

CO-OPERATION AGREEMENT

between

**THE DEPARTMENT OF ENERGY
OF THE UNITED STATES OF AMERICA**

and

**THE NATIONAL SCIENCE FOUNDATION
OF THE UNITED STATES OF AMERICA**

and

**THE EUROPEAN ORGANIZATION FOR
NUCLEAR RESEARCH**

concerning

**Scientific and Technical Co-operation in Nuclear and
Particle Physics**

2015

The Department of Energy of the United States of America ("DOE"),

and

the National Science Foundation of the United States of America ("NSF"),

on the one hand,

and

The European Organization for Nuclear Research ("CERN"), an Intergovernmental Organization having its seat at Geneva, Switzerland,

on the other hand,

hereafter collectively referred to as "the Parties"

CONSIDERING:

That research in nuclear and particle physics is important for the further development of fundamental science and technological progress;

CERN's intention to strengthen co-operation with States which are not Members of CERN but with which co-operation has been established;

DOE's and NSF's interest in participating in the scientific programme of CERN;

CERN's interest in participating in the scientific programmes of DOE and NSF;

The established contacts between CERN and DOE and NSF, including the activities conducted under the International Co-Operation Agreement between the European Organization for Nuclear Research (CERN) and the Department of Energy of the United States of America and the National Science Foundation of the United States of America Concerning Scientific and Technical Co-Operation

on Large Hadron Collider Activities signed December 8, 1997 (hereinafter the "1997 Agreement");

The Parties desire to create a framework to ensure, on a long-term basis, opportunities for participation by scientists, engineers and technicians from one Party in research projects of the other Party, and for the provision of such other contributions as the Parties may agree; and

The mutual benefit which the Parties expect to result from their co-operation,

HAVE AGREED AS FOLLOWS:

Article 1 Scope

This Co-operation Agreement ("Agreement") constitutes the framework within which the Parties may, on the basis of reciprocity, further develop their scientific and technical co-operation.

Article 2 Non-Military Purposes

The Parties shall use the results of their co-operation for non-military purposes only.

Article 3 Forms of Co-operation

The Parties may collaborate in research and development in the field of experimental and theoretical physics, accelerator and detector engineering, and computing, including any related domains. Their cooperation may be in the form of the exchange of scientific and/or technical staff, know-how, equipment, materials, funds or any combination thereof.

Article 4

Staff Support

- 4.1 Where the Parties' collaboration is in the form of an exchange of staff, CERN shall consider applications by scientists, engineers and technicians from the United States for appointment as Associated Members of the Personnel of CERN. CERN may on a case-by-case basis decide to contribute towards meeting their cost of living expenses in the CERN region.
- 4.2 Scientists, engineers and students from the United States meeting the eligibility criteria for application may apply to attend the CERN Schools, including the Accelerator School, the Computing School, the European School of Physics, and the Summer Student Programme at CERN. CERN shall treat all applications in accordance with their merit.

Article 5

Implementation

- 5.1 This Agreement shall be implemented through the conclusion of Protocols between CERN on the one hand, and DOE and/or NSF on the other hand, detailing, for each research project, the objectives, programme of work, personnel and other resources, procedures for the transfer and use of materials, and other relevant matters.
- 5.2 The Parties may invite other entities, including universities, research centers, institutions, and private sector companies, to carry out activities under this Agreement, on such terms and conditions as the Parties may decide and which shall be consistent with the provisions of this Agreement.
- 5.3 Each Protocol shall be subject to and governed by the terms of this Agreement.

Article 6

Intellectual Property and Business-Confidential Information

The protection and allocation of intellectual property arising under this Agreement, and the protection of business-confidential information, shall be

governed by the Annex which is attached to and constitutes an integral part of this Agreement.

Article 7

Entry and Exit of Personnel and Equipment

- 7.1 Each Party shall facilitate entry into and exit from the territory of (i) its State (DOE and NSF) and (ii) CERN Member States and Associate Member States, as applicable, of appropriate personnel and equipment of the other Party used in projects conducted under this Agreement, in accordance with the legislation and procedures applicable to the host Party. Such personnel shall comply with the rules of conduct, including compliance with the safety rules concerning the use of equipment, in place at the host Party.
- 7.2 Equipment provided by a sending Party for carrying out joint activities shall be considered to be scientific, not having a commercial character, and the receiving Party shall work toward obtaining duty free entry for such equipment.

Article 8

Applicable Law and Funding

- 8.1 Each Party shall conduct the cooperative activities contemplated by this Agreement in accordance with the applicable laws, regulations, and procedures to which it is subject.
- 8.2 The conduct of cooperative activities under this Agreement shall be subject to the availability of appropriated and other funds, personnel, and other resources.
- 8.3 Except as the Parties may agree otherwise, each Party shall bear its cost and expense resulting from its participation in any activity under this Agreement, including any contracting with other entities.

Article 9

Joint Cooperation Committee

- 9.1 The Parties shall establish a Joint Cooperation Committee, hereinafter referred to as "the Committee", to coordinate, facilitate, and review cooperative activities under this Agreement.
- 9.2 The Committee shall consist of representatives appointed by each Party. Two co-chairpersons shall also be selected, one by CERN and one by DOE and NSF.
- 9.3 The Parties agree to consult periodically and at the request of either Party concerning the implementation of this Agreement and the development of their cooperation. The Committee shall meet annually or more frequently as deemed appropriate.

Article 10

Disputes

Except as provided in Section II.D. of the Annex, any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by consultations between the Parties and shall not be referred to any forum for resolution.

Article 11

Entry into Force, Amendment, and Duration

- 11.1 This Agreement shall enter into force on the date of its signature by the Parties.
- 11.2 This Agreement shall remain in force for an initial period of five years and shall thereafter be renewed automatically, each time for a new period of five years, unless a written notice of termination is given by one Party to the other Party, or the Parties have agreed on its renewal by another period, at least six months prior to the renewal date.

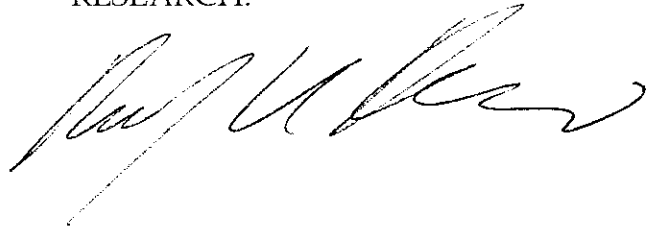
- 11.3 The withdrawal of (i) CERN or (ii) both DOE and NSF from this Agreement shall constitute termination of this Agreement, it being understood, however, that the provisions of this Agreement shall continue to apply in respect of activities undertaken prior to such termination.
- 11.4 The Parties may amend this Agreement at any time by mutual agreement in writing.
- 11.5 The 1997 Agreement, and Protocols thereunder, shall continue in force unaffected by this Agreement, and this Agreement shall not be affected by any of the terms or provisions of the 1997 Agreement.

DONE at Washington, in duplicate, this 7 day of May, 2015.

FOR THE DEPARTMENT OF
ENERGY OF THE UNITED STATES
OF AMERICA:



FOR THE EUROPEAN
ORGANIZATION FOR NUCLEAR
RESEARCH:



FOR THE NATIONAL SCIENCE
FOUNDATION OF THE UNITED
STATES OF AMERICA:



ANNEX

Intellectual Property Rights

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant Protocols. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.

B. For purposes of this Agreement, "intellectual property" shall mean the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967 and may include other subject matter as agreed by the Parties.

C. Each Party shall ensure, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation between a Party and individuals subject to its jurisdiction, which shall be determined by the laws and practices applicable to that Party.

D. Disputes concerning intellectual property arising under this Agreement shall be resolved through discussions between the concerned participating institutions, or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

E. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in paragraph III.A above, shall be allocated as follows:

(1) Visiting researchers shall receive rights, awards, bonuses and royalties in accordance with the policies of the host institution.

(2) (a) Any intellectual property created by persons employed or sponsored by one Party under cooperative activities other than those covered by paragraph III.B.(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by the Parties. In addition, each creator shall be entitled to awards, bonuses and royalties in accordance with the policies of the institution employing or sponsoring that person.

(b) Unless otherwise agreed in a Protocol, each Party shall have within the territory of (i) its State (DOE/NSF) or (ii) CERN Member States and Associate Member States, as applicable, a right to exploit or license intellectual property created in the course of the cooperative activities.

(c) The rights of a Party outside the territory of (i) its State (DOE/NSF) or (ii) CERN Member States and Associate Member States, as applicable, shall be determined by mutual agreement considering the relative contributions of the Parties and their participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.

(d) Notwithstanding paragraphs III.B.(2)(a) and (b) above, if either Party believes that a particular project is likely to lead to or has led to the creation of intellectual property not protected by the laws applicable to the other Party, the Parties shall immediately hold discussions to determine the allocation of rights to the intellectual property. If an agreement cannot be reached within three months of the date of the initiation of the discussions, cooperation on the project in question

shall be terminated at the request of either Party. Creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B.(2)(a).

(e) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party, together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. Business-Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under this Agreement, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, and the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.