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**ORGANISATION EUROPÉENNE POUR LA RECHERCHE NUCLÉAIRE**  
**CERN** EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

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*Action to be taken*

*Voting Procedure*

|                 |   |   |
|-----------------|---|---|
| For information | <b>FINANCE COMMITTEE</b><br>358 <sup>th</sup> meeting<br><b>14 December 2016</b>                    | -   |
| For approval    | <b>COUNCIL</b><br><b>RESTRICTED SESSION</b><br>183 <sup>rd</sup> Session<br><b>15 December 2016</b> | Two-thirds majority<br>of all the Member States |

**TECHNICAL AMENDMENTS TO THE AGREEMENT BETWEEN CERN AND ESO  
CONCERNING THE ADMISSION OF ESO STAFF TO  
THE CERN PENSION FUND, AS REQUIRED FOLLOWING THE IMPLEMENTATION OF  
THE NEW CERN CAREER STRUCTURE**

The Council is invited to approve the technical amendments to the agreement between CERN and ESO concerning the admission of ESO staff to the CERN Pension Fund, as set out in the annex, with effect from 1 January 2017.



**TECHNICAL AMENDMENTS TO THE AGREEMENT BETWEEN CERN AND ESO  
CONCERNING THE ADMISSION OF ESO STAFF TO  
THE CERN PENSION FUND, AS REQUIRED FOLLOWING THE IMPLEMENTATION OF  
THE NEW CAREER STRUCTURE**

At its December 2015 Session, in the framework of the 2015 five-yearly general review of the financial and social conditions of the members of the personnel, the Council approved the new CERN career structure (CERN/FC/5956 – CERN/3213). At its September 2016 Session, the Council approved the technical amendments to the Rules of the CERN Pension Fund required following the implementation of the said structure (CERN/3270/RA).

As already indicated to the Council, technical changes are also required to the CERN/ESO agreement concerning the admission of ESO staff to the CERN Pension Fund. These amendments to the agreement, including its two annexes, were prepared by the CERN and ESO Managements, and were endorsed by the Pension Fund Governing Board at its meeting on 22 September 2016.

The proposed amendments to the agreement, including its two annexes, are set out below.

The revised agreement is also on the agenda of the next ESO Council Session to be held on 7/8 December 2016. Following its approval by the Councils of CERN and ESO, it will be signed by the Directors-General of both organisations with a view to entry into force on 1 January 2017.

Once in force, the revised agreement will replace the previous version of the agreement concluded on 16 December 2013 (CERN/FC/5783 – CERN/3089).

**Proposal**

The Council is invited to approve the technical amendments to the agreement between CERN and ESO concerning the admission of ESO staff to the CERN Pension Fund, as set out in the annex, with effect from 1 January 2017.

**ANNEX****REVISED AGREEMENT BETWEEN CERN AND ESO CONCERNING THE  
ADMISSION OF ESO STAFF TO THE CERN PENSION FUND****(AMENDMENTS ARE UNDERLINED)**

The European Organization for Nuclear Research, hereinafter referred to as “CERN”, whose seat is at Geneva, Switzerland,

on the one hand,

and

The European Organization for Astronomical Research in the Southern Hemisphere, hereinafter referred to as “ESO”, whose seat is at Garching, Germany,

on the other hand,

Hereinafter referred to individually as “party” and collectively as “parties”,

**CONSIDERING THAT**

the CERN Council approved, by its decision dated 19 and 20 December 1955, the setting-up of the CERN Pension Fund, hereinafter referred to as the “FUND”, with the purpose of insuring CERN staff against the financial consequences of disability and old age;

by its Resolution dated 23 June 1989, the CERN Council placed the FUND under its direct control and established the FUND’s operational autonomy within the Organization, of which it remains an integral part;

ESO requested, in a decision of its Council dated 15 September 1966 and then confirmed on 2 December 1982, to insure its International Staff Members in the FUND, in order to safeguard them against the financial consequences of disability and old age;

this request was justified by the number of ESO staff eligible for disability and old-age insurance, which did not warrant the setting-up of a disability and old-age insurance scheme particular to this Organization;

this request was also justified by the nature of ESO, as a scientific European Intergovernmental Organization similar to CERN, and by the longstanding co-operation between the parties;

the CERN Council accepted, by its decision dated 14 and 15 June 1967, the principle of the admission of ESO staff into the FUND;

a corresponding Agreement between the parties was concluded to this effect on 1 July 1968, as amended on 1 July 1983 and 13 March 1991;

in June 2007 the CERN Council adopted a Resolution whereby it confirmed the FUND's operational autonomy and redefined its governance principles and structure, which recognize the need to enhance the representation of ESO as reflected in the revised Agreement concluded on 4 and 7 September 2009;

in 2011 ESO requested a redefinition of the reference salary relevant for the determination of pension contributions and pension benefits applicable to future ESO staff in order to remedy disproportionate pension conditions resulting from the different evolution of the CERN and ESO salary scales and career structures;

in December 2012 and March 2013 the CERN Council agreed to the elaboration of a proposal for a solution to ESO's request, provided that it entailed minimum risk for CERN;

at its December 2013 Session, the CERN Council approved the proposal for a redefined reference salary applicable to future ESO staff and the related amendments to this Agreement;

at its December 2015 Session, in the context of the five-yearly general review of financial and social conditions, the CERN Council approved a redefinition of the CERN career structure and salary scale;

at its September 2016 Session, in implementation of its decision of December 2015, the CERN Council approved a technical adjustment of the calculation of the coefficients used by the FUND for the determination of reference salaries for CERN staff;

thereafter, in December 2016, the Councils of CERN and ESO approved necessary amendments to this Agreement in respect of the determination of reference salaries for ESO staff.

HAVE AGREED AS FOLLOWS:

## ARTICLE I

### Admission of ESO staff to the FUND

1. This Agreement shall provide for the admission of ESO International Staff Members and Fellows, as defined by the ESO Staff Rules, who have a contract for a minimum of six months pursuant to the ESO Staff Rules and Regulations (hereinafter referred to as “ESO staff”) to the FUND, in accordance with the Rules of the FUND and any future amendments, which ESO hereby undertakes to accept in their entirety.
2. ESO staff shall be admitted and treated on the same basis as CERN staff. Subject to the provisions of Article II below, all provisions of the Rules and Regulations of the FUND shall apply in the same way to ESO staff as they apply to CERN staff.
3. ESO shall appoint two members of the Governing Board of the FUND. One shall be appointed by the ESO Council and the other by the ESO Staff Association from among the ESO staff.
4. The Governing Board of the FUND shall also include a member appointed by the CERN and ESO Pensioners Association from among the CERN and ESO beneficiaries of the FUND.
5. Additional administrative arrangements may be made jointly by the Directors-General of the parties for the implementation of this Agreement.

## ARTICLE II

### Determination of the reference salary applicable to ESO staff

1. For the purpose of the application of Article II 1.03 of the Rules of the FUND with respect to ESO staff, the terms “basic remuneration” and “coefficient” shall be as follows:

a) “Basic remuneration”

i) for ESO International Staff Members who joined the FUND on or before 31/12/2013:

the CERN basic salary position which corresponds to the ESO International Staff Member’s salary position, as set out in the “ESO Correspondence Table” annexed to this Agreement<sup>1</sup>.

ii) for ESO International Staff Members and Fellows who joined the FUND on or after 01/01/2014:

their ESO basic salary or ESO basic stipend, converted into Swiss francs.

b) “Coefficient”

i) The applicable coefficients for all ESO International Staff Members are set out in the “Coefficients Table” annexed to this Agreement.

ii) The applicable coefficient for ESO Fellows is set out in Article II 1.03 of the Rules of the FUND.

2. The euro – Swiss franc exchange rate to be applied to the conversion referred to in paragraph

1. a) ii) above shall be the following:

a) for the calculation of the contributions, within the meaning of Article II 1.07 of the Rules of the FUND, to be paid in respect of the ESO staff concerned during year n:

the annual exchange rate supplied by the Deutsche Bundesbank for the year n-1;

b) for the calculation of the benefits, within the meaning of Articles II 1.08, II 1.11, II 5.04, II 6.03 and II 6.04 of the Rules of the FUND:

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<sup>1</sup> This table is subject to revision by ESO, under its own responsibility.

the average of the annual exchange rates referred to in paragraph 2 a) above for the whole career of the ESO staff concerned, weighted, as necessary, to take account of variations in their working time and of incomplete years of membership.

### ARTICLE III

#### Mutual consultation

1. ESO shall consult CERN, at an early stage, on any developments in its personnel policy, including any amendments to its Staff Rules and Regulations, that may have an impact on the FUND, in particular on its actuarial balance, and / or on this Agreement.
2. CERN shall consult ESO, at an early stage, on any amendment to the Rules of the FUND and shall keep it informed about any developments in its personnel policy, including any amendments to its Staff Rules and Regulations, that may have an impact on the FUND, in particular on its actuarial balance, and / or on this Agreement.

### ARTICLE IV

#### Obligations of ESO

ESO hereby accepts the responsibilities consequent upon this Agreement and the admission of ESO staff to the FUND.

In particular, ESO hereby undertakes:

1. to give the FUND all information concerning ESO staff who are to become members of the Fund;
2. to bear all costs of providing the FUND with any information, documentation or special reports;
3. in accordance with the Rules and Regulations of the FUND, to bear its share of the administrative costs of the FUND in proportion to the number of its staff in the FUND;
4. to contribute its share, determined by the Actuary of the FUND, to any financial measure decided by CERN in order to maintain the actuarial balance of the FUND;



5. to bear, pursuant to Article II 1.15 of the Rules of the FUND, all costs of any actuarial consequences which affect the financial balance of the FUND, as calculated by the Actuary of the FUND, resulting from the implementation of measures of ESO personnel policy, including those relating to the redefinition of the reference salary applicable to ESO staff who joined the FUND on or after 01/01/2014;
6. to supply any evidence that may be required in order to substantiate the rights of the ESO staff admitted to the FUND;
7. within thirty days of their becoming due, to pay the amounts due as contributions under the Rules of the FUND into an account specified for this purpose;
8. to comply with the obligations resulting from the insurance policy taken out by CERN against occupational accidents and illnesses, which also covers ESO staff;
9. to ensure the compatibility of its Staff Rules and Regulations with this Agreement and the Rules and Regulations of the FUND;
10. to take all necessary measures to protect and defend the interests of CERN and the FUND with respect to any demand, claim or litigation relating to this Agreement and/or the Rules and Regulations of the FUND, raised with ESO by ESO staff or beneficiaries, and to consult CERN accordingly;
11. to provide CERN and the FUND with all information relating to the implementation of this Agreement and to provide the necessary support in the event of any demand, claim or litigation related thereto raised with CERN and /or the FUND;
12. with respect to the redefinition of the reference salary applicable to ESO staff who joined the FUND on or after 01/01/2014 as well as to the ESO Correspondence Table referred to in Article II of this Agreement,
  - a) to accept exclusive liability for the legal and financial consequences of its decision to redefine the reference salary applicable to the aforementioned ESO staff and of the contents of this Table, and to inform ESO staff that any claims related thereto are to be directed against ESO;
  - b) and that, notwithstanding the foregoing, should a claim be directed against CERN, to hold the latter free and harmless of any liability, including costs incurred in litigation.

## ARTICLE V

### Guarantees

Under Article I 3.03 of the Rules of the FUND, ESO shall guarantee the benefits acquired under the provisions of these Rules by ESO staff until the cessation of the rights of the last beneficiary.

## ARTICLE VI

### Accounts

Admission of ESO staff to the FUND shall not give rise to the keeping of a special account in the name of ESO nor to the communication of separate balance sheets relating only to ESO staff.

## ARTICLE VII

### Duration and termination of the Agreement

Should essential circumstances or conditions underlying this Agreement change or cease, the parties shall enter into negotiation with respect to a revision of this Agreement. In this event, either party may request its termination on conditions to be mutually agreed upon. Acquired rights of the members of the FUND and the beneficiaries shall be respected.

## ARTICLE VIII

### Arbitration

1. Any dispute arising between the parties as to the interpretation or application of this Agreement that cannot be settled by direct negotiation shall, unless the parties agree to another method of settlement, be submitted on application by either party to an arbitration tribunal composed of three members, namely an arbitrator appointed by CERN, an arbitrator appointed by ESO and a third arbitrator chosen by joint agreement between the two above-mentioned arbitrators, this arbitrator being neither an official of CERN nor an official of ESO, and presiding over the tribunal. The tribunal itself shall determine its rules of procedure.

2. The application for arbitration shall include the name of the arbitrator chosen by the applicant; the respondent shall appoint its arbitrator and inform the other party of his/her name within three months of receiving the application.
3. If the respondent fails to supply the name of its arbitrator within the above period or if the two arbitrators fail to agree on the choice of a third arbitrator within three months of the appointment of the second arbitrator, the arbitrator or the third arbitrator, as the case may be, shall be appointed by the President of the Administrative Tribunal of the International Labour Organization at the request of whichever party is first to apply to the Tribunal.
4. The arbitration tribunal shall decide on the basis of this Agreement and, where a matter is not specifically covered by it or a provision is ambiguous or unclear, on the basis of Swiss substantive law. It shall sit in Geneva.
5. The decisions of the arbitration tribunal shall be final and the parties shall have no right of appeal.

## ARTICLE IX

### Entry into force of the Agreement

This Agreement shall replace the Agreement concluded on 16 December 2013. It shall enter into force on 1 January 2017.

Done in quadruplicate, two copies being in French and two in English, it being understood that in case of issues of interpretation or conflict between these versions, the English version shall prevail.

Signed in Geneva and Garching, on ... December 2016.

For the European Organization  
for Nuclear Research

For the European Organization for  
Astronomical Research in the Southern  
Hemisphere

Fabiola Gianotti  
Director-General

Tim de Zeeuw  
Director-General

Annexes to the CERN/ESO Agreement  
(as referred to in Article II of the Agreement)

| ESO correspondence table |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
|--------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ESO grades               |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| ESO steps                | 4                                       | 5                                       | 6                                       | 7                                       | 8                                       | 9                                       | 10                                      | 11                                      | 12                                      | 13                                      | 14                                      |   |   |   |
|                          | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade | % of<br>midpoint<br>of<br>CERN<br>grade |
| 0                        | 91.906%                                 | 97.931%                                 | 88.364%                                 | 84.570%                                 | 84.633%                                 | 91.552%                                 | 89.577%                                 | 105.956%                                | 83.904%                                 | 93.988%                                 | 87.572%                                 | 9                                       | 10                                      |   |
| 1                        | 93.721%                                 | 84.520%                                 | 90.773%                                 | 86.595%                                 | 86.636%                                 | 93.744%                                 | 91.420%                                 | 108.704%                                | 85.844%                                 | 96.544%                                 | 89.720%                                 | 9                                       | 10                                      |   |
| 2                        | 95.535%                                 | 85.634%                                 | 91.978%                                 | 88.620%                                 | 87.637%                                 | 94.841%                                 | 93.263%                                 | 110.579%                                | 86.814%                                 | 97.822%                                 | 91.868%                                 | 9                                       | 10                                      |   |
| 3                        | 97.350%                                 | 87.860%                                 | 94.388%                                 | 89.632%                                 | 89.640%                                 | 97.034%                                 | 95.105%                                 | 113.327%                                | 88.754%                                 | 99.855%                                 | 94.059%                                 | 9                                       | 10                                      |   |
| 4                        | 99.292%                                 | 88.974%                                 | 95.592%                                 | 91.657%                                 | 91.643%                                 | 99.227%                                 | 96.948%                                 | 114.701%                                | 89.724%                                 | 102.538%                                | 96.315%                                 | 9                                       | 10                                      |   |
| 5                        | 101.833%                                | 91.200%                                 | 98.002%                                 | 92.669%                                 | 92.645%                                 | 100.323%                                | 98.791%                                 | 98.693%                                 | 91.664%                                 | 103.880%                                | 98.570%                                 | 9                                       | 10                                      |   |
| 6                        | 103.103%                                | 92.314%                                 | 99.207%                                 | 94.694%                                 | 94.648%                                 | 102.516%                                | 100.633%                                | 99.848%                                 | 92.634%                                 | 106.564%                                | 100.791%                                | 9                                       | 10                                      |   |
| 7                        | 104.374%                                | 93.427%                                 | 100.412%                                | 96.719%                                 | 96.651%                                 | 103.612%                                | 102.476%                                | 102.157%                                | 95.545%                                 | 107.906%                                | 103.046%                                | 9                                       | 10                                      |   |
| 8                        |   | 95.684%                                 | 104.087%                                | 97.732%                                 | 97.652%                                 | 105.805%                                | 104.319%                                | 103.311%                                | 96.544%                                 | 110.590%                                |   | 9                                       |   |   |
| 9                        |   | 96.797%                                 | 104.255%                                | 99.757%                                 | 99.655%                                 | 107.998%                                | 106.162%                                | 105.620%                                | 97.822%                                 | 111.931%                                |   | 9                                       |   |   |
| 10                       |   | 97.911%                                 | 105.460%                                | 101.461%                                | 100.657%                                | 109.094%                                | 108.004%                                | 106.775%                                | 100.378%                                | 114.615%                                |   | 9                                       |   |   |
| 11                       |   | 100.137%                                | 107.869%                                | 102.473%                                | 102.391%                                | 110.984%                                | 109.847%                                | 109.083%                                | 101.656%                                |   |   | 9                                       |   |   |
| 12                       |   | 101.251%                                | 109.074%                                | 104.498%                                | 104.394%                                | 113.177%                                | 110.768%                                | 110.238%                                | 102.933%                                |   |   | 9                                       |   |   |
| 13                       |   | 103.477%                                | 111.484%                                | 106.523%                                | 105.395%                                | 114.273%                                | 112.611%                                | 112.547%                                | 105.489%                                |   |   | 9                                       |   |   |

| <b>C Coefficients for ESO</b> |          |          |          |          |          |          |           |           |           |           |           |
|-------------------------------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|
| <b>ESO grades</b>             |          |          |          |          |          |          |           |           |           |           |           |
| <b>ESO steps</b>              | <b>4</b> | <b>5</b> | <b>6</b> | <b>7</b> | <b>8</b> | <b>9</b> | <b>10</b> | <b>11</b> | <b>12</b> | <b>13</b> | <b>14</b> |
| <b>0</b>                      | 1.3072   | 1.2996   | 1.2910   | 1.2753   | 1.2548   | 1.2361   | 1.2223    | 1.2112    | 1.2065    | 1.2044    | 1.2044    |
| <b>1</b>                      | 1.3049   | 1.2964   | 1.2878   | 1.2725   | 1.2522   | 1.2338   | 1.2207    | 1.2099    | 1.2059    | 1.2043    | 1.2045    |
| <b>2</b>                      | 1.3026   | 1.2948   | 1.2862   | 1.2697   | 1.2509   | 1.2327   | 1.2192    | 1.2091    | 1.2056    | 1.2042    | 1.2047    |
| <b>3</b>                      | 1.3003   | 1.2917   | 1.2830   | 1.2684   | 1.2484   | 1.2305   | 1.2178    | 1.2081    | 1.2052    | 1.2042    | 1.2050    |
| <b>4</b>                      | 1.2979   | 1.2902   | 1.2815   | 1.2657   | 1.2460   | 1.2285   | 1.2165    | 1.2077    | 1.2050    | 1.2043    | 1.2052    |
| <b>5</b>                      | 1.2949   | 1.2872   | 1.2785   | 1.2644   | 1.2448   | 1.2275   | 1.2152    | 1.2069    | 1.2047    | 1.2043    | 1.2055    |
| <b>6</b>                      | 1.2934   | 1.2857   | 1.2770   | 1.2619   | 1.2425   | 1.2256   | 1.2141    | 1.2065    | 1.2046    | 1.2045    | 1.2058    |
| <b>7</b>                      | 1.2919   | 1.2843   | 1.2756   | 1.2595   | 1.2403   | 1.2247   | 1.2130    | 1.2059    | 1.2043    | 1.2046    | 1.2061    |
| <b>8</b>                      |          | 1.2814   | 1.2713   | 1.2583   | 1.2393   | 1.2230   | 1.2120    | 1.2056    | 1.2043    | 1.2048    |           |
| <b>9</b>                      |          | 1.2800   | 1.2711   | 1.2559   | 1.2372   | 1.2213   | 1.2111    | 1.2052    | 1.2042    | 1.2050    |           |
| <b>10</b>                     |          | 1.2786   | 1.2697   | 1.2540   | 1.2362   | 1.2205   | 1.2102    | 1.2050    | 1.2042    | 1.2052    |           |
| <b>11</b>                     |          | 1.2759   | 1.2670   | 1.2529   | 1.2345   | 1.2192   | 1.2094    | 1.2047    | 1.2043    |           |           |
| <b>12</b>                     |          | 1.2746   | 1.2657   | 1.2507   | 1.2326   | 1.2178   | 1.2091    | 1.2046    | 1.2043    |           |           |
| <b>13</b>                     |          | 1.2720   | 1.2632   | 1.2486   | 1.2317   | 1.2171   | 1.2084    | 1.2044    | 1.2044    |           |           |