

**REQUEST FOR PROPOSAL
RFP# N00025658C**

**Rubin Observatory Education and Public Outreach (EPO) Program
Evaluation**

On behalf of

VERA C. RUBIN OBSERVATORY (Rubin)

**INSTRUCTIONS TO OFFERORS
(Instructions or RFP Instructions)**

ASSOCIATION of UNIVERSITIES for RESEARCH in ASTRONOMY Inc. (AURA)

PROPOSALS MUST BE RECEIVED BY:

**FRIDAY, 17 MARCH 2023 AT 6:00 PM MST (Tucson, U.S.)
(CLOSING DATE)**

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SECTION I

ARTICLE 1. DEFINITIONS

- 1.1 All definitions set forth in the Draft Contract, attachments and appendices are applicable to these Instructions to Offerors.
- 1.2 The “Request for Proposal Documents” (hereinafter RFP Documents) consist of the following:
- (a) Instructions to Offerors;
 - (b) Amendments to the Instructions issued prior to Closing Date;
 - (c) Draft Contract
 - (d) Representations and Certifications
- 1.3 “Amendments” mean the written or graphic instruments issued prior to the Closing Date which modify or interpret the RFP Documents, including specifications, by additions, deletions, extensions, answers to Questions posted on the RFP Webpage, clarifications or corrections.
- 1.4 "Contract Documents" may include any, or all, of the following:
- (a) Contract between AURA and the Contractor;
 - (b) Representations and Certifications;
 - (c) Terms and Conditions;
 - (d) Statement of Work;
 - (e) Construction Drawings;
 - (f) Construction Specifications;
 - (g) Photos of Area of Work;
 - (h) Amendments and all modifications incorporated in the documents before their execution.
- 1.5 “AURA” means the Association of Universities for Research in Astronomy, Inc., an Arizona non-profit corporation. The term "AURA" includes its authorized representatives. AURA operates the **Vera C. Rubin Observatory (Rubin)** and is engaged in managing, operating, and maintaining observatories and related activities for research in the field of astronomy. AURA desires to enter into a Contract to perform the **EPO Program Evaluation** for the Rubin Observatory as described in the Statement of Work.
- 1.6 “Foundation” means the National Science Foundation, an agency of the United States of America created under the National Science Foundation Act of 1950. The term "Foundation" includes its authorized representatives.
- 1.7 “Offeror” or “Bidder” means the person, authorized representative(s), or organization submitting a proposal, and if awarded, shall perform the Work described in the Contract as the “Contractor.”

1.8 “Contractor” means the person, authorized representative(s) or organization responsible for the completion of the Work. If a proposal is submitted on behalf of multiple parties, the term “Contractor,” shall apply to the party or parties responsible for completion of the Work.

1.9 “Work” means those tasks, requirements, and obligations described in the Statement of Work as included in the Contract Documents.

1.10 “Subcontractor” means a person or organization, with a direct agreement with the Contractor to furnish labor, or labor and materials, in support of the Statement of Work. The term also includes lower tier contractors of a Subcontractor, but it does not include suppliers who furnish materials not worked to a special design according to the drawings and specifications. Nothing contained in the Contract Documents shall be deemed or construed to create any contractual relation between AURA and any Subcontractor as defined above.

1.11 "Closing Date" means the specified date and time by when all proposal documents must be received by AURA.

ARTICLE 2. PROPOSAL PROCEDURES

2.1 Proposals shall consist of the elements described in these RFP Instructions, including those described in Section II. Section II, Offeror’s Proposal Document, must be completed in its entirety and submitted to the address indicated in Paragraph 2.5 below. The Offeror’s price information shall be in accordance with the format indicated in Section II. The entirety of the proposal shall be in English. **Any proposal or part of a proposal not conforming to the specified formats shall be cause to reject the entire proposal.**

2.2

- a. Due to AURA’s tax exempt status, prices quoted shall not include federal, state, or local sales or excise taxes. Offerors subject to a mandatory value-added tax (VAT) may include VAT in the comprehensive price quote.
- b. Prices quoted in the proposal(s) shall include furnishing of all transportation, materials, equipment, tools, supplies, labor and services necessary or proper for performance and completion of the Work, except such as may be otherwise expressly provided for in the RFP documents.
- c. Offeror may find the requisite payment and milestone schedule in the Statement of Work. Offeror shall conform its price in accordance with the payment and milestone schedule. Prices shall be in U.S. Dollars (\$USD).

2.3 In the event of discrepancy between the prices quoted in the RFP in words and those quoted in figures, the words shall control.

2.4 Proposals shall be submitted in an electronic version using MS Office (2003 or later) or .pdf of the entire proposal, not later than the scheduled Closing Date.

2.5 A proposal may be deemed non-compliant if the entire submission package has not been received at the designated location by the Closing Date. Proposals may be delivered to:

Charles T. Maples, Contracts Officer
AURA

Email: cmaples@aura-astronomy.org

2.6 Offeror may withdraw its proposal, either personally or by written request, at any time prior to the Closing Date. If a qualified Offeror determines that it will not submit a proposal, notice of such is requested by AURA.

2.7 Offeror's proposal shall be valid for one hundred eighty (180) days beginning with the Closing Date.

ARTICLE 3. COMMUNICATION AND QUESTIONS

3.1 Any questions or requests for clarification of this proposal must be solely directed to cmaples@aura-astronomy.org. Questions must be submitted by email, and must be received at least three (3) business days before the Closing Date. All questions and responses from any Offeror will be provided to all parties via the [AURA procurement website](#). Responses will be anonymous as to the questioner/Offeror. Any question not conforming to this format will be disregarded. Offerors shall refer to the referenced Sample Contract in this RFP and disregard references to any other contract, such as that found on the AURA procurement website.

ARTICLE 4. REVIEW OF DOCUMENTS

4.1 AURA reserves the right to make additions, deletions, or modifications to the RFP Documents in writing by amendment at any time prior to the Closing Date. If, in the opinion of AURA, any such change causes an increase in the time required for submission of proposals, AURA may, at its sole discretion, adjust the Closing Date in the form of an Amendment posted on the AURA website.

4.2 Offerors shall examine the RFP Documents carefully. Any request for interpretation or correction of any ambiguity, inconsistency, or error that Offeror discovers must be made as per Article 3, not later than three (3) days prior to the Closing Date.

4.3 All interpretations and corrections to the RFP or to the Contract Documents will be issued in the form of an Amendment posted on the AURA website. Offerors shall not rely on any interpretation or correction to the RFP or Contract Documents given by any other method.

4.4 Prior to receipt of proposals, addenda, if required, will be posted on the AURA website.

4.5 The failure of Offeror to receive or examine any form, instrument, amendment or other document, or failure to acquaint itself with existing conditions shall not relieve Offeror from obligations and responsibilities with respect to its proposal or to the Contract. The submission of a proposal will be taken as prima facie evidence of agreement with this section.

ARTICLE 5. REPRESENTATIONS

5.1 Offeror, by submitting a proposal, represents that it is familiar with existing conditions under which the Work will be performed, including, but not limited to, environmental, cultural and operational requirements.

5.2 a. Offeror, by submitting its proposal, represents that it has read and understands all the RFP Documents and by submitting a proposal acknowledges acceptance of all of the Terms and Conditions of the RFP Documents as defined in Section 1.2 of these Instructions.

b. Any exceptions to the Contract Documents by Offeror shall be stated in writing on Offeror's letterhead and submitted with its proposal with clear and concise justification(s). Offeror shall provide alternative wording for consideration by AURA.

c. Offeror, by submitting a Proposal, certifies that the Contract Documents, including the Terms and Conditions and SOW, have been reviewed and accepted by the contracts representative of the Offeror, or similar binding authority, or has noted such exception with its Proposal.

5.3 Offeror shall be prepared to submit a resolution giving evidence of its qualification of corporate signature authority if requested.

5.4 Offeror shall complete, sign, and submit the Representations and Certifications of Section III with the Proposal.

ARTICLE 6. ALTERNATE PROVISIONS

6.1 Offeror represents that its Proposal is based upon the specifications, terms and conditions described in the RFP documents, unless alternative provisions are expressly permitted by an Amendment.

6.2 A proposal containing an alternate provision(s) shall be accompanied by full and complete justification and technical description of the alternate provisions(s) along with a

detailed cost analysis of the differences between the alternate and original provisions. AURA reserves the right to request such other additional information as may be required for approval either before or after receipt of proposals.

6.3 Failure to provide justification or technical descriptions for approval purposes may be cause to reject the proposal.

ARTICLE 7. COMPLETION TIME

Offerors shall represent in the proposal that they can complete the Work within the timeline indicated by the SOW, or propose an alternative completion date with justification. The time of performance shall be dated from receipt of a Contract, and all costs included in the proposal shall be for the Work to be completed within that period.

ARTICLE 8. EVALUATION OF PROPOSAL

8.1 Proposals will be opened and evaluated privately by AURA after the Closing Date.

8.2 Proposals will be evaluated according to the following major factors, ranked or weighted in no particular order:

- * Demonstrated experience evaluating public education and engagement programs similar to EPO
- * Demonstrated or expressed ability to provide strategic and programmatic direction in addition to technical services and otherwise think creatively
- * Identified technical qualifications
- * Price

8.3 All proposal documents received will be considered confidential and will not be released.

8.4 The award of the Contract(s), if any, made by AURA, will be made to the Offeror(s) that presents the best value. AURA reserves the right to determine, at its sole and exclusive discretion, which proposal, if any, properly meets the “best value” requirement and whether it is in the best interests of AURA to accept the proposal. Therefore, Offeror shall ensure that all requested information is included in its proposal.

ARTICLE 9. REJECTION OF PROPOSALS

9.1 AURA reserves the right to accept or reject any or all proposals or any combination thereof, to withhold an award for any reason it may determine, or to waive any irregularities or informalities in the proposals or in the submission of proposals.

9.2 All submitted proposals shall become the sole and exclusive property of AURA.

SECTION II

OFFEROR'S PROPOSAL for FIXED PRICE CONTRACT

DATE: _____

TO: AURA
 Attn: Charles T. Maples, Contracting Officer

FROM: _____
 (Legal Name of individual, firm or corporation bidding)

 (Complete Business Address)

 (Signature)

 (Title)

1. By submitting this Proposal, the Offeror accepts all of the terms and conditions of the RFP Documents as described in Section 1.2 of the Instructions to Offerors, or has enclosed written exceptions to the terms of the Draft Contract. AURA will review the exceptions, but is not obligated to accept (any or all of) them in a final contract if awarded.
2. In compliance with AURA's Request for Proposal No. N00025658C, the Offeror hereby proposes to furnish all labor, materials, equipment and supplies to perform the Work for AURA's **EPO Program Evaluation** in accordance with the Specifications, pertinent Contract Documents and Statement of Work.
3. Offeror's Proposal submittal shall include the following:
 - A. A Cover Sheet including: contracting General Information (RFP Number [if given], Proposal Title name/address of the firm, Technical and Administrative points of contact, DUNS/UEI number, Teamed Organizations if any, and any other pertinent information);
 - B. An abstract summarizing the proposed effort, not to exceed 500 words;
 - C. The Technical Proposal, which shall address:
 - a. Relevant technical experience of Offerors;

- b. Relevant technical experience and role of any proposed subcontractors;
- c. Names, resumes, and role of key technical personnel;
- d. A minimum of 3 references on projects of a similar size, complexity and nature;
- e. Unique qualifications;
- f. Preliminary project plan, including project schedule and your proposed milestone payments;
- g. Proposed deviations from requirements with justifications and impact on price and schedule; and,

D. Any other relevant information.

- 4. The Offeror hereby specifies, in accordance with Article 7, Completion Time, of Instructions to Offerors that Work shall be completed within _____ calendar days after receipt of the Contract.
- 5. In accordance with the above completion schedule (Paragraph 4) and enclosed specifications, the Offeror hereby proposes to accomplish the work described above for the total of:

_____ DOLLARS (\$).

This proposal is submitted by Offeror and endorsed by its authorizing official by the signature below:

By: _____

Name: _____

Title: _____

SECTION III

SECTION III. ASSOCIATION OF UNIVERSITIES FOR RESEARCH IN ASTRONOMY, Inc. REPRESENTATIONS AND CERTIFICATIONS

(Must be completed and returned)

Date:

The Contractor, by checking the appropriate boxes, makes the following representations and certifications:

A. REGULAR DEALER-MANUFACTURER

It is a () regular dealer in, () manufacturer of, the items offered.

B. SMALL BUSINESS/SMALL DISADVANTAGED BUSINESS SUBCONTRACTING

Pursuant to the terms of our Agreement with the Government and applicable Federal Procurement Regulations 1-1.701, AURA is required to maintain a Small Business and Small Disadvantaged Business Subcontracting Program. You are therefore requested to check the appropriate blocks below:

Business Size (Check One)

- () Small A domestic concern that is independently owned and operated, is not dominant in the field of its operations, qualifies under the criteria covering annual receipts set forth in Section 3 of the Small Business Act and does not employ more than 500 employees.
- () Large A domestic concern which, including domestic and foreign divisions and affiliates, normally employs 500 or more persons, is independently or publicly owned or controlled and operated, and which may be a division of another domestic or foreign concern.

Business Classification (Check as many as are applicable)

- () Minority 51% of business or stock is owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one more of such individuals.
- Socially and economically disadvantaged individuals including Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged pursuant to Section 8(a) of the Small Business Act.
- Native Americans include American Indians, Eskimos, Aleuts, and native Hawaiians. Asian-Pacific Americans includes U. S. citizens whose origins are Guam, the U. S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan.
- For assistance in determining your business size and socially and economically disadvantaged status, contact the nearest office of the Small Business Administration.
- () Women-Owned A business that is at least 51% owned, controlled and operated by a

woman or women.

Note: Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

- () Non-Profit A business or organization that has received non-profit status under IRS Regulation 501(c)(3).
- () Public An agency of the Federal or State Government Sector or a municipality.
- () Sheltered A sheltered workshop or other equivalent business basically employing the handicapped.
- () Handicapped A business that is owned, controlled and operated by a handicapped person(s).
- () Foreign A concern which is not incorporated in the United States or an unincorporated concern having its principal place of business outside the United States.

Business Status (Check One) - For IRS Reporting Requirements

- () Corporation A business entity that is registered with a state in the United States as a corporation, including non-profit corporations but excluding professional corporations.
- () Other An individual, or other business entity that is not a registered corporation. This includes corporations, independent contractors, partnerships, and the like.

Indicate Your:

Unique Entity Identifier (UEI)
[SAM] (replaces D-U-N-S No.):

Federal Empl. ID #:

SAM Registration (Yes or No)

WARNING: Failure to provide this information may require that we withhold 20% of your payments and may result in fines imposed by the IRS.

C. DEBARMENT/SUSPENSION STATUS

Contractor certifies to the best of its knowledge and belief that it and its principals:

- a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a covered transaction by any Federal department or agency;
- b) have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph b of this certification; and
- d) have not within a three-year period preceding this proposal for bid had one or more public transactions (Federal, state or local) terminated for cause or default.

The Contractor agrees to provide immediate notice to the AURA Contracting Officer in the event of being suspended, debarred, or declared ineligible by any department or Federal Agency, or upon receipt of a notice of proposed debarment that is received after the submission of the bid or offer, but prior to the award of the purchase order or contract.

D. MADE IN AMERICA/BUILD AMERICA, BUY AMERICA

The undersigned certifies that it understands and shall comply with the "Build America, Buy America" (BABA) requirements per the federal law of the United States as it pertains to this Request for Proposals. Furthermore, the undersigned understands that the Build America, Buy America requirements apply to any and all portions of the project that are considered "infrastructure" (as defined), including subcontracted portions.

Information on BABA may be found at the National Science Foundation's [BABA page](#) and NSF's [Implementation Plan](#) and the U.S. [Office of Management and Budget](#).

Considering the above, Contractor represents that the Proposal (check all that apply):

() May involve developing "infrastructure" or developing a component to be incorporated into infrastructure in the United States

() Does not involve "infrastructure" (for example, the work consists purely of services, such as consulting)

() The work is entirely outside the United States and no work product is destined to reside in the United States

CERTIFICATION

The Contractor hereby certifies that it has read the above Debarment/Suspension Status requirements and that it understands and will comply with these requirements.

Please advise this facility as soon as possible when the status of your company changes from that indicated above.

Contractor's Name (printed or typed)

Address

Signature of Authorized Representative

Date

Title of Authorized Representative

SECTION IV

ASSOCIATION OF UNIVERSITIES FOR RESEARCH IN ASTRONOMY, INC.

CONTRACT No. _____

This contract (the “Contract”) is entered into between the **Association of Universities for Research in Astronomy, Inc.**, an Arizona non-profit corporation with a principal place of business at 950 N. Cherry Avenue, Tucson, AZ 85719 USA (hereinafter “AURA”) and **[Insert]**, having its principal place of business in **[city, state]** (hereinafter “Contractor”), and shall be effective as of the ___ day of _____. Each of the above-named parties may be referred to individually as a “Party” or together as the “Parties.”

RECITALS

WHEREAS, AURA performs scientific research and manages federally supported research facilities for certain federal agencies, including but, not limited to, the National Science Foundation (“NSF”), Department of Energy (“DOE”), and National Aeronautics and Space Administration (“NASA”);

WHEREAS, in furtherance of AURA’s work on behalf of one or more federal agencies, AURA requires certain supplies, services, or both, which are described in this Contract; and

WHEREAS, Contractor has the capability and desire to furnish such supplies and/or services to AURA in a manner consistent with the statement of work, applicable industry professional and/or technical standards, and all applicable laws.

NOW, THEREFORE, in consideration of the mutual promises contained herein and intending to be legally bound hereby, the Parties agree as follows:

Article 1 Purpose

The purpose of this Contract is for AURA to acquire from Contractor **[insert brief description of the purpose of the contract]**.

Article 2 Contract Format and Incorporation of Prime Award

1. **Contract Terms and Structure.** This Contract is comprised of the terms and conditions set forth in the body of the Contract as supplemented by the Appendices attached hereto, all of which are incorporated herein. Appendices and other documents may be incorporated into this Contract by reference. **Appendix 1** sets forth the Statement of Work and Technical Specifications (hereinafter “SOW”) and the costs associated with the referenced SOW (“Budget”) and any applicable payment schedule. Funds for this Contract are sourced from Cooperative Agreement **[redacted]** [CA] and Cooperative Support Agreement **[redacted]** [CSA] (CFDA 47.049), as amended, of the [U.S. National Science Foundation or U.S. Department of Energy

(change award ID accordingly)] (“Prime Award”). Applicable terms of the Prime Award are incorporated by reference. **Appendix 2** sets forth additional terms and conditions required by Prime Award applicable to Contractor and subcontractors at all tiers.

2. Most Restrictive Terms Govern. To the extent that terms related to a particular subject matter are applied in a more restrictive manner in any particular section of this Contract, or by incorporation of federal requirements by reference, the most restrictive terms shall apply. Any questions regarding any perceived conflict of terms shall be promptly brought to the attention of AURA’s designated Contracts Officer.

3. Irreconcilable Conflict. In the event of an irreconcilable conflict between the provisions of any of the documents that make up this Contract, the terms of a document that appears higher on the numbered list immediately below shall control over the terms of a document that is lower on the list.

1. Body of this Contract
2. Statement of Work
3. Prime award terms or flow-down terms identified in this Contract
4. Other appendices

Article 3 Scope of Work

1. Contractor’s Obligation. Contractor shall perform all work and furnish to AURA all deliverables set forth in the SOW. Contractor shall perform such work and prepare such deliverables in accordance with industry standards of skill, professionalism, diligence, and care. Contractor shall perform all such work in a manner consistent with all requirements of this Contract, including all federal requirements.

2. Licenses and Permits. Contractor hereby certifies that it has, and shall maintain throughout the term of this Contract, all licenses necessary to the performance of the work described in SOW. Contractor shall obtain all permits (if any) necessary to perform the work described in SOW. Upon request by AURA, Contractor shall promptly provide proof of such license and permits.

3. Key Personnel. Key personnel (if any) are listed in SOW. Contractor shall not remove or replace key personnel without prior approval of AURA. Any proposed substitute key person shall have materially equivalent qualifications and skills to the person for whom substitution is requested. In the event Contractor is able to demonstrate that a proposed substitute meets such standards, AURA shall not unreasonably deny substitution.

**Article 4
Payment**

1. Invoices. Contractor shall submit invoices to AURA on a [monthly, per milestone, etc.] basis. Invoices shall provide detail commensurate with the Budget and shall include any supporting documentation that is reasonably prescribed or requested by AURA. The final invoice must be submitted no later than sixty (60) days after the end of the final period of performance. Invoices shall be submitted to:

[Name of AURA Official] [Phone]
[Address] [Email]

An email copy of the invoice shall be sent to: ContractsInvoice@aura-astronomy.org

OPTION: Fixed Price Agreement (Services):

This Contract is a firm-fixed-price service contract. Payment shall be made in the amount of [insert] upon Contractor’s completion of the work described in the SOW. Any authorized progress payments shall be in accordance with, and only in accordance with, a schedule reduced to writing in the SOW. Subject to AURA’s right to reject nonconforming work, AURA shall make payment upon completion of the work, within thirty (30) days of receipt of a proper invoice.

**Article 5
Term**

This Contract shall commence on _____ and end on _____ (“Term” or “Period of Performance”).

**Article 6
AURA Contracts Officer and Notices**

1. Contracts Officer Designation. AURA’s designated Contracts Officer for this Contract is:

Name: [insert]
Email: [insert]
Phone: [insert]

2. Authority of Contracts Officer. The Contracts Officer is AURA’s primary representative for oversight and administration of this Contract. The Contracts Officer is the only person authorized to approve changes to this Contract.

3. Contractor Business Representative. Contractor names _____ as its contracting

representative who can act authoritatively with regard to this Contract and business matters related to this Contract.

4. Notices. All notices of a business, legal, or contractual matter under this Contract shall be in writing and sent by a trackable mode. Such notices to AURA shall be sent to its Contracts Officer; and for Contractor, to its Business Representative.

Article 7 Technical Representatives

1. The Contracts Officer, on behalf of AURA, may designate, by written notification to Contractor, one or more Technical Representatives to provide technical direction to Contractor in the course of performing its obligations under this Contract. The Technical Representative has no authority to amend this Contract. Direction by the Technical Representative is only valid if it: (i) is consistent with the SOW, (ii) does not constitute a new assignment of work or material change to agreed performance obligations, *and* (iii) does not create any additional cost of contract performance beyond that contemplated for the agreed SOW. In the event that Contractor believes that any direction provided by the Technical Representative may constitute additional work or a change to the agreed Contract terms, Contractor shall promptly notify the Contracts Officer.

2. Contractor shall designate an individual to serve as Contractor's Technical Representative or Project Manager. The Project Manager shall be responsive to communications from AURA's Contracts Officer or its Technical Representative. The Project Manager shall be sufficiently senior within Contractor's organization and knowledgeable about the type of work and/or deliverables covered by the SOW to facilitate efficient administrative coordination with AURA.

Article 8 Changes

1. Change to SOW. AURA shall have the right, through its Contracts Officer, to direct, in writing, changes to the SOW. If such change will impact the cost of performance by Contractor, Contractor shall promptly so notify AURA in writing, and the Parties shall cooperate in good faith to negotiate a reasonable increase in the contract price. Any such price adjustment shall be commensurate with the scope and complexity of additional work or modified work.

2. Contractor's Obligation to Proceed. If the Parties cannot promptly agree on upon an appropriate price adjustment, AURA shall have the right to require Contractor to nonetheless proceed promptly with the work as modified, and Contractor shall be entitled to payment of an additional amount equal to its actual incremental increased cost of performance while the Parties continue to negotiate the price adjustment due to the change in SOW. Alternatively, upon failure to promptly agree to a price adjustment, in its sole discretion, AURA shall have the right to (i)

direct Contractor to proceed with the SOW as originally stated and (ii) identify an alternate means by which to accomplish the additional work (including engaging an alternate contractor for the additional work).

Article 9 Delays

1. Delay. Contractor shall promptly notify AURA in writing of any expected delay in performance or delivery and shall cooperate in good faith with AURA to modify the performance or delivery schedule in such a manner as to minimize impact to AURA operations.
2. Remedies for Delay. In the event of material impact to AURA operations, AURA shall be entitled to an appropriate and commensurate remedy. Further, in the event that AURA cannot reasonably endure the delay in performance, AURA may terminate the Contract for cause in accordance with Article 12.

Article 10 AURA Facility Access and Use

1. Contractor Access to Facilities. Contractor shall be granted access to AURA facilities to the extent necessary to efficiently accomplish its obligations under this Contract. Matters of access shall be coordinated via AURA's Contracts Officer and Technical Representative(s). Access may be limited when necessary to ensure Contractor's work not interfere with other activities of AURA or its research partners. In the event that other AURA or research partner activities are an impediment to efficient performance of this Contract, AURA and Contractor shall cooperate in good faith to adjust the performance or delivery schedule accordingly.
2. Facility Rules. Contractor and Contractor's personnel shall, at all times, obey all rules applicable to conduct within AURA facilities and shall comply with the reasonable direction of facility managers. In the event any such rules or direction becomes an impediment to efficient performance of this Contract, Contractor shall promptly bring the matter to the attention of AURA's Contracts Officer.
3. Bodily Injury and Property Damage. If the SOW calls for performance of work on AURA premises, Contractor shall indemnify AURA, including reasonable attorneys' fees, for any (i) bodily injury to Contractor's personnel or third parties relating to Contractor's activities on AURA premises, and (ii) property damage arising out of Contractor's activities on AURA premises.
4. Damage to AURA Facilities or Equipment. If the SOW calls for performance of work on AURA premises or work with AURA equipment, Contractor shall be responsible for all damage to facilities, equipment, or other property caused by Contractor or its personnel, subcontractors, or agents. Contractor shall promptly notify AURA's Contracts Officer of any such damage and shall reimburse AURA for the cost of repair.

Article 11 Insurance

1. Insurance. Contractor shall, during the term of this Contract, maintain in force the following insurance coverage with no less than the following minimum limits:
 - a. Comprehensive General Liability with coverage of at no less than \$1 million per claim and \$3 million annual aggregate.
 - b. Workers' Compensation at statutory limits.
2. Contractual Liability Coverage. If the SOW calls for performance of work on AURA premises, Contractor shall ensure that its Comprehensive General Liability insurance coverage includes coverage for contractual liabilities.
3. Professional Liability Coverage. If the work covered under this Contract entails activities for which professional liability coverage is customarily acquired (*e.g.*, errors and omission or malpractice coverage), Contractor shall maintain such coverage at customary limits, but in no case less than \$1 million per claim and \$3 million annual aggregate.
4. Proof of Insurance and Tail Coverage. Upon request by AURA, Contractor shall promptly provide AURA with proof of insurance. Contractor shall ensure continuing coverage for liabilities that may be asserted in relation to activities under this Contract for a period of three (3) years from the end of the term of this Contract.
5. Self-Insurance Accepted. Contractor may meet its obligations under this Article 11 (Insurance) by providing AURA with satisfactory proof of the pertinent coverages through a comprehensive program of self-insurance.

Article 12 Termination

1. Termination Without Cause. AURA shall have the right to terminate this Contract without cause upon thirty (30) days' written notice to Contractor.
2. Termination for Cause. Upon material breach by Contractor, AURA shall have the right to terminate this Contract for cause in accordance with this section. In the event of material breach by Contractor, AURA shall notify Contractor in writing of the circumstances constituting the material breach. Contractor shall be afforded ten (10) calendar days after receipt of such notice to cure its breach. If Contractor fails to cure its breach within that time, AURA may proceed with termination of the Contract for cause by written notice, which may then be immediately effective. Material breach shall include, but not be limited to:

3. Contractor's failure to meet required performance standards, contract milestones, or contract schedule as described herein or in the SOW:
 - a. Contractor's loss of any license necessary to perform the Contract;
 - b. Contractor's failure to meet the insurance requirements of this Contract;
 - c. Debarment, suspension, or exclusion of Contractor or its key personnel from participation in federal contracts or awards;
 - d. A material change in Contractor's financial condition that reasonably indicates Contractor will be unable to perform its obligations under this Contract; or
 - e. Contractor's failure to comply with federal standards or requirements incorporated into this Contract by reference.
4. Contractor's Obligations Upon Termination. Regardless of the reason for which this Contract is terminated, Contractor shall cease all work in progress and shall cancel, to the maximum extent possible without creating risk of loss of work already performed, all related obligations to third-parties. In ceasing work in progress, Contractor shall safeguard the work accomplished. If directed by AURA, Contractor shall turn over all work in progress in a manner calculated to facilitate AURA's taking over of the work directly or through a replacement contractor.
5. Contractor's Right to Payment Upon Termination. Upon termination without cause, AURA shall pay Contractor for work performed to the date of termination, plus reasonable termination costs, such as subcontract winddown costs where subcontracts are not immediately cancellable, and other reasonable noncancelable obligations. Upon termination for cause, the Parties shall negotiate final payment as appropriate, taking into account the basis for termination and any liabilities of Contractor to AURA under the circumstances.
6. Suspension or Termination of Contract for Loss of Federal Support. Notwithstanding any other term of this Contract, AURA shall have the right to immediately suspend or terminate performance of this Contract in the event (i) federal funds available to fund the Contract are suspended or terminated or (ii) the project in furtherance of which the contracted work is needed is suspended or terminated. In such event, Contractor's right to payment shall be as set forth above for termination without cause.

Article 13

Relationship of the Parties

1. Contractor's relationship to AURA is that of an independent contractor. None of the provisions of this Contract are intended to create, nor shall be construed to create, any

relationship between or among the Parties other than that of independent entities. Neither of the Parties shall be construed to be the agent, partner, co-venturer, employee nor representative of the other Party.

Article 14 Access to Records

1. Contractor shall provide reasonable access to records related to performance of this Contract to AURA, the federal agency providing the funds for this Contract, NSF, and the federal General Accountability Office.

Article 15 Confidential Information

During the term of this Contract, each Party may be given access to proprietary information, technology, data, samples, inventions, software, know-how and/or trade secrets, business, financial, personnel, technical and scientific information, and commercialization, clinical and research strategies (hereinafter the “Confidential Information”) of the other Party. The Party receiving such Confidential Information may use such Confidential Information only for the purposes provided for in this Contract. The receiving Party shall not, at any time, use Confidential Information for any other purpose or disclose Confidential Information to third parties. Confidential Information does not include any information that the receiving Party can demonstrate:

- (i) is or becomes publicly known and made generally available to the public through no fault of the receiving Party;
- (ii) was already in the possession of the receiving Party at the time of disclosure by the disclosing Party, as evidenced by contemporaneous written records of the receiving Party;
- (iii) becomes available to the receiving Party from a source other than the disclosing Party which source is not bound by any obligation of confidentiality to the disclosing Party in relation to such information;
- (iv) is independently developed by the receiving Party after receiving the Confidential Information by personnel who have not had any access to any Confidential Information and without using or referring to the Confidential Information as demonstrated by contemporaneous records; or,
- (v) is approved in writing for public release by the disclosing Party.

The receiving Party is permitted to disclose Confidential Information that is required to be disclosed by court order or operation of law provided the receiving Party has provided sufficient advance written notice to the disclosing Party of such disclosure, if such notice is legally permitted.

The disclosing Party shall clearly mark or label Confidential Information as “Confidential.” If the Confidential Information is disclosed orally or visually, the disclosing Party shall identify it as such at the time of disclosure and shall confirm in writing within 10 days

after disclosure the Confidential Information disclosed and the date of oral disclosure.

The receiving Party shall protect the confidentiality of the Confidential Information in at least the same manner that it protects the confidentiality of its own proprietary and confidential information, and in any event shall take all reasonable measures to prevent improper disclosure of the Confidential Information or any portion thereof.

The obligations of this Article shall remain in effect for a period of ten (10) years, regardless of the termination or expiration of this Contract.

Article 16 Warranty

1. Contractor warrants that the equipment, parts, and services delivered to AURA hereunder meet and satisfies all of AURA's requirements set forth in the Statement of Work. Contractor warrants that the equipment delivered to AURA hereunder, including all hardware and software will, upon completion of the Contract, be free from defects in material or workmanship for one year after delivery and installation. Products that are not manufactured by Contractor, but that are purchased by Contractor will be subject to the warranty provisions provided by the equipment manufacturer of such product(s), unless Contractor notifies AURA of any additional warranty provisions in writing. The obligation of Contractor under this warranty is the repair or replacement of any defective or malfunctioning parts with new or refurbished parts and correcting any errors or deficiencies of installation. If Contractor fails to replace or repair such parts, AURA's remedy shall be a refund of the price charged by the manufacturer of the part (whether that be Contractor or a third party) to its dealers for such parts as are demonstrated to be defective. To obtain service under this warranty, AURA must bring the malfunction or defect to the attention of Contractor, or one of its authorized dealers, in writing, during the one-year warranty period.

2. Contractor warrants that its performance of the work, including the selection of the equipment to meet AURA's needs and the labor performed in the installation or repair of said equipment, will be carried out with that standard of care, skill, and diligence normally provided by a professional organization in the performance of similar services. Contractor further warrants that the performance of subcontractors at any tier, or any other person assigned by it under this Contract, shall be in accordance with sound practice and professional standards of its trade and the requirements of this Contract. Contractor shall require its subcontractors or agents performing under this Contract to extend to AURA warranties conforming to those in this Article. If any portion of the services supplied fails to comply with this warranty, and Contractor is so notified in writing within one (1) calendar year after completion of this Contract, Contractor will correctly perform such portion of the services at its own expense or, at AURA's option, will refund the amount of the compensation paid for such portion.

Article 17 Collaboration and Information Sharing in Performance

1. To the extent that the work under this Contract impacts AURA's information technology or other technical systems, Contractor shall keep AURA's Technical Representative apprised of its activities through close coordination and regular updates. Such coordination shall be used to ensure Contractor is able to efficiently perform the work and to ensure that AURA is promptly apprised of any activities or events that may negatively impact AURA's systems or may interfere with other work of AURA.

Article 18 Information Security

1. To the extent that the work under this Contract impacts AURA's information technology or other technical systems, Contractor shall keep AURA's Technical Representative apprised of its activities through close coordination and regular updates. AURA's Information Technology Network is to be used for AURA business purposes and to serve the interests of the corporation.

Article 19 Warranty of No Infringement

1. Contractor represents and warrants that none of the services performed under this Contract, nor any supplies, equipment, instruments, or other deliverables provided under this Contract, will, in any way whatsoever, infringe, or constitute misappropriation of, any right of any third party, including, any copyrights, mask work rights, patent rights, trademark rights, trade secret rights or confidentiality rights.

Article 20 Patent and Copyright Indemnity

1. Contractor shall indemnify and defend AURA and the Government (and their officers, agents, and employees) against all liabilities, damages, and costs, including reasonable attorneys' fees, for infringement of any copyright or patent arising out of, or resulting from, the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property, equipment, software, or instruments, under this Contract. AURA shall promptly notify Contractor if AURA becomes aware of any such claim or the potential for any such claim.

Article 21 Section 889 Compliance

1. Contractor is prohibited, in performance of this Contract, from providing AURA any equipment, service or system that uses, as a substantial component, covered telecommunications equipment or services. "Covered telecommunications equipment" is defined at Section 889 of Public Law 115-232 (Aug. 13, 2018) and 2 C.F.R. § 200.216 to include the equipment and services of Huawei Technology Company and ZTE Corporation as well as that of certain other

entities and affiliates. If Contractor determines, during the Term of this Contract or during a period extending for one (1) year after the end of the Term, that it failed to comply with this prohibition, it shall promptly notify AURA and replace the noncompliant equipment or service with compliant equipment or services at no additional cost to AURA. Contractor hereby acknowledges that it was placed on notice of this obligation in the course of the Contract negotiation and award process.

Article 22 NSF Rights in Data Clause

Notwithstanding any other term in this Contract to the contrary (if any), Contractor shall grant to NSF an irrevocable, worldwide, nonexclusive, royalty-free license to use, display, disclose, reproduce or modify (and to permit others to use, display, disclose, reproduce or modify), for any purpose whatsoever, the following items (which may constitute data or copyrightable works) to the extent delivered under this Contract:

- (a) Preventative maintenance guides;
- (b) Preventative maintenance histories;
- (c) Operating manuals and similar plans;
- (d) Facility and instrument drawings (including design, shop and as-built drawings), designs and specifications;
- (e) Schematics;
- (f) Warranty data;
- (g) Schedules;
- (h) Software and manuals developed under this Contract
- (i) Inventories;
- (j) Document indices;
- (k) Contracts and vendor agreements;
- (l) Operations reports;
- (m) Memoranda with third parties; and
- (n) Safety manuals.

Contractor shall include a clause materially similar to this clause in all subcontracts under this

Contract.

Article 23
Inspection and Acceptance

1. AURA shall have the right to inspect any goods, services, or deliverables provided under this Contract prior to acceptance. AURA will review the deliverables against the applicable SOW and any specifications therein, including any applicable quality control plan. AURA shall promptly conduct such inspection upon delivery from Contractor, which will include review of materials and testing following any applicable installation or operating phase. In the event that AURA identifies any nonconforming element or deficiency, AURA shall notify Contractor in writing as soon as practicable. AURA shall inform Contractor in writing of its acceptance of the deliverable, or notwithstanding, AURA's use of the deliverable for a period of more than thirty days following any testing shall constitute acceptance. In no event does acceptance by AURA relieve Contractor of any other obligations within this Contract.

2. Upon acceptance, title to the deliverable shall vest with AURA. Upon delivery, Contractor warrants that any deliverable is free of liens. Contractor further warrants that any third party component or interest in the deliverable has effected transfer of title to AURA, or that Contractor has obtained from third party an unrestricted, worldwide, transferable, irrevocable license, exclusive or nonexclusive, with AURA as the licensee and beneficiary.

Article 24
Stop Work

1. Upon written notice to Contractor to suspend or stop work, Contractor shall immediately halt activities and expenditures under this Contract. Such notice may be pursuant, but not limited to, reasons of safety, including that of an emergency, national security, regulation, audit, court order, or order of the AURA funding agency. While stop work conditions are intended to be temporary, any Contractor activities under a stop work order are at Contractor's sole risk. Contractor may resume normal performance of this Contract upon written notice from the AURA Contracts Officer that the stop work order is lifted.

Article 25
Licenses Relating to Contract Work Product

1. AURA Ownership or License of Contract Work Product.

(a) Contractor has been engaged to perform work for AURA relating to technical systems, in particular by developing or creating software or hardware, or providing modifications or repairs to software or hardware.

(b) All right, title, and interest in Contractor's work product under this Contract (including, but not limited to, copyrights and patent rights) shall be the property of AURA. Contractor shall assign, and hereby does assign, all right, title, and interest in all work product resulting from this Contract (including, but not limited to, copyrights and patent rights) to AURA. Notwithstanding,

this Contract does not grant any rights to any Contractor pre-existing intellectual property. If necessary, and if applicable, the Parties shall negotiate a nonexclusive license to any Contractor background intellectual property that may be required to utilize the work product/Contractor deliverables.

(c) Contractor shall deliver to AURA the work product for which it is engaged under this Contract, as well as copies of all technical data related to such work product (including, but not limited to technical manuals). Contractor shall provide a copy of any relevant source code to AURA upon final delivery or sooner if required by the SOW.

(d) Contractor shall ensure that all of Contractor's employees and subcontractors performing work in furtherance of this Contract have executed written assignments of rights in any patentable inventions or copyrightable works that they may be involved in creating in the course of their work under this Contract, such that Contractor possesses sufficient rights to meet its obligations under this Section.

Article 26 Force Majeure

1. Neither Contractor nor AURA shall be liable for failure to fulfill its obligations herein or for delays in performance or delivery, as applicable, due to causes beyond its reasonable control, including, but not limited to: acts of God, natural disasters, acts or omissions of other parties, acts or omissions of civil or military authority, Government shut downs (total or partial), the termination, lapse, or delay in government funding, changes in governmental priorities, changes in law, material shortages, fire, strikes, floods, epidemics, pandemics, quarantine restrictions, riots, war, or acts of terrorism (hereinafter collectively or singularly referred to as force majeure event). Where there is an event of force majeure, the party prevented from or delayed in performing its obligations under this contract must immediately notify the other party giving full particulars of the event of force majeure and the reasons for the event of force majeure preventing that party from or delaying that party in performing its obligations under this contract. That party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its performance of the contract and to fulfill its obligations under the contract. Upon completion of the event of force majeure, the party affected must as soon as reasonably practicable recommence performance of its obligations under this contract. In the event of such delay, the date of performance or of delivery shall be extended for a period equal to the time lost by reason of said delay on written approval of AURA.

Article 27 Applicable Law and Liability

1. Governing Law. This Contract shall be governed under the law of the State of Arizona, without regard to its conflict of law provisions. In the event that a Party to this Contract is a governmental entity prohibited from accepting the law and jurisdiction of the State of Arizona, the Parties agree to remain silent regarding governing law and jurisdiction.

2. Construction in a Manner Consistent with Applicable Federal Laws. Contractor's obligations under this Contract shall be interpreted and performed in a manner consistent with applicable federal laws, including, but not limited to, federal requirements incorporated by reference.

3. Liability. Contractor agrees to indemnify, defend, and hold harmless AURA, its employees, officers, directors, and agents from any third party claims, costs, or damages, including reasonable attorneys' fees, ("Claims") related to or arising from Contractor's performance of this Contract due to Contractor's negligence, willful misconduct, breach of this Contract, or violation of law, except to the extent that any such Claims are due to AURA's negligence, willful misconduct, breach of this Contract, or violation of law.

Article 28 Dispute Resolution

1. Informal Dispute Resolution. The Parties shall first attempt, in good faith, to promptly resolve disputes arising under this Contract informally by negotiation between AURA's Contracts Officer and Contractor's Business Representative. Upon identification of any matter of dispute, the aggrieved Party shall promptly notify the other Party of the matter and its position. Except that this clause shall not be construed as limiting AURA's suspension and termination rights under Article 12 (Termination) in any way whatsoever, the Parties agree that they shall not invoke more formal means of dispute resolution, including the filing of any lawsuit, for ten (10) calendar days following the commencement of informal negotiations, unless such delay would materially prejudice the rights of the aggrieved party.

2. AURA Right to Invoke Mediation and Arbitration. If a dispute, including any allegation of breach, is not resolved by informal means as described above, at AURA's sole discretion, AURA may invoke mediation or arbitration of the disputed matter. AURA's right to invoke mediation or arbitration shall apply to all disputes, including those first raised by AURA and those first raised by Contractor. If mediation or arbitration is invoked by AURA, the mediation or arbitration shall be conducted in accordance with the applicable Commercial Rules of the American Arbitration Association. There shall be a single presiding arbitrator or mediator, and the Parties shall mutually agree to such arbitrator or mediator within thirty (30) calendar days of AURA's invocation of mediation or arbitration. Unless otherwise agreed by AURA, the place of mediation or arbitration shall be Tucson, Arizona. Mediation and arbitration under this section shall not be mutually exclusive; AURA may first invoke mediation and later invoke arbitration. In the case of arbitration, the award rendered by the arbitrator shall be final and binding on the Parties and may be entered and enforced in any court having jurisdiction. Each Party shall bear its own costs of defense, counsel, and legal representation incurred in the course of mediation or arbitration, however, the Parties shall share equally the costs of the arbitrator's fees and associated charges.

3. No Other Limitations. Except as otherwise expressly provided in this Contract, the Parties shall have and retain all rights to seek all lawful remedies for breach of this Contract.

Article 29
Assignment

1. Assignment Required by Federal Agency. When required by the federal agency providing the funds for this Contract, or when required by NSF in relation to management of an NSF Major Facility, Contractor agrees that AURA's rights and obligations under this Contract may be assigned to and/or assumed by the funding agency, NSF, or another entity designated by the funding agency or NSF to serve as the successor to AURA's interests under the Contract.
2. No Assignment by Contractor. The rights, obligations and responsibilities established herein shall not be assigned, delegated, or transferred by Contractor without the express written consent of AURA.

Article 30
Miscellaneous

1. No Waivers. No assent or waiver, express or implied, of any breach of any one or more of the covenants, conditions or provisions hereof shall be deemed a waiver of any other covenant, condition or provision hereof, or a waiver of any subsequent breach of the same covenant, condition or provision.
2. Severability. The provisions of this Contract are severable. If any clause, sentence, provision or other portion of this Contract is or becomes illegal, null, void, or unenforceable for any reason, or is held by any court of competent jurisdiction to be so, the remaining portions of this Contract shall continue to be valid and enforceable as to the Parties hereto, unless the Parties agree that such a clause, sentence, provision, or other portion of this Contract is of sufficient materiality to require amendment or termination of this Contract.
3. Intended Beneficiaries. The only intended beneficiaries of this Contract are AURA and Contractor. Notwithstanding the forgoing, if the "standard patent rights clause" of 37 C.F.R. § 401.14 is incorporated into this Contract, the government shall be considered an intended beneficiary of this Contract to the extent, and only to the extent, set forth in such clause. Otherwise, there are no intended third-party beneficiaries of this Contract.
4. Survival. All rights and obligations which, by their context and subject should survive expiration or termination of this Contract shall survive such expiration or termination and constitute continuing rights and obligations, including, without limitation, Articles 2, 6, 10, 11, 15, 16, 19, 20, 21, 22, 23 (if included), 25, 26, 28, 29, and 30.4.
5. Entire Agreement and Amendments. This Contract represents the complete understanding of the Parties with regard to the subject matter. Any amendment to this Contract shall be in writing and signed by both Parties. This Contract supersedes any other agreements or

understandings between the Parties, whether oral or written, relating to the subject matter of this Contract.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized representatives, intending to be legally bound hereby.

**FOR THE ASSOCIATION OF UNIVERSITIES
FOR RESEARCH IN ASTRONOMY**

Signature: _____

Name: _____

Title: _____

Date: _____

FOR [CONTRACTOR]

Signature: _____

Name: _____

Title: _____

Date: _____

APPENDIX 1
STATEMENT OF WORK AND BUDGET

APPENDIX 2
REQUIRED FEDERAL COMPLIANCE TERMS
NATIONAL SCIENCE FOUNDATION

1. **Funding Agency and Type.** This Contract is funded through a Cooperative Agreement with NSF [**INSERT CA & CSA NUMBER**]. As such, certain specific terms are required as set forth herein.
2. **Federal Requirements.** The performance of Contractor under this Contract is subject to the following federal requirements, which are incorporated by reference herein:
 - (a) 2 C.F.R. Part 200, as adopted by NSF at 2 C.F.R. Part 2500;
 - (b) The NSF Cooperative Agreement Financial & Administrative Terms and Conditions (CA-FATC) (May 13, 2022) as supplemented and modified by the NSF Major Multi-User Research Facility Projects CA-FATC (May 13, 2022), available at: https://www.nsf.gov/awards/managing/co-op_conditions.jsp?org=NSF; and
 - (c) The NSF Performance & Award Policies & Procedures Guide (“PAPPG”), available at: https://www.nsf.gov/pubs/policydocs/pappg20_1/index.jsp, to the extent the requirements of the PAPPG are not inconsistent with the CA-FATC described immediately above.
3. **Whistleblower Protection.** This Contract is subject to the whistleblower protection provisions of 41 U.S.C. § 4712.
4. **Fly America Act.** Any foreign travel funded under this Contract shall be carried out in a manner consistent with the restrictions of the Fly America Act, 40 U.S.C. § 40118. Contractor should contact AURA’s Contracts Officer with any questions regarding compliance.
5. **Domestic Preference to the Extent Practicable.** To the greatest extent practicable for work under this Contract, Contractor shall use goods, manufactured products, or materials produced in the United States. For purposes of this clause, “manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products, concrete, glass (including optical fiber), and lumber. For purposes of this clause, “produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial smelting stage through the application of coatings, occurred in the United States.
6. **Certification Regarding Lobbying (“Byrd Anti-Lobbying Amendment”).** If this contract exceeds \$100,000, by signature on this Contract, Contractor’s representative certifies to the best of his or her knowledge and belief that:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Contract or the NSF Cooperative Agreement funding this Contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) Contractor shall require that the language of this certification be included all subcontracts and that all subcontractors shall certify and disclose accordingly.

The above certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Clean Air Act and Clean Water Act. If this Contract is valued in excess of \$150,000, Contractor shall comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401 *et seq.*) and Clean Water Act (33 U.S.C. § 1251 *et seq.*). Violations must be reported to AURA, NSF, and the local Regional Office of the Environmental Protection Agency.

8. Equal Employment Opportunity. Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

9. Debarment. No part of the work shall be subcontracted to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-Procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." By signing this contract or performing this purchase order contractor certifies that neither it nor any of its principal employees is on this debarred list. Contractor shall require a similar certification from all firms awarded subcontracts over \$25,000.

10. Assignment/Subcontracting. AURA may assign its rights under this agreement to either the National Science Foundation or to an organization succeeding it as the operator of NOIRLab. Contractor shall not assign or delegate its rights/responsibilities under this agreement without

prior written permission from AURA, and any assignment without such permission shall be void. Any assignment with AURA's permission shall not relieve contractor of responsibility for successful performance of the work. Contractor may not subcontract any portion of the work, not including purchases of commercially available items, without prior written permission from AURA.

11. Copeland Anti-Kickback Act. Contractors and subcontractors on public building or public work financed in whole or in Part by Loans or Grants from the United States in excess of \$2,000.00 shall comply 18 USC 874. The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. AURA shall report all suspected or reported violations to the Federal awarding agency.

12. Contract Work Hours and Safety Standards Act. In performing the work contractor shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours-in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

13. Nondiscrimination. This agreement is subject to the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the regulations issued pursuant thereto by NSF (45 CFR 611), and the Assurance of Compliance which the Contractor has filed with NSF. No person on the basis of race, color, national origin, or handicap shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under this agreement. In addition, if the project involves an education activity or program, as defined by Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1686), no person on the basis of sex shall be excluded from participation in the project.

14. Davis-Bacon, as amended (40 U.S.C. 276a to a-7) (applicable to contracts for construction exceeding \$2,000.): All purchase orders for construction shall comply with the provision titled "Davis-Bacon Act (40 U.S.C. 276A to a-7) and as supplemented by the Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, the contract shall be required to pay wages to labor and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, Seller shall be required to pay wages not less than once a week. The Seller shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a subcontract or purchase order shall be conditioned upon the acceptance of the wage determination. The Seller shall report all suspected or reported violations to AURA.