

# **INTERNAL COOPERATION AGREEMENT**

**for the coordination of the CEF1 and CEF2  
implementation projects pursuant to the  
relevant Framework Partnership Agreement,  
Specific Grant agreements or multi-beneficiary  
grant agreements awarded to those projects**

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## BETWEEN

The Members of the **SESAR Deployment and Infrastructure Partnership** (SDIP) consortium, collectively constituting the new SESAR Deployment Manager:

1. European Organisation for the Safety of Air Navigation (EUROCONTROL), established in Rue de la Fusée 96, 1130 Brussels, Belgium, **‘the coordinator’**
2. European Region of the Airports Council International (ACI Europe), established in Belgium
3. Société Air France (Air France), established in France
4. Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit Beschränkter Haftung (ACG), established in Austria
5. Hrvatska Kontrola Zračne Plovidbe D.O.O Croatia Control (CCL), established in Croatia
6. Deutsche Lufthansa Aktiengesellschaft (DLH), established in Germany
7. DFS Deutsche Flugsicherung GMBH (DFS), established in Germany
8. The French State – Ministère de la Transition Écologique et de la Cohésion des Territoires, Direction Générale de l’Aviation Civile (DGAC), Direction des Services de la Navigation Aérienne (DSNA), established in France
9. easyjet Europe Airline GMBH (EEAG), established in Austria
10. Entidad Publica Empresarial ENAIRE (ENAIRE), established in Spain
11. ENAV S.P.A. (ENAV), established in Italy
12. Hungarocontrol Magyar Légiforgalmi Szolgálat Zártkörűen Működő Részvénytársaság (HUNGAROCNTROL Zrt.), established in Hungary
13. Irish Aviation Authority (IAA), established in Ireland
14. Luftfartsverket a State Enterprise (LFV), established in Sweden
15. Navegação Aérea de Portugal — NAV Portugal, E.P.E (NAV Portugal E.P.E.), established in Portugal
16. NAVIAIR (NAVIAIR), established in Denmark
17. Polish Air Navigation Services Agency (PANSa), established in the Republic of Poland
18. Romanian Air Traffic Services Administration (ROMATSA RA), established in Romania
19. RYANAIR DAC (RYANAIR), established in Ireland
20. SKYGUIDE, Swiss Civil and Military Air Navigation Services Limited (SKYGUIDE), established in Switzerland

Individually the **‘Coordinating Partners’** and collectively the **‘SESAR Deployment Manager’**

and the following **‘Implementing Partners’**:

21. NATS (En Route) plc (NATS), established in the United Kingdom;
22. easyJet Airline Company Limited (easyJet), established in the United Kingdom;
23. British Airways plc (British Airways), established in the United Kingdom;
24. Sesar Related Deployment Airport Operators Grouping, EEIG (SDAG), established in Belgium;
25. Aéroports de Paris (ADP), established in France;
26. SKEYES (SKEYES), established in Belgium;
27. Brussels Airport Company NV/SA (BAC), established in Belgium;
28. Business Integration Partners S.p.A. (BIP), established in Italy;
29. Aéroports de la Côte d'Azur (Côte d'Azur), established in France;
30. Gatwick Airport Ltd (GAL), established in the United Kingdom;
31. Heathrow Airport Ltd (HAL), established in the United Kingdom;
32. Koninklijke Luchtvaart Maatschappij NV (KLM), established in Netherlands;
33. Luchtverkeersleiding Nederland (Air Traffic Control The Netherlands) (LVNL), established in the Netherlands;
34. Royal Netherlands Meteorological Institute (KNMI), established in the Netherlands;
35. Københavns Lufthavne A/S (CPH), established in Denmark;
36. Schiphol Nederland BV (SNBV), established in the Netherlands;
37. Swedavia AB (Swedavia), established in Sweden;
38. Fraport AG - Frankfurt Airport Services Worldwide (Fraport), established in Germany;
39. Flughafen Düsseldorf GmbH (FDG), established in Germany;
40. Flughafen München GmbH (FMG), established in Germany;
41. Air Navigation Services of the Czech Republic (ANS CR), established in Czech Republic;
42. Slovenia Control, Slovenian Air Navigation Services, Limited (Slovenia Control), established in Slovenia;
43. Bosnia and Herzegovina Air Navigation Services Agency (BHANSA), established in Bosnia and Herzegovina;
44. Letové Prevádzkové Služby SR, Státny Podnik - LPS SR, š. p. (LPS), established in Slovakia;
45. Avinor Flysikring AS (Avinor), established in Norway;
46. Estonian Air Navigation Services (EANS), established in Estonia;

47. Hellenic Civil Aviation Authority (HCAA), established in Greece;
48. Latvijas gaisa satiksme (LGS), established in Latvia;
49. Alitalia - Società Aerea Italiana S.p.A. in extraordinary administration (Alitalia S.p.A. in e.s.), established in Italy;
50. DAA plc, established in Ireland;
51. NATO Airborne Early Warning and Control Programme Management Agency (NAPMA), as the executive body of NAPMO (the NATO Airborne Early Warning and Control Programme Management Organisation) ("NAPMA"), established in the Netherlands;
52. French Ministry of the Armies/Direction Général de l'Armement ("DGA"), established in France;
53. Ilmatieteen Laitos, Finnish Meteorological Institute (FMI), established in Finland;
54. Nova Airlines AB (Novair), established in Sweden;
55. Spanish Air Force (ES AF), established in Spain;
56. The Danish Meteorological Institute (DMI), Established in Denmark;
57. The Swedish Meteorological and Hydrological Institute (SMHI), established in Sweden;
58. Bundesministerium für Verkehr und digitale Infrastruktur, vertreten durch den Deutschen Wetterdienst (DWD), established in Germany;
59. GIE EUMETNET (EUMETNET), established in Belgium;
60. "M-NAV", Air Navigation Service Provider of the Republic of North Macedonia, GOJSC (M-NAV), established in North Macedonia;
61. Met Office (MET UK), established in the United Kingdom;
62. Météo-France (Météo FR), established in France;
63. Sabre Austria GmbH (Sabre), established in Austria;
64. Serbia and Montenegro Air Traffic Services SMATSA Llc. (SMATSA), established in the Republic of Serbia;
65. State Enterprise "Air Traffic Services Authority" (BULATSA), established in Bulgaria;
66. Český Hydrometeorologický Ústav (CHMI), established in Czech Republic;
67. Estonian Environment Agency (ESTEIA), Established in Estonia;
68. Ministerio da Defesa Nacional - Ministry of Defense - Força Aérea Portuguesa - Portuguese Air Force (PRTAF);
69. AENA S.M.E. SA (Aena), established in Spain;
70. Aeroporti di Roma S.p.A. (ADR), established in Italy;
71. Arinc incorporated (Arinc), established in the United States of America;

72. Department of Civil Aviation Ministry of Transport, Communications and Works Republic of Cyprus (DCAC), established in Cyprus;
73. European Satellite Services Provider (ESSP), established in France;
74. FABCE, letalske storitve, d.o.o. (FABCE, Aviation Services, Ltd.) (FABCE), established in Slovenia;
75. Fintraffic Air Navigation Services Ltd (Fintraffic ANS), established in Finland;
76. Italian Air Force (MoD) (MoD Italy), established in Italy;
77. Malta Air Traffic Services (MATS), established in Malta;
78. Manchester Airport PLC (MAN), established in the United Kingdom;
79. Met Éireann - Department of Housing, Local Government and Heritage (DHLGH), established in Ireland;
80. PORTUGÁLIA - Companhia Portuguesa de Transportes Aéreos S.A. (PORTUGÁLIA), established in Portugal;
81. Società per Azioni Esercizi Aeroportuali - SEA (S.E.A.), established in Italy;
82. SITA B.V. (SITA), established in the Netherlands;
83. STAL - Stansted Airport Limited (STAL), established in the United Kingdom;
84. State Enterprise “Oro navigacija” (ORO NAVIGACIJA), established in Lithuania;
85. TRANSPORTES AEREOS PORTUGUESES SA (TAP), established in Portugal;
86. Airtel ATN Limited (Airtel), established in Ireland;
87. ALTYS Technologies S.A.S. (ALTYS), established in France;
88. Boeing Aerospace Spain SL (BAS), established in Spain;
89. INMARSAT NAVIGATION VENTURES LIMITED (Inmarsat), established in the United Kingdom;
90. LEONARDO - SOCIETA' PER AZIONI (Leonardo), established in Italy;
91. Flughafen Wien Aktiengesellschaft (VIE), established in Austria;
92. Paris Lodron Universität Salzburg (PLUS), established in Austria;
93. Thales LAS France SAS (THALES), established in France;

(hereinafter collectively referred to as “**Implementing Partners**”)

All of them, “**Coordinating Partners**” and “**Implementing Partners**”, collectively referred to as “**Partners**”.

## PREAMBLE

Having regard to Regulation (EU) N° 409/2013 of 3 May 2013 (as amended) defining the SESAR Deployment Manager function and, in particular, its Article 9 thereof.

Having regard to the Framework Partnership Agreement No. MOVE/E2-2014-717/SESAR FPA (hereinafter 'FPA1') signed on 5 December 2014 and its subsequent amendments, in particular Amendment No. 9 signed on 16 June 2022.

Having regard to the Framework Partnership Agreement CEF-T-2021-SESAR Deployment Manager FPA signed on 31 May 2022 (hereinafter 'FPA2').

Having regard to the Specific Grant Agreement MOVE/E3/SUB/2022-122/SI2.875834 (SGA1) under FPA2, signed on 14 September 2022, in particular its Annex 5 that states that *"The SESAR Deployment Manager shall be the coordinator of the implementation projects referred to in Article 10 of Regulation (EU) No 409/2013, in accordance with the provisions of the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements awarded to those projects"*.

Whereas the mandate of SESAR Deployment Alliance as SESAR Deployment Manager expired on 31 May 2022.

Whereas the entities constituting the SDIP consortium have been appointed as the new SESAR Deployment Manager with effect from 1 June 2022 and this role shall be collectively carried out by all the members of SDIP.

Whereas the members of the SESAR Deployment and Infrastructure Partnership have concluded a Consortium Agreement with effect from 28 January 2022, with EUROCONTROL as Consortium Coordinator

Whereas such a Consortium Agreement foresees that 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 compensation fees.

Whereas the SESAR Deployment Alliance AISBL and its individual members, on one side, and the SESAR Deployment and Infrastructure Partnership consortium on the other have signed a Transition Agreement on 31 May 2022, which notably contains the financial situation to be transferred from the previous to the new SDM mandate holder.

Whereas Article I.5 of FPA 1 foresees that the FPA1 partners shall conclude an internal co-operation agreement regarding their operation and co-ordination, including all internal aspects related to the management of the partners and the implementation of the action(s).

Whereas an Internal Cooperation Agreement for the SESAR Deployment Framework Partnership Agreement was concluded between the previous SDM mandate holder and the Implementing Partners with effect from 31 May 2015.



Whereas it is necessary to conclude a new Internal Cooperation Agreement between the SESAR Deployment and Infrastructure Partnership and the Implementing Partners that were Parties to the 2015 Internal Cooperation Agreement with the previous SDM mandate holder.

Whereas, for the sake of seamless transition, the new Internal Cooperation Agreement should –where appropriate – take into account the implementing decisions taken by the SDA AISBL as SESAR Deployment Manager on the adoption of mitigation measures to ensuring the financial balance of FPA coordination activities (Activity 1) until completion of all actions under the FPA1.

Whereas it is also necessary to conclude an Internal Cooperation Agreement applicable to the coordination role carried out by the SDM under the FPA2 (and relevant SGAs), bearing in mind the requirement as stated in the Model Grant Agreement that “the beneficiaries must have internal arrangements regarding their operation and coordination, to ensure that the action is implemented properly”.

Whereas it is considered appropriate to have only one Internal Cooperation Agreement applicable for the FPA1 and FPA2 frameworks, with the specific provisions relevant for each of these two frameworks and related Implementing Partners duly identified whenever required.

Whereas the present Agreement shall therefore supersede and replace the 2015 Internal Cooperation Agreement.

HAVE AGREED AS FOLLOWS:

### **Article 1 – Definitions**

Unless otherwise expressly stated herein, the terms defined in this section, or parenthetically defined elsewhere, shall have the same meaning throughout this Agreement (as defined below), and all attachments and amendments, if any:

1. Project Leader means the organisation leading the Implementation Project;
2. Action Coordinator means the SESAR Deployment and Infrastructure Partnership;
3. Coordinating Partners means the Members of the SESAR Deployment and Infrastructure Partnership; whenever Coordinating partners are acting as implementing partners in a project, the related obligations as contained in the present Agreement shall apply to them accordingly;
4. SDIP means the SESAR Deployment and Infrastructure Partnership Consortium;
5. SDM means SESAR Deployment Manager within the meaning of Article 9 of 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 last amended.
6. SDA means SESAR Deployment Alliance;

7. FPA1 means Framework Partnership Agreement No MOVE/E2-2014-717/SESAR FPA concluded on 5 December 2014;
8. FPA2 means Framework Partnership Agreement CEF-T- 2021-SESAR Deployment Manager FPA signed on 31 May 2022;
9. SGA means Specific Grant Agreement; 10. CINEA means the European Climate Infrastructure and Environment Executive Agency
11. Commission means European Commission;
12. EUROCONTROL means European Organisation for the Safety of Air Navigation;
13. ASR means Action Status Report;
14. Agreement means this agreement;
15. Force majeure means any unforeseeable exceptional situation or event beyond a party's control, which prevents it from fulfilling any of its obligations under this Agreement, which was not attributable to error or negligence on its part and which proves to be inevitable in spite of exercising all due diligence, best practice and appropriate preventative actions. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties cannot be invoked as force majeure;
16. Consortium Agreement means the Consortium Agreement for the implementation of the SESAR Deployment and Infrastructure Partnership with effect from 28 January 2022;
17. CEF 1 stands for Connecting Europe Facility Programme 1;
18. CEF 2 stands for Connecting Europe Facility Programme 2.

## **Article 2 – SESAR Deployment Manager Roles and Responsibilities**

2.1 Pursuant to Article 9 of EU Regulation 409/2013 (as amended), the SESAR Deployment Manager shall, in particular, be responsible for:

- (a) developing, proposing, maintaining and implementing the deployment programme;
- (b) associating the operational stakeholders that are required to implement common projects;
- (c) establishing mechanisms and decision-making processes that ensure efficient synchronisation and overall coordination of the Implementation Projects and the related investment in line with the deployment programme;
- (d) ensuring effective management of risks and conflict of interest;
- (e) advising the Commission on issues related to the implementation of common projects and to the setting up new common projects;
- (f) implementing Commission decisions and ensuring and monitoring their implementation by the implementation level.
- (g) identifying the most appropriate financing mechanisms combining public and private funding;

- (h) monitoring implementation of the deployment programme;
- (i) reporting to the Commission;
- (j) ensuring appropriate coordination with National Supervisory Authorities;
- (k) ensuring appropriate coordination with the European Union Aviation Safety Agency.

2.2 In addition, the SESAR Deployment Manager shall establish cooperative arrangements with the Network Manager, the SESAR 3 Joint Undertaking and the European Defence Agency. The SESAR Deployment Manager shall also seek assistance from the manufacturing industry through cooperative arrangements aiming to receive, inter alia, information on the industrialisation of products.

2.3 The SESAR Deployment Manager shall further, inter alia, associate the operational stakeholders required to implement common projects by raising their awareness on the SESAR deployment framework and the related incentive mechanisms, facilitating their participation in or cooperation with the SESAR deployment framework partnership (deployment manager and implementing partners); it shall also support stakeholders in setting up and aligning proposals for implementation projects, avoiding conflict of interests.

2.4 To perform the tasks described above, the SESAR Deployment Manager will liaise with all Implementation Project Leaders and/or the Implementation Partners as appropriate.

### **Article 3 – SESAR Deployment and Infrastructure Partnership governance structure**

The SDIP is made of 20 members representing four groups of stakeholders:

- The Air Navigation Service Providers,
- The A4 group of Airlines,
- ACI Europe,
- And EUROCONTROL.

The SDIP is established as a consortium of equal partnership with equal distribution of authority amongst the above mentioned four groups of stakeholders, and this principle flows through all activities undertaken (wherever relevant) leading notably to joint governance, joint management and joint expert teams.

The SDIP is organised as follows:

- Annual Conference of Executives: has an inspirational, facilitating and supporting role. It aims at securing the spirit of partnership and facilitating a joint political ambition towards European regulators.
- Supervisory Board: the decision-making body. It is composed of representatives from all members. It may take the necessary delegation decisions to the Executive Director, as required by the efficient day-to-day management of the Consortium operations.
- and a Management Team 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 SDIP Consortium Agreement duly foresees provisions for accession of new Members to the Consortium.

#### **Article 4 – Coordination of Implementation Activities**

Under Article II.1.3 of the FPA1 (General Obligations and Role of The Coordinator) the SESAR Deployment Manager, acting as Coordinator, is required to coordinate the activities of the Implementing Partners (Coordinator's Tasks).

Under the Annex 5 of SGA1, the SESAR Deployment Manager shall be the coordinator of the implementation projects referred to in Article 10 of Regulation (EU) No 409/2013, in accordance with the provisions of the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements awarded to those projects.

##### 4.1 Coordination of the Implementing Partners

The role of the SESAR Deployment Manager as Coordinator includes in particular:

- (a) monitoring the Action Plan and Actions in the form of Implementation Projects in order to ensure they are implemented in accordance with the relevant Framework Partnership Agreement, Specific Grant Agreements or multi-beneficiary grant agreements awarded to those projects (including the relevant Annexes);
- (b) acting as the intermediary for the communications between the Implementing Partners and the Commission (as reported in the paragraph above);
- (c) providing all the necessary documents to the Commission in the event of checks and audits initiated before the payment of the balance with regard to CINEA funding, and in the event of evaluation in accordance with relevant Framework Partnership Agreement, Specific Grant Agreements or multi-beneficiary grant agreements awarded to those projects;
- (d) acting as the vehicle for the Implementing Partners of any given Implementation Project to receive the funds from CINEA in accordance with the respective Specific Grant Agreement; and
- (e) providing CINEA with the Action Status Reports **and Final Reports** concerning the SGAs for Actions covering Implementation Projects.

In order to enable the SESAR Deployment Manager to fulfil the above tasks, the Implementing Partners shall provide the required information in a timely manner to the SESAR Deployment Manager.

##### 4.2 Coordination Work-package in the Implementation Actions

To perform the tasks described above at the level of an Implementation Action, the SESAR Deployment Manager will act as Action Coordinator through a "Coordination Work-package" that will be systematically inserted into the work breakdown structure of every Implementation Action proposal to be submitted to CINEA and to any SGA for Implementation Action selected for funding by CINEA.

This work-package will establish the link with each of the single Implementation Projects, funded through a Specific Grant Agreement, that the SESAR Deployment Manager requires to

access, in order to collect with the support of the other Implementing Partners the necessary information to perform its tasks as Coordinator.

The SESAR Deployment Manager will not be responsible for the management, delivery or leadership of any Implementation Project under an SGA or the application for a project to be submitted to the Commission/CINEA.

#### **Article 5 – General Provisions on Financials**

The cost of the execution of the tasks of the SESAR Deployment Managers 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 compensation fees.

EUROCONTROL as 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.

#### **Article 6 – General Obligations**

The realisation of the Deployment Programme comprises the synchronisation, the coordination and the performance assessment of the Implementation Projects in the Deployment Programme.

The SESAR Deployment Manager, the Project Leaders and all the Implementing Partners agree to cooperate in order to facilitate the timely execution of the Deployment Programme.

To this end, (a) the SESAR Deployment Manager will perform the tasks for the coordination of the SESAR Deployment FPA, and (b) the Project Leaders and Implementing Partners agree to carefully and reasonably consider recommendations made by the SESAR Deployment Manager to their respective Implementation Projects with the objective to de-risk the overall execution of the Deployment Programme.

The Project Leaders and Implementing Partners shall take responsibility and leadership for technical, financial and performance driven coordination and synchronization of their Implementation Projects. They shall coordinate with the Action Coordinator.

The SESAR Deployment Manager will not be financially responsible for the proper execution of the Implementation Projects by the Implementing Partners. The SESAR Deployment Manager will only be responsible for the delivery of the Coordination Work-package as part of the Implementation Project.

#### **Article 7 – Financial Management**

The flow of financial payments for the Implementing Partners of any Implementation Project will be between the SESAR Deployment Manager in its role of Action Coordinator and the Implementation Project Partners of the Implementation Projects.

The Implementing Partners shall provide SESAR Deployment Manager with their bank account details, and any updates, to be used to receive all applicable payments from the SESAR Deployment Manager to the Implementing Partners under the specific SGA.

The SESAR Deployment Manager shall provide CINEA, upon request, with a receipt of payment upon the realization of the relevant fund transfers for the Implementing Partners.

Finally, the Implementation Project Partners shall notify the SESAR Deployment Manager of good receipt of this financial payment made to this bank account without undue delay and in writing.

Payment by the SESAR Deployment Manager in its role of Action Coordinator, following receipt of payment from CINEA, to the bank account of the Implementing Partners indicated in the SGA shall constitute a good discharge of the performance of the SESAR Deployment Manager in its role of FPA Coordinator and the SESAR Deployment Manager generally of its obligations regarding payment of the CINEA funds to the Implementing Partners.

### **Article 8 – Coordination Work-package**

A Coordination Work-package led by the SESAR Deployment Manager was added to the work breakdown structure of every application to a CINEA CEF1 Calls for Pilot Common Projects/ Common Projects related Implementation Projects and integrated in the subsequent SGAs concluded. The amount of this Coordination Work-package was set at 1% of the total amount of an Implementation Action.

A Coordination Work-package led by the SESAR Deployment Manager shall be added to the work breakdown structure of every application to a CINEA CEF2 Calls for Common Projects related Implementation Projects and integrated in the subsequent SGAs to be concluded. The amount of this Coordination Work-package is foreseen to be set at 5% of the total amount of an Implementation Action, subject to confirmation of this level in the relevant SGA.

The Coordination Work-Package for CEF1 and CEF2 will be managed and accounted for separately.

### **Article 9 – Coordination Fee**

The Implementing Partners hereby agree that the SESAR Deployment Manager shall further be entitled to levy a Coordination Fee (which has the meaning as described in this article 9 ) so as to supplement the funding of the costs incurred by the SESAR Deployment Manager in carrying out its tasks and responsibilities.

The Coordination Fee shall remain set at 1.75% of the total cost of the Implementation Action for projects funded through SGA signed under the CEF1 framework.

The Coordination Fee shall be set at 5% of the total cost of the Implementation Action for projects carried out under the CEF2 framework.

The total amount of the Coordination Fee will – in principle - be levied from the first CINEA payment in relation to an Implementation Project. It will be collected as a fraction to be deducted from the co-funding to the other Implementation Project partners proportionally to their respective contribution to the Implementation Project, as reported in the SGA budget.

The consumed quota of the Coordination Fee is non-refundable, including in the event of the cancellation, failure, significant delay, withdrawal from the SGA by any party or other matter affecting the implementation or success of the Implementation Project, or where the Commission exercises its right to reduce the grant initially provided for due to an Implementation Project not being implemented or being implemented poorly, partially or late, and such implementation or non-implementation is not attributable in full to error or negligence on the part of the SESAR Deployment Manager.

The level of Coordination Fee for CEF2 will be assessed by the SDM on a regular basis to ensure the balance of the funding scheme of SESAR Deployment Manager tasks and responsibilities.

Should this assessment lead to the conclusion that the level of the Coordination Fee is significantly higher than what is required to ensure the balance of the SDM funding scheme, such level should be decreased accordingly in a timely manner and the amounts collected in excess shall be reimbursed.

The level of the Coordination Fee for CEF2 will however not be increased beyond 5%<sup>1</sup>, irrespective of the findings of the regular assessment as set above.

Should a positive balance remain at the end of the SESAR Deployment Manager mandate, this amount shall either be transferred to a new SESAR Deployment Manager mandate holder or redistributed to the Implementing Partners, as appropriate, except where provisions should be made, in particular in relation to the five years ex-post audit window.

The Coordination Fees for CEF1 and CEF2 will be managed and accounted for separately.

## **Article 10 – Payments to Implementing Partners**

Within 30 (thirty) calendar days of the day from which the bank account of the Coordinator has been credited (and subject to the timely provisions by all the relevant Implementing Partners of the required information), the 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.

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<sup>1</sup> Note that the set level of Coordination Fee for CEF2 has been calculated under the assumption that CINEA will agree to have the Coordination Work-package – see Article 8 above, set at a maximum of 5%. Should that assumption not materialise, and the level of such Work-package be decreased by CINEA, an assessment will be carried out which may require an increase of the Coordination Fee. This constitutes the only exception to the capping of the CEF2 Coordination Fee.

In case of pre-financing by the CINEA, the 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.

In particular, the 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.

### **Article 11 – Reimbursement by Implementing Partners**

The reimbursement process is launched in case of negative result from the further pre-financing, Interim payment or payment of the Balance, in order to properly balance the overall amount provided by CINEA at Action level and to cover the other expected payments.

The reimbursement shall be made within the deadline indicated in the reimbursement letter (i.e.15 days after the receipt of the reimbursement letter), to ensure the timely distribution of relevant payments to all entitled Action beneficiaries. The late provision of the requested amount puts at risk the accomplishment of the payments' distribution.

The reimbursement process can be activated in three specific cases:

- i. Further Pre-financing  $< 0$ : if 40% of cumulated financing needs are lower than pre-financing payments already received in the relevant reference period. The delta value between the cumulated financing needs and the pre-financing already distributed is the value to be reimbursed.
- ii. Interim Payment  $< 0$ : whenever co-funded certified costs are lower than pre-financing payment already received in the relevant reference period, the difference shall be reimbursed.
- iii. Payment of the Balance  $< 0$ : when the total amount of the total payments received from the start of the Action is higher than the Maximum final amount of the grant determined, the difference shall be reimbursed.

Coordination Fee and Compensation Fee may be subject to reimbursement as per the provisions above whenever these cannot be recovered directly on the payment still due to an Implementing Partner.

### **Article 12 – Compensation Fee**

Should additional unplanned effort and related extra costs be required - in relation to the performance of the Coordination Work-Package - due to the actions or omissions of one or more identified Implementing Partners, the SESAR Deployment Manager shall be entitled to seek compensation from the concerned Implementing Partners, in particular through the levy of a Compensation Fee. This includes the extra workload entailed by the late provisions of required documentation/information; set deadlines shall – as a principle, be strictly complied with.



The relevant Implementation Partner(s) shall be timely informed and full transparency shall be provided on the calculations of the Compensation Fee. The Compensation Fee shall never exceed the payments amount the concerned Implementing Partner is entitled to receive under the applicable SGA.

### **Article 13 – Information Flow**

The flow of technical, progress and economical information will be between the SESAR Deployment Manager and the Project Leaders with the support of the Implementing Partners.

They will cooperate with and promptly respond to the SESAR Deployment Manager's requests for:

- i. information and regular updates about the status of an Implementation Project;
- ii. information in compliance with the requirements of the SESAR Deployment FPA and the SGA(s);
- iii. utilisation of technical, progress and economical reporting tools, templates and procedures set by the SESAR Deployment Manager;
- iv. any relevant record to support qualification and/or validation of the information managed by the SESAR Deployment Manager within the deployment programme to assess coordination and synchronisation, cost and benefit analysis or incentive mechanisms; and
- v. any event occurring at one implementing partner side likely to affect or delay the implementation of an action, for which a specific grant was awarded, of which the SESAR Deployment Manager is aware.

The flow of information between the Project Leader and the other Implementing Partners in a particular Implementation Action is outside the scope of this Agreement. Within Multi-stakeholder IPs, the Project Leader shall ensure that the other Implementing Partners are duly informed about the activities which have to be performed at project level, including but not limited to the yearly ASR exercise. The Implementing Partners shall ensure that their contributions are provided timely to the Project Leader in order to avoid any delay.

### **Article 14 – General Provisions on Reporting**

Each Project Leader will provide its reports to the SESAR Deployment Manager promptly and regularly using the templates, processes and documentation required by the SESAR Deployment Manager.

For projects carried out under the CEF1 framework, each Project Leader will:

1. promptly and in due time and in any event no later than the 15th of January of each year provide the SESAR Deployment Manager with IP ASR (Action Status Report at Implementation Project level), fulfilled in all its parts both on technical and economic sections in order to enable the submission of the Action Status Report at Action level by the 31st of March each year;

2. be responsible to the best effort of collecting all the relevant Action Status Report data from its Implementing Partners to provide the final Action Status Report to the SESAR Deployment Manager. Implementing Partners shall timely provide relevant data;
3. further provide the SESAR Deployment Manager with additional clarifications and information necessary to create the SESAR Deployment Annual report on the status of the deployment of SESAR, to be released to the Commission for approval by 30th June.

For projects carried out under the CEF 2 framework, each Project Leader shall provide its reports to the SESAR Deployment Manager promptly and regularly using the platforms, templates, processes and documentation required by the SESAR Deployment Manager in order to enable the submission of the interim technical and periodic reports within sixty (60) days from the end of each reporting period as per the relevant SGA.

### **Article 15 – Specific reporting provisions for Implementing Partners**

In order to enable the SESAR Deployment Manager to act as intermediary for all communications between the Implementation Projects and CINEA, except where provided otherwise in the relevant Framework Partnership Agreement, Specific Grant Agreements or multi-beneficiary grant agreements, each Implementing Partner will provide promptly all information and documentary evidence requested, by the SESAR Deployment Manager that it requires in order for it to perform its tasks, and in particular, each Implementation Project partner shall:

- i. immediately provide the SESAR Deployment Manager in its role of Action Coordinator with the information related to any change in the name, address, legal representative as well as in the legal, financial, technical, organisational or ownership situation of itself or of its Affiliated Entities; and
- ii. bear responsibility for the timely supply of all documents and information to the SESAR Deployment Manager, as requested by the SESAR Deployment Manager and as required under the relevant Framework Partnership Agreement, Specific Grant Agreements or multi-beneficiary grant agreements, unless differently defined within the present ICA;
- iii. bear responsibility for providing all the necessary documents to the SESAR Deployment Manager in the event of checks and audits initiated before the payment of the balance, and in the event of evaluation in accordance with the relevant FPA, SGAs or multi-beneficiary grant agreement provisions.

Non-compliance by an Implementing Partner with its obligations under this Agreement may entail non-recovery of costs that it would have otherwise be entitled to recover.

## **Article 16 – Obligation to keep all required documentation**

Each Implementation Partner shall keep all original documents, especially accounting and tax records, stored on any appropriate medium, including digitalised originals when it is authorised by the applicable national law and under the conditions defined within the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements and laid down therein, for a period of five (5) years starting from the date of payment of the balance for the action concerned.

## **Article 17 – Delay and/or suspension of contribution**

Each Project Leader and/or Implementing Partner shall immediately notify the SESAR Deployment Manager of any delay and of any suspension of contributions to the Implementation Project, as soon as it has reason to believe that such delay will occur. The Project Leader and/or Implementing Partner as applicable shall also provide to the SESAR Deployment Manager within thirty days (30) of such notice being provided an action plan setting out both the mitigation actions that the respective Implementing Partners are committed to undertaking and the timetable for such mitigating actions to be completed.

## **Article 18 - Accession**

All Implementing Partners as listed above shall accede to the present Agreement through the signature of the attached Accession Form. No funding shall be transferred to Implementing Partners prior to their accession to the present Agreement. Furthermore, the lack of accession shall in no manner remove the Implementing Partner from its responsibilities and liabilities under the FPA1, in particular as regard all obligations resulting the provisions of the Internal Cooperation Agreement concluded by the previous SDM mandate holder with effect from 31 May 2015.

Any new Implementing Partner shall accede to the present Agreement. The provisions of the previous paragraph apply to them *mutatis mutandis*.

## **19 - Withdrawal**

A Partner wishing to withdraw from the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements and/or this Agreement shall promptly notify in writing the SDM as Action Coordinator on notice of not less than thirty (30) days of its intention to withdraw.

A Partner who wishes to withdraw from participating in any and all Implementation Projects and therefore this Agreement shall not be released from any liability in respect of any obligations arising before its effective withdrawal under this Agreement, the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements.

## **Article 20 – Removal**

A Partner whose participation to any and all of the relevant Framework Partnership Agreement, Specific Grant Agreements or multi-beneficiary grant agreements is terminated pursuant to the applicable provisions foreseen in those agreements, shall be removed from the present Agreement.

Such removal shall not release the concerned Partner from any liability in respect of any obligations arising before its effective removal under this Agreement, the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements.

## **Article 21 – Conflict of interests**

The Partners shall, and shall procure that their employees, officers, directors and agents shall, take all necessary measures to avoid any risk of conflict of interest relating to economic interests, political or national affinities, family or emotional ties or any other interests liable to influence the impartial and objective performance of the SESAR Deployment Manager under this Agreement.

The Partners shall notify the Executive Director of the SESAR Deployment Manager of any conflict of interest which exists or could arise during the performance of the SESAR Deployment Manager under this Agreement.

The Partners shall use their best efforts to ensure that their personnel are not placed in a situation which could give risk to a conflict of interest.

The Partners declare that they have not made and shall not make any offer of any type whatsoever from which an advantage can be derived under this Agreement.

The Partners declare that they have not granted and shall not grant, have not sought and shall not seek, have not attempted and shall not attempt to obtain, have not accepted and shall not accept, any advantage financial or in-kind, to or from the SESAR Deployment Manager whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly as an incentive or reward relating to the performance of this Agreement.

## **Article 22 – Ethics**

The Partners, 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.

Whether directly or through third parties, the Partners 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 favourable decision.

The Partners 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 favourable decision.

### **Article 23 - Confidentiality**

If any Partner or any of its personnel or advisor (together the "Recipient") acquires any information relating to another Partner (the "Discloser") in the course of its activities under this Agreement, the Recipient shall, and shall procure that its personnel shall:

- i. keep such information strictly confidential and use it only for the purposes of the Recipient's rights and obligations under, and only to the extent necessary to exercise the Recipient's rights and/or to perform or enforce the Recipient's obligations under the relevant FPA, SGAs or multi-beneficiary grant agreement provisions and/or this Agreement; and
- ii. safeguard, treat as confidential and not use for the purposes of its own business any information, document or material which it acquires in connection with the relevant FPA, SGAs or multi-beneficiary grant agreement provisions and/or this Agreement and which relates to the business of any of the other Parties.

Where disclosure is made by any Recipient or by any of its personnel to any of its other personnel or Affiliates, the Recipient shall ensure that such disclosure is made subject to obligations equivalent to those set out in this Agreement and each Recipient shall use all reasonable endeavours to procure that each of its personnel complies with all those obligations. Each Recipient shall be responsible to each Discloser in respect of the disclosure or use of any of the Discloser's confidential information by a person to whom disclosure is made.

The obligations of confidentiality as stated above do not extend to a Recipient or any of its personnel in respect of any matter which that Recipient can show:

- i. is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under this Agreement;
- ii. was in its written records prior to the date of this Agreement and not subject to any obligations as to confidentiality;
- iii. was independently disclosed to it by a third party entitled to disclose it; or
- iv. is required to be disclosed under any applicable law or by any stock exchange or any governmental, judicial or other competent authority or
- v. where prior written consent was obtained by the Recipient from the Discloser.

The above obligations of confidentiality shall survive for a period of ten years following the termination of the relevant FPA, SGAs or multi-beneficiary grant agreement provisions and/or this Agreement.

## **Article 24 – Force majeure**

No Partner 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 Partner which is unable to perform any part of its obligations due to an event of Force Majeure shall notify the Executive Director of the SDM without delay, stating the nature of the Force Majeure event, its likely duration and foreseeable effects.

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

## **Article 25 – Liability**

Each Implementing Partner shall compensate the SESAR Deployment Manager for any damage cost, losses, demands and expenses (including all reasonable legal expenses) which the SESAR Deployment Manager suffers or incurs as a consequence of or during the implementation of an Action, because an Action was not implemented or implemented poorly, partially or late or due to a breach by the Implementing Partner of this Agreement and/or the relevant FPA, SGAs or multi-beneficiary grant agreement provisions.

Where the SESAR Deployment Manager incurs any damage according to the previous provisions above which cannot be attributed by the SESAR Deployment Manager to any identified Implementing Partner in accordance with the previous provisions above, then such damage, cost, losses, demands and expenses (including all reasonable legal expenses) shall be met by, and shared (pro rata in accordance with the funding received by each Implementing Partner for the applicable SGA) amongst the Implementing Partners carrying out the work under the specific SGA that gave rise to the cost, loss, liability or damage.

No Partners shall be liable to the other 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 for any breach by it of any provision of this Agreement to the fullest extent that such liability may be excluded under the law of Belgium.

As Action Coordinator in the SGAs for the Implementation Projects, the SESAR Deployment Manager is only responsible for delivering the Coordination Work- package.

## **Article 26 – Intellectual Property Rights (background)**

Each Implementing Partner hereby warrants to the SESAR Deployment Manager that the Implementing Partner has the necessary ownership or permission to provide all documentation, reports, analysis and information provided, or that will be provided, to the SESAR Deployment Manager in accordance with this Agreement, the relevant Framework Partnership Agreement, Specific Grant agreements or multi-beneficiary grant agreements.

The Implementing Partners shall indemnify and keep indemnified the SESAR Deployment Manager on a continuing basis from and against any costs, claim, damages, losses, demands

and expenses (including all legal expenses) arising from a breach of the warranty provided to the SESAR Deployment Manager in the previous paragraph.

### **Article 27 – Personal data**

Any personal data included in or relating to this Agreement, including its execution shall be processed by the Partners 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 governed by the EUROCONTROL Regulation on Personal Data Protection and its Implementing Rules.

Such personal data shall be processed solely for the purpose of the implementation, management and monitoring of the present Agreement by authorised personnel.

### **Article 28 – Miscellaneous**

#### **a. 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 Partners 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.

#### **b. Notices**

Where reference is made in this Agreement to the SESAR Deployment Manager, notices have to be provided by the Implementing Partners to its Executive Director.

### **Article 29 – Applicable law and dispute resolution**

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.

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 Partners shall first seek in good faith to resolve the dispute through negotiation.

1. Any disagreement that the Partners could not settle amicably within 60 days 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.

2. 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 Partners. The emergency arbitration provisions shall not apply.

### Article 30 – Entry into force, termination and continuity of work

The present Agreement shall enter into force on 1 June 2022 for all implementation projects carried out under FPA1 (CEF1), irrespective of the actual date of signature or accession by the Partners.

As regard new Implementing Partners under CEF2, the present Agreement shall enter into force either on the date of accession by the respective Partners or the date of the entry into force of the related SGA, whichever is the earlier.

Without prejudice to the provisions of this Agreement – as specified above, that shall survive its termination, this Agreement shall terminate with the end of the SDIP appointment as SDM and coordinator of the implementation projects. Notwithstanding the above, the SDIP and Implementing Partners obligations under this Agreement shall remain in force as required by the completion of all on-going implementation projects.


The present Agreement shall supersede and replace the 2015 Internal Cooperation Agreement.

#### SIGNATURES

For the SESAR Deployment and  
Infrastructure Partnership



Eamonn Brennan  
Director General  
For EUROCONTROL as Consortium Coordinator



Mariagrazia La Piscopia  
Executive Director

Done in Brussels  
on ... 28/11/22

Done in Brussels  
on ... 28/11/22