

## **General Terms and Conditions for Participation to the ESA Global Space Markets Challenge**

**Revision n° 2, applicable as of 30 June 2021**

**~~Revision n° 1, applicable as of 1 June 2021~~**

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Table of contents:

**1 INTRODUCTION ..... 4**

**1.1 APPLICABLE DOCUMENTS – IMPACT OF COVID 19..... 5**

**1.2 LIST OF ABBREVIATIONS AND/OR DEFINITIONS ..... 5**

**2 SCOPE ..... 10**

**2.1 ESA GLOBAL SPACE MARKETS CHALLENGE STRUCTURE..... 10**

**3 APPLICATION AND ACCEPTANCE PROCESS ..... 11**

**3.1 ELIGIBILITY ..... 11**

**3.2 APPLICATION PROCESS – APPLICATION DOCUMENTATION..... 13**

**4 TOP 12 SELECTION: PROCESS AND CRITERIA ..... 14**

**4.1 SELECTION PROCESS ..... 14**

**4.2 SELECTION CRITERIA ..... 14**

**4.3 COMMUNICATION OF THE RESULTS ..... 15**

**5 IPE-WG PITCH: PROCESS AND CRITERIA ..... 15**

**5.1 PITCH..... 15**

**5.2 FINAL SELECTION PROCESS – FINAL DECISION ..... 16**

**5.3 COMMUNICATION OF RESULTS: WINNERS..... 16**

**5.4 AWARDS AND CORRESPONDING OBLIGATIONS OF THE WINNERS ..... 17**

**5.6 OPPORTUNITIES FOR DOWNSTREAM APPLICANT RUNNER-UPS (NOT WINNERS) ..... 20**

**6 EXCLUSION AND WITHDRAWAL OF APPLICANTS ..... 20**

**7 UNDERTAKINGS OF ANY SELECTED APPLICANTS AND WINNERS..... 21**

**8 OTHER TERMS AND CONDITIONS ..... 22**

**8.2 PROPRIETARY INFORMATION ..... 24**

**8.3 PERSONAL IMAGE RIGHTS ..... 25**

**8.4 PROMOTION ..... 26**

**8.5 WARRANTIES – DISCLAIMER OF WARRANTY ..... 28**

**8.6 LIABILITY ..... 28**

**8.7 INFRINGEMENT OF THIRD-PARTY RIGHTS..... 29**

**8.8 STATUTORY OBLIGATIONS – PERSONAL DATA PROTECTION..... 29**

**8.9 SAFETY AND SECURITY ..... 30**

**8.10 POINTS OF CONTACT..... 30**

**8.11 ENTRY INTO FORCE ..... 31**



<b>8.12</b>	<b>APPLICABLE LAW – SETTLEMENT OF DISPUTES</b> .....	<b>31</b>
<b>8.13</b>	<b>MISCELLANEOUS</b> .....	<b>31</b>

## 1 INTRODUCTION

- (1) The European Space Agency (hereafter “**ESA**” or “**the Agency**”) is an international intergovernmental organisation with 22 Member States (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and the United Kingdom). Slovenia, Latvia and Lithuania are Associated States and Canada is a Cooperating State participating in certain ESA activities under their respective agreements.

ESA’s headquarters are situated in Paris, France and ESA has establishments and centres located across several of its Member States, liaison offices in Brussels, Washington and Moscow, its launch base in Kourou, French Guyana, and ground and tracking stations in various parts of the world. Further information about ESA is available on the ESA website: [www.esa.int](http://www.esa.int)

- (2) The ESA Global Space Markets Challenge (herein the “**Challenge**”) is a competition launched by ESA with the operational and technical support of EURISY, a European non-profit association of over 30 government space agencies and other organisations involved in space activities.
- (3) The Challenge aims at giving visibility to Eligible Small and Medium-sized Enterprises (hereinafter “**SMEs**”), which may include Start-ups, which have internationalisation ambitions and are developing products and/or services for the Upstream or Downstream space sector with potential for introduction to Target Markets. A “**Target Market**” is a country other than an European Union Member State, an ESA Member State or Canada, where the product, application or service developed by the Applicants (as defined below) could find potential customers, either institutional and/or commercial, if needed with specific adaptations/customisations developed locally in the Target Market by a subsidiary of the Applicants, existing or to be created ad hoc.
- (4) In the context of the increasingly important role played by SMEs, in particular in the European space sector, ESA is striving to encourage and support the growth of these companies so that they have increased chances to have access to finance, information, and contacts, and, more generally, to promote their capabilities and know-how, in Europe and abroad.

With the ESA Global Space Markets Challenge, eligible SMEs have a novel opportunity to present their plans to introduce their space products and/or services to Target Markets and, for the Winners, to benefit - in accordance with these General Terms and Conditions (hereinafter “**Challenge General Terms and Conditions**”) - from support that helps them to access these Target Markets.

Terms in capitals are defined in **Article 1.2** below.

## 1.1 APPLICABLE DOCUMENTS – IMPACT OF COVID 19

- (1) In addition to these Challenge General Terms and Conditions, the Compliance Statement which has to be submitted as part of the Application process as well as the ESA privacy notice of the event available on the Website shall also apply to the ESA Global Space Markets Challenge and must be adhered to by any Eligible company to be able to participate.
- (2) In consideration of measures currently in place or implemented in the future for the Covid-19 pandemic in many countries, including in ESA Member States (hereinafter "**Covid-19 Measures**"), which could evolve in the course of the application of these Challenge General Terms and Conditions, the Applicants agree that the performance by ESA may be suspended, delayed or prevented due to one or more Covid-19 Measures.

Nevertheless, ESA will make its best efforts to execute the Challenge as planned and will coordinate with the relevant Applicants/Winners in order to mitigate the effect of Covid-19 Measures which may affect the execution of the Challenge. In case one of the Top 12 (twelve) Applicants or, as the case may be, of the 6 (six) Winners of the Challenge is the party affected by Covid-19 Measures, the concerned Applicant or Winner shall inform ESA on how Covid-19 Measures affect their performance under these Challenge General Terms and Conditions and shall cooperate with ESA to mitigate the effects.

## 1.2 LIST OF ABBREVIATIONS AND/OR DEFINITIONS

<b>“Agency” or “ESA”</b>	Means the European Space Agency, governed by the ESA Convention;
<b>“Applicable Conditions”</b>	Means the Challenge General Terms and Conditions and any other terms and conditions referred to in <b>Article 1.1</b> above;
<b>“Applicant”</b>	Means any Eligible Company which applies to take part in the ESA Global Space Markets Challenge by submitting an application under these Challenge General Terms and Conditions;
<b>“Applicant IPR”</b>	Means all IPR created, developed, procured and owned by, or for, the Applicant in the products and/or services included in its application and pitch within the ESA Global Space Markets Challenge;

**“Award(s)”** Means the Prizes and Opportunities mentioned in **Article 5.4.1** of these General Terms and Conditions.

**“Background IPR”** Means:

- (a) with respect to the Applicant, IPR developed, owned, licensed to or otherwise controlled by the Applicant prior to the commencement date of these Challenge General Terms and Conditions or generated by the Applicant (or a third party/parties, as applicable) independently of the performance of these Challenge General Terms and Conditions and, in each case, made available by the Applicant for use in connection with the ESA Global Space Markets Challenge and, in particular, with the products and/or services included in its application and pitch within the ESA Global Space Markets Challenge;
- (b) with respect to ESA, any IPR developed, owned, licensed to or otherwise controlled by ESA prior to the commencement date of these Challenge General Terms and Conditions or independently of the performance of these Challenge General Terms and Conditions;

**“Downstream”** Encompasses, in relation to the space sector, daily operations of space infrastructure and "down-to-earth" activities that directly rely on the provision of a space capacity (satellite technology, signals or data) to exist and function. In these Challenge General Terms and Conditions, the “Downstream category” refers to Applicants developing products/services for the downstream space sector, and which are not directly in competition with Applicants in the “Upstream category” (see. definition of “Upstream” below);

<b>“Eligible Companies”</b>	Means companies which fulfil the eligibility criteria mentioned in <b>Article 3</b> of these Challenge General Terms and Conditions;
<b>“ESA Convention”</b>	Means the Convention for the Establishment of a European Space Agency, available at: <a href="http://www.esa.int">www.esa.int</a> ;
<b>“ESA Global Space Markets Challenge” (or “Challenge”)</b>	Means the one time competition organised by ESA titled “ESA Global Space Markets Challenge” to which these Challenge General Terms and Conditions apply;
<b>“EURISY”</b>	Means the European non-profit association registered under French law, having its registered office at 52, rue Jacques Hillairet, 75012 Paris, France. EURISY has two distinct roles in connection with the Challenge: (i) EURISY will assist ESA in the implementation of the Challenge; and (ii) EURISY will grant an additional award titled “VR Package” to the Winners of the Downstream sector, as described in <b>Article 5.4.1</b> ;
<b>“EURISY video”</b>	The video created under the responsibility of EURISY presenting the company, products and services of the Winners eligible to be granted with this Award.
<b>“Industry Space Days Event”</b>	Means the event organised by the European Space Agency under the name “Industry Space Days” in 2022. Communication about this event may be found at: <a href="https://www.esa.int/About_Us/Business_with_ESA/Small_and_Medium_Sized_Enterprises/SME_Resources/Industry_Space_Days">https://www.esa.int/About_Us/Business_with_ESA/Small_and_Medium_Sized_Enterprises/SME_Resources/Industry_Space_Days</a> ;
<b>“IPE-WG”</b>	Means the Industrial Policy Evolution Working Group and designates the working group advising the Industry Policy Committee of the European Space Agency on certain matters related to industrial policy, which, in the context of this Challenge, will recommend to the ESA Director General the best-placed Applicants to be nominated as Winners;



- “IPR”**

Means all rights in copyright, patents, know-how, Proprietary Information, database rights, rights in trade-marks and designs (whether registered or unregistered), applications for registration of any of the foregoing and the right to apply for registration, and all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;
- “Opportunities”**

Means the non-monetary awards offered to the Winners, under conditions described in **Article 5.4.1 B.**, to support their internationalisation plan and for the Winners’ own promotional purposes.
- “Pre-Selection Committee”**

Means the pre-selection team designated by EURISY, and including between one and five members designated by ESA amongst ESA staff members or external companies (e.g. venture capital) which may collaborate with ESA for the purpose of the ESA Global Space Markets Challenge; the Pre-selection Committee shall be in charge of the pre-selection of the Top 50 Applicants;
- “Prizes”**

Means the monetary award offered by ESA to the Winners, under conditions described in **Article 5.4.1 A.**, to support their internationalisation plan.
- “Proprietary Information”**

Means any information or data of financial, personal, commercial or technical nature marked as per **Article 8.2** below, whether it is in written, electronic, photographic, oral and/or any other form relating to and/or disclosed by or on behalf of the disclosing party to the receiving party, pursuant to these Challenge General Terms and Conditions;
- “Selection Committee”**

Means the committee chaired by the ESA Inspector General, and composed of 5 members nominated by





ESA (representing D/EOP, D/NAV, D/TEC, D/IPL, and the Downstream Gateway) and of a high representative of EURISY, in charge of the selection process of the Top 12 Applicants during Phase 2 of the ESA Global Space Markets Challenge, described in **Article 2.1 (2)** below;

- “Target Market”** Has the meaning ascribed to it in **Article 1 (3)** “Introduction”;
- “Upstream”** Encompasses, in relation to the space sector, scientific and technological foundations of space programmes, as well as manufacturing and production of space infrastructure. In these Challenge General Terms and Conditions, the “Upstream category” refers to Applicants developing products/services for the upstream space sector, and which are not directly in competition with Applicants in the “Downstream category” (see. definition of “Downstream” above);
- “VR Package”** Means the EURISY VR Tool and the EURISY Video;
- “VR Tool”** Means the EURISY instrument which will showcase the products and/or services of the Winners of the Downstream Sector and of the Downstream Applicants runner-ups (as described in **Article 5.5** below) as well as their company, and which is intended to provide its users with an immersive experience inviting them to actively learn about the presented products/services, about their benefits, and how to exploit them;
- “Website”** Means the ESA website accessible at: <https://space-economy.esa.int/global-space-markets-challenge>;
- “Winner(s)”** Means the Applicant(s) nominated by the ESA Director General and granted with the Awards, following the selection process described in these Challenge General Terms and Conditions.

## 2 SCOPE

This document is issued by the European Space Agency, an international intergovernmental organisation governed by its Convention, having its headquarters at 24 Avenue du Général Bertrand, 75007, Paris, France, to address the General Terms and Conditions applicable to the participation in the Agency's "ESA Global Space Markets Challenge," without prejudice to the application of the other Applicable Documents referred to in **Article 1.1** above.

Eligible companies willing to take part in the ESA Global Space Markets Challenge are requested to carefully read these Challenge General Terms and Conditions and make sure they fulfil the eligibility conditions provided in **Article 3.1** below, before submitting an application to that effect.

By submitting such an application, the Applicant is deemed having accepted that its application, selection and participation to the ESA Global Space Markets Challenge shall be subject to these Challenge General Terms and Conditions (for clarity, as they may be modified under **Article 8.13.** below), which shall be binding to the Applicant (for clarity, in case of modifications, upon the date indicated in the Agency's notification of changes).

### 2.1 ESA GLOBAL SPACE MARKETS CHALLENGE STRUCTURE

The ESA Global Space Markets Challenge is organised in five phases, as follows:

- (1) **Phase 1 – Application.** During this Phase 1, the Eligible companies willing to take part in the ESA Global Space Markets Challenge can submit an application to that effect. Applicants will be requested to indicate during the application process in which of the two categories of the ESA Challenge (i.e. the "Upstream" category or the "Downstream" category) they wish to compete. The participation of the same Applicant in both categories is not permitted;
- (2) **Phase 2 - Top 12 Selection.** During this Phase 2, a pre-screening and longlisting by the Pre-Selection Committee, followed by the selection of the Top 12 Applicants (6 Upstream and 6 Downstream) by the Selection Committee shall be carried out. This phase concludes with the invitation of the Top 12 Applicants to pitch their internationalisation plan and to present the products and/or services which they propose to introduce to Target Markets during the ESA IPE-WG meeting, according to the modalities decided and communicated in advance by ESA (e.g. live presentation given remotely etc.);
- (3) **Phase 3 – IPE-WG Pitch.** During this Phase 3, the Applicants selected in the previous phase will present their internationalisation plan and the products and/or services which they propose to introduce to Target Markets to the IPE-WG in the modalities decided and communicated in advance by ESA (see **Article 2.1 (3)** herein) and upon which the members of the IPE-WG will select the 6 (six) best placed Applicants: 3 for the Upstream category and 3 for the Downstream category, which shall be proposed to the ESA Director General for nomination as Winners.

- (4) **Phase 4 – Nomination of Winners.** The decision to nominate the 6 (six) Winners - 3 for the Upstream category and 3 for the Downstream category - and to grant the Awards shall be taken by the Director General of the Agency upon completion of the selection process described above.
- (5) **Phase 5 - Mentoring Phase** opened only to the Winners of the ESA Global Space Markets Challenge during which they will benefit from tailor made support by ESA in accordance with these Challenge General Terms and Conditions and the specific Mentoring agreement to be entered into between ESA and each Winner.

ESA may change any pre-set schedules as necessary or opportune for ESA and shall promptly update the Applicants.

Any decision taken by ESA, including the one to nominate the 6 (six) Winners and to grant the Awards, in the frame of this ESA Global Space Markets Challenge shall be final and binding to the Applicants in all respects.

### 3 APPLICATION AND ACCEPTANCE PROCESS

#### 3.1 ELIGIBILITY

- (1) To be considered as “**Eligible Companies**”, the companies willing to take part in the ESA Global Space Markets Challenge must fulfil the following cumulative conditions:

**SME criteria:** The company must be a Small and Medium-sized Enterprise (SMEs) in consideration of the criteria provided by the European Commission (EC) in its Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (available at: <http://data.europa.eu/eli/reco/2003/361/oj>). The reference to the definition of SMEs given by the above-mentioned EC Recommendation is used within ESA on an opportunity basis.

**Nationality conditions:** The company must belong to one of ESA’s Member States, including Canada (as Cooperating State), Slovenia, Latvia and Lithuania (as Associate Member States), this condition being assessed in light of the criteria set forth in Article II.3 of Annex V to the ESA Convention, i.e. the location of the company’s registered office, of its decision-making centres and research centres, and the territory on which the development of products/services is carried out;

**Ownership conditions:** The company must have as majority shareholders companies incorporated and operating under the laws of one of ESA’s Member States, including Canada (as Cooperating State), Slovenia, Latvia and Lithuania (as Associate Member States), or natural persons that are nationals of such countries;

**General conditions:** Additionally, the company must comply with the following general eligibility criteria:

- a) **Type of products and services:** The company must develop products and/or services for the Upstream or Downstream space sector;
- b) **For peaceful purposes:** the products and services promoted by the company within the ESA Global Space Markets Challenge must be for peaceful purposes (e.g. scientific and/or commercial purposes); consistent with the scope of ESA's mission as provided by Article II of the ESA Convention;
- c) **Proper conduct:** The companies and the members of their management team must act, at all times, in such a manner that is consistent with ESA's reputation and statute and does not hinder ESA's reputation and status or the reputation and envisaged positive impact of the ESA Global Space Markets Challenge.

In particular, and without limitation, the companies and the members of their management team shall not:

- (i) Have been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
  - (ii) Have been found guilty of grave professional misconduct, proven by any means;
  - (iii) Be in *default* with any of their obligations relating to the payment of social security contributions and the payment of taxes;
  - (iv) Have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity;
  - (v) Have been subject to an administrative penalty for misrepresenting the information required as a condition of participation or for failing to supply this information, or having been declared to be in serious breach of its obligations under contracts or agreements covered by ESA's budget;
  - (vi) Have been guilty of infringement of intellectual property rights of a third party, proven by any means.
- (2) The eligibility conditions set out above must be complied with by Applicants throughout the entire duration of the ESA Global Space Markets Challenge and, for the ESA Global Space Markets Challenge Winners, including during the Mentoring Phase.

ESA may, on a case by case basis and strictly on discretionary terms, accept deviations to the eligibility criteria set out above. Such acceptance will be valid only if confirmed in writing by ESA.

- (3) In addition to the statement confirming fulfilment of the eligibility conditions, as required under **Article 3.2** below, ESA (either directly or via EURISY, acting on behalf of ESA) shall be entitled to request from the Applicants, at any time, any documentation and clarification as it deems adequate to assess compliance by the Applicants with the eligibility criteria set out above.
- (4) In addition, Applicants are required to confirm in writing their acceptance of these Challenge General Terms and Conditions.

Should an Applicant not provide such confirmation or fail to comply with these Challenge General Terms and Conditions during the ESA Global Space Markets Challenge (namely, but without limitation, by submitting false, incomplete or inaccurate information), ESA shall be entitled to exclude the same from the ESA Global Space Markets Challenge.

### 3.2 APPLICATION PROCESS – APPLICATION DOCUMENTATION

- (1) Modality to apply. To apply to the ESA Global Space Markets Challenge, Eligible Companies must apply according to the modalities indicated on the Website by filling in an online application form in the tool mentioned on the Website.

In addition, the following information should be submitted:

- a) A filled in application template, providing the requested details about the company's internationalisation plan to take its product and/or service for space to the Target Markets;
  - b) A statement confirming the company's compliance with the eligibility criteria set out under **Article 3.1** above and its adherence to these Challenge General Terms and Conditions;
  - c) A filled in SME self-certification form;
  - d) A copy of an official State document confirming the incorporation of the company and its corporate information, ensuring that that such copy did not suffered any processing or treatment affecting its integrity and reliability.
- (2) General requirements for any documentation submitted by the Applicants. All documentation and information to be submitted in connection with the application process shall be made available in English. If the same is not delivered in English, ESA reserves the right to refuse to accept the application or ask for the English translation of the same to be provided by the expiration of the deadline for Application.  
An exception to this requirement is allowed for the document required under Article 3.2.d) above, given that it must be an identical replica of the form and content of the original document, thus potentially issued in another language than English. The Applicants may (but are not obliged to) provide an accurate English translation of the document required under Article 3.2 d).

Also, the Application and any supporting documentation submitted by the Applicants must not contain any content owned or controlled by third party, in case the Applicant has not received express written permission to submit to, and be used by or for, ESA for the purpose of the ESA Global Space Markets Challenge.

- (3) Deadline for Application. Applications for participation to the ESA Global Space Markets Challenge must be received before **~~23-30 June~~ July 2021 [23:59pm CEST]**. No Application will be admitted after the closure of the application period.

(4) Provisional planning. The provisional planning of the ESA Global Space Markets Challenge includes the following major steps:

- |  |   |
|--|---|
| ▪ 10 May 2021                            | Opening of Application Phase  |
| ▪ <del>23-30 June</del> <u>July</u> 2021 | Closing of Application Phase  |
| ▪ <del>2-30</del> August 2021            | Announcement of longlisted Applicants   |
| ▪ 10 September 2021                      | Announcement of Top 12 Applicants   |
| ▪ 28 September 2021                      | Pitch presentations at the IPE-WG and selection of the 6 (six) best placed Applicants (3 Upstream and 3 Downstream) |
| ▪ 28 – 30 September 2021                 | ESA DG decision to nominate the Winners and to grant the Awards; announcement of the 6 Winners                      |

## 4 TOP 12 SELECTION: PROCESS AND CRITERIA

### 4.1 SELECTION PROCESS

After the closure of the application period, Applications submitted in accordance with **Article 3** above will be subject to a Top 12 Selection process including the following steps:

- (i) a pre-screening process: this process shall be managed by the Pre-Selection Committee which will check that the Applications fulfil all eligibility conditions. Companies that do not meet one or more of the conditions listed in **Article 3.1** will not be permitted to participate to the Challenge, and once an eligibility criteria is no longer fulfilled by an Applicant, the same may be excluded by ESA from the Challenge;
- (ii) a longlisting process: the Pre-Selection Committee will establish two longlists of a maximum of 25 Applicants each (one list for the Upstream, one for the Downstream category);
- (iii) a final selection process: the Applications will be reviewed by the Selection Committee with a view to make a selection of the best 12 (twelve) Applicants with the highest weighted marks (max 6 in the Upstream and max 6 in the Downstream category).

### 4.2 SELECTION CRITERIA

For the purpose of the Top 12 Selection, both the Pre-Selection Committee and the Selection Committee will evaluate the Applications submitted to them by taking into account the following criteria, including weighting factors:



- a) Technical merit and credibility of product or service – (25%);
- b) Demonstrated understanding of Target Market(s) and suitability of product/service for the Target Market(s) (markets, users, competitors, stakeholders to be engaged, own information gaps identified). Demonstrated understanding of potential internationalisation challenges and risks. Discussion of problem areas and elaboration of potential response/mitigation measures (regulatory issues, market risks, credit/currency risks, political risks, etc.) – (35%);
- c) Suitability of implementation plan in terms of envisioned market entry strategy, internationalisation operations, marketing and sales – (20%);
- d) Adequacy and credibility of cost estimations, schedule and planning – (10%);
- e) Team (skills, resources and experience) – (10%).

The Pre-Selection Committee and Selection Committee may, at their sole discretion and as part of their evaluation, pose additional questions to Applicants or request clarifications or additional information.

### 4.3 COMMUNICATION OF THE RESULTS

ESA will not communicate the results after the pre-screening process, but only those of the longlisting process and of the Top 12 selection process, as follows:

- i. Longlisting results: ESA will publish on its Corporate Website (<https://www.esa.int>) the results of the longlisting process (i.e. the two longlists of a maximum of 25 Applicants each) on **2-30 August 2021 [23:59pm CEST]**.
- ii. Top 12 selection results: ESA will notify those longlisted Applicants that were selected into the Top 12, with the indication of the relevant category, on **10 September 2021 [23:59pm CEST]**.

## 5 IPE-WG PITCH: PROCESS AND CRITERIA

### 5.1 PITCH

The Applicants selected into the Top 12 in accordance with **Article 4** above will be required to present their plan to internationalise the products and/or services mentioned in their Application to the Delegates to the IPE-WG according to the modalities decided and communicated in advance by ESA. The Applicants shall make a remote presentation in this respect during the IPE-WG meeting of **28 September 2021**.

Each Applicant shall have 5 (five) minutes to deliver its presentation. The presentations shall be made by a sole person per Applicant. Additional modalities and details of the remote presentation shall be communicated by ESA in advance.

Applicants shall make their presentations in a predetermined order, in accordance with a lottery to be carried out between the Applicants before the start of the pitch. Changes to that order may be agreed between Applicants, if accepted by ESA. ESA may also change the order or modalities of presentations for any organisational or logistical reason.

Presentations and videos shall be delivered in English.

If so requested, the Applicant shall briefly respond to queries or requests for clarification, according to modalities to be decided and notified by ESA.

## **5.2 FINAL SELECTION PROCESS – FINAL DECISION**

**5.2.1** Final selection process. Upon the IPE-WG Pitch phase as set in **Article 5.1** above, the IPE-WG members will select the 6 (six) best Applicants i.e. three best Applicants per each category: Upstream and Downstream. The selection shall be done based on the presentations delivered by the Applicants, also taking into account the criteria set out under **Article 4.2.** above.

**5.2.2** The decision to nominate the 6 (six) Winners - 3 for the Upstream category and 3 for the Downstream category - and to grant the Awards shall be taken by the Director General of the Agency.

The Awards are mentioned and described in **Article 5.4** below.

The decision to nominate the 6 (six) best placed Applicants as Winners shall be taken by ESA Director General at its sole and absolute discretion and shall be final and binding to the Applicants in all respects. ESA Director General shall also nominate any replacing Winner, in any of the cases mentioned in **Article 6** herein.

## **5.3 COMMUNICATION OF RESULTS: WINNERS**

ESA, through the Executive present at the IPE-WG meeting, shall announce the 6 (six) best placed Applicants (3 Upstream and 3 Downstream) during its IPE-WG meeting on **28 September 2021**.

A public announcement of the Winners nominated by ESA Director General shall also be made available by ESA on the Website on **30 September 2021**.





## 5.4 AWARDS AND CORRESPONDING OBLIGATIONS OF THE WINNERS

### 5.4.1 Awards

The Winners shall be offered to enter into a Mentoring agreement with ESA as per Section 5.5 below.

The Mentoring agreement shall include the content of the mentoring programme as well as the detailed conditions of attribution of the following Awards - Prizes and Opportunities - to be used by the Winners for the implementation of their respective internationalisation plan, and for their own promotional purposes.

These Awards are further described below.

Winners position	Downstream category	Upstream category
1 <sup>st</sup>	- Prize: €15,000	- Prize: €15,000
	- VR Package ( <u>Offered by EURISY</u> )	- Company booth at an ESA Event
	- Prestigious 3 <sup>rd</sup> Party event attendance	- Prestigious 3 <sup>rd</sup> Party event attendance
2 <sup>nd</sup>	- Prize: €10,000	- Prize: €10,000
	- VR Package ( <u>Offered by EURISY</u> )	- Company booth at an ESA Event
	- Prestigious 3 <sup>rd</sup> Party event attendance	- Prestigious 3 <sup>rd</sup> Party event attendance
3 <sup>rd</sup>	- Prize: €5,000	- Prize: €5,000
	- VR Package ( <u>Offered by EURISY</u> )	- Company booth at an ESA Event
	- Prestigious 3 <sup>rd</sup> Party event attendance	- Prestigious 3 <sup>rd</sup> Party event attendance

#### A. Prizes

ESA shall proceed to the payment of the above-mentioned Prizes following the nomination of the Winners and signature of the Mentoring Agreement between ESA and the respective Winners, which will indicate the necessary details about the payment process and other terms and conditions applicable to the mentoring activities.

## B. Opportunities

Additionally, the Winners shall be offered the following Opportunities:

- a) Prestigious 3<sup>rd</sup> Party event attendance. All Winners shall be given the opportunity to attend a prestigious event organised by a third party (herein “**3<sup>rd</sup> Party Event**”) where each Winner will have the opportunity to present itself as well as its products and/or services.

The 3<sup>rd</sup> Party Event currently foreseen is the International Astronautical Congress of October 2021 in Dubai. However, in consideration of Covid-19 Measures, the Agency might decide to opt for a different event. All details related to the location and date of the Event will be disclosed in due time by the Agency.

The Winner shall thus appoint a representative to attend the 3<sup>rd</sup> Party Event upon modalities established herein. The Winner will send to EURISY the name, email address and phone number of the participant to the Event for the purpose of receiving the save the date and the invitation and exchanging in connection with the attendance of the 3<sup>rd</sup> Party Event. The contact details must be sent to EURISY at least 1 month before the 3<sup>rd</sup> Party Event.

The Winner shall ensure, before the 3<sup>rd</sup> Party Event, the acceptance by the concerned participant of the Release Form required in **Annex 1** hereto; the release form shall benefit to – and may be invoked by – ESA.

- b) ESA Event. The Winners of the Upstream category shall be given the opportunity to attend an event organised by ESA (herein “**ESA Event**”).

The ESA Event currently foreseen is next edition of the Industry Space Days, organised by the European Space Agency, which is currently foreseen to take place in 2022 at ESA ESTEC, Noordwijk, Netherlands. The Winners of the Upstream category will be offered a company booth at this ESA Event to present their company as well as their products or services to potential customers.

- c) VR Package (Downstream Winners only) – Offered by EURISY. The Winners of the Downstream category will be offered by EURISY the opportunity to have the presentation of their company’s activity as well as that of the products and/or services presented at the IPE-WG embedded in the VR Tool and in the EURISY Video, to be presented at ESA or EURISY roadshows and booths and international events and fairs. The EURISY Video will also be available through an associated EURISY website and will be provided by EURISY to the Winners.
- d) Opportunity to connect with the investor community and with financial institutions. The Winners may be offered additional awards by such external companies (e.g. venture capital), in which case ESA may invite the Winners to contact the external companies as per paragraph e) below.
- e) Additional Opportunities may be identified and granted either by ESA or by external companies willing to support this ESA initiative, in which case :

- a. ESA reserves the right (but does not take the obligation) to change the General Terms and Conditions of the Challenge in this respect;
- b. ESA may invite the Winners to contact the relevant external companies and directly obtain from them the additional Opportunities, without any obligation, liability or warranty being undertaken by ESA.

#### **5.4.2 Payment of reimbursable costs**

- 5.4.2.1 ESA agrees to reimburse, upon due justifications to be sent by the Winners, the travel expenses in relation to the Winners' attendance to the 3<sup>rd</sup> Party Event mentioned in **Article 5.4.1** up to a ceiling amount of EUR 2,500 and without exceeding the maximum amount per category of expense as the latter will be notified by ESA to the Winners. Furthermore, ESA will reimburse to the Winners the conference fees up to a ceiling amount of EUR 1,330.
- 5.4.2.2 ESA also agrees to reimburse, upon due justifications to be sent by the Winners and without exceeding the maximum amount per category of expense as the latter will be notified by ESA to the Winners, the travel expenses in relation to the Winners' attendance to the ESA Event mentioned in **Article 5.4.1** up a ceiling amount of EUR 1,000.
- 5.4.2.3 The Winners will be provided by ESA with further details about the conditions of reimbursement (e.g. the maximum amount per category of expense) after their nomination.
- 5.4.2.4 Apart from the above-mentioned reimbursable costs, all other costs incurred by the Winners in relation to their participation to the Challenge and to the above-mentioned Opportunities shall be solely and exclusively borne by the Winners.
- 5.4.2.5 For avoidance of doubt, the Winners hereby acknowledge and accept that any third party services and products shall be procured and used by the Winners in their own name and on their own behalf, without engaging ESA's liability in any way whatsoever.
- 5.4.2.6 Except as otherwise provided for above, no other payment will be due by the Agency to the Winners in the execution of these Challenge General Terms and Conditions.

#### **5.4.3. Limitations**

ESA's support to the Winners shall not involve any exchange of funds or the loan of any equipment or software, nor will it include the grant of any right in any ESA IPR.

## 5.5 MENTORING AGREEMENT WITH WINNERS

In light of the expertise available at ESA and of the Awards granted to the Winners, ESA shall design, with the assistance of each Winner, a prospective mentoring programme addressing the specific needs of each Winner with respect to their internationalisation plans. Accordingly, a Mentoring agreement providing the terms and conditions of such mentoring programme will be offered in view to be entered into between each Winner and ESA.

- (i) Each Mentoring agreement will follow a template prepared by ESA and must be concluded in writing and signed by the authorised representatives of each Party shortly after the date of announcement of Winners.

ESA's support to the Winners shall not involve any exchange of funds or the loan of any equipment or software ; such ESA support does not include the grant of any right in any ESA Intellectual Property Rights.

## 5.6 OPPORTUNITIES FOR DOWNSTREAM APPLICANT RUNNER-UPS (NOT WINNERS)

The Applicants selected in the Top 6 Downstream category who will not be nominated as Winners will be offered by EURISY the opportunity to have the presentation of their company's activity as well as that of the products and/or services presented at the IPE-WG through a video embedded in the virtual reality environment described in **Article 5.4.1**.

## 6 EXCLUSION AND WITHDRAWAL OF APPLICANTS

Should an Applicant fail, at any moment, to comply with these Challenge General Terms and Conditions, ESA shall notify the Applicant of its exclusion from the ESA Global Space Markets Challenge.

Should an Applicant withdraw, for any reason whatsoever, from the ESA Global Space Markets Challenge, the same shall notify ESA to that effect.

Upon the exclusion or withdrawal of an Applicant selected in any phase of the Challenge ESA may, at its discretion, select a new Applicant to replace the Applicant that was excluded or withdrew.

A decision to exclude and/or to select a replacement Applicant shall be taken by ESA at its sole and absolute discretion and shall be final and binding to the Applicants in all respects.

Should ESA have reasons to consider that an Applicant proposed or nominated as Winner have failed to comply with these Challenge General Terms and Conditions (e.g. fraud), ESA may refuse the attribution of all or part of the Awards or withdraw the Awards and nominate another Winner, and may refuse the signature of a Mentoring agreement. In such case, the Winner shall refund the received Prizes (if any) upon ESA's request, but not later than 30 days after the decision of withdrawal of the Awards was communicated to the concerned Winner.

Should an Applicant selected as Winner withdraw, for any reason whatsoever, from the ESA Global Space Markets Challenge, the same shall promptly and in writing notify ESA to that effect.

Upon the exclusion or withdrawal of an Applicant selected as Winner in accordance with the above terms, ESA may, at its discretion, select a new Applicant as Winner.

A decision to exclude a Winner and/or to select a replacement Winner shall be taken by ESA at its sole and absolute discretion and shall be final and binding to the Applicants in all respects.

## 7 UNDERTAKINGS OF ANY SELECTED APPLICANTS AND WINNERS

**7.1** Any selected Applicants and the Winners, in particular in the performance of the Mentoring agreements, undertake to comply with the obligations set forth in these Challenge General Terms and Conditions and in the said Mentoring agreement, including to:

- a) Not rely on ESA for any funding or other support except for that expressly provided in these Challenge General Terms and Conditions or in the said Mentoring agreement;
- b) Accept that ESA and EURISY can mention freely, and at any time, without further notification, approval or other formality:
  - (i) The name and other identification data of the selected Applicants and Winners;
  - (ii) the logo or trademark(s) of the selected Applicants and Winners; and,
  - (iii) with respect to Winners only, their products and/or services being supported as part of this Challenge;

in writing or by any means, including by means of photographs, or audio and/or video of the Applicants and Winners, of its team, of the project and of its results. This does not apply to Proprietary Information as described in **Article 8.2**;

Comply with the eligibility conditions set out under **Article 3.1** of these Challenge General Terms and Conditions.

**7.2.** Any selected Applicants and the Winners shall ensure, at any time, their (and their agents') compliance with all Applicable Laws and Regulations.

In this context, "Applicable Laws and Regulations" means all laws and regulations applicable to the Winner and its agents, including:

- (i) other mandatory statutes, statutory instruments, orders, rules, instruments, provisions and codes of practice, in force from time to time including the rules, regulations, codes of conduct, codes of practice, guidance, requirements and terms stipulated by any regulator or regulatory body or professional institution to which the

Winner is subject from time to time or whose consent, approval or authority is required for Winner's business activities.

- (ii) In particular, any applicable export control laws, regulations, rules and procedures and any relevant international agreements relating to the export of goods and services.

## 8 OTHER TERMS AND CONDITIONS

### 8.1 INTELLECTUAL PROPERTY

#### 8.1.1 No ESA Background IPR

ESA does not anticipate to share any proprietary Background IPR in the framework of the ESA Global Space Markets Challenge or in the performance of the Mentoring agreements.

ESA retains all rights and title over its own IPR. No licence for the Applicants and Winners to use any of ESA IPR is granted or implied by these Challenge General Terms and Conditions.

#### 8.1.2 Applicants Background IPR and Challenge IPR

- 8.1.2.1 Should an Applicant provide ESA with a Background IPR or solely develop any IPR in the framework of the ESA Global Space Markets Challenge (e.g. Application) or in the performance of a Mentoring agreement (herein "**Applicants Challenge IPR**"), the Applicant shall be and remain the sole and exclusive owner of such IPR.

Applicants hereby grant ESA a royalty-free and non-exclusive licence to use Applicant's Background IPR and Applicant's Challenge IPR, whether or not included in the EURISY Video, as follows:

- (i) Granted rights: copy, access, share, analyse, review, test;
- (ii) Purpose: for ESA communication needs as well as for the Challenge-related needs;
- (iii) Duration: for the term of the ESA Global Space Markets Challenge and, after the expiration or termination of the ESA Global Space Markets Challenge, for as long as ESA communication purposes subsist and for at least 5 years after the announcement of the Winners;
- (iv) Territory: worldwide;
- (v) Sublicensing: is permitted under the supervision of ESA, in particular to ESA's on-site contractors or other third parties (experts, contractors, Delegates of ESA Member States) involved in the ESA Global Space Markets Challenge to the extent necessary to fulfil the above-mentioned purpose.

Applicants shall mark the items with Background IPR with '*Copyright \*\*\*\*\* (year of creation of the item)*'. *ESA has the right to use and share this item according to the General terms and Conditions for Participation to the ESA Global Space Markets Challenge*".



8.1.2.2. By submitting an Application to participate to the ESA Global Space Markets Challenge, Applicants are deemed having confirmed and warranted that they have formalised the necessary arrangements for the purpose of this Section 8.1.2. with all its personnel, contractors and third parties involved in the creation, development and/or delivery of the Background IPR or of Applicant's Challenge IPR.

### 8.1.3 Rights granted for the benefit of EURISY

Applicants hereby grant EURISY a royalty-free and non-exclusive licence to use Applicant's Background IPR and Applicant's Challenge IPR, as follows:

- (i) Granted rights: copy, access, share, analyse, review, test, render public;
- (ii) Purpose: for the purpose of creating and exploiting the VR Tool and the EURISY Video, for EURISY communication needs and for the Challenge-related needs;
- (iii) Duration: for the term of the ESA Global Space Markets Challenge and, after the expiration or termination of the ESA Global Space Markets Challenge (including, for Winners, the expiration or termination of the Mentoring agreements), for as long as the above purposes subsist and for at least 5 years after the announcement of the Winners;
- (iv) Territory: worldwide;
- (v) Sublicensing: is permitted under the supervision of the main licensee (ESA or, respectively, EURISY), in particular to on-site contractors or other third parties (experts, contractors, Delegates of ESA Member States) to the extent necessary to fulfil the above-mentioned purposes.

The main licensee (ESA or, respectively, EURISY) alone shall be responsible vis-à-vis the Applicants for its compliance with this license; any disputes involving EURISY must be managed without the involvement of ESA. EURISY may avail itself of these rights conferred on it.

### 8.1.4 Rights granted for the benefit of Applicants

EURISY authorised ESA to inform the Applicants and Winners willing to benefit from the Opportunities described in **Article 5.4.1 B) (c)** or in **Article 5.5** of these Challenge General Terms and Conditions about the following:

*“EURISY grants a license to Applicants and Winners eligible to the Opportunities described in **Article 5.4.1 B) (c)** or in **Article 5.5** of these Challenge General Terms and Conditions to use the EURISY Video (as defined in these Challenge General Terms and Conditions), as follows:*

- (i) Granted rights: copy, access, share, analyse, review, test, make public;*
- (ii) Purpose: for communication and promotional needs;*
- (iii) Duration: for as long as the purposes above subsist and for at least 5 years after the announcement of the Winners;*
- (iv) Territory: worldwide;*
- (v) Sublicensing: is permitted only under the main licensee's supervision, to the extent necessary to fulfil the above-mentioned purpose.*

*For clarity, the Opportunities described in **Article 5.4.1 B) (c)** and in **Article 5.5** of these Challenge General Terms and Conditions are offered by EURISY only. Thus, any disputes that may arise in connection with the licence above shall be solved between EURISY and the beneficiaries of such opportunities and ESA shall not be held liable towards EURISY or the beneficiaries of such opportunities in connection with the above licence or the EURISY Video.”*

## 8.2 PROPRIETARY INFORMATION

- (1) Any Proprietary Information exchanged between ESA and the Applicants within the ESA Global Space Markets Challenge shall be clearly and conspicuously marked by the disclosing party as “*Proprietary Information belonging to [insert name of the Party]*” at the time of disclosure. Proprietary Information, which is orally disclosed or disclosed in any other intangible form, may only be protected under these Challenge General Terms and Conditions if it is identified as Proprietary Information at the time of disclosure and then confirmed in writing within 30 (thirty) days from such oral or intangible disclosure.
- (2) Applicants confirm hereby that none of the products and/or services or documentation included in its application and pitch within the ESA Global Space Markets Challenge will contain Proprietary Information that would prevent the exercise of the rights granted under these Challenge General Terms and Conditions.
- (3) The disclosing party, to the extent of its right to do so, shall disclose to the receiving party only such Proprietary Information deemed appropriate to fulfil the purpose of these Challenge General Terms and Conditions.
- (4) The Parties’ obligations include the following:
  - a) All Proprietary Information will neither be used, duplicated, in whole nor in part, for any purpose other than the Purpose of these Challenge General Terms and Conditions as specified above, without the prior written consent of the disclosing party;
  - b) All disclosed Proprietary Information will be protected and kept in confidence by the receiving party, who shall use at least the same degree of care and safeguard as it uses to protect its own Proprietary Information of like importance but no less than a reasonable degree of care;
  - c) If the receiving party becomes aware of any unauthorised disclosure concerning Proprietary Information of the disclosing party, it shall promptly inform the disclosing party and the parties shall attempt jointly to find a remedy to the situation.
- (5) The obligations with respect to handling and using Proprietary Information as aforesaid are not applicable to information that the receiving party can demonstrate by written evidence:
  - a) Has come into the public domain prior to, or after, the disclosure thereof and in such case through no fault of the receiving party;



- b) Was already or has become in the possession of the receiving party without any obligation of confidentiality upon the receiving party;
- c) Has been or is published without violation of these Challenge General Terms and Conditions;
- d) Is independently developed in good faith by staff or employees of the receiving party who did not have access to the Proprietary Information;
- e) Is approved for release or use by written authorisation of the disclosing party;
- f) Is not properly designated or confirmed as Proprietary Information according to these Challenge General Terms and Conditions; or
- g) Is disclosed pursuant to the request of a governmental or jurisdictional authority, in which case the receiving party, subject to possible constraints of such governmental or jurisdictional authority, shall as soon as possible give the disclosing party a written notice of the aforementioned request and shall reasonably cooperate with the disclosing party's lawful efforts in order to delay or limit such disclosure (at the cost and expense of the disclosing party).

### **8.3 PERSONAL IMAGE RIGHTS**

- (1) By submitting an Application to participate in the ESA Global Space Markets Challenge, Applicants are deemed to have:
  - a) agreed to make its personnel, contractors and (if any) third parties involved in the ESA Global Space Markets Challenge available for the communication activities required by ESA (which may include interviews in writing/audio/video and photo/audio/video recording of the personnel, contractor and/or the project activities); and
  - b) undertaken to obtain upfront the written authorisation for this purpose and for the further use of their image and identification information from its personnel, contractors and (if any) third party involved by the Applicant in the ESA Global Space Markets Challenge, for the purposes highlighted in (a) in the relevant communication by ESA.
- (2) Applicants shall not allow participation in the ESA Global Space Markets Challenge of any personnel, contractors and (if any) third party involved by the Applicants in the ESA Global Space Markets Challenge if they did not give such written authorisation. All these individuals actually taking part in all or part of the ESA Global Space Markets Challenge are deemed, as between ESA and the Applicant, as having given such authorisation.
- (3) If, at the submission of an Application, the Applicant does not submit all the required identification information and/or personal data, the Applicant may be considered as non-eligible.

## 8.4 PROMOTION

- (1) ESA is the owner of a certain number of registrations and applications for the ESA trademarks, consisting of the ESA acronym and logotype, covering products and services of classes 7, 9, 12, 14, 18, 25, 28, 35, 41 and 42 in certain territories including in the European Union and this protection may be extended in the future; ESA holds a protection on the denomination “European Space Agency” and on the acronym “ESA” alone and in association with the Logotype under Article 6ter of the 'Paris Convention for the Protection of Industrial Property' since their communication on September 23, 1976 (Annex II) and ESA has been using this acronym and this Logotype as an emblem since then. The use and reproduction of the ESA name, acronym and logotype by the Applicants is forbidden, except in the cases expressly mentioned in this Article 8.4 (5).
- (2) Applicants shall make sure that communication about their participation in the ESA Global Space Markets Challenge is fully coordinated in advance with ESA. No action shall be implemented without ESA’s prior and written authorisation to proceed, such acceptance being obtained from the ESA Global Space Markets Challenge contact point mentioned on the Website and from ESA Communication’s point of contact provided in **Article 8.10**.
- (3) In particular, Applicants shall submit, for ESA’s prior and written approval, the electronic version of any communication material using, ESA name, ESA acronym or the ESA logo; ESA may, at its discretion, withhold such approval or grant it under modified conditions that it considers appropriate.
- (4) In addition, all publications related to the work carried out under the ESA Global Space Markets Challenge shall carry a disclaimer with the following wording (or wording to the same effect): “*The view expressed herein by the authors can in no way be taken to reflect the official opinion of the European Space Agency.*”
- (5) Pursuant to the selection of Applicants into the Top 12, ESA grants the Applicants a right to use the ESA logo only as follows:
  - a) A non-exclusive, non-transferable, non-assignable, revocable (in case of breach of these Challenge General Terms and Conditions), worldwide, non-sublicensable licence;
  - b) Exclusively to reproduce and display the ESA logo on communication materials related to its participation to the ESA Global Space Markets Challenge, subject to the acceptance by ESA in writing and in advance, such acceptance being obtained from ESA Communication’s point of contact provided in **Article 8.10**;
  - c) Only for the duration of the ESA Global Space Markets Challenge; nevertheless, ESA may terminate the right to use granted as above at any moment, by written notice to the Applicant or by announcement through the ESA website. Such notice shall be effective immediately, without any formality being needed;
  - d) The license shall not include the right to grant sub-licenses, except to third parties involved in the production of the communication materials, only as strictly necessary



for their production and subject to the Applicant remaining liable towards ESA for such third parties.

The ESA name, acronym, or logo shall never be used in a manner that could be detrimental to the good reputation of the Agency.

- (6) Applicants are not entitled to use, or to register as trademark (or obtain any intellectual property title into), any logo, sign or mark identical or similar to the ESA logo.
- (7) In consideration of the right to use the ESA name, acronym and logo as mentioned in this Article 8.4 (5) above, Applicants selected into the Top 12 shall:
  - a) Provide to ESA an electronic copy, in the highest possible resolution, of the communication materials using the ESA logo, including videos and sound recordings of the communication activities related to the Applicant's participation to the ESA Global Space Markets Challenge, done by, or for, the Applicant;
  - b) Permit ESA to place links to web pages pertaining to the Applicant on ESA's own websites;
  - c) Obtain all the necessary authorisations from any third party right holders; by submitting their Application, the Applicants are deemed having authorised ESA to use (including to reproduce, copy, publish, communicate, make available, distribute and disseminate to the public on any current or future communication media or network) such sample communication materials and any such videos or sound recordings, in all cases for ESA's own communication purposes.
- (8) These rights are granted to ESA under these Challenge General Terms and Conditions, without further formality:
  - a) On a worldwide, non-exclusive and free-of-charge basis, during the period of protection of said sample communication materials, videos or sound recordings by an IPR, with the possibility for ESA to sublicense under the same terms for its own communication purposes; and
  - b) In view to a peaceful use by ESA and/or its sub-licensees, Applicants shall defend, indemnify and hold harmless ESA in case any third party (including but not limited to artists) claims a violation of its intellectual property rights by ESA's (or its sub-licensees') use as authorised above.
- (9) Applicants shall also immediately fully inform ESA of any legal action, if such action is brought against the Applicants in respect of the use of any part of the ESA logo. The Applicants shall not make any admission of liability or agree to any settlement or compromise without the prior written consent of ESA.
- (10) ESA does not endorse (and may not be presented in any way creating appearance of an endorsement of) the general activity of the Applicant. ESA is not (and may not be presented in any way creating appearance of being) liable for any matter that relates to the Applicants' role.



- (11) In order to preserve the goodwill and reputation associated with ESA and its Member States, Applicants shall not use the ESA name, ESA acronym, ESA logo, or ESA Global Space Markets Challenge name or any communication in any way that could:
- a) Imply endorsement by ESA and/or ESA staff of any commercial product, process or service provided by the Applicant, of the Applicant or any of its activities;
  - b) Imply endorsement by ESA and/or ESA Staff of any commercial product, process or service, or of any ideology, religion, political doctrine or party;
  - c) Be incompatible with the reputation, status and objectives of ESA and its Member States and able to jeopardise them; such as but not limited to, in connection with tobacco, alcohol, illegal drugs, pornography, violence, gambling; or,
  - d) Be inconsistent with these Challenge General Terms and Conditions.
- (12) In consideration of the respective roles of ESA and the Applicant, the Applicant must:
- a) refrain from any misleading communication in relation to the respective roles of ESA and the Applicant; and,
  - b) take into account any suggestion made by ESA, should any information or communication media made by the Applicant appear as misleading or not consistent with these Challenge General Terms and Conditions. The Applicant shall remedy this to ensure compliance with these Challenge General Terms and Conditions.

## **8.5 WARRANTIES – DISCLAIMER OF WARRANTY**

- (1) By submitting its Application, the Applicant warrants that it has the right and authority to enter into the ESA Global Space Markets Challenge, to perform its obligations under these Challenge General Terms and Conditions, and when applicable, to enter into discussion on a Mentoring agreement.
- (2) ESA does not grant the Applicant any warranties whatsoever in connection with the participation of the Applicant to the ESA Global Space Markets Challenge, in relation to the Mentoring agreement for the Winners, or in connection with the use of the ESA logo. In particular, and without limitation, ESA does not warrant that ESA will select the Applicant to go into any subsequent phase of the ESA Global Space Markets Challenge.

## **8.6 LIABILITY**

- (1) Nothing herein may be interpreted as limiting the liability of the Applicant for gross negligence or wilful misconduct.
- (2) In no case shall ESA be liable for any failure, total or partial, to fulfil its role, nor for any delays or errors in fulfilling its role, including the following:

- a) ESA shall not be liable for not selecting, or failing to select, the Applicant to proceed into the next phases of the ESA Global Space Markets Challenge;
  - b) ESA shall not be liable for any malfunctioning or non-performance of the Applicant's products and/or services in the context of the Opportunities nor for any lack of suitability, fitness, adequacy, or timeliness for the purposes of the same, unless where any of the foregoing have been caused by gross negligence or wilful misconduct on the part of ESA.
- (3) The Applicant remains liable for obtaining the intellectual property licenses from its personnel, contractors (and any other person or entity in the Applicant's team) and from any third party IPR holders and/or suppliers as well as the authorisations for the personal image rights required for the exercise of rights granted under these Challenge General Terms and Conditions.
- (4) ESA shall not be liable for any matter in relation with the implementation of internationalisation plans or the use of any of the Awards by the Winners. The Winners shall be solely liable for any aspects in relation to their respective implementation plans, including in case of failure to comply with any Applicable Laws and Regulations (as defined in Article 7.2 herein). In particular, the Winners shall defend, hold harmless and indemnify ESA from and against any and all losses, liabilities, damages, costs (including legal fees) and expenses incurred by, or awarded against ESA arising out or resulting from, any claim or allegation or action of a third party :
- a) arising out of Winner's (or it's agents') failure to ensure compliance with any of the Applicable Laws and Regulations;
  - b) on any grounds in relation to the implementation of the internationalisation plan. In particular

## 8.7 INFRINGEMENT OF THIRD-PARTY RIGHTS

The Applicant guarantees hereby that it will perform the activities within the ESA Global Space Markets Challenge without infringing any rights of third parties. If the Applicant infringes any rights of third parties during the ESA Global Space Markets Challenge, then the Applicant shall indemnify, defend and hold ESA harmless from and against all claims, proceedings, damages, costs and expenses arising from the infringement of those third-parties rights.

## 8.8 STATUTORY OBLIGATIONS – PERSONAL DATA PROTECTION

- (1) Both ESA and the Applicants shall comply with the provisions of their respective legal frameworks with respect to Personal Data Protection and must duly observe all their obligations set forth in these Challenge General Terms and Conditions. This **Article 8.8** is in addition to, and does not relieve, remove or replace, a party's obligations under its own Data Protection Legislation.

- (2) The collection, handling and use of Personal Data relating to individuals shall be treated as proprietary personal information and appropriately protected at all times.
- (3) Both ESA and the Applicants shall at all times be responsible for ensuring that all Personal Data (including data in any electronic format) is stored securely and guarded against unauthorised access to, disclosure of, or loss or destruction of the Personal Data whilst in their custody.

## 8.9 SAFETY AND SECURITY

To the extent the Winner is entitled to attend the Industry Space Days:

- (i) the Winner shall comply with all applicable laws, decrees, rules, and regulations, in particular national legal frameworks (including national space legislation) as applicable, those concerning safety and security at ESTEC or any other ESA site.
- (ii) ESA reserves the right to expel immediately from the site and deny access to any Winner's representatives who fail to follow the applicable safety and security rules and procedures, or who infringe any applicable rules and regulations. The consequences of such expulsion or access prohibition shall be borne by the Winner.
- (iii) During their stay at ESA sites, Winner's representatives shall carry at all times the Agency's identity card. Identity cards must be immediately returned to the Agency at the end of their stay at ESA sites. Winner's representatives shall complete the formal visitors' procedure at the site. Visitors are not permitted to visit areas, other than the restaurant and conference facilities, without the prior authorisation of the Agency's technical supervisor concerned. Presence of Winner's representatives at ESA sites under these Challenge General Terms and Conditions shall be allowed only during the times when the event is opened to participants.

## 8.10 POINTS OF CONTACT

The Parties' points of contact are:

For ESA – on Event organisational topics:

Sandra Vogt  
Industrial Policy Officer  
European Space Agency  
Keplerlaan 1  
2200AG Noordwijk, The Netherlands  
+31 71 5654656  
[sandra.vogt@esa.int](mailto:sandra.vogt@esa.int)



For ESA – on Communication topics:

Jules Grandsire  
Corporate Communication Officer  
European Space Agency  
24 rue du Général Bertrand  
75007 Paris, France  
+33 7 89 56 51 57  
[Jules.Grandsire@esa.int](mailto:Jules.Grandsire@esa.int)

### **8.11 ENTRY INTO FORCE**

These Challenge General Terms and Conditions shall enter into force for the respective Applicant upon submission of its Application to participate to the ESA Global Space Markets Challenge and shall remain in force for the longest of the two following periods:

- a) A period of 5 (five) years; or,
- b) The duration of the Mentoring agreement and 5 (five) years afterwards.

### **8.12 APPLICABLE LAW – SETTLEMENT OF DISPUTES**

- (1) Without prejudice to the privileged status of ESA as an international organisation, these Challenge General Terms and Conditions are subject to the laws of France.
- (2) ESA and Applicants shall use their best endeavours to amicably settle any dispute arising out of these Challenge General Terms and Conditions. Failing an attempt towards an amicable settlement, the disputes between the parties shall be submitted to arbitration according to the Rules of Arbitration of the International Chamber of Commerce and shall be finally settled by one or more arbitrator(s) (in this latter case, one appointed by each party and the third one appointed independently). The Arbitration proceedings shall take place in Paris, France, and shall be conducted in English. The decision from the arbitration shall be final, not subject to appeal. The enforcement of the award shall be governed by the rules of procedure in force in the state in which the award is to be executed.

### **8.13 MISCELLANEOUS**

- (1) ESA and the Applicant are independent parties under these Challenge General Terms and Conditions and nothing herein is intended nor shall be construed as creating a partnership, joint venture or agency relationship.
- (2) These Challenge General Terms and Conditions may be changed by ESA at any time and shall be applicable to the Applicant upon notification of change. Pursuant to the



signature of a Mentoring agreement incorporating these Challenge General Terms and Conditions, the changes to the Challenge General Terms and Conditions shall be valid only if they are formalised by ESA in writing by amendment to the Mentoring agreement and signed by both Parties. The amendments shall be numbered sequentially for the sake of traceability.

- (3) A specific ESA point of contact for every phase of the ESA Global Space Markets Challenge shall be communicated by ESA to the Applicants on the Website or by any appropriate means.





**Annex 1**

**Company's Participants Release Form**

I, the undersigned,

First name/family name:.....

Domiciled: .....

having regard to the General Terms and Conditions for Participation to the Global Space Markets Challenge, that I have accepted, and having regard to my participation to the Event and related communication activities performed by, or for, ESA herewith:

- (1) Declare that I have reached the age of majority in my jurisdiction of residence at the time of this Authorisation and Release Form.
- (2) Acknowledge and accept that:
  - (i) the details about the Event shall be notified in writing and in advance by ESA – European Space Agency, an international intergovernmental organisation, governed by its Convention;
  - (ii) when attending the Event, I enter an area where photography, audio and video recording may occur and that my personal data (e.g. image, name etc.) are collected by ESA or by the Organiser;
  - (iii) the photos, recordings, videos and any personal data may be:
    - i. processed for ESA communication purposes;
    - ii. subject to cross border transfer to locations where processing is so performed;
    - iii. retained for as long as the above mentioned purposes persist and shall be deleted thereafter.
  - (iv) with respect to personal data collected by or for ESA, the information that I am entitled to request under the current ESA framework on personal data protection may be requested from ESA DPO at: DPO@ESA.int
- (3) Agree that I shall not receive or claim for any compensation, financial or otherwise and that I will not withdraw this authorisation.

Read and Agreed.

Done in ....., on .....

Signature: .....