**SUBJECT: Permanent Open Call for Proposals for the European Space Agency Business Incubation Centre Madrid Region (“ESA BIC Comunidad de Madrid”)**

Dear Madam, Dear Sir,

As part of its endeavour to encourage the transfer and commercialisation of space

echnologies, the European Space Agency[[1]](#footnote-2) (the Agency) has set up a network of incubation centres across several Member States. Their purpose is to enable entrepreneurs (incubatees) to receive commercial and technical assistance in order to set up their business using space technology for general non-space industrial, scientific and commercial uses (“spin-off”) or using non space technology for proposing products and services for the space sector (spin-in”) [[2]](#footnote-3).

Fundacion Madrimasd para el Conocimiento (“FUNDACION MADRI+D”) is entrusted by the Agency with the setup, administration and implementation of this Call. FUNDACION MADRI+D is Madrid Regional development agency and an international benchmark for supporting entrepreneurship, innovation, professional improvement and job creation in its 13 years of operations with large experience in technology start-up support. FUNDACION MADRI+D is in charge of managing the ESA BIC programme in Madrid.

FUNDACION MADRI+D hereby invites you to submit a proposal for the above subject.

Please find attached hereto the following documents:

**Appendix 1: Call for Proposals**

Section I: Formal requirements, selection process and evaluation criteria

Section II: Draft Contracts:

* Draft Incubation Contract
* Draft Rental Contracts / Agreements for the Use Building Facilities

Addendum 1: Standard requirements for management, reporting, meetings and deliverables

Addendum 2: Agenda for Mid Term Review

Addendum 3: Final Review Template

Addendum 4: Logo

Addendum 5: Vacancy Note template

Application templates can be downloaded from Space Solutions and/or FUNDACION MADRI+D web sites.

Your attention is drawn to the following:

Nature and purpose of this Call for Proposals:

1. The purpose of this Call for Proposals (Call) is to select projects and ideas for business incubation in ESA BIC Madrid Region for the maximum period of 24 months.
2. ESA BIC Madrid Region offers to support projects and ideas for business incubation by providing funding, business support and technical assistance. The modalities and the extent of the support provided are negotiated on case by case basis. As a general rule the incentive granted to one project can only be spent in Spain[[3]](#footnote-4). The incentive will be a maximum of € 50.000 covering costs incurred for the development of products, prototypes, software and IPR. The total financial contribution to the Activity amounts to € 50.000 (Fifty Thousand EURO), broken down as follows:
   * Up to € 25.000 from Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid), for Labour Costs clearly linked to the development of products, prototypes, software and IPR as long as there is a clear output of the activity in terms of deliverables on the condition that they address additional job creation –other than the entrepreneur him/herself– within the start-up company.
   * Up to € 25.000 from ESA covering the development of products, prototypes, software and IPR. ESA contribution explicitly excludes Labour Costs.

Payment will be done upon acceptance of the deliverables on the agreed milestones. The economic incentive cannot be allocated for other expenses than those described here. For example, expenses related to office rental, creation or management of the company, project management, market development, etc. are excluded.

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In addition, a maximum of 80 expert hours for Technical Support as well as, 100 coaching hours of Business Development Support are offered during the incubation period.

1. This Call is of a permanent nature, meaning, that it has no closing date for the submission of proposals as long as the ESA BIC Madrid Region has not indicated otherwise. Selection and evaluation of the proposals is scheduled periodically and is stipulated on the Space Solutions and/or FUNDACION MADRI+D web sites.

**Application to the ESA BIC Madrid**

1. Applications are only considered from one of the Agency’s Member States (see note 1 above)and Canada.
2. Applications are only considered from the applicants fulfilling conditions set-out in this Open Call and stipulated herewith.
3. Participation to the Open Call is opened to legal entities within the relevant ESA Member State (Member State where the Contractor is located), and natural persons, who are resident with a permanent working permit within said Member State. Natural persons are required to demonstrate that, at the time of submission of their proposal to the Open Call, the process of establishment and registration of a legal entity has been initiated. Additionally, if a legal entity has not been established/registered yet, the applicant shall provide the envisaged organisational structure, legal status and share ownership, if applicable, of the company in its proposal. Non-compliance with such requirements will lead to the proposal being ruled non-admissible. A Contract with an applicant can only be signed when the registration of the corresponding legal entity has been completed and, said legal entity acquires full legal capacity. In case of start-up companies with legal personality, the company –represented by its authorised representative(s) – is considered to be the Applicant. In case of legal entities without legal personality, the general partner is considered to be the Applicant. In case the Applicant is a natural person, (s)he is considered to be over eighteen years of age and of sound mind, and therefore able to enter into a binding agreement.
4. All the above categories are hereinafter referred to as ‘Applicant’.
5. This Call explicitly excludes activities promoting, or being related to, alcohol, tobacco, religion, politics, intolerance, violence, firearms, pornography, obscenity, gambling or illegal drugs.

**Requirements:**

1. Applicants are required to closely follow the instructions provided in this Call when producing and submitting their proposal. (see application templates in Space Solutions and/or FUNDACION MADRIMASD web site).
2. Only those Applicants that fulfil all formal requirements (see Section 2 of Appendix 1) will be accepted for evaluation.
3. Applicants should carefully read the contractual documentation provided in Section 2 of Appendix 1. **The application shall include a clear, explicit and unambiguous statement whereby the Applicant has read, understood and accepts the terms and conditions contained in the contractual documentation.** In case, exceptionally, that the Applicant wishes to propose modifications or amendments, the full text of such modifications or amendments shall be given and the reasons for their being requested be clearly explained as part of the proposal.

**Procedure and planning:**

1. The evaluation of all proposals received shall take place in accordance with the Agency’s and ESA BIC Madrid Region rules, procedures and requirements. All Applicants will be informed of the outcome of their evaluation.
2. The evaluation procedure is managed locally by FUNDACION MADRI+D with the participation of the Agency.
3. The Evaluation Board meets periodically to evaluate the proposals received between the last selection process and the published deadline. Proposals will be accepted for the current evaluation round in case they reach the ESA BIC Madrid Region Project Manager within the current deadline, the date of which is published on Space solutions web site and/or www.madrimasd.org.
4. After selection by the Evaluation Board, ESA BIC Madrid Region shall enter into negotiation with the selected Applicants, taking into account the comments and clarification points of the Evaluation Board.
5. Applicants will be informed in writing about the outcome of the evaluation and final decision taken. The Applicant may require, within 10 calendar days following the receipt of such notification, from ESA BIC Madrid Region an oral debriefing explaining the reasons why their proposal was successful or not.
6. ESA BIC Madrid Region has the right not to place a contract, if three months after the notification to the successful Applicant no contract has been implemented due to a reason for which the Applicant can be held accountable.
7. Additionally, ESA BIC Madrid Region has right not to place a contract, in case of discrepancy between the envisaged legal entity that the applicant as natural person included in its proposal and the actual established and registered legal entity. These discrepancies may include but are not limited to different organisational structure of the legal entity, its legal status or different shareholders, if there are any.

**Miscellaneous:**

1. The contents of Applicant proposals shall be treated as confidential. Documentation submitted will be stored for internal auditing purposes only. Therefore, the destruction of any data may not proceed until FUNDACION MADRI+D and the Agency has met all the associated obligations and duties.
2. In spite of the efforts undertaken by FUNDACION MADRI+D to ensure full confidentiality, the Applicant’s idea may through this application (if not specifically protected like for example by patent rights) fall into the public domain. Therefore we strongly recommend that the Applicant discusses the protection of his/her idea with a dedicated expert in this field prior to application to the ESA BIC Madrid Region.
3. As far as allowed by law, any title held by the Applicant to his/her idea shall remain vested in him/her. This application shall under no circumstances result in the acquisition of any title whatsoever to the idea[[4]](#footnote-5).
4. No expenses incurred in either stage of the application procedure will be reimbursed to the Applicant by FUNDACION MADRI+D, the Agency and/or any third party.
5. In no event shall this Call for Proposals be construed as imposing any obligation whatsoever upon FUNDACION MADRI+D to enter into negotiations with any Applicant or to enter into any other specific arrangement for business incubation in any of the Agency’s establishments.
6. FUNDACION MADRI+D and the Agency are committed to ensuring equal opportunities and the elimination of discrimination of any type for all applications complying with the conditions and requirements set forth in this Call.

Any queries relevant to the submissions of proposals are to be addressed - in writing - to: [esabic@madrimasd.org](mailto:esabic@madrimasd.org).

The complete proposal and all supporting documents are to be submitted, in electronic form (.pdf or .doc) to the following email addresses: [esabic@madrimasd.org](mailto:esabic@madrimasd.org)

In parallel, one signed hard copy of the original must be sent to:

Fundación para el Conocimiento Madri+d

Pª Recoletos 14

28001, Madrid

Spain

For the attention of Mr. Carlos Romero

With reference: ESA BIC Madrid Region - Open Call

Yours faithfully,

Mr. Jesús Sánchez Martos,

FUNDACION MADRI+D, CEO

**Appendix 1**

**Call for Proposals**

***(for business incubation)***

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[I. Draft Incubation Contract 11](#_Toc503876385)

[II. Draft Rental Contract 38](#_Toc503876386)

# Section I: Formal Requirements, Evaluation Process and Criteria

## Formal requirements

The Applicants are required to follow stringently instructions set out in the following documents (attach to this Open Call as templates in its Appendix 2)

and use them as basis for the application to the ESA BIC Madrid Region Open Call.

1. ESA BIC Application Cover Letter template with the Requirements Checklist and the Executive Summary;
2. ESA BIC Application Business Plan template;
3. ESA BIC Application Incubation Proposal template.

It is of a paramount importance to express compliance with each point included in the Requirements Checklist, which is enclosed to the Cover Letter template also in Appendix 2 to this Open Call. Instructions (highlighted in blue in each template) shall be followed thoroughly in order to fulfil all pre-conditions of the Open Call and in order for the proposal to be further accepted for evaluation.

* The ESA BIC Madrid Region **general application requirements** are applicable to all ESA BICs Applicants.

## Evaluation process

Until further notice by the Agency or ESA BIC Madrid Region Applicants are invited to submit their proposals for ESA Business Incubation Centre Madrid Region at all times. Selection and evaluation of the proposals is scheduled periodically and is stipulated on the [Space](http://Space) Solutions / ESA BIC Madrid Region website.

Upon receipt of the proposal, the Agency and its local partners shall first assess the admissibility of the Applicant’s proposal. The proposal is only admitted for evaluation in case all formal requirements (See ***A*** above) have been met.

It is important that the Applicants fulfil preconditions set for the eligibility to participate in ESA BIC Madrid Region Open Call.

If a non-compliance of minor nature is identified, the Applicant may be asked to resubmit an updated proposal within 48 hours, correcting the non-compliances.

If the proposal is considered non-admissible, the Applicant will be informed of such and also specifying the reason for rejection. In all other cases the proposal shall be rejected. The Applicant is not prevented from re-applying to the next selection campaign.

In case the proposal is compliant with the formal requirements, Applicants will be invited to hold a presentation of the proposal in front of the above mentioned ESA BIC Madrid Region Evaluation Board and to provide answers to any questions the Board might have.

The proposal and the presentation will be marked against the selection criteria detailed under ***C*** below.

The Applicants shall be notified in writing about the outcome of the evaluation and the final decision taken.

Within 10 calendar days following the receipt of the notification foreseen under the previous paragraph, the Applicant may require from the ESA BIC Madrid Region Contracts Officer an oral debriefing explaining the reasons why his/her application was successful or not.

## Evaluation criteria

The evaluation shall be based on the way the criteria below have been addressed both in the proposal and during the Applicant’s presentation.

-

* **Background and Experience (25%)**

o Experience and team composition

o Support entities

o Vision

- **Technology/Service (20%)**

o Space Connection

o Technical Feasibility of the product/service to be developed

o Product Development Strategy

o Intellectual Property Strategy

* **Value proposition & Market (20%)**

o Value Proposition

o Market

o Competition

* **Business Modelling and Risk (15%)**

o Revenue model

o Finance

o Risk

* **Activity Proposal (20%)**

o Quality of the eBAP

o Milestones/cost-planning

o Work break down

o Management

o ESA BIC investment opportunity

## Draft Incubation Contract

**Between:**

FUNDACION MADRIMASD PARA EL CONOCIMIENTO

(hereinafter called the “FUNDACION MADRI+D"),

Located at: Pª Recoletos 14.

28001 - Madrid, Spain

Through the ESA Business Incubation Centre of Madrid Region

Located at: Avda Arcas del Agua, 2

28901 - Getafe, Madrid, Spain

Represented by Mr/Mrs…………………………………………., CEO

**One the one part,**

**And:**

Mr/Mrs………….………………………………………………………………………………………………………...

Whose Registered Office is located at:……………………………………………………………….………

……………………………………………………………….………

……………………………………………………………….………

Whose Trade Registration Number is: ……………………………………………………………….………

(Hereinafter named the “Incubatee")

Represented by Mr/Mrs ……………….………………………. as the company legal representative.

**On the other part,**

(Together, hereinafter referred to as the “Parties” or individually as a “Party”)

The following has been agreed:

**P R E A M B L E**

1. WHEREAS the European Space Agency (the Agency) is an intergovernmental organisation established by the Convention approved by the Conference of plenipotentiaries of its Member States on 30 May 1975 and which entered into force on 30 October 1980.
2. WHEREAS Article II of the Convention assigns to the Agency the task to promote cooperation in space research and technology and their space applications and to elaborate and implement activities and programmes in the space field.
3. WHEREAS the Agency manages a technology transfer initiative to encourage the utilisation of space technology for general non-space industrial, scientific and commercial uses.
4. WHEREAS as part of the technology transfer initiative the Agency has set up the ESA Business Incubation Centre’s (ESA BICs) initiative to enable start-up companies (incubatees) to receive comprehensive commercial and technical assistance in order to set up their business using space technology for such general non-space industrial, scientific and commercial uses.
5. WHEREAS the Agency has chosen FUNDACION MADRI+D to implement and manage the ESA BIC Madrid Region (ESA BIC Madrid Region) through ESTEC contract and its applicable Work Orders.
6. WHEREAS the ESA BIC Madrid Region is partly funded by the European Space Agency and Comunidad de Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid).
7. WHEREAS Madrid Aerospace Cluster, COIT , PCM, UC3M, UPM, URJC, Madrid Network, INTA are ESA BIC Madrid Region partners and provide technical know-how for the starter’s support
8. WHEREAS UPM, UC3M, URJC and PCM are ESA BIC Madrid Region partners and provide incubation spaces for the starter’s support
9. WHEREAS the Incubatee wishes to participate in the ESA BIC Madrid Region and benefit from the assistance which may be offered to it through the provisions of this Contract.
10. WHEREAS, as part of the assistance offered to the Incubatee, FUNDACION MADRI+D and the Incubatee will sign an Incubation Contract with the duties from both sides regarding the incubation of the Incubatee and associated services (see “Draft Incubation Contract” attached to this document).
11. WHEREAS, as part of the assistance offered to the Incubatee, UPM, URJC, UC3M, PCM will sign with the Incubatee an *agreement for the use of building facilities of* even date with this Contract for the provision of office accommodation and related equipment and services to the Incubatee (see each “*Agreement for the Use Building Facilities*” “Rental Contract” published in the Permanent Open Call).

**Article 1 - Contractual Baseline**

1.1. Definitions

For the purpose of this Contract the following words shall have the meanings assigned to them.

“Activity” means all the activities that the Incubatee will undertake under this Contract in relation to its participation in the ESA BIC, including the preparation of the Mid Term Report, the Executive Summary, the Annual Performance Report and the Business Plan and all other obligations and deliverables to be made by the Incubatee under this Contract.

“Annual Performance Report” shall have the meaning set out in Addendum 1, section 5.6.

“Business Plan” shall have the meaning set out in Addendum 1, section 5.5.

“CCN” shall mean a contract change notice.

“Change Review Board” shall be a board consisting of a contractual and a technical representative of each Party established to discuss and agree upon the approval or rejection of a change proposal, and final CCN.

“Commencement Date” shall mean the date that this Contract shall come into force, as set out in Article 5.

“Confidential Information” shall have the meaning set out in Article 11.2.

“Contract” shall mean an agreement between FUNDACION MADRI+D and the Incubatee regulating the Activity.

“Contract End Date” shall mean the date that this Contract shall come to an end, as set out in Article 5.

“Contract Term” shall be the period between the Commencement Date and the Contract End Date.

“Conversion Proposal” / “Cost Report” shall mean a proposal detailing all costs incurred in relation to the Activity, to be submitted by the Incubatee to FUNDACION MADRI+D.

“Declaration of State Aid” shall have the meaning set out in Article 8.2.

“Deliverables” shall have the meaning set out in Article 2.

“Disclosing Party” shall mean the Party disclosing Confidential Information.

“Equipment” shall have the meaning set out in Article 3.2.

“ESA BIC” shall have the meaning set out in the Preamble.

“Executive Summary” shall have the meaning set out in Addendum 1, section 5.4.

“Final Report” shall mean the complete statement of the work undertaken by the Incubatee during the Contract Term, as further defined in Addendum 1, section 5.3.

“FUNDACION MADRI+D” means the entity which, under this contract, provides business development support and manages office accommodation - through the partners - to start-up companies.

“Intellectual Property Rights” shall mean all rights in copyright, patents, know-how, Confidential Information, database rights, rights in trademarks 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.

“Mid Term” shall mean the midpoint date between the Commencement Date and the Contract End Date.

“Mid Term Report” shall have the meaning set out in Article 2.1.1.

“Mid Term Review” shall have the meaning set out in Addendum 1, section 4.2.

“Receiving Party” shall mean the Party receiving Confidential Information.

“Statement of Non Co-incubation” shall mean the statement from the Incubatee that his company shall not be incubated in or receive support of any kind from any other incubator whatsoever for the duration of the Contract Term.

“Technical Support” shall have the meaning set out in Article 3.1.

“Third Party” shall mean any person or entity other than the Agency and the Parties to this Contract or their personnel.

“Third Party Services” shall have the meaning set out in Article 4.

“Universidad Politécnica de Madrid” or “UPM”

“Universidad Carlos III de Madrid” or “UC3M”

“Universidad Rey Juan Carlos” or “URJC”

“Parque Científico de Madrid” or “PCM”

1.2 Contractual baseline

The Incubatee shall perform the Activity in accordance with the following applicable documents listed hereunder in order of precedence:

1.2.1 This Incubation Contract;

1.2.2 The Agency’s Standard Requirements for Management, Reporting, Meetings and Deliverables as set out in Addendum 2;

1.2.3 The “Agreement for the Use Building Facilities” “Rental Contract” ;

1.2.4 The Minutes of the negotiation meeting held on the ……………….., not attached hereto but known to both parties;

1.2.5 The Incubatee’s Business Activity Proposal, Ref. …………..…………., dated ……..…………, Version …….……..….., not attached hereto but known to both Parties.

1.2.6 The Waiver of Liability

1.2.7 Yearly report with documents required by Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid), as set out in section 3.2 of Addendum 1 to this Incubation Contract.

**Article 2 – Activity of the Incubatee**

The Incubatee undertakes to deliver the items mentioned below (the “Deliverables”), as part of the Activity in accordance with the following provisions:

* 1. Documentation

2.1.1 Mid Term Report

At Mid Term, the Incubatee shall provide to FUNDACION MADRI+D`s representatives, described in Article 9.3(a) and (b), a report detailing the technical and commercial work carried out by the Incubatee as part of the Activity during the first half of the Contract Term (“Mid Term Report”). Templates are provided in Addendum 2 herein.

2.1.2 Business Plan

The Business Plan shall be provided to FUNDACION MADRI+D`s technical representative stated in Article 9.3(a) in 2 copies, not later than the Contract End Date.

2.1.3 Final Report and Executive Summary

1. At least two months prior to the Contract End Date, the Incubatee shall provide FUNDACION MADRI+D with draft versions of the Final Report and the Executive Summary. FUNDACION MADRI+D shall have one month to review the draft documents and provide comments on each to the Incubatee. The Incubatee shall then have the remaining month in which to produce the final version of the Final Report and the Executive Summary and submit them to FUNDACION MADRI+D. Templates are provided in Addendum 3 herein.
2. The Final Report and the Executive Summary shall be delivered by the Incubatee to FUNDACION MADRI+D in 3 copies (2 paper copies and 1 electronic copy) and 6 copies (5 paper copies and 1 electronic copy) respectively.
   1. Other Deliverables

As part of the Incentive Scheme, it is expected from the Incubatee to deliver proof of the developed product or service. It is to be delivered to the Agency through FUNDACION MADRI+D.

2.2.1 Software[[5]](#footnote-6)

1. In the event that the Incubatee develops software during the Contract Term as part of its Activity, the Incubatee shall deliver a copy of such software to FUNDACION MADRI+D in a form to be agreed with FUNDACION MADRI+D.
2. The Incubatee shall deliver such software at the end of the Contract Term or upon the cancellation of this Contract, unless otherwise agreed in writing by the Parties.
3. The incubate shall deliver a complete demonstration including hosting server (functional prototype level)

2.2.2 Hardware

1. In the event that the Incubatee develops any hardware during the Contract Term and as part of its Activity, FUNDACION MADRI+D is entitled to request the Incubatee to loan the hardware to FUNDACION MADRI+D and/or the Agency for the purposes of displaying it in an exhibition or for FUNDACION MADRI+D and/or the Agency’s promotional purposes for a period of five (5) years from the end of the Contract Term or from the cancellation of this Contract, unless otherwise agreed in writing by the Parties. Alternatively: a dummy.
2. Any photographs and visual presentations (i.e. an automatic slide show and/or video trailer) of any hardware developed by the Incubatee during the Contract Term and as part of its Activity shall be delivered to the FUNDACION MADRI+D at the end of the Contract Term or upon the cancellation of this Contract, unless otherwise agreed in writing by the Parties

**Article 3 – ESA BIC MADRID REGION UNDERTAKINGS**

3.1 Technical Support

1. For the purposes of this Contract FUNDACION MADRI+D will - through its technical partners (Madrid Aerospace Cluster, COIT, Madrid Network, INTA, PCM, UC3M, UPM, URJC) and FUNDACION MADRI+D - provide the Incubatee with a maximum of 80 hours of Technical Support necessary for and directly related to the activity of the Incubatee and of 100 coaching and training hours of Business Development Support during the incubation period. The participation and attendance to all these services and activities is mandatory for all the Incubatee.
2. The Technical Support shall be provided for the duration of the Contract Term, unless a shorter period is agreed between the Parties.
3. Any information in documentary or other physical form provided to the Incubatee as part of the Technical Support shall remain property of the lending institution and shall be returned to this institution at the end of the Contract Term or upon the cancellation of this Contract.

d) For all matters relating to the technical support the responsible technical officer is nominated in Clause 9.3 a).

* 1. Equipment

*It is not foreseen that ESA BIC Madrid Region or any of its partners will loan the Incubatee any equipment.*

*In the event that during negotiation between the Incubatee and the technical support entity the loan of any equipment is envisaged, all conditions will then be defined in the related meeting minutes.*

[It is not foreseen the Agency, FUNDACION MADRI+D or partners will loan the Incubatee any equipment.]

[OPTION: In case the activity foresees the loan of [indicate one of the parties above] .……….’s equipment, the following provisions shall apply]

1. For the purposes of this Contract the …………. will loan to the Incubatee the following equipment and components necessary for and directly related to the Activity of the Incubatee:

*[Full details of the equipment to be provided by the …………….]……………..]*

(Altogether referred to as “Equipment”)

1. The duration of the loan of the Equipment shall be the Contract Term, unless a shorter period is agreed between the parties.
2. The following provisions shall apply to the loan of the Equipment:
   1. ownership of the Equipment shall remain with the [indicate the party as defined above];……………;
   2. the Incubatee shall be responsible for the Equipment and its safekeeping and maintenance;
   3. the Incubatee shall not alienate the Equipment or use it for purposes other than those specified in this Contract;
   4. in the event of the loss, damage or destruction of the Equipment, except damage through proper use, wear and tear or caused by a representative or an employee of the respectively proprietary, the Incubatee shall be required, to replace or to repair at his own expense the lost, damaged or destroyed Equipment issued to the Incubatee, or to refund its value to the respectively proprietary;
   5. the Incubatee shall be required to keep a permanent inventory and utilisation account of the Equipment placed under the Incubatee’s control by the [indicate party mentioned above].……………. and, unless already marked by one of them, shall mark the equipment and components in an unambiguous way as being the property of the [indicate party mentioned above];………; and
   6. the Incubatee shall not use such Equipment in combination with other Equipment to produce a separate article.
3. For the purposes of Article 3.2(c), a delivery document attached to the respective Equipment provided on loan shall stipulate its price, and provide for the possible revision of that price as agreed between the Parties.
4. The Equipment shall be returned to the [indicate same party here]………. By the Incubatee, in the same condition as it was in when the Incubatee received it from [indicate the same party]……. apart from normal wear and tear, at the end of the Contract Term or upon the cancellation of this Contract.

*[Further provisions depending on the type of Equipment being loaned]*

* 1. Software

*It is not foreseen that ESA BIC Madrid Region or any of its partners will loan the Incubatee any software.*

*In the event that during negotiation between the Incubatee and the technical support entity the loan of any software is envisaged, all conditions will then be defined in the related meeting minutes.*

[It is not foreseen the Agency, FUNDACION MADRI+D or partners will loan the Incubatee any software.]

[OPTION: In case the activity foresees the loan of [indicate one of the parties above] .……….’s software, the following provisions shall apply]

1. For the purpose of this Contract the [indicate the same party here] will provide the Incubatee with the following software necessary for and directly related to the Activity of Incubatee:

*[Full details of the software to be provided by the ………………. in accordance*

*with the licence set out in Appendix 3]*

(altogether referred to as “Software”)

1. The Software shall be provided for the duration of the Contract Term, unless a shorter period is agreed between the Parties.

*[Further provisions depending on the type of Software being provided.]*

**Article 4 - Services to be Provided by Third Parties**

The Incubatee shall notify FUNDACION MADRI+D prior to entering into agreements with Third Parties to obtain specific advice/product relevant to the Activity (“Third Party Services”). FUNDACION MADRI+D shall bear no responsibility for such advice or product.

For the purposes of this Article it is hereby understood that the incentive funding shall be spent in Spain unless the product/service is not available in such territory and within the boundaries stated on Article 7.1 (Financial Contribution) hereto.

**Article 5 - Contract Term**

This Contract shall enter into force upon signature by the legal representatives of both Parties(“Commencement Date”) and shall continue in force until (“Contract End Date”), unless it is cancelled or otherwise terminated in accordance with Article 16. In no case shall the Contract Term exceed the duration of 2 (two) years.

**Article 6 – Meetings and Reporting Requirements**

Full details of reporting and meeting requirements are set out in Addendum 1, sections 3 and 4 respectively.

**Article 7 – Financial Contribution and Payment**

7.1 Financial Contribution

7.1.1 The total financial contribution to the Activity amounts to EUR 50,000 (Fifty thousand Euros), broken down as follows:

1. Up to EUR 25.000 from Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid), for Labour Costs clearly linked to the development of products, prototypes, software and IPR as long as there is a clear output of the activity in terms of deliverables on the condition that they address additional job creation –other than the entrepreneur him/herself– within the start-up company even should the employee have left the company.
2. Up to EUR 25.000 from ESA covering the development of products, prototypes, software and IPR. ESA contribution explicitly excludes Labour Costs.

Payment will be done upon acceptance of the deliverables on the agreed milestones. The overall conditions will always prevail. The economic incentive cannot be allocated for other expenses than those described in the Open Call. For example, expenses related to office rental, creation or management of the company, project management, market development, etc. are excluded.

Payment will always assume combining a) and b) equally, e.g. if a) needs to be paid out, b) will be executed simultaneously.

7.1.2 For the purpose of this Contract the above mentioned total financial contribution is stated to be a ceiling which amount shall not be exceeded and for which the Incubatee shall perform the Activity in full*.*

* + - 1. At the end of the Contract Term the Incubatee shall deliver a Conversion Proposal /*Cost Report* detailing all costs incurred, with all invoices attached, to be submitted by the Incubatee to FUNDACION MADRI+D.
      2. The Incubatee shall provide copies of invoices to show all expenses were incurred solely with third parties used for IPR and product development. The Incubatee is not authorized to use the stated *ESA* funding for reimbursement of his own hours spent in the project.

7.1.3 The above amount does not include any taxes and duties.

7.2 Payment Terms

All payments shall be made according to the provisions of this Article 7.

7.3 Categories of Payment

Relative to the financial contribution set out under Article 7.1, FUNDACION MADRI+D shall make the following payments to the Incubatee:

7.3.1Progress Payments

(a) FUNDACION MADRI+D may authorise progress payments in connection with this Contract.

(b) Progress payments are not final payments and shall be deducted from the sums due to the Incubatee under this Contract.

(c) Except with the specific agreement of FUNDACION MADRI+D, the Incubatee shall not divert to uses not provided for in this Contract any material or services in respect of which advances or progress payments have been made. In the event of any violation of this provision FUNDACION MADRI+D reserves the right to require the return of the advances or progress payments without prejudice to its rights under Article 16.

7.4 Final Settlement

7.4.1 The Incubatee shall be allowed to claim final settlement when all the Incubatee’s obligations under this Contract have been fulfilled.

7.4.2 Final settlement to the Incubatee is due by FUNDACION MADRI+D upon:

1. receipt by FUNDACION MADRI+D of the Conversion Proposal*/Cost Report*;
2. receipt by FUNDACION MADRI+D of the relevant invoice(s) from the Incubatee with a clear indication of all the invoices paid with the funding provided under this contract, and;
3. certification by FUNDACION MADRI+D of the satisfactory completion of the Activity under this Contract.
   * 1. Unless otherwise provided for in this Contract, a period of one (1) month shall be granted to FUNDACION MADRI+D for the execution of the final payment.
     2. FUNDACION MADRI+D will make the following payments (to be agreed on a case to case basis, depending on the needs):

|  |  |  |
| --- | --- | --- |
| MILESTONE DESCRIPTION | SCHEDULE DATES | AMOUNT IN € |
| KICK-OFF: upon signing the incubation contract with FUNDACION MADRI+D and start of incubation by Incubatee | T0 | 20.000 € |
| PROGRESS: upon acceptance by FUNDACION MADRI+D of the deliverables due on Mid Term Review including MTR Report and Business Plan | T0+12  (max) | 20.000 € |
| FINAL: upon acceptance by FUNDACION MADRI+D of all deliverables under the contract, including the Final Report, Business Plan, hardware and software and upon acceptance by FUNDACION MADRI+D of the Incubatee’s Conversion Proposal /*Cost Report* | T0+24  (max) | 10.000 € |
|  |

7.5 Invoices, place and payments

7.5.1 The Incubatee is required to submit invoices for all payments due under this Contract.

7.5.2 Payments shall be made by FUNDACION MADRI+D in Euros to the account specified by the Incubatee. Such information shall clearly indicate the IBAN (International Bank Account Number) and BIC/SWIFT (Bank Identification Code). Payments shall be considered as effected on time if the FUNDACION MADRI+D orders of payment reach its bank within the payment period stipulated in Article 7.4.3 above.

7.5.3 Any special charges related to the execution of payments will be borne by the Incubatee.

**ARTICLE 8 – DE-MINIMIS AID**

8.1 Any aid granted to the Incubatee from Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid),and provided under this contract to the Incubatee by FUNDACION MADRI+D, falls under the terms of EC regulation 1998/2006 of 15th of December 2006 on the application of articles 87 and 88 of the EC treaty to “de minimis aid”.

8.2 The Incubatee shall notify in writing to the Spanish authorities (i.e. Madrid Regional Ministry of Economy, Employment and Treasury (Consejería de Economía, Empleo y Hacienda de la Comunidad de Madrid) through FUNDACION MADRI+D how much state aid he/she has received during the three (3) years prior to the commencement date from any administrative body, insofar as no approval for such state aid was previously obtained from the commission of the European Communities (“Declaration of State Aid”).

8.3 The Incubatee agrees to reimburse any state aid that the Incubatee has received under this Contract if it is later established that the payment was issued in violation of EC Regulation 1998/2006 of 15th of December 2006 on the application of Article 87 and 88 of the EC Treaty to de minimis aid.

**Article 9 – Parties Representatives and Communications**

9.1 All correspondence affecting the terms and conditions of this Contract and concerning its execution shall be made or confirmed in writing. All communications or correspondence between the Parties shall be in English.

9.2 All correspondence for either Party shall be sent to both representatives of each Party stated in Articles 9.3 and 9.4, i.e. depending on the subject, addressed to one representative with a copy to the other.

9.3 For the purpose of this Contract the ESA BIC Madrid Region representatives are:

**(a) For technical and administrative matters:**

Mr Carlos Romero

ESA BIC Madrid Region Manager

Fundación Madri+d

Av. de las Arcas del Agua nº 2

28905 Getafe, Madrid

Spain

Tel: +34 616454374

Fax:

e-mail: carlos.romero@madrimasd.org

1. **For contractual matters:**

Mr Jesús Sánchez Martos

Executive Director

Fundacion para el Conocimiento madri+d

Pª Recoletos, 14

28001, Madrid

Spain

Tel: +34 917816570

Fax:

e-mail: fundacion@madrimasd.org

*or a person duly authorised by them.*

9.4 For the purpose of this Contract the Incubatee’s representatives are:

1. For technical and administrative matters:

…………………………………………….

Email:

Tel:

1. For contractual and administrative matters:

……………………………………………..

Email:

Tel:

**Article 10 - Publicity and Visual Identity of Incubatees**

10.1 Publicity

10.1.1 The Incubatee shall not produce or disseminate any form of communication material, press releases or other publicity documents, including the Incubatee’s advertising and news bulletins, which are intended by the Incubatee for the press, internet/web-sites or television, which refer to FUNDACION MADRI+D, ESA BIC Madrid Region or any aspect of ESA BIC Madrid Region activities, or permit any Third Party to do so, without the prior written consent of FUNDACION MADRI+D.

10.1.2 FUNDACION MADRI+D shall not produce or disseminate any form of communication material, press releases or other publicity documents which are intended by ESA BIC Madrid Region for the press, internet/web-sites or television, which refer to the Incubatee or any aspect of the Incubatee’s activities, or permit any Third Party to do so, without the prior written consent of the Incubatee’s contractual representative or his duly authorised representative.

* 1. Visual Identity of the Incubatee

10.2.1 The Incubatee shall not use the official emblem of ESA, ESA BICs or ESA BIC Madrid Region or any other logo or trademark which may be owned or used by the Agency or FUNDACION MADRI+D for any purpose whatsoever without approval.

10.2.2 The Incubatee may place the logo attached in addendum 4 and the following text line, in full and without amendment, on its promotional material and publicity documents, including exhibition and conference material and its internet site, as long as it is linked to ESA BIC sites and stated as a partner of the company, but not on its products (including prototypes) and other material which it produces:

* *“[Name of the Incubatee] participates in the ESA Business Incubation Centre Madrid Region programme”,*
* *“[name of the Incubatee] is incubated by ESA BIC Madrid Region”*
* *[Name of the Incubatee] is incubated at the ESA Business Incubation Center Madrid Region. The European Space Agency’s BIC in Madrid Region is co-financed by Community of Madrid and managed by Madri+d Knowledge Foundation.*

Referred to as the “Text Lines”

Use of the Text Lines and Logo by the Incubatee shall be subject to the following conditions:

(a) the Incubatee shall submit to FUNDACION MADRI+D’s contractual representative or his duly authorised representative for prior written approval all promotional material, publicity documents, products and other materials, or samples of them, on which the Text Line is to appear or is intended to be used, which approval may be withheld or withdrawn from any material, products or documents at any time at FUNDACION MADRI+D’s discretion;

(b) the prior approval of FUNDACION MADRI+D for the use of the Logo and/or Text Line and logo shall not constitute an endorsement or approval of the Incubatee’s Activity, products or services, or of their quality, technology or suitability for a particular use, neither shall it constitute verification by FUNDACION MADRI+D of the compatibility of materials produced by the Incubatee with applicable law and regulations, and the Incubatee shall refrain from using any statements which could suggest otherwise;

(c) any use of the Logo and/or Text Line on amended or revised promotional material and publicity documents shall be subject to the same approval process as the original material and documents;

(d) the Text Line may be translated into a different language other than English, subject to the approval of FUNDACION MADRI+D’s contractual representative or his duly authorised representative;

(e) no use of the Logo neither the Text Line shall be made in connection with material, products or documents that:

1. constitute an infringement of law and/or legal provisions;
2. undermine the reputation and dignity of the Agency or FUNDACION MADRI+D;
3. promote or are related to alcohol, tobacco, religion, political affairs, intolerance, violence, firearms, pornography, obscenity, gambling, and narcotic drugs.
   * 1. The Incubatee shall keep appropriate records of the extent of its use of the Logo and/or Text Line, stating in particular the nature and time of use of the Logo and/or Text Line on its material, products and documentation. The Incubatee shall provide the FUNDACION MADRI+D’s contractual representative or his duly authorised representative request, with information, samples and documents to evidence its use of the Text Line.
     2. The use by the Incubatee of the Logo and/or Text Line shall terminate upon the cancellation or expiry of this Contract as described in Article 16.
     3. Incubatees which successfully conclude the ESA BIC programme (“Alumni”) shall be allowed to use the following Text Line, in its marketing material, including exhibition and conference material (not on products nor materials) and its internet site, as long as it is linked to [Space](http://Space) Solutions and/or FUNDACION MADRI+D web site and stated as a partner of the company.

*“[name of the techno-starter] is an Alumnus of ESA Business Incubation Centre Madrid Region programme [graduation year])”*

is referred to as the Text Line.

* + 1. Alumni using the text line have the obligation to report its use on a yearly basis to the Agency for as long as the text line is used. The Agency may withdraw the right to use the text line at any time for any reason.
    2. The Agency has set-up and registered “ESA Space Solutions” trademark to be used by techno-starters on their products. To use this trademark, the technostarter has to enter into a licensing agreement with the Agency and pay a fee. Details can be found on http://www.esa.int/spacesolutionslogo.

**Article 11 - Confidentiality**

11.1 Each Party shall observe complete discretion with regard to all matters related to the activities of the other Party and each Party will ensure compliance by its employees and agents with the obligations of confidence set out in this Article 11 and assumed by that Party in relation to the other Party.

11.2 Neither Party shall disclose any documentation, information or materials obtained from the other Party, whether marked (by way of example as, “confidential” or “proprietary information”) or un-marked (“Confidential Information”), to any Third Party whatsoever without the prior written consent of the other Party in which case the other Party may require the recipient to sign a non-disclosure agreement. For the purposes of this Article 11, documentation shall include any final documentation deliverable under this Contract with the exception of the Executive Summary.

11.3 Each Party may disclose Confidential Information on a strictly “need to know” basis to:

- its employees; and

- its professional agents; and

- the ESA BIC Madrid Region partners

11.4 On the Contract End Date, or upon the earlier termination or cancellation of this Contract in accordance with Article 16, the Receiving Party shall promptly return to the Disclosing Party or otherwise certify the destruction of all Confidential Information, with exception of the Deliverables provided by the Incubatee to FUNDACION MADRI+D.

11.5 The obligations in this Article 11 shall not apply to Confidential Information:

- which is in the public domain at the time of disclosure or becomes part of the public domain after disclosure otherwise than through a breach of this Contract;

- for which the Receiving Party can provide documentary evidence that it was in its lawful possession prior to disclosure to it by the Disclosing Party or which is lawfully and bona fide obtained thereafter by the Receiving Party from a Third Party who, to the knowledge or reasonable belief of the Receiving Party, did not receive the Confidential Information directly or indirectly from the Disclosing Party when under a duty of confidentiality;

- which, at the time of circulation is already known by the Receiving Party (as evidence in writing) and is not hindered by any obligation not to circulate; or

- which is required to be circulated by governmental or judicial order or applicable law.

11.6 The contents of this Contract are Confidential Information.

11.7 The obligations set out in this Article 11 shall survive the termination, cancellation or expiry of this Contract.

**Article 12 – Intellectual Property**

12 Ownership

12.1 The Incubatee shall own all Intellectual Property Rights arising out of the Activity performed under this Contract as may be granted by law, as far as no infringement of Third Party rights occurs.

12.2 Use of Intellectual Property Rights by the Agency

12.2.1 If the Agency or its Member States require the use of any Intellectual Property Rights, owned by the Incubatee as described in Article 12.1, for the performance of the Agency’s programmes, the Incubatee shall be invited to submit a proposal following a request for quotation issued by the Agency.

If, for any reason, the Incubatee is not able to submit a proposal within the determined tendering period, or following evaluation, said proposal is not recommended in-line with the ESA Rules and Regulations, the Agency is automatically entitled to a worldwide, irrevocable, transferable, non-exclusive licence to use on “favourable conditions” (i.e. more favourable for the Licensee than market conditions but still allowing reasonable profit for the Licensor) such Intellectual Property Rights for non-commercial purposes within its Scientific Research and Research and Development programmes, with the right to grant sub-licenses.

Notwithstanding the above provisions of this Sub-Clause, shall the Incubatee provide the Agency with conclusive evidence that granting said licence would cause it to suffer economic hardship, the Agency’s authorised representatives may jointly, on a case by case basis, waive this right.

12.2 2 When transferring any Intellectual Property Rights, of which the Incubatee retains the ownership in accordance with Article 12.1, to an assignee the Incubatee shall ensure that the Agency’s and its Member States’ rights, as set out in Article 12.2.1 of this contract, are reassigned to the new assignee.

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12.3 Transfer of Intellectual Property Rights outside the ESA Member States;

The Incubatee shall inform the SIL technical representative, as stated in Article 9.3(d), well in advance of its intention to transfer outside the Agency’s Member States any Intellectual Property Rights arising from this Contract.

**Article 13 – Liability**

13.1 Limitations of Liability

13.1.1 Neither Party excludes its liability to the other Party for:

1. death or personal injury caused by its negligence or that of its employees or agents;
2. fraud, including fraudulent misrepresentations; and
3. liability under Articles 11 and 12.

13.1.2Limitation of Liability

Subject to Article 13.1.1, the liability of one Party towards the other under or in connection with this Contract whether arising from negligence, breach of contract or any other obligation or duty shall not exceed, an amount equivalent to €50,000 (Fifty thousand Euros), per event or series of connected events.

13.2 Infringements of the Law

13.2.1 FUNDACION MADRI+D or the Agency shall not be responsible if the Incubatee infringes any existing and/or future national, communal or provincial laws or decrees, rules or regulations in force in Spain or in any other country whatsoever.

13.2.2 The Incubatee shall indemnify FUNDACION MADRI+D and the Agency from and against all claims, proceedings, damages, costs and expenses arising out of any infringement of the Incubatee’s obligations under this Contract.

13.3 Infringement of the Rights of Third Parties (ESA BIC Madrid Region Partners)

13.3.1 The Incubatee shall indemnify the ESA BIC Madrid Region’s partners and the Agency from and against all claims, proceedings, damages, costs and expenses arising from the infringement of Intellectual Property Rights of third-parties with respect to the subject matter of this Contract - excluding any infringement resulting from the use of documents, patterns, drawings or goods supplied by the ESA BIC Madrid Region’ partners or the Agency through - which may be made, or brought against the ESA BIC Madrid Region’ partners or the Agency, or to which ESA BIC Madrid Region’ partners or the Agency may be put by reason of such infringement or alleged infringement.

13.3.2 FUNDACION MADRI+D shall notify the Incubatee immediately of any written claim or notice of infringement of third-party rights that it receives concerning the subject matter of this Contract.

13.3.3 The Incubatee shall immediately take all necessary steps within the Incubatee’s competence to prevent or end a dispute and shall assist FUNDACION MADRI+D and the Agency to defend any such dispute, or make settlement in respect of any claim or notice of infringement or suit for infringement.

13.3.4 The Parties shall notify each other of any known Intellectual Property Rights connected with the use of documents, patterns, drawings and goods supplied by one Party to the other or connected with the execution of the specifications laid down by the other Party.

13.4 Compensation for Damage Caused to Goods and Property

Claims in respect of damage shall be settled as follows.

13.4.1 Direct Damages

(a) The Incubatee shall indemnify FUNDACION MADRI+D and the Agency against, and shall be personally responsible for, direct damage to FUNDACION MADRI+D's or the Agency’s property and equipment to the extent that such damage is caused by the negligence of the Incubatee and the Incubatee’s personnel or agents.

1. FUNDACION MADRI+D and ESA BIC Madrid Region partners shall indemnify the Incubatee against, and shall be personally responsible for, direct damage to the Incubatee's property and equipment to the extent that such damage is caused by the negligence of FUNDACION MADRI+D or ESA BIC partners or their staff or agents.

13.4.2 Indirect or Consequential Damages

(a) The Parties shall in no circumstances be liable for indirect or consequential damages such as loss of use, loss of business, loss of data, loss of rights, loss of services, loss of goodwill, Third Party claims to the extent that they represent the indirect loss of a Third Party, loss of revenues or anticipated savings, or for any indirect financial loss or indirect economic loss or for any indirect or consequential loss or damage whatsoever suffered by the other Party.

(b) The Parties shall in no circumstances be liable for loss of profit, whether direct or indirect.

13.5 Damages to Third Parties by the Incubatee

FUNDACION MADRI+D or the Agency shall not be liable for any damage caused by the personnel or agents of the Incubatee to a Third Party during the performance of this Contract.

* 1. Waiver of Liability

A waiver of liability including an insurance policy covering accidents at the Technology House, Fundación madri+d and Centre for Entrepreneurship of Comunidad de Madrid shall be signed.

* 1. Occupational Risks

The Incubatee must have the Occupational Hazards Plan or certificate their validity, duly signed by the certified prevention entity or authority in accordance with the provisions of Law 31/1995 November 8, Prevention of Occupational Risks

**Article 14 – Changes to this Contract**

14.1 Introduction of a Change

14.1.1 For all changes to this Contract, whether requested by FUNDACION MADRI+D or initiated by the Incubatee, the Incubatee shall submit a proposal for a Contract Change Note (CCN).

14.1.2 The Incubatee shall ensure - in liaison with FUNDACION MADRI+D - that each change proposal is fully coordinated and that all reasonably foreseeable implications of the change have been considered by the Incubatee and FUNDACION MADRI+D. The Incubatee shall, on the request of FUNDACION MADRI+D, provide additional documentary evidence of the effect of the change to both Parties.

14.2 Approval or Rejection of the Change Proposal

14.2.1 Should the change proposal be approved by FUNDACION MADRI+D, a corresponding CCN shall be prepared by FUNDACION MADRI+D's contractual representatives as stated in Article 9.3(b) and submitted to both Parties for signature.

14.2.2 Should a change proposal be rejected for any reason, the Incubatee shall be informed accordingly, together with the reasons for the rejection. At the request of either Party, the change may be discussed at a Change Review Board, consisting of a contractual and a technical representative of each Party.

14.3 Implementation and Status of an Approved CCN

Upon the signature of a CCN by both Parties, the CCN will have immediate effect and constitutes a binding contractual agreement between the Parties. The Incubatee shall implement the change in accordance with the implementation dates agreed in the CCN.

**Article 15 – Post Incubation Management**

On each anniversary of the end of the Contract Term, during 10 (ten) years, subject to losing the right to use the ESA BIC logo or Test Line if non-compliant, the Incubatee shall prepare and submit an Annual Performance Report (See Addendum 1, point 5.6 – annual performance report) to the Incubation Manager of ESA BIC Madrid Region, as stated in Article 9.3(a) as well as to the Agency’s Technical Representative, as follows:

Mr. B. Naulais (TEC-ST) E-mail: Bruno.Naulais@esa.int

ESTEC Tel.: + 31 71 56 54 711

P.O. Box 299, Fax.: + 31 71 56 56 635

2200 AG Noordwijk, NL

**Article 16 – Termination and Cancellation**

16.1 Right of Termination

16.1.1 Each Party will have the right at any time during the Contract Term, without prejudice to its other rights or remedies, to terminate this Contract immediately, and without cause, by one (1) month’s written notice to the other Party.

16.1.2 Each Party reserves the right to terminate this Contract, with immediate effect, in the event that the other Party commits a substantial breach of this Contract.

16.2 Cancellation without fault of the Incubatee

16.2.1 In the event of cancellation of this Contract by FUNDACION MADRI+D without any fault of the Incubatee, the Incubatee shall, on receipt of FUNDACION MADRI+D’s instructions for cancellation of this Contract, immediately take the necessary steps to implement the instructions. The period by which the Incubatee must implement such instructions shall be determined by FUNDACION MADRI+D after consultation with the Incubatee.

16.2.2 FUNDACION MADRI+D shall indemnify the Incubatee against such part of any loss of profit as is reasonably attributable to the cancellation of this Contract and against any damages resulting from the cancellation of this Contract in particular against any commitments, liabilities or expenditure which are reasonably and properly incurred by the Incubatee and are directly related to this Contract, in so far as the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the Incubatee by reason of the cancellation of this Contract.

16.2.3 The amount of compensation payable under Article 16.2.2 shall be fixed on the basis of documentary evidence produced by the Incubatee and accepted by FUNDACION MADRI+D. In calculating the amount of compensation payable to the Incubatee, FUNDACION MADRI+D shall take account of the proportion of this Contract completed and shall take into account the provisions of Article 16.2.4.

16.2.4 FUNDACION MADRI+D shall in no circumstances be liable to pay any sum which, when added to the other sums paid, due or becoming due to the Incubatee under this Contract by FUNDACION MADRI+D, exceeds the total contractual payments due by FUNDACION MADRI+D to the Incubatee, as set out in Article 7.1.

16.3 Grounds for Cancellation by FUNDACION MADRI+D

FUNDACION MADRI+D will have the right, without prejudice to its other rights or remedies, after full consideration of all relevant circumstances, which may include consultation with the Incubatee, to cancel this Contract by giving written notice with immediate effect to the Incubatee in any of the following circumstances:

(a) if the Incubatee assigns or transfers this Contract in breach of Article 17;

(b) if the Incubatee becomes insolvent or if its financial position is such that within the framework of the national law of the Incubatee’s incorporation, legal action leading towards bankruptcy may be taken against the Incubatee by its creditors;

(c) if the Incubatee conducts fraudulent practices in connection with this Contract, particularly concerning the nature and quality of the Activity or by giving or offering gifts or remuneration for the purpose of bribery to any person, irrespective of whether such bribes or remuneration are made on the initiative of the Incubatee or otherwise; and/or

(d) if the Incubatee has provided incorrect and/or incomplete information regarding:

(a) the Statement of Non Co-incubation;

(b) the Incubatee’s legal ownership;

(c) the Incubatee’s Spanish Mercantile Register registration

(d) the Declaration of State Aid;

(e) Tax payments and Social Security obligations

16.4 Consequences of Cancellation

Any information, in documentary or other physical form, pertaining to the Activity carried out by the Incubatee during the Contract Term, remains the property of FUNDACION MADRI+D and the Agency and shall be handed over to FUNDACION MADRI+D upon the expiry or cancellation of this Contract. This shall include:

1. any information and documentation under Article 3.1;
2. any equipment under Article 3.2;
3. any software under Article 3.3.

**Article 17 - Assignation of this Contract**

The Incubatee shall not be permitted to assign its rights and/ or transfer its obligations under this Contract in whole or in part.

**Article 18 - Dispute Settlement**

18.1 This Contract shall be governed by the laws of Spain.

18.2 The Parties will consult with each other promptly when events occur or matters arise that may occasion a question of interpretation or implementation of the terms of this Contract. Any issue of interpretation or implementation of this Agreement that cannot be settled by the designated points of contact shall be referred to arbitration.

18.3 Any dispute arising out of the interpretation or implementation of this Agreement that cannot be settled through the consultations referred to in Article 18.1 above may, at the request of either Party, be submitted to arbitration according to the Rules of Arbitration of the International Spanish Mercantile Register. The arbitral tribunal shall sit in Madrid, Spain and the language of the arbitration shall be Spanish. The enforcement of the award shall be governed by the rules of procedure in force in Spain.

**ARTICLE 19 - DATA PROTECTION**

19.1 To the extent that is reasonably necessary, in connection to the Incubatee’s activities under this contract, his/her data may be disclosed to others, including staff of ESA BIC Madrid Region, the Agency and all ESA BIC Madrid Region’ partners, for any studies and/or reporting that may be carried out by the Agency and/or FUNDACION MADRI+D. The Incubatee hereby consents to the recording, processing, use and disclosure of personal data related to him as set out here above (including the recording, processing, use and disclosure of his sensitive personal data to the extent required by reason of the contractor’s performance of the activities under this contract) including the transmission of such data between Spain and other countries for the fulfilment of ESA’s own requirements.

Done and signed in two (2) original copies, one for each party to this contract, on behalf of the ESA BIC Madrid Region.

**ON BEHALF OF FUNDACION MADRI+D: Date: …………………………**

……………………………………….

FUNDACION MADRI+D CEO

**ON BEHALF OF THE INCUBATEE Date: …………………………**

……………………………………….

……………………………………….

## Draft Rental Contract

*Agreements for the Use Building Facilities*

The four rental and service contracts can be downloaded at Space Solutions and/or FUNDACION MADRI+D web sites.

A summary of the services available per location is shown in the following table:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Available services** |  | **UPM Montegancedo** | **PCM Cantoblanco** | **UC3 Leganés\*** | **URJC Mostoles** |
| **Base Price (prices do not include VAT)** |  |  |  |  |  |
| • Offices €/m2 |  | 16 € /m2 | 21€ /m2 | 12 € /m2 | 10 € /m2 |
| • Offices minimum m2 to rent (no availability guarantied) |  | 60 m2 | 7 m2 | 20 m2 | 10 m2 |
| • Laboratories €/m2 |  | \* | 36€ /m2 | \* |  |
| **Facilities** |  |  |  |  |  |
| • Reception |  | X | X | X | X |
| • Telephone operator |  |  |  | X | X |
| • Electricity |  | X | X | X | X |
| • Water |  | X | X | X | X |
| • 24-hour Security |  | X | X | X | X |
| • Basic cleaning in offices |  | X | X |  | X |
| • Cleaning of common areas |  | X | X | X | X |
| • Waste management |  |  | X |  |  |
| • Air Conditioning |  | X | X | X | X |
| • Network Wireless data throughout the building |  | X | X | X | X |
| • Fixed data network company / Internet |  | X | X | X | X |
| • Outdoor parking with controlled access |  | X | X | X | X |
| • Meeting rooms (number of hours / day or week) |  | 5h/w | X |  | 2h/d |
| - Additional use: € / hour, limiting the total number of hours |  | 5 € /h | 0 € /h | 44 € /h | X |
| • Auditorium on reservation: |  | X | X | X | X |
| - A morning or an afternoon |  | 1d/m | X | 1d/y | X |
| - Additional use: € per morning or afternoon |  | 200 € | 0 € | 250 € | X |
| - Additional use: € Per full day |  | 300 € /d | 0 € | 499 € /d | X |
| • Outdoor Gardening |  | X | X | X | X |
| • Reception desks in each office space |  | X | X | X | X |
| • ISO 9001:2008 certification |  |  |  |  |  |
| **Services with charge:** |  |  |  |  |  |
| • Telephone |  | X |  | X | X |
| • Fax |  | X |  | X | X |
| • Availability of a parking company |  | 50 €/m | X | 293 €/y | Free |
| • Possibly , space to hire workshops and / or laboratories |  | X | X | X | X |
| • Reprographics |  | X | X |  | X |
| • Supercomputing |  | X |  |  |  |
| • Catering |  | X |  | X | X |
| • Basic cleaning in offices |  |  |  | 1,5 € /m2 |  |
| • Support for the organization of events |  | X |  | X | X |
| • Full, time availability to individual office space |  |  |  | X |  |
| • Storage |  | X | X |  |  |
| • Labs in the incubator site |  |  | X | X |  |
| • On line store for Lab materials |  |  | X |  |  |
| **Business Development Services (to be coordinated with madri+d)** |  |  |  |  |  |
| Access to tax, legal and financial assessment |  | X | X | X | X |
| Investment events |  | X | X | X | X |
| Advanced training for entrepreneurs and business (Team building, process improvement, diversification, commercialisation, networking...) |  | X | X | X |  |
| Basic training for entrepreneurs and business plan |  | X | X | X | X |
| Training in technology commercialization |  | X | X | X | X |
| Business mentoring |  |  | X | X |  |
| Investment readiness |  |  | X | X |  |
| Access to technology watch reports - general business / studies |  |  |  |  |  |
| Access to electronic resources |  |  |  |  |  |
| Loan Packaging Assistance |  |  |  |  |  |
| Technology watch assessment |  |  |  |  |  |
| Evaluation of technologies |  |  |  |  |  |
| **Technical Services (min. 50 h/project)** |  |  |  |  |  |
| Information, advice & collaboration about R&D projects with R&D  groups/centers | |  |  | X |  |
| Access to educational cooperation agreements to access undergraduate or graduate students | | X | X | X | X |
| Specific support about the potential market/technology partners associated to specific technologies |  | X | X | X |  |
| Access to IPR services |  | X | X |  |  |
| Information and advice about grants, labour contracts, thesis, etc |  | X | X | X | X |
| Managerial advice for technology management |  | X | X |  | X |
| Access to S&T infrastructures and laboratories |  | X | X | X | X |

**ADDENDUM 1**

**STANDARD REQUIREMENTS FOR MANAGEMENT, REPORTING, MEETINGS AND DELIVERABLES**

This document contains the standard requirements for management, reporting, meetings and deliverables for contracts to be placed by FUNDACION MADRI+D in regard to the ESA BIC Madrid Region.

**1. CONTRACTUAL BASELINE**

The Incubatee is a start-up company in the early stage development of its commercial enterprise, applying space technology or systems to non-space applications, including industrial, scientific and commercial uses. As a start-up company the Incubatee requires business development supports, technical and commercial advices and marketing expertise to be able to commercialise its product or service through:

* developing its commercial focus;
* enhancing or creating its business plan;
* elaborating on its business outline proposal;
* making relevant use of Third Party advisors;
* establishing a sound financial, commercial and marketing model; and
* performing additional technical activities, functional to the above activities as required.

**2. MANAGEMENT**

2.1 General

The Incubatee shall implement effective and economical management for the work to be performed under this contract. The nominated representative of the Incubatee shall be responsible for the management and execution of the work to be performed.

* 1. Communications

All communications sent by the Incubatee to FUNDACION MADRI+D shall be addressed to FUNDACION MADRI+D's representatives nominated in Article 9.3 of this Contract.

**3. REPORTING**

3.1 Minutes of Meetings

The Incubatee is responsible for the preparation and distribution of minutes of meetings held in connection with this Contract. Electronic and paper versions of the minutes of each meeting shall be issued and distributed to all participants and to FUNDACION MADRI+D's representatives, not later than ten (10) days after the meeting concerned was held.

* 1. Progress Reports

Every three (3) months, the Incubatee shall provide a progress report to FUNDACION MADRI+D's representatives, covering the Activity. This report shall provide details of:

* action items completed during the reporting period;
* description of progress: events accomplished etc.;
* problem areas, if any, and corrective actions planned and/or taken;
* events anticipated during the next reporting period;
* [*further details to be provided on a case-by-case basis*]

Yearly, the Incubatee shall provide the following documents to FUNDACION MADRI+D:

a) Report describing all the activities of the company incubated during the period.

b) Certification of the company, signed by a company representative, costs of technical staff dedicated to the project or product development (indicating people, time devoted to the project and cost / time), enclosing annual summary of withholdings and personal income tax revenues on income from work and copy of the TC1 and TC2 documents (only for the person or persons devoted to the project) for the entire period of justification. It shall also demonstrate the payment of salaries through bank receipts in which the amounts paid and the identity of recipients is expressly consigned.

c) Certificate of the State Tax Administration to keep abreast of tax obligations.

d) Certificate of being aware of payments with the Treasury of the Community of Madrid.

e) Certificate from the General Treasury of the Social Security to be aware of obligations to Social Security.

f) A copy of the Plan of Occupational Risk Prevention or a certificate of validity duly signed by the entity for the prevention or by an authorized person in accordance with the provisions of the Spanish Law 31/1995 of 8 November on Prevention of Occupational Risks.

g) Declaration of de minimis aid received during the previous two fiscal years to the request for participation and in the fiscal year in which the application is submitted.

h) A detailed account of other income or grants that have funded the activity encouraged indicating the amount and origin.

* 1. Problem Notification

The Incubatee shall notify FUNDACION MADRI+D's representatives of any problem likely to significantly impact the progress of the Activity.

**4. MEETINGS**

4.1 Kick-off Meeting

The kick-off meeting shall take place at FUNDACION MADRI+D's premises or by teleconference at the beginning of the Contract Term.

4.2 Mid Term Review

At Mid Term a meeting shall be held (“Mid Term Review”), where the Incubatee shall present the Mid Term Report, to verify the status of the Activity and to confirm its feasibility.

4.3 Additional Meetings

Additional meetings may be requested either by FUNDACION MADRI+D or the Incubatee.4.4 Notice and Agenda for Meetings

For all meetings the Incubatee shall ensure that proper notice to FUNDACION MADRI+D is given at least two (2) weeks in advance of when FUNDACION MADRI+D’s participation is foreseen to be required. The Incubatee is responsible for ensuring the participation of the Incubatee’s personnel and/or third party advisors, as needed.

For each meeting the Incubatee shall propose an agenda in electronic form and shall compile and distribute hand-outs of any presentation given at the meeting.

**5. DELIVERABLES**

* 1. Documentation to be delivered

In addition to the documents to be delivered according to section 3 above, the documentation set out in this section 5 shall also be deliverable. All documentation Deliverables mentioned in this section 5 (including all their constituent parts) shall be delivered as follows:

5.1.1 in electronic form on computer readable media (e.g. CD-ROM, DVD-ROM) as agreed by FUNDACION MADRI+D, and in other exchange formats where relevant (e.g., PDF- format, HTML); and

5.1.2 in one (1) paper copy

The draft version of the documentation shall be sent to FUNDACION MADRI+D’s technical officer in one (1) electronic copy for approval not later than two (2) weeks before the documentation is to be presented.

* 1. Mid Term Report

The Incubatee shall document in detail the status of its technical and commercial progress in relation to the Activity in the Mid Term Report and confirm the feasibility of the Activity. The Mid Term Report shall furthermore contain all invoices relevant to the Third Party Services obtained by the Incubatee in accordance with Article 4 of this Contract. The Mid Term Report shall be presented by the Incubatee to FUNDACION MADRI+D at the Mid Term Review. The Incubatee shall submit the presentation of the Mid Term Report to FUNDACION MADRI+D two (2) weeks in advance of the Mid Term Review meeting.

5.3 Final Report

A report shall be produced by the Incubatee at the end of the Contract Term. It shall be a complete statement of all the work undertaken by the Incubatee during the Contract Term, including the activities functional to the Business Plan (“Final Report”). It shall not refer to any other report that may have been provided by the Incubatee and shall detail the full results of the Activity to include:

1. lessons learned;
2. details of the support received from FUNDACION MADRI+D and/or ESA BIC Madrid Region’ partners;
3. contacts established;
4. description of technical developments;
5. financial details;
6. all invoices relevant to the Third Party Services obtained by the Incubatee in accordance with Article 4 of this Contract.
7. licences granted and patent filings and applications;
8. photographic documentation
9. … [*further input by FUNDACION MADRI+D required on a case by case basis*]

5.4 Executive Summary to the Final report

The Incubatee shall prepare a summary which shall concisely summarise the findings of the Incubatee in performing the Activity (“Executive Summary”). It shall be suitable for non-experts and should also be appropriate for publication, including on a web page. For this reason, it shall not contain any confidential information. The Executive Summary shall not exceed three (3) to four (4) pages of text with coloured illustrations or photographs, if appropriate. It shall also be delivered to FUNDACION MADRI+D by the Incubatee in PDF or HTML format.

5.5 Business Plan

The Incubatee shall produce a business plan that sets out the Incubatee's expected course of action for next period of the development of the company, including a detailed listing and analysis of risks and uncertainties (“Business Plan”). The Business Plan should also examine the proposed products (including scientific and technical requirements and feasibility), the market, the industry, the management policies, the marketing policies, production needs and financial needs of the Incubatee and may be used as a prospectus for potential investors and lenders and participation in FUNDACION MADRI+D’s Investors Forum at a later stage.

5.6 Annual Performance Report

The annual performance report shall describe the sales made and/or licences granted by the Incubatee during the preceding twelve (12) months (“Annual Performance Report”). The Incubatee shall submit this in one (1) paper copy and in electronic form. The Incubatee shall submit the Annual Performance Report to FUNDACION MADRI+D and to the Agency every year for a period of ten (10) years from the end of the Contract Term.

5.7 Photographic Documentation

Photographic documentation comprises photographs of events organised by the Contractor and photographs of hardware under manufacture by the Techno-starters showing major progress, as well as of tests and test set-ups. Videos presenting the functioning of hardware/test set-up and relating test activities may also be included in this category.

5.8 Software (including computer programmes)

Copy of the software developed by the Incubatee shall be a deliverable to be kept under confidentiality provisions for the purpose of auditing.

The Techno-starters shall provide a demonstration of the software to FUNDACION MADRI+D’s representative including a trailer/movie clip illustrating the use and application of their developed software program for the purpose of FUNDACION MADRI+D/ESA exhibitions.

5.9 Hardware

A prototype or product manufactured by the techno-starter. In case of very high production costs, the techno-starter can keep the original prototype and deliver a mock-up of the prototype. Techno-starters shall however keep the prototype available for lending it to FUNDACION MADRI+D/ESA for exhibitions.

**ADDENDUM 2**

**AGENDA FOR MIDTERM REVIEW**

1. Welcome/Introduction

2. Elevator pitch

2-3 minutes without slides. *(This is good training and will introduce the company and business idea to potential new audience.)*

3. Progress status tasks/work packages, first phase.

Refer to each task in original proposal, and present the current status of the task/work package. Explain reasons to why tasks have not been completed (if any). Present any new tasks that have been added in this first phase (if any).

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Task/Work Package #**  **Objectives**  **Sub-tasks**  **Costs**   |  |  |  | | --- | --- | --- | | **Sub-tasks** | **Costs (€): ESA Incentive** | **Costs (€):Local Incentive** | |  |  |  | |  |  |  | | **Total (€)** |  |  |   **Output** |

4. Planning of tasks/work packages, next phase

Refer to each task in original proposal and present current status or changes, if any. Include overview of additional new tasks (if any).

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Task/Work Package #**  **Objectives**  **Sub-tasks**  **Costs**   |  |  |  | | --- | --- | --- | | **Sub-tasks** | **Costs (€): ESA Incentive** | **Costs (€):Local Incentive** | |  |  |  | |  |  |  | | **Total (€)** |  |  |   **Output** |

5. Incubation Planning Overview:



6. Cost Breakdown Overview, first phase:



7. Changes in expected Costs, first phase:



8. Overview of technical experts

* Expert hours used, this phase
* Experts hours needed, next phase

9. Overview of major challenges/concerns.

10. Other news/updates

Very short, for example:

* change in team
* financial developments/ additional sources of funding/ investments (personal/subsidy)
* cooperation agreements

11. Proposal of CCN

If any

12. Q&A

**ADDENDUM 3**

**FINAL REPORT TEMPLATE**

*Template for Final Report (see also 5.3 of Addendum 1 of the incubation contract). Please use this template also to structure your presentation for the Final Review.*

1. Introduction

2. Elevator pitch

2-3 minutes Pitch *(This is good training and will introduce the company and business idea to potential new audience.)*

3. Lessons learned *(5.3.a in Addendum 1 of the contract)*;

4. Details of the support received from ………… *(5.3.b in Addendum 1 of the contract)*;

Also mention the expert’s names, sections and hours used during the incubation period.

5. Business contacts established *(5.3.c in Addendum 1 of the contract)*;

6. Progress report on work packages of *total* incubation period *(5.3.d in Addendum 1 of the contract)*

Refer to each task in original proposal, and present the current status of the task/work package. Explain reasons to why tasks have not been completed (if any). Present any new tasks that have been added in this first phase (if any).

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Task/Work Package #**  **Objectives**  **Sub-tasks**  **Costs**   |  |  |  | | --- | --- | --- | | **Sub-tasks** | **Costs (€): ESA Incentive** | **Costs (€):Local Incentive** | |  |  |  | |  |  |  | | **Total (€)** |  |  |   **Output** |

7. Incubation Planning Overview (planned *and* actual):



8. Changes in expected Costs, total incubation period *(5.3.e in Addendum 1 of the contract)*;



9. Overview of major challenges/concerns.

10. Other news/updates

* changes in your team’s composition
* financial developments; i.e. secured financing , launching customers, other income
* cooperation agreements

11. Way forward

12. Feedback on ESA Business Incubation support

ANNEX to the Final Report. Please attached to this report also:

1. An overview and the copies of all invoices relevant to the Third Party Services obtained by the Incubatee *(5.3.f in Addendum 1 of the contract)*;
2. An overview and copies of patents, patent filings and/or licences granted *(5.3.g in Addendum 1 of the contract)*;
3. Photographic documentation accordance *(5.3.h in Addendum 1 of the contract)*.

**ADDENDUM 4**

**LOGO**





**ADDENDUM 5**

**VACANCY NOTE TEMPLATE**

1. The European Space Agency is an intergovernmental organisation constituted of the following Member States: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland and the United Kingdom. [↑](#footnote-ref-2)
2. These “spin-in” products and services shall address innovative solutions, possibly in conjunction with new business models, for the future space industry, aka “Space 4.0”. Beyond applications of space systems, which are already eligible to ESA BICs, “spin-in” encompasses solutions for optimising or developing processes, components, subsystems (up to an entirely new space system), all along the space value chain of payloads, satellites, launchers and ground stations, from concept definition, construction, manufacturing, assembly, integration, and testing all the way to launch, operations, and evaluation, using for instance COTS from non-space sectors, contemporary automation, big data, data exchange and manufacturing technologies, such as 3D-printing. [↑](#footnote-ref-3)
3. Please, contact the ESA BIC Madrid Region Manager for any doubts and clarifications on this matter. [↑](#footnote-ref-4)
4. If the Agency or its Member States require the use of any Intellectual Property Rights, owned by the Incubatee as described in Item 19 here above Agency’s programmes, the Incubatee shall be invited to submit a proposal following a request for quotation issued by the Agency. If, for any reason, the Incubatee is not able to submit a proposal within the determined tendering period, or following evaluation, said proposal is not recommended in-line with the ESA Rules and Regulations, the Agency is automatically entitled to a worldwide, irrevocable, transferable, non-exclusive licence to use on “favourable conditions” (i.e. more favourable for the Licensee than market conditions but still allowing reasonable profit for the Licensor) such Intellectual Property Rights for non-commercial purposes within its Scientific Research and Research and Development programmes, with the right to grant sub-licenses. Applicants should carefully read the contractual documentation provided in Article 12 of the Draft Incubation Contract. [↑](#footnote-ref-5)
5. Please, contact the ESA BIC Comunidad de Madrid Manager for any doubts and clarifications on this matter [↑](#footnote-ref-6)