



**AGREEMENT FOR THE SECONDMENT OF STAFF FROM SJU MEMBERS
IN ACCORDANCE WITH ARTICLE 8 OF THE SJU STATUTES**

REF. SJU/LC/REF-CTR

The **SESAR JOINT UNDERTAKING** (hereinafter referred to as "**SJU**"), a joint undertaking within the meaning of Article 187 of the Treaty on the Functioning of the European Union, set up by Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)¹, amended by Council Regulation (EC) No 1361/2008 of 16 December 2008² and by Council Regulation (EU) No 721/2014 of 16 June 2014³;

Located at 100 Avenue de Cortenbergh, 1000 - Brussels, Belgium,

Represented for the purpose of signing this contract by Mr Florian GUILLERMET, its Executive Director,

OF THE ONE PART,

AND

OFFICIAL NAME (hereinafter referred to as the "Member", a member of the SJU in accordance with the terms and conditions set out in the Membership Agreement placed between the SJU, EUROCONTROL and its 19 selected Members as per Decision ADB(D)02-2016, which entered into force on 6 July 2016,

ADDRESS

represented for the purpose of signing this Agreement by Mr., its

OF THE OTHER PART.

hereinafter referred to individually as a "Party" and collectively the "Parties".

¹ OJ L 64, 2.3.2007, p. 1–11.

² OJ L 352, 31.12.2008, p. 12–17.

³ OJ L 192, 1.7.2014, p. 1–8.

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PREAMBLE

HAVING REGARD to Council Regulation (EC) No 219/2007 of 27 February 2007, as last modified by Council Regulation (EC) No 1361/2008 of 16 December 2008⁴ and by Council Regulation (EU) No 721/2014 of 16 June 2014⁵, and, in particular, Article 8 of the SJU Statutes;

WHEREAS the SJU is responsible for implementing the ATM Master Plan and for carrying out specific activities aimed at modernising the European air traffic management system by coordinating and concentrating all relevant research and development efforts in the Union;

CONSIDERING the SJU's need for highly qualified staff with the necessary expertise in its domains of activities and the difficulties to recruit this staff;

HAVING REGARD to Article 8 of the SJU Statutes, Article 10.4 "Additional Contributions" of SJU Membership Agreement ref. SJU/LC/307-CTR and SJU Administrative Board decision ref. ADB(D)07-2017;

HAVING REGARD to SJU call for expression of interest ref. SJU/LC/136-CEI, addressed to the SESAR Joint Undertaking Selected Members, for the provision of Additional Contributions to the SESAR Programme through –secondment of staff in 3 domains of expertise–: "ATM SYSTEM", "SENIOR STAKEHOLDER RELATIONS" and "PERFORMANCE" (hereinafter referred to as the "CEI");

~~WHEREAS the SJU CONSIDERING that, in accordance to Article 8 of the SJU Statutes, the SJU intends to benefit from the proposals of its members to make available qualified staff for secondment to the SJU following the advertisement of such positions;~~

~~HAVING REGARD to the positively assessed –evaluation of the interest expressed application submitted by the Member in response to SJU call for expression of interest ref. SJU/LC/XXX136-CFEIP and to the related decision of the SJU Executive Director;~~

~~HAVING REGARD to SJU Membership Agreement ref. SJU/LC/XXX307-CTR, which entered into force on DD/MM/YYYY6 July 2016, in particular its Article 10.4 "Additional Contributions" and the resulting adoption of updated conditions on the secondment of staff, pursuant to the decision of the SJU Administrative Board Ref. ADB(D)07-2017;~~

CONSIDERING the Parties' decision to enter into an agreement (hereinafter referred to as the "Agreement") setting forth the main conditions for the Member secondment of one of its staff member;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

⁴ OJ L 352, 31.12.2008, p. 12–17.

⁵ OJ L 192, 1.7.2014, p. 1–8.

1 PURPOSE OF THE AGREEMENT

In the framework of this Agreement, the Member shall temporarily second to the SJU (hereinafter referred to as the "Secondment") one staff (hereinafter referred to as the "Seconded Staff") with the professional qualifications and experience required ~~in the domain of expertise for the position~~ described in Schedule 1 of this Agreement.

Following signature by the Member and the SJU of this Agreement, the Member and the Seconded Staff shall sign an adequate assignment contract (hereinafter referred to as the "Assignment Contract"), which shall be in full compliance with this Agreement.

2 CONTRACTUAL DOCUMENTS

The contractual relationship between the SJU and the Member are governed by the following documents which are listed in the following priority order:

1. SJU Statutes,
2. SJU Administrative Board Decision Ref. ADB(D)07-2017, attached hereto as Schedule 2,
3. this Agreement, ~~and~~
~~the Assignment Contract.~~

3 CONDITIONS OF SECONDMENT

The conditions of the Secondment are set out in Schedule 2 attached hereto and are governed by the Administrative Board Decision of the SJU Ref. ADB(D)07-2017, its Annex 1, and its further modifications, if applicable, in accordance with SJU Statutes.

The Member hereby agrees to any and all changes to Schedule 2 which may result from the modification by a decision of the SJU Administration Board, of the terms of the Administrative Board Decision of the SJU Ref. ADB(D)07-2017 dated ~~xxx-31 May~~ 2017 and its Annex 1.

In compliance with Article 11.4 of Schedule 2 attached hereto, the Seconded Staff shall sign a declaration of commitment and absence of conflict of interest and an annual declaration of interest in the form attached hereto as respectively Schedules 3 and 4.

4 TERM OF THE AGREEMENT

This Agreement is concluded for an initial period of two years, taking effect ~~retroactively~~ on ~~XX/XX/XXXX~~, and ending on ~~XX/XX/XXXX~~.

Subject to the agreement of both Parties, this Agreement can be renewed for subsequent period(s) of two years, under the same terms and conditions, by means of a registered letter with return receipt requested

or delivery by hand against signature at least three months before the end of the initial term. In any case, the total duration of this Agreement shall not exceed the duration of existence of the SJU.

No indemnity shall be owed by any of the Parties should the Agreement not be renewed for any reason.

5 REIMBURSEMENT OF SECONDMENT COSTS

The SJU shall reimburse to the Member the Secondment costs under the conditions set out in Section 6 (*"Reimbursement of the costs"*) of Schedule 2 attached hereto.

The provisional budgeted annual costs for the Secondment are indicated in Schedule 5 attached hereto.

The SJU shall bear the expenses for duty travel of the Seconded Staff in accordance with Section 7 (*"Mission Expenses"*) of Schedule 2 and with SJU Mission Rules not attached hereto but available upon request.

6 REIMBURSEMENT TERMS

The Member shall report the incurred costs in accordance to the provisions of Article 10.3.3 of the Membership Agreement. Reimbursements by the SJU to the Member shall be on a yearly basis and within 60 calendar days from the date of acceptance by the SJU of the annual cost breakdown form detailing all costs incurred by the Member for the Secondment during a given financial year. The Member shall use the template of annual cost breakdown form attached as Appendix I of the Membership Agreement.

7 VOTING RIGHTS

The Secondment pursuant to this Agreement shall entitle the Member to further voting rights in the Administrative Board in accordance with the rules provided for by the SJU Statutes, the decision of the Administrative Board of Ref. ADB(D)13-2016 of 23 September 2016 and the Membership Agreement.

8 INTELLECTUAL PROPERTY

For the avoidance of doubt, the Parties agree that the Secondment shall not give rise to any intellectual property rights that are generated as a result of the activities conducted with the framework of the SESAR work programme.

9 OCCUPATIONAL ACCIDENTS AND EVENTS RELATED TO THE SECONDED PERSONNEL

The SJU undertakes to inform as soon as possible the Member without delay of any fact, accident, in particular any occupational accident, any damage implicating the Seconded Staff.

More generally, the SJU shall inform the Member of any difficulty that has been encountered with the Seconded Staff.

10 TERMINATION BEFORE TERM

10.1 This Agreement shall be automatically terminated with immediate effect in the event of:

- Dissolution of the SJU ~~is dissolved~~;
- ~~of the~~ Termination of the Membership Agreement in respect of the Member.

10.2 The Agreement may be terminated before term by either of the Parties in the event of :

- a Force Majeure Event as defined in Appendix B (“Definitions”) of the Membership Agreement;
- ~~of~~ either Party’s violation of the undertakings made herein.

In such an event, the termination before term will automatically take place within a period of 30 days after a formal notice, sent to the defaulting Party by registered letter with return receipt requested, without prejudice for any damages that could be claimed from the defaulting Party. The starting point of the 30-day period is the date on which the registered letter containing the formal notice was first presented.

10.3 The SJU shall be entitled to terminate a Secondment at any time, without being liable to the Member or to the Seconded Staff, in cases involving the action or negligence of the Seconded Staff or due to the fact that the expertise of the Seconded Staff does not correspond to the profile required by the SJU as set forth in Article 1 hereabove.

10.4 In addition, the SJU shall have the right, without being liable to the Member or to the Seconded Staff, to terminate this Agreement with three (3) months prior written notice.

10.5 No indemnity or extra-costs shall be owed by any of the Parties should the Agreement be terminated for any reason pursuant to articles 10.1 to 10.4~~3~~ hereabove.

10.6 All the Secondment Costs accepted by SJU and incurred by the Member up until Termination shall be paid in compliance with Article 6 hereof.

11 NO TRANSFERABILITY OF THE AGREEMENT

The Agreement is entered into *intuitu personæ* and it may be neither transferred nor transmitted for any reason and under any conditions whatsoever, except with the other Party’s prior approval thereof in writing.

12 CONFIDENTIALITY

Each Party undertakes to:

- refrain from communicating the contents of the Agreement, and
- treat all the information, in particular commercial, technical or financial received from the other Party in the framework hereof, as strictly confidential, except with the other Party’s prior approval thereof in writing.

The Member undertakes to make this obligation of confidentiality valid with respect to the Seconded Staff and communicate such information only to those persons who need to be aware thereof for the proper performance of their work.

13 LIABILITIES

The SJU shall not be liable to the Member for any direct or indirect damages arising out of or in connection with the Secondment or with the Assignment Contract.

14 INSURANCE

Prior to undertaking the performance of the Secondment and the Assignment Contract and beside any insurance policy required by law under Member's national regulation, the Member shall subscribe and maintain in force throughout the term of this Agreement, the necessary insurance policies, including third party liability insurance, in respect of the Seconded Staff.

15 AMENDMENTS / NOTIFICATIONS / CONTACTS FOR COMMUNICATION

Any modification or renewal of this Agreement shall be set forth in a specific amendment.

Any notification carried out with respect to the Agreement will be deemed valid only if it is made to the registered office indicated at the head hereof or to the new registered office in the event of a transfer thereof at a later date. Any change in the registered office shall be notified to the other Party by registered letter with return receipt requested.

For the purpose of this Agreement the following shall be the contact persons of the Parties:

For the Member:

[Name]

[Professional title]

E-mail:

Tel:

For the SJU:

Ms Edita Barauskaite

Legal Officer

E-mail: CEI@sesarju.eu legaloffice@sesarju.eu

Tel: +32 2 507 8006

16 SPECIFIC UNDERTAKING

The terms of this Agreement set forth the main terms and conditions pursuant to which the Member seconded its Staff to the SJU.

The terms of the present Agreement do not address the compliance of the personal situation of the Seconded Staff with the national labour law or social security provisions applicable to his or her employment contract or with any other public order provision which may apply to the Seconded Staff's employment contract.

The Member undertakes and warrants that the Assignment Contract shall be performed by the Seconded Staff who is legally employed and declared to relevant competent authorities in compliance with all labour legislation and regulation applicable in the country of the Member and the SJU.

17 APPLICABLE LAW

The Agreement shall be governed by and construed according to Union law and, on a subsidiary basis, Belgian law. The Assignment Contract shall be governed by and construed in accordance with the national law of the country in which the Member has its registered seat.

The Parties take note that national public order provisions having precedence over the law applicable to this Agreement may apply to the Seconded Staff's employment contract.

18 SETTLEMENT OF DISPUTES

Any dispute arising between a Member and the SJU out of or in strict connection with this Agreement shall be settled in accordance with Article 20 of the Membership Agreement.

SIGNATURES

Done in two copies, one for each Party, in English

For XXX,
[Name], [Title]

For the SESAR Joint Undertaking,
Mr. Florian Guillermet
Executive Director

signature: _____

signature: _____

Done in _____,

Done in Brussels,

On _____

On _____

SCHEDULES

SCHEDULE 1 – TERMS OF REFERENCE

XXX

SCHEDULE 2 – SJU ADMINISTRATIVE BOARD DECISION ADB(D)07-2017

Not attached hereto but known to both Parties

**SCHEDULE 3 –DECLARATION OF COMMITMENT AND CONFLICT OF
INTEREST**

I, the undersigned in my function of/staff member of the
the SESAR Joint Undertaking,

- hereby undertake to act in the performance of my duties in the general interest of the SESAR Joint Undertaking.
- hereby undertake to inform the SESAR Joint Undertaking immediately if I discover any conflict of interest with any task that I am assigned to perform. In particular, I am aware that I am obliged to make a declaration of interests at least on an annual basis and, in any case, as soon as an update is required for any new situation arising.

DONE IN _____ ON _____

SIGNATURE:

SCHEDULE 4 – ANNUAL DECLARATION OF INTERESTS

Name: _____

Role/profile: _____

Information on direct or indirect interests of relevance to the tasks and activities of the SESAR Joint Undertaking:

1. Direct interests (e.g. personal benefits arising from employment, contracted work, directorships, board membership, investments, fees etc.):

Indirect interests

Financial benefits (e.g. grants to an institution, or other kind of benefits)

Benefits deriving from the professional activities of members of your family/household (e.g. spouse or partner and dependent children living in the same household):

Interests arising from any membership role or affiliation that you have in organisations/bodies/clubs with an interest in the work of the SESAR Joint Undertaking:

Any other direct or indirect interests or facts that the undersigned considers pertinent:

Declaration:
I declare on my word of honour that the information provided above is true and complete.

Done at _____ on _____

Signature: _____

**SCHEDULE 5 (BASED ON COST BREAKDOWN FORM ATTACHED AS
APPENDIX I TO THE MEMBERSHIP AGREEMENT)**