards the rest of the BENEFICIARIES for the work to be performed by the SUB-CONTRACTOR.

Article 7: DELIVERABLES

- 7.1 The BENEFICIARIES will use all reasonable endeavours to supply DELIVERABLES to the CO-ORDINATOR four weeks in advance of the date by which the DELIVERABLES are due for submission to the FUNDING AUTHORITY.

- 7.2 The STEERING COMMITTEE shall specify the format and number of copies in which all drafts, reports, DELIVERABLES and other information required to be submitted by any of the BENEFICIARIES in accordance with the CONSORTIUM AGREEMENT will be submitted.

Article 8: BUDGET and UNION FINANCIAL CONTRIBUTION

- 8.1 The BUDGET and UNION FINANCIAL CONTRIBUTION is allocated according to the GRANT AGREEMENT and also any decision to change the BUDGET allocation pursuant to this Consortium Agreement and Article 5.5. of the GENERAL MODEL GRANT AGREEMENT.
- 8.2 BENEFICIARIES who spend less than their respective share in the BUDGET will be funded only in respect of the actual amount spent. BENEFICIARIES who spend more than their respective share in the BUDGET will be funded only up to the UNION FINANCIAL CONTRIBUTION as allocated under the GRANT AGREEMENT.
- 8.3 Where an amount, paid by the FUNDING AUTHORITY to the CO-ORDINATOR in its capacity of recipient of all payments, is to be recovered under the terms of the GRANT AGREEMENT, the final recipient of the amount due will repay to the CO-ORDINATOR or to the FUNDING AUTHORITY the sum in question with no undue delay.
- 8.4 Any costs incurred by the CO-ORDINATOR in connection with the bank transfers of payments from the FUNDING AUTHORITY to the CO-ORDINATOR shall be divided between the BENEFICIARIES in proportion to their respective share in the UNION FINANCIAL CONTRIBUTION.
- 8.5 Any costs incurred by the CO-ORDINATOR in connection with the bank transfers of payments to any of the BENEFICIARIES will be charged to the BENEFICIARY concerned.
- 8.6 Each BENEFICIARY shall specify to the CO-ORDINATOR an account to which the UNION FINANCIAL CONTRIBUTION shall be transferred.
- 8.7 Without prejudice to the provision of point 8.8 the CO-ORDINATOR shall transfer the UNION FINANCIAL CONTRIBUTION received from the FUNDING AUTHORITY to each of the other BENEFICIARIES without unjustified delay after the receipt of the UNION FINANCIAL CONTRIBUTION and relevant supporting information.
- 8.8 As a general rule, 15 % of any prefinancing and interim payments received from the FUNDING AUTHORITY shall be withheld by the CO-ORDINATOR until the full amount of eligible costs covered by the prefinancing and interim payments of the BENEFICIARY has been spent and the GRANT AGREEMENT's milestones and deliverables have been fulfilled, and these facts have officially been notified to the CO-ORDINATOR.
- 8.9 As a general rule, if a BENEFICIARY has received prefinancing and interim payments, transferred from the CO-ORDINATOR, which exceed its actual eligible costs, regardless the reason for it, the BENEFICIARY concerned shall without unjustified delay transfer back to the CO-ORDINATOR the overpaid UNION FINANCIAL CONTRIBUTION. If this repayment would lead to redistribution of the overpaid sums among the other BENEFICIARIES, the CO-ORDINATOR shall perform the transfers only after he has received the due repayments.
- 8.10 Each of the BENEFICIARIES shall bear all its own costs incurred in connection with the PROJECT and shall receive the UNION FINANCIAL CONTRIBUTION as allocated to it provided proper performance of the PROJECT.

Article 9: Confidentiality

- 9.1 Each of the BENEFICIARIES undertakes to use a reasonable degree of care (but in any event, no less care than they apply to safeguard their own confidential information) not to disclose to any THIRD PARTY - except as expressly permitted by the CONSORTIUM AGREEMENT or the

GRANT AGREEMENT or by an order of a judicial or governmental authority or by law - any technical or business information which, during the course of the preparation of the proposal for, or in the course of the performance of, the PROJECT, it received, gained access to or otherwise obtained from any of the other BENEFICIARIES.

- 9.2 The confidentiality in paragraph 9.1 shall not apply to any information that:-
- the receiving BENEFICIARY can prove is already known to it;
 - is published or otherwise generally available to the public at the time of the communication or becomes published or so available after such communication through no wrongful act of the receiving BENEFICIARY;
 - corresponds to information that is subsequently communicated to the receiving BENEFICIARY from a THIRD PARTY without any relevant obligation of non-disclosure;
 - was developed independently of the work under the GRANT AGREEMENT by the receiving BENEFICIARY.
- 9.3 The confidentiality in paragraph 9.1 shall not apply with respect to disclosures by the receiving BENEFICIARY to its managers, employees and contractors, as long as the said persons are subject to similar non-disclosure obligations.
- 9.4 The confidentiality in paragraph 9.1 shall apply for a period of three (3) years from the completion or termination of this PROJECT.
- 9.5 The BENEFICIARIES providing confidential information shall remain the vested holders of such information.

Article 10: Ownership of RESULTS

- 10.1 RESULTS shall be owned by the BENEFICIARY or BENEFICIARIES who carried out the work generating the RESULTS, or on whose behalf such work was carried out.
- 10.2 Where RESULTS are generated from work carried out jointly by two or more BENEFICIARIES and where their respective share of the work cannot be ascertained or where the contributions to or features of such RESULTS form an indivisible part thereof, such that under applicable law it is not possible to separate them for the purpose of applying for, obtaining and/or maintaining a patent or any other intellectual property rights protecting such RESULTS, and where no joint ownership agreement has yet been concluded, those BENEFICIARIES ("CO-OWNING BENEFICIARIES") shall jointly own equal undivided shares in those RESULTS. Each CO-OWNING BENEFICIARY shall have the perpetual and irrevocable right to USE such RESULTS – including the right to grant non-exclusive licenses for USE to INFRASTRUCTURE MANAGERS, APPLICANTS, SERVICE FACILITY OPERATORS - independently of and without requiring consent from or the need to account to any other BENEFICIARY with whom such RESULTS are jointly owned and without payment of compensation to any other such BENEFICIARY.

Article 11: ACCESS RIGHTS

- 11.1 According to Article 16 of the GRANT AGREEMENT, the BENEFICIARIES identify the BACKGROUND for the PROJECT in the Annex B (Agreement on BACKGROUND).
- 11.2 **ACCESS RIGHTS for the performance of the PROJECT**
- Each of the BENEFICIARIES hereby agrees to grant to each of the other BENEFICIARIES royalty-free, non-exclusive ACCESS RIGHTS in respect of their RESULTS and, subject to LEGITIMATE INTERESTS of the respective owner, BACKGROUND to the extent needed for the performance of the PROJECT.

Article 12: Liability

12.1 General Principles

This Article shall apply for any liability for damages based on this AGREEMENT, but not with regard to any liability based on tort or based on other statutory liability.

12.2 Liability towards the BENEFICIARIES

12.2.1 Liability. Each BENEFICIARY undertakes to use all reasonable endeavours to ensure the accuracy of its performance of the PROJECT and of the information furnished to other BENEFICIARIES in connection with such performance.

Upon notification or discovery that it has submitted defective or incorrect information to another BENEFICIARY at any time during the performance of the PROJECT, a BENEFICIARY shall promptly notify the affected BENEFICIARIES and correct and redeliver such information at its own expense.

Other than as set forth in the foregoing paragraphs, no warranty, condition or representation of any kind is made, given or to be implied in any case as on the sufficiency accuracy or fitness for purpose of information or materials or the absence of any infringement of statutory monopoly or intellectual property rights of THIRD PARTIES by the USE of such information and materials, and a BENEFICIARY receiving information and materials, shall be entirely responsible for the USE to which they are put.

12.2.2 Limitations of Liability. Except in the case of wilful misconduct or gross negligence, a BENEFICIARY shall not be liable to other BENEFICIARIES for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue, or loss of contracts.

Except in the case of wilful misconduct or gross negligence, each BENEFICIARY's total and cumulative limit of liability resulting from any FAULT towards all the other BENEFICIARIES collectively, in respect of any and all claims regarding any FAULT, shall not exceed twice the amount of that BENEFICIARY's share in the UNION FINANCIAL CONTRIBUTION as defined at the time of the occurring of the FAULT.

12.3 Liability towards the FUNDING AUTHORITY and THIRD PARTIES

12.3.1 Notwithstanding the foregoing, each BENEFICIARY agrees to indemnify the CO-ORDINATOR, in case of any action, complaint or proceeding brought by the FUNDING AUTHORITY against the CO-ORDINATOR as result of damage caused by any act or omission committed by that BENEFICIARY itself in performing its ADMINISTRATIVE OBLIGATIONS.

12.3.2 Should the FUNDING AUTHORITY, in accordance with the provisions of the GRANT AGREEMENT, or any THIRD PARTY, under the laws applicable, make a claim for specific performance or any reimbursement, indemnity or payment of damages from one or more BENEFICIARIES, the BENEFICIARIES who perform such BENEFICIARY's work or pay the reimbursement, indemnity or payment shall be entitled to receive from any BENEFICIARY a contribution to their additional cost or payment to the extent such BENEFICIARY's FAULT caused such claim.

12.3.3 In the event it is not possible to attribute the FAULT to any BENEFICIARY/BENEFICIARIES, the amount claimed by the FUNDING AUTHORITY or the THIRD PARTY shall be apportioned among all the BENEFICIARIES in proportion to their respective share in the UNION FINANCIAL CONTRIBUTION as defined at the time of the implementation of the work or the payment to the FUNDING AUTHORITY.

- 12.4 The BENEFICIARIES warrant that as of signing they are not aware of any LEGITIMATE INTERESTS that restrict, prevent or otherwise interfere with the grant of ACCESS RIGHTS as set forth in the CONSORTIUM AGREEMENT.

Article 13: FORCE MAJEURE

No BENEFICIARY shall be liable for any failure to perform or any delay in performing any of its obligations under the CONSORTIUM AGREEMENT if such failure or delay arises out of FORCE MAJEURE. The BENEFICIARY relying on FORCE MAJEURE shall promptly notify the other BENEFICIARIES and shall use its best endeavours to remedy any default or delay occasioned thereby forthwith upon such event ceasing to apply.

Article 14: Dissemination, Publicity and Press Releases

- 13.1 The BENEFICIARIES shall not issue any press release or similar publicity about the PROJECT without the prior written approval of the STEERING COMMITTEE, which shall not be unreasonably withheld or delayed longer than four weeks after receipt by the STEERING COMMITTEE.
- 13.2 Without prejudice to any other obligations in this CONSORTIUM AGREEMENT, each relevant BENEFICIARY shall be entitled to disseminate and/or publish without prior notice to the other BENEFICIARIES its own RESULTS. In case such RESULTS are jointly generated by two or more BENEFICIARIES or contains BACKGROUND or Confidential Information of a CO-OWNING BENEFICIARY, the BENEFICIARY being interested in dissemination and/or publication, shall ask in writing (e.g. an email) to the other CO-OWNING BENEFICIARIES for their consent. The CO-OWNING BENEFICIARY response shall be also in writing (e.g. an email).

A BENEFICIARY shall not disseminate or publish BACKGROUND, RESULTS or Confidential information of another BENEFICIARY without the prior written approval of the BENEFICIARY.

Article 14: Notices and other communication

Any notice to be given under this CONSORTIUM AGREEMENT shall be made in WRITTEN FORM to the following recipients listed in Annex D or to such other address and recipient as a BENEFICIARY may designate in respect of that BENEFICIARY by notice in WRITTEN FORM to the CO-ORDINATOR. The CO-ORDINATOR shall maintain this information and shall make it freely available to the BENEFICIARIES.

Communication (including approvals) not specified to be in WRITTEN FORM may be made by e-mail (to the recipients as set out above) with acknowledgement of receipt.

Article 15: Amendments to the CONSORTIUM AGREEMENT

- 15.1 Any approval or request addressed to the FUNDING AUTHORITY regarding the amendment or the termination of the GRANT AGREEMENT shall require the approval of all BENEFICIARIES in WRITTEN FORM, which shall not be unreasonably withheld.
- 15.2 All amendments and changes to this CONSORTIUM AGREEMENT require an amending agreement made in WRITTEN FORM.

Article 16: Term and Termination of the CONSORTIUM AGREEMENT

- 16.1 The CONSORTIUM AGREEMENT and the participation of any BENEFICIARY in the PROJECT is effective retroactively from the EFFECTIVE DATE and expires at the END DATE.

16.2 A BENEFICIARY shall be entitled to request termination of its participation in the GRANT AGREEMENT, CONSORTIUM AGREEMENT and in the PROJECT with no undue delay by written notice signed by its duly authorised representatives and personally delivered to the CO-ORDINATOR. Such request shall include the reasons for the termination and be handled in accordance with Art. 32.3 in the GENERAL MODEL GRANT AGREEMENT.

17.3 Under the conditions of the GENERAL MODEL GRANT AGREEMENT (see Art. 32.2), the consortium shall be entitled to terminate the participation of one or more BENEFICIARIES in the GRANT AGREEMENT, CONSORTIUM AGREEMENT and in the PROJECT with due reason and subject of the approval of the FUNDING AUTHORITY (e.g., major breach of the contractual obligations, delays of developments).

A proposal to the FUNDING AUTHORITY for a decision on termination of a beneficiary's participation in the PROJECT according to the above paragraph shall require a decision of all BENEFICIARIES in WRITTEN FORM. The BENEFICIARY subject to termination is not allowed to vote.

The final decision on BENEFICIARY's termination is made by the FUNDING AUTHORITY. If no information is given by the consortium or if the FUNDING AUTHORITY considers that the reasons do not justify termination, it may consider the BENEFICIARY to have been terminated improperly.

The BENEFICIARIES whose participation is terminated under Art. 17.2 and Art. 17.3 of this AGREEMENT shall be relieved from further implementing the PROJECT, but the Articles of the CONSORTIUM AGREEMENT on ADMINISTRATIVE OBLIGATIONS, Confidentiality, ACCESS RIGHTS, Liability, and Publicity and Press Releases, Settlement of Disputes, and Applicable Law shall survive the termination, but shall - as far as they refer to RESULTS - apply on RESULTS only which has been generated before the termination has taken effect.

16.4 If the Grant Agreement is not signed by the FUNDING AUTHORITY or the CO-ORDINATOR, or is terminated, this CONSORTIUM AGREEMENT shall automatically terminate in respect of the affected BENEFICIARY/IES, subject to the provision regarding surviving clauses set out above.

16.5 The termination of the participation of a BENEFICIARY shall in no way affect the obligation of that BENEFICIARY to grant ACCESS RIGHTS to the remaining BENEFICIARIES.

16.6 The termination of the participation of a BENEFICIARY shall in no way affect the effectiveness of the CONSORTIUM AGREEMENT for the remaining BENEFICIARIES. The consortium and the PROJECT continue in such case.

Article 17: Settlement of Disputes

In case of dispute or difference between the BENEFICIARIES arising out or in connection with this CONSORTIUM AGREEMENT, the BENEFICIARIES shall first endeavour to settle it amicably via the BENEFICIARIES' RNE General Assembly representatives. All disputes which cannot be settled in this way shall be finally settled by the court. The court having jurisdiction over commercial matters in the first district of Vienna, Austria shall have exclusive jurisdiction over all disputes arising out of or in connection with this Agreement, including those connected with its conclusion, entering into force and termination.

Article 19: Applicable Law

The CONSORTIUM AGREEMENT shall be construed according to and governed by the laws of the Republic of Austria. Applicability of Austrian law of conflicts/international private law is excluded.

Article 20: No legal entity

Nothing in this CONSORTIUM AGREEMENT shall be construed to entail the creation of a legal entity among the members of consortium.

This AGREEMENT is signed in 8 (eight) original exemplars, one for each party.

1. BENEFICIARY: RailNetEurope (RNE)

Date(s)	Authorised Representative(s)
<u>22-Nov-2022</u>	Joachim KROLL

Signature(s)

MT+1)

2. BENEFICIARY: DB Netz AG

Date(s)	Authorised Representative(s)
<u>06-Dez-2022</u>	Dr Matthias FEIL

Signature(s)

3. BENEFICIARY: RETE FERROVIARIA ITALIANA (RFI)

Date(s)	Authorised Representative(s)
<u>24-Nov-2022</u>	Christian COLANERI

Signature(s)

-christian -colaneri
-christian -colaneri (24. November 2022 10:02 GMT+1)

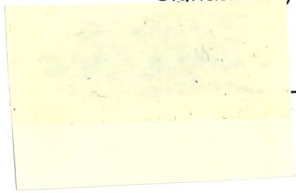
4. BENEFICIARY: SNCF RÉSEAU

Date(s)	Authorised Representative(s)
<u>09-Dez-2022</u>	Isabelle DELON


Signature(s)

Isabelle Delon
Isabelle Delon (9. Dezember 2022 11:30 GMT+1)

5. BENEFICIARY: INFRABEL SA

Date(s)	Authorised Representative(s)	Signature(s)
<u>14-Dez-2022</u>	Hilde DE COEN	

6. BENEFICIARY: SPRAVA ZELEZNIC STATNI ORGANIZACE (SZCZ)

Date(s)	Authorised Representative(s)	Signature(s)
<u>29-Nov-2022</u>	Bc. Jiří SVOBODA, MBA	 <small>Jiří Svoboda (29. November 2022 11:40 GMT+1)</small>

7. BENEFICIARY: RAIL FREIGHT CORRIDOR NORTH SEA-MEDITERRANEAN EEIG

Date(s)	Authorised Representative(s)	Signature(s)
<u>09-Dez-2022</u>	Michaël DIERICKX	 <small>Michaël Dierickx (9. Dezember 2022 13:41 GMT+1)</small>
<u>09-Dez-2022</u>	Yann LE FLOC'H	 <small>Yann LE FLOCH (9. Dezember 2022 12:31 GMT+1)</small>

Annex A
Proposal

The proposal with number: 101079600 and acronym: DCM IMP 22_24 is available by the CO-ORDINATOR and each of the BENEFICIARIES.

Annex B
Agreement on BACKGROUND

See Art. 16 of Grant Agreement 101079600-21-EU-TG-DCM IMP 22_24 signed on 19.10.2022.

Annex C

1. Members of the Consortium Assembly

Consortium Member	Name of Representative	Position of Representative	Email Address of Representative
RNE	Harald REISINGER	Chief Information Officer	harald.reisinger@rne.eu
DB Netz	Dr Matthias FEIL	Head Timetable and Capacity Management	Matthias.Feil@deutschebahn.com
RFI	Christian COLANERI	RFI Commercial responsible	c.colaneri@rfi.it
SNCF Réseau	Olivia FISCHER	Head of Department Offers and Customer Experience	olivia.fischer@reseau.sncf.fr
	Francois MARCHAL	Head of Department Data and Customer Services	francois.marchal@sncf.fr
Infrabel	Hilde DE COEN	Manager Private and European Law & Insurance	hilde.decoen@infrabel.be
SZCZ	Petr ŘÁDEK	Traffic Management Department	radek@spravazeleznice.cz
RFC North Sea-Mediterranean	Yann LE FLOC'H	Managing Director	yann.le-floch@reseau.sncf.fr

2. Members of the Steering Committee

Consortium Member	Name of Representative	Position of Representative	Email Address of Representative
RNE	Harald REISINGER	Chief Information Officer	harald.reisinger@rne.eu
	Lukas DEL GIUDICE	Funding & Project Manager	lukas.delgiudice@rne.eu
DB Netz	Dr Patrick BREUN	Head of Set of Rules and Technical Architecture Timetable	Patrick.Breun@deutschebahn.com
RFI	Marco GATTA	RFI Commercial international activities	m.gatta@rfi.it
	Paolo MALATESTA	RFI Commercial international activities	p.malatesta@rfi.it
SNCF Réseau	Olivier ROUSSEL	Director of DCM Business Implementation	o.rousseau03@reseau.sncf.fr
	Roméo RUIZ	Director of DCM IT Implementation	romeo.ruiz@reseau.sncf.fr
Infrabel	Thomas VANBEVEREN	TTR National Implementation Manager	thomasgerd.vanbeveren@infrabel.be
SZCZ	Miloš FUTERA	Traffic Management Support Unit	futera@spravazeleznice.cz
RFC North Sea-Mediterranean	Yann LE FLOC'H	Managing Director	yann.le-floch@reseau.sncf.fr

Annex D

Notices and contact persons

Consortium Member	Name of Representative	Position of Representative	Email Address of Representative
RNE	Harald REISINGER	Chief Information Officer	harald.reisinger@rne.eu
DB Netz	Dr Pascal KRAUS	National TTR Implementation Manager	Pascal.Kraus@deutschebahn.com
RFI	Marco GATTA	RFI Commercial international activities	m.gatta@rfi.it
	Paolo MALATESTA	RFI Commercial international activities	p.malatesta@rfi.it
SNCF Réseau	Olivier ROUSSEL	Director of DCM Business Implementation	o.rousseau03@reseau.sncf.fr
	Roméo RUIZ	Director of DCM IT Implementation	romeo.ruiz@reseau.sncf.fr
Infrabel	Thomas VANBEVEREN	TTR National Implementation Manager	thomasgerd.vanbeveren@infrabel.be
SZCZ	Radka ŠNAJDROVÁ	Head of External Financing Unit	snajdrova@spravazeleznice.cz
	Sylva BRANŽOVSKÁ	External Financing Unit	branzovska@spravazeleznice.cz
RFC North Sea-Mediterranean	Yann LE FLOC'H	Managing Director	yann.le-floch@reseau.sncf.fr
	Matthieu MAESELLE	Finance & Communication Manager	matthieu.maeselle@INFRABEL.BE










Consortium Agreement_CEF II 2021_RNE & RNE Members

















Abschließender Prüfbericht


2022-12-14

Erstellt:	2022-11-22
Von:	Eva Weber (eva.weber@rne.eu)
Status:	Signiert
Transaktions-ID:	CBJCHBCAABAA6ixQ7IU8tWGgtjuyGqgH_biLbws-ePKt


Verlauf für „Consortium Agreement_CEF II 2021_RNE & RNE Members“

-  Eva Weber (eva.weber@rne.eu) hat das Dokument erstellt.
2022-11-22 - 07:09:07 GMT
-  Dokument wurde per E-Mail zur Signatur an joachim.kroll@rne.eu gesendet.
2022-11-22 - 07:29:05 GMT
-  Dokument wurde per E-Mail zur Signatur an matthias.feil@deutschebahn.com gesendet.
2022-11-22 - 07:29:05 GMT
-  Dokument wurde per E-Mail zur Signatur an c.colaneri@rfi.it gesendet.
2022-11-22 - 07:29:05 GMT
-  Dokument wurde per E-Mail zur Signatur an isabelle.delon@sncf.fr gesendet.
2022-11-22 - 07:29:05 GMT
-  Dokument wurde per E-Mail zur Signatur an hilde.decoen@infrabel.be gesendet.
2022-11-22 - 07:29:05 GMT
-  Dokument wurde per E-Mail zur Signatur an svobodaj@spravazeleznice.cz gesendet.
2022-11-22 - 07:29:06 GMT
-  Dokument wurde per E-Mail zur Signatur an michael.dierickx@infrabel.be gesendet.
2022-11-22 - 07:29:06 GMT
-  Dokument wurde per E-Mail zur Signatur an yann.le-floch@reseau.sncf.fr gesendet.
2022-11-22 - 07:29:06 GMT
-  joachim.kroll@rne.eu hat die E-Mail angezeigt.
2022-11-22 - 09:07:42 GMT


-  c.colaneri@rfi.it hat die E-Mail angezeigt.
2022-11-22 - 09:12:20 GMT
-  Die signierende Person joachim.kroll@rne.eu hat bei der Signatur den Namen Joachim Kroll eingegeben
2022-11-22 - 09:12:38 GMT
-  Joachim Kroll (joachim.kroll@rne.eu) hat das Dokument mit einer E-Signatur versehen.
Signaturdatum: 2022-11-22 – 09:12:40 GMT – Zeitquelle: Server
-  hilde.decoen@infrabel.be hat die E-Mail angezeigt.
2022-11-23 - 14:10:41 GMT
-  Die signierende Person c.colaneri@rfi.it hat bei der Signatur den Namen -christian -colaneri eingegeben
2022-11-24 - 09:02:43 GMT
-  -christian -colaneri (c.colaneri@rfi.it) hat das Dokument mit einer E-Signatur versehen.
Signaturdatum: 2022-11-24 – 09:02:45 GMT – Zeitquelle: Server
-  svobodaj@spravazeleznice.cz hat die E-Mail angezeigt.
2022-11-25 - 11:46:07 GMT
-  Die signierende Person svobodaj@spravazeleznice.cz hat bei der Signatur den Namen Jiří Svoboda eingegeben
2022-11-29 - 10:40:50 GMT
-  Jiří Svoboda (svobodaj@spravazeleznice.cz) hat das Dokument mit einer E-Signatur versehen.
Signaturdatum: 2022-11-29 – 10:40:52 GMT – Zeitquelle: Server
-  matthias.feil@deutschebahn.com hat die E-Mail angezeigt.
2022-12-06 - 06:48:08 GMT
-  Neue Dokument-URL angefordert von matthias.feil@deutschebahn.com
2022-12-06 - 08:09:35 GMT
-  Die signierende Person matthias.feil@deutschebahn.com hat bei der Signatur den Namen Matthias Feil eingegeben
2022-12-06 - 08:25:14 GMT
-  Matthias Feil (matthias.feil@deutschebahn.com) hat das Dokument mit einer E-Signatur versehen.
Signaturdatum: 2022-12-06 – 08:25:16 GMT – Zeitquelle: Server
-  yann.le-floch@reseau.sncf.fr hat die E-Mail angezeigt.
2022-12-08 - 09:17:28 GMT
-  isabelle.delon@sncf.fr hat die E-Mail angezeigt.
2022-12-09 - 10:29:19 GMT
-  Die signierende Person isabelle.delon@sncf.fr hat bei der Signatur den Namen Isabelle Delon eingegeben
2022-12-09 - 10:30:36 GMT

 Isabelle Delon (isabelle.delon@sncf.fr) hat das Dokument mit einer E-Signatur versehen.


Signaturdatum: 2022-12-09 – 10:30:38 GMT – Zeitquelle: Server

 yann.le-floch@reseau.sncf.fr hat die E-Mail angezeigt.

2022-12-09 - 11:25:03 GMT

 Die signierende Person yann.le-floch@reseau.sncf.fr hat bei der Signatur den Namen Yann LE FLOCH eingegeben


2022-12-09 - 11:31:08 GMT

 Yann LE FLOCH (yann.le-floch@reseau.sncf.fr) hat das Dokument mit einer E-Signatur versehen.


Signaturdatum: 2022-12-09 – 11:31:10 GMT – Zeitquelle: Server

 michael.dierickx@infrabel.be hat die E-Mail angezeigt.

2022-12-09 - 12:39:25 GMT

 Die signierende Person michael.dierickx@infrabel.be hat bei der Signatur den Namen Michaël Dierickx eingegeben


2022-12-09 - 12:41:30 GMT

 Michaël Dierickx (michael.dierickx@infrabel.be) hat das Dokument mit einer E-Signatur versehen.


Signaturdatum: 2022-12-09 – 12:41:32 GMT – Zeitquelle: Server

 hilde.decoen@infrabel.be hat die E-Mail angezeigt.


2022-12-14 - 15:40:16 GMT

 Die signierende Person hilde.decoen@infrabel.be hat bei der Signatur den Namen Hilde De Coen eingegeben

2022-12-14 - 15:42:36 GMT

 Hilde De Coen (hilde.decoen@infrabel.be) hat das Dokument mit einer E-Signatur versehen.

Signaturdatum: 2022-12-14 – 15:42:38 GMT – Zeitquelle: Server

 Vereinbarung abgeschlossen.

2022-12-14 - 15:42:38 GMT

Ověřovací doložka změny datového formátu dokumentu podle § 69a zákona č. 499/2004 Sb.

Doložka číslo: 3331571

Původní datový formát: application/pdf

UUID původní komponenty: b1423fe7-812a-4084-bf76-bf180925230e

Jméno a příjmení osoby, která změnu formátu dokumentu provedla:

System ERMS (zpracovatel dokumentu Anna VRÁNA)

Subjekt, který změnu formátu provedl: Správa železnic, státní organizace

Datum vyhotovení ověřovací doložky: 23.01.2023 14:58:01



5cbf1ffe-2205-4d87-b9c4-2084a5949e34