

DATED 13th August 2007

ASTRONOMY AUSTRALIA LTD

NCRIS SUBCONTRACTOR AGREEMENT

INTRODUCTION	5
1. Defined terms and interpretation.....	5
2. Cooperation	9
3. Liaison and Monitoring.....	9
4. Funding	9
5. Coinvestment	10
6. Use of Funds and Coinvestment.....	10
7. Subcontractor accounts	11
8. Reporting and Provision of information by Subcontractor.....	11
9. Project Leader.....	11
10. Assets	11
11. Access	13
12. Carrying out the Activities	14
13. Activities IP	14
14. Disclosure of Information	15
15. Protection of Personal Information.....	16
16. Indemnity	17
17. Insurance	18
18. Amendments to Activities.....	18
19. Records.....	18
20. Student Involvement	18
21. Acknowledgment and Publicity	18
22. Use of Party's name.....	19
23. Conflict of Interest	19
24. Dispute Resolution.....	19
25. Term.....	20
26. Termination with Costs and Reduction	20
27. Termination for Default	21
28. Effect of termination of agreement.....	22
29. GST.....	22
30. Notices and other communications.....	23
31. Approvals and consents.....	24
32. Assignment	24
33. Relationship	24
34. Sub-contracting.....	24
35. Costs.....	24

36.	Counterparts	24
37.	No merger	25
38.	Entire agreement	25
39.	Further action.....	25
40.	Severability	25
41.	Waiver	25
42.	Compliance with Laws and Policies.....	25
43.	Governing law and jurisdiction	27
	SCHEDULE 1 STATEMENT OF WORK.....	29
	SCHEDULE 2 ADDRESS FOR SERVING NOTICES.....	33
	SCHEDULE 3 REPORTING REQUIREMENTS.....	34
	SCHEDULE 4 DETAILS OF INSURANCE AND ASSETS	36
	SCHEDULE 5 PLANNING SCHEDULE	37
	SCHEDULE 6 BUDGET (GST EXCLUSIVE)	38

THIS AGREEMENT is made on the 13th day of August 2007

BETWEEN:

Astronomy Australia Ltd ABN [19 124 973 584] c/- Swinburne University of Technology (H39 CASC), 1 Alfred Street, Hawthorn, Victoria 3122

(the **Company**)

and

Anglo Australian Telescope Board (AAO) ABN [71 871 323 905] 167 Vimiera Road, Eastwood, NSW 2122

(**Subcontractor**)

BACKGROUND

- A.** Astronomy Australia Ltd is a company limited by guarantee that will receive funding from the Commonwealth under the National Collaborative Research Infrastructure Scheme (**NCRIS**) to enable it to assist with the provision of major research facilities and supporting infrastructure necessary for world class astronomy research.
- B.** The Subcontractor wishes to participate in NCRIS through Astronomy Australia Ltd.
- C.** Astronomy Australia Ltd has agreed to provide NCRIS funding to the Subcontractor in accordance with this agreement and the Subcontractor has agreed to carry out the Statement of Work and provide access to facilities, as part of NCRIS.

THE PARTIES AGREE:

INTRODUCTION

1. Defined terms and interpretation

1.1 In this agreement:

- (1) **Activities** means the activities described in the Statement of Work.

- (2) **Activities IP** means Intellectual Property developed in the course of carrying out the Activities.
- (3) **Activities Material** means all Material:
 - (a) brought into existence for the purpose of performing this agreement;
 - (b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a); or
 - (c) copied or derived from Material referred to in paragraphs (a) or (b).
- (4) **Applicable Jurisdiction** means Victoria.
- (5) **Asset** means any item of tangible property purchased or created in whole or in part with the Funds which has a value of over **\$50,000** inclusive of GST;
- (6) **Auditor-General** means the office established under the *Auditor-General Act 1997* and includes any other entity that may, from time to time, perform the functions of that office;
- (7) **Budget** means the budget for the Activities as set out in Schedule 6 including any variations to that budget as agreed by the Parties in writing.
- (8) **Business Day** means, in relation to the doing of any action in a place, a weekday other than a public holiday or bank holiday in that place.
- (9) **Business Hours** means from 9.00am to 5.00pm on any Business Day.
- (10) **Coinvestment** means all of the money, assets, facilities and services to be contributed by the Subcontractor, as set out in the Budget and the Statement of Work, but does not include any Intellectual Property.
- (11) **Commonwealth** means the Commonwealth of Australia.
- (12) **Commonwealth Confidential Information** means all Confidential Information of the Commonwealth.
- (13) **Company Confidential Information** means all Confidential Information of the Company.
- (14) **Confidential Information** means all information that is not in the public domain that is by its nature confidential or that has been designated as confidential by the disclosing Party, and includes all trade secrets, financial information and other commercially or scientifically valuable information of whatever description and in whatever form (whether written or oral, visible or invisible).
- (15) **Conflict** refers to a conflict of interest, or risk of a conflict of interest, or an apparent conflict of interest arising through The Subcontractor engaging in any activity or obtaining any interest that is likely to

interfere with or restrict The Subcontractor in providing the Activities to the Company fairly and independently.

- (16) **Deliverables** means the required deliverables for the Activities as described in the Statement of Work.
- (17) **Department** means the Commonwealth Department of Education, Science and Training or any other Commonwealth Department that becomes responsible for administering NCRIS.
- (18) **Electronic Communication** has the same meaning as it has in section 5 of the *Electronic Transactions Act 1999*.
- (19) **Funding Agreement** means the agreement under which the Commonwealth has agreed to provide NCRIS funding to the Company dated on or about 1st June 2007.
- (20) **Funds** means the money to be paid to the Subcontractor by the Company, for conducting the Activities.
- (21) **Information Privacy Principle** has the meaning given in the Privacy Act.
- (22) **Interest** means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Taxation Administration Act 1953*, on a daily compounding basis.
- (23) **Intellectual Property** or **IP** includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patents), trade marks (including service marks), designs, circuit layouts, all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields and any right to have Confidential Information kept confidential, but does not include Moral Rights as defined by the *Copyright Act 1968 (Cth)* or rights of performers.
- (24) **Material** includes documents, equipment, software (including source code and object code), goods, information and data stored by any means including all copies and extracts of the same.
- (25) **Milestone** means a stage of completion of the Activities as set out in the Statement of Work.
- (26) **NCRIS** means the National Collaborative Research Infrastructure Strategy.
- (27) **NCRIS Funds** means funds that the Company receives from the Commonwealth under the NCRIS Programme.
- (28) **Objectives** means the objectives for the Activities as set out in the Statement of Work.
- (29) **Party** means a party to this agreement.

- (30) **Personal Information** has the same meaning as it has in section 6 of the Privacy Act.
- (31) **Privacy Act** means the *Privacy Act 1988*.
- (32) **Privacy Commissioner** means the Office of the Privacy Commissioner established under the Privacy Act and includes any other entity that may, from time to time, perform the functions of that Office.
- (33) **Programme Delegate** has the meaning given to it in the Funding Agreement.
- (34) **Project Leader** means the person appointed by the Subcontractor to be principally responsible for liaising with the Company in relation to the Activities.
- (35) **Project Manager** means a person appointed to manage discrete portions of Activities and to liaise with the Project Leader
- (36) **Quarter** means a 3 month period ending on 31 March, 30 June, 30 September or 31 December.
- (37) **Records** includes documents, information and data stored by any means and all copies and extracts of the same;
- (38) **Reports** means reports in accordance with Schedule 3 – Reporting requirements.
- (39) **Research Capability** means the research capability identified in the NCRIS Roadmap as radio and optical astronomy.
- (40) **Secretary** has the meaning given to it in the Funding Agreement.
- (41) **Specified Acts** means any of the following acts or omissions by or on behalf of the Company or the Commonwealth:
- (a) using, reproducing, adapting or exploiting all or any part of the Reports, with or without attribution of authorship;
 - (b) supplementing the Reports with any other Material;
 - (c) using the Reports in a different context to that originally envisaged;
- but does not include false attribution of authorship.
- (42) **Statement of Work** means the statement of work set out in Schedule 1, as varied by the Parties in writing from time to time.
- (43) **Subcontractor** includes, where the context admits, the Subcontractor's officers, employees, agents, contractors and successors.

(44) **Subcontractor Confidential Information** means all Confidential Information of the Subcontractor, including Activities IP and Activities Material.

1.2 All monetary amounts referred to in this agreement will be deemed to be in Australian currency.

2. Cooperation

2.1 The Subcontractor acknowledges that there are other organisations participating in the Research Capability and agrees to cooperate with those organisations as is reasonable in their participation in the Research Capability.

3. Liaison and Monitoring

3.1 The Subcontractor agrees to:

- (1) appoint a Project Leader, who will among other things be responsible for the relationship with the Company;
- (2) notify the Company of the details of the Project Leader, and any replacement.

3.2 The Project Leader may appoint Project Managers to be responsible for discrete areas of the Activities.

3.3 The Subcontractor must:

- (1) liaise with and provide information to the Company, or a person nominated by the Company, as reasonably required by the Company;
- (2) comply with all reasonable requests, directions, or monitoring requirements received from the Company; and
- (3) liaise and cooperate with and assist the Commonwealth in any review or other evaluation that it undertakes during the term of the Funding Agreement and two years after it ends.

4. Funding

4.1 Subject to receipt of all reports required under this agreement, the Company must pay Funds for each Quarter to the Subcontractor during the first half of each Quarter in accordance with the Budget. The first quarterly payment will be made upon the signing of this agreement.

4.2 The Company:

- (1) may withhold Funds from the Subcontractor if:

- (a) any Milestones to which those Funds are to be applied have not been achieved or Deliverables have not been provided by their required dates;
 - (b) the Subcontractor has failed to comply with clause 8; and
 - (2) must release the withheld Funds once the Subcontractor has achieved the relevant Milestones or provided the required Deliverables or information, as the case requires.
- 4.3 Where an Asset is wholly purchased or created with NCRIS Funds, the Subcontractor must not accept funding for that Asset under any other programme of the Commonwealth, whether that programme is administered by the Department of Education Science and Training or by any other Commonwealth agency.
- 4.4 Where an Asset is partly purchased or created with NCRIS Funds, The Subcontractor must not accept funding for that portion of the Asset under any other programme of the Commonwealth, whether that programme is administered by the Department of Education, Science and Training or by any other Commonwealth agency.
- 4.5 If, contrary to clause 4.3 or clause 4.4, the Subcontractor receives funding for any Asset under any other programme of the Commonwealth, the Subcontractor must immediately notify the Company, of such funding, including the amount that the Subcontractor has received.
- 4.6 If, contrary to clause 4.3 or clause 4.4 , the Subcontractor receives any funding for any Asset under any other programme of the Commonwealth, in particular, the Company may withhold or suspend that part of the payment equal to the amount of the other funding.
- 4.7 If, contrary to clause 4.3 or clause 4.4 , the Subcontractor receives funding for any Asset under any other programme of the Commonwealth, the Company may reduce the Funding derived from the Commonwealth by the amount of the funding that the Subcontractor has received under that other programme, or take any other action permitted under this agreement.

5. Coinvestment

- 5.1 Subject to receiving the Funds, the Subcontractor must provide its Coinvestment for the agreed purpose at the times and in the manner specified in the Budget or the Statement of Work.

6. Use of Funds and Coinvestment

- 6.1 The Subcontractor must use Funds and the Coinvestment committed by it:
- (1) for the purposes of the agreed Activities only; and
 - (2) in accordance with the Statement of Work.

7. Subcontractor accounts

7.1 The Subcontractor must keep separate financial accounts on a GST exclusive basis which must record all information necessary to enable the Subcontractor to meet its reporting requirements as set out in Schedule 3.

8. Reporting and Provision of information by Subcontractor

8.1 The Subcontractor must provide the Company with Reports in accordance with the requirements of Schedule 3.

8.2 In addition, the Subcontractor must provide to the Company, within 14 days of a written request from the Company any other information reasonably requested by the Company relating to the Activities.

9. Project Leader

9.1 The Project Leader will be responsible for the Activities, either directly or via a Project Manager. The Subcontractor must use its reasonable efforts to ensure that the Project Leader:

- (1) uses his or her reasonable efforts to ensure the Activities are conducted:
 - (a) in accordance with the Statement of Work;
 - (b) so as to achieve the Milestones and Objectives; and
 - (c) so as to provide the Deliverables;
- (2) manages the day to day conduct of the Activities; and
- (3) provides scientific leadership to the Activities.

10. Assets

10.1 Unless otherwise agreed in writing the Subcontractor retains legal ownership of any Asset.

10.2 The Subcontractor must not use the Funds to purchase or create any Asset, or any portion of an Asset, apart from those detailed in Schedule 4, without getting prior written approval from the Company, which approval may be subject to conditions including any imposed by the Commonwealth.

10.3 Unless the Commonwealth owns any Asset under the Funding Agreement then:

- (1) during the Term the Subcontractor must:
 - (a) use any Asset in accordance with this agreement and for the purposes of the Activities;

- (b) not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause, without prior written approval from the Company;
 - (c) safeguard all Assets against theft, loss, damage, or unauthorised use;
 - (d) maintain all Assets in good working order;
 - (e) maintain all appropriate insurances for all Assets to the replacement value detailed in Schedule 4, noting the Commonwealth's interest in the Asset under this agreement, and provide satisfactory evidence of this on request from the Company.;
 - (f) if required by law, maintain registration and licensing of all Assets; and
 - (g) be fully responsible for, and bear all risks relating to, the use or disposal of all Assets.
- 10.4 The Company may require the Subcontractor to pay to it a proportion of the market value of an Asset which is equivalent to the proportion that NCRIS Funds bear to the purchase of the Asset:
- (1) if the Subcontractor sells or otherwise disposes of the Asset during the Term of the Funding Agreement (which must be with the Commonwealth's prior written consent and subject to any conditions it may impose);
 - (2) if the Company reduces the scope of this agreement under clause 26 and the Asset is not required for continuation of work referred to in clause 26 or
 - (3) on termination of this agreement.
- 10.5 If the Subcontractor fails to make payment as required by clause 10.4, within 19 Business Days of receiving written notice from the Company:
- (1) the Subcontractor must pay the Company the Interest on the amount from the date it was due, for the period it remains unpaid; and
 - (2) the amount and Interest are recoverable by the Company as a debt due to the Company by the Subcontractor.
- 10.6 If any of the Assets that are insured are lost, damaged or destroyed, the Subcontractor must reinstate the Assets to the extent possible (taking into account the level of insurance) and reasonable (taking into account the relevance of the Assets to the kind of research being carried out at the date of loss, damage or destruction). Any such reinstatement must use the proceeds of the insurance and this clause continues to apply to the reinstated Assets. Any surplus from the proceeds of the insurance must be notified to the Company and used and accounted for as Funds under this agreement. The Subcontractor is not required to reinstate any Assets that are not insured unless the Parties mutually agree otherwise.

- 10.7 The Company may require the Subcontractor to deal with the Asset as agreed in writing with the Company:
- (1) if the Company reduces the scope of this agreement under clause 26;
or
 - (2) on termination of this agreement before the end of the Term.
- 10.8 The Subcontractor acknowledges that on completion of the Activities or earlier termination of this agreement the Commonwealth may require any Asset to be made available for inclusion in any subsequent agreement supporting the NCRIS research capability. The terms on which the Asset is made available must be mutually agreed by the Commonwealth and the Subcontractor.
- 10.9 The Company will only exercise its rights under this clause where required to do so by the Commonwealth.

11. Access

- 11.1 The provisions of this clause continue for as long as any Asset funded wholly or partly with the Funds is operational.
- 11.2 The Subcontractor agrees to provide access to Assets based on merit, in the spirit of existing arrangements for Australian national astronomical facilities.
- 11.3 The Subcontractor may impose as a condition of access, that any organisation to which it grants access (**Visitor**) signs an agreement, in a form acceptable to the Subcontractor, which:
- (1) sets out reasonable terms of the access, including compliance with the Subcontractor's reasonable policies and guidelines;
 - (2) contains reasonable obligations of confidentiality and non-disclosure that protect the interests of the Subcontractor;
 - (3) reasonably addresses the liability of the parties in the event of injury to the Visitor or its directors, officers, employees, agents or contractors while visiting the premises; and
 - (4) contains obligations of compliance with relevant security and workplace health and safety legislation.
- 11.4 The Subcontractor must at all reasonable times give the Auditor-General, the Privacy Commissioner, the Programme Delegate, a member of the National Investigations Unit in the Department on production of photo identification, or any person authorised in writing by the Secretary:
- (1) reasonable access to:
 - (a) the Subcontractor's employees;
 - (b) premises occupied by The Subcontractor;

- (c) Material; and
- (2) reasonable assistance to:
 - (a) inspect the performance of the Activities;
 - (b) locate and inspect Material;
 - (c) make copies of Material and remove those copies, relevant to the Activities.

11.5 The rights referred to in clause 11.4 are subject to:

- (1) the provision of reasonable prior notice to the Subcontractor; and
- (2) the Subcontractor's reasonable security, confidentiality and occupational health and safety procedures.

11.6 If a matter is being investigated which, in the opinion of a member of the National Investigations Unit in the Department, or any person authorised in writing by the Secretary, may involve an actual or apprehended breach of the law, clause 11.5(1) will not apply.

11.7 The requirement for access specified in this clause does not in any way reduce The Subcontractor's responsibility to perform the Subcontractor's obligations under this agreement.

12. Carrying out the Activities

12.1 The Subcontractor must carry out the Activities:

- (1) in accordance with the Statement of Work, and the Budget;
- (2) in accordance with this agreement diligently, effectively and to a high professional standard;
- (3) keeping in mind the spirit of the Funding Agreement;
- (4) so as to do all things necessary or desirable to achieve Objectives;
- (5) so as to achieve the Milestones by their required dates;
- (6) so as to provide the Deliverables by their required dates; and
- (7) in accordance with the Project Leader's reasonable directions.

13. Activities IP

13.1 Subject to the remainder of this clause, upon its creation, Activities IP and Activities Material will be owned by the Subcontractor.

- 13.2 The Subcontractor grants the Company a permanent, irrevocable, free, world wide, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit the Reports for any purpose.
- 13.3 If a third party has Intellectual Property in existing Material incorporated or supplied with the Reports, The Subcontractor must arrange for the grant to the Company of a licence in the same terms as set out in clause 13.2.
- 13.4 The Subcontractor must, if requested to do so, bring into existence, sign, execute or otherwise deal with any document which may be necessary or desirable to give effect to this clause.
- 13.5 The Subcontractor warrants that the Subcontractor is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property in the Reports in accordance with this clause.
- 13.6 If the Subcontractor is the author of any Reports, the Subcontractor consents to the performance of the Specified Acts by the Commonwealth or any person licensed by the Commonwealth to use, reproduce, adapt and exploit the Reports.
- 13.7 The Subcontractor agrees:
- (1) to include in each Report the names of all persons having moral rights (as defined in the *Copyright Act 1968*) in the Report ('Authors')
 - (2) to use reasonable endeavours to obtain from each Author [\(other than the Subcontractor\)](#) a written consent to the performance of the Specified Acts (whether occurring before or after the consent is given) by the Commonwealth or any person licensed by the Commonwealth to use, reproduce, adapt and exploit the Reports;
 - (3) upon request, to provide the executed original of each consent to the Company; and
 - (4) to notify the Company of any Author (and the Author's employer, if any) from the Subcontractor is unable to obtain consent.
- 13.8 If requested by the Company, the Subcontractor must provide the Company with a copy of the Activities Material in the form reasonably requested by the Company.
- 13.9 The Company grants the Subcontractor a free, non-exclusive licence to use and reproduce the annual business plans, progress reports and final report created under the Funding Agreement for purposes not inconsistent with this Agreement.

14. Disclosure of Information

- 14.1 Subject to clause 14.5,
- (1) the Subcontractor must not, without the Company's prior written approval, disclose any of Commonwealth or Company Confidential Information to a third party; and

- (2) the Company must not, without the Subcontractor's prior written approval, disclose any of the Subcontractor's Confidential Information to a third party other than the Commonwealth.
- 14.2 In giving written approval to disclosure, a party may impose conditions as it thinks fit, and the other party agrees to comply with the conditions.
- 14.3 The Company may at any time require the Subcontractor to arrange for any person engaged in, or in relation to, the performance or management of this agreement to give written undertakings, in a form required by the Company, relating to the non-disclosure of Commonwealth or Company Confidential Information.
- 14.4 If the Subcontractor receives a request under clause 14.3, the Subcontractor must promptly arrange for all undertakings to be given.
- 14.5 The obligations on the parties under this clause will not be breached if information:
 - (1) is required to be disclosed by the Commonwealth to the responsible Minister;
 - (2) is disclosed by the Commonwealth, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - (3) is authorised or required by law to be disclosed; or
 - (4) is in the public domain otherwise than due to a breach of this clause.
- 14.6 Nothing in this clause limits the Subcontractor's obligations under clause 15 or clause 11.

15. Protection of Personal Information

- 15.1 The Subcontractor agrees:
 - (1) to comply with the Information Privacy Principles when doing any act or engaging in any practice in relation to Personal Information for the purposes of this agreement, as if the Subcontractor were an agency as defined in the Privacy Act; and
 - (2) to deal with Personal Information received, created or held by the Subcontractor for the purposes of this agreement only to fulfil the Subcontractor's obligations under this agreement.
- 15.2 An act done or a practice engaged in by the Subcontractor or any of its subcontractors to meet (directly or indirectly) an obligation under this agreement:
 - (1) is authorised by this clause or the equivalent clause in the Funding Agreement for the purposes of sub-sections 6A(2) and 6B(2) of the Privacy Act even if the act or practice is inconsistent with a National

Privacy Principle or an approved privacy code (as defined in the Privacy Act) that applies to the Subcontractor or the subcontractor; but

- (2) is subject to the other obligations in this agreement including this clause.

15.3 In this clause "received" includes "collected".

16. Indemnity

16.1 The Subcontractor agrees to indemnify the Company against any:

- (1) loss or liability incurred by the Company;
- (2) loss of or damage to the Company's property; or
- (3) loss or expense incurred by the Company in dealing with any claim against the Company, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Company;

which are reasonably incurred as a result of:

- (a) any act or omission by the Subcontractor, or any of the Subcontractor's employees, agents, or subcontractors in connection with this agreement, where there was fault on the part of the person whose conduct gave rise to that liability, loss, damage, or expense;
- (b) any material breach by the Subcontractor or any of the Subcontractor's employees, agents, or subcontractors of obligations or warranties under this agreement;
- (c) any use or disclosure by the Subcontractor, the Subcontractor's officers, employees, agents or subcontractors of Personal Information held or controlled in connection with this agreement; or
- (d) the use by the Company or the Commonwealth of the Reports, including any claims by third parties about the ownership or right to use Intellectual Property (including moral rights) in Activities Material

but only to the extent that the Company is required to indemnify the Commonwealth under the Funding Agreement.

16.2 The Subcontractor's liability to indemnify the Company under this clause will be reduced proportionately to the extent that any fault on the Company's part, or breach of clause 14 by the Company, contributed to the relevant loss, damage, expense, or liability.

16.3 The Company's right to be indemnified under this clause is in addition to, and not exclusive of, any other right, power, or remedy provided by law, but the

Company is not entitled to be compensated in excess of the amount of the relevant loss, damage, expense or liability.

- 16.4 In this clause “fault” means any negligent or unlawful act or omission or wilful misconduct.

17. Insurance

- 17.1 The Subcontractor must, for as long as any obligations remain in connection with the Activities, have insurance as specified in Item 1 of Schedule 4.
- 17.2 When requested, the Subcontractor must provide the Company, within 9 Business Days of the request, with evidence satisfactory to the Company that the Subcontractor have complied with the Subcontractor’s obligation to insure.

18. Amendments to Activities

- 18.1 Any amendment or variation to the Activities, including to Milestones or Deliverables, must be agreed in writing by the Company and the Subcontractor.

19. Records

- 19.1 The Subcontractor must make full and accurate Records of the conduct of the Activities including progress against the Milestones (if any), the receipt and use of Funds, the acquisition of Assets.
- 19.2 Records must be retained by the Subcontractor for 7 years after the end of the term of the Funding Agreement.

20. Student Involvement

- 20.1 The Subcontractor is responsible for any arrangements with students who will be involved in Activities.

21. Acknowledgment and Publicity

- 21.1 The Subcontractor must, in all publications, promotional and advertising materials, public announcements and activities by the Subcontractor or on The Subcontractor’s behalf in relation to the Activities, acknowledge the financial and other support the Subcontractor has received from the Commonwealth and the Company, and in particular must acknowledge that the Activities are part of an initiative of the Australian Government being conducted as part of the National Collaborative Research Infrastructure Strategy.
- 21.2 The Subcontractor must invite the Minister and/or any other person nominated by the Minister to take part in any significant promotional event held by the Subcontractor or any subcontractor. This may include allowing the

Minister or any other person nominated by the Minister to speak at, or play any role (including an integral role) in the relevant promotional event.

22. Use of Party's name

22.1 A Party must not use the name or logo of any other Party without the prior written consent of that Party.

23. Conflict of Interest

23.1 The Subcontractor warrants that, to the best of the Subcontractor's knowledge after making reasonable inquiries, at the date of this agreement no Conflict exists or is likely to arise in the performance of the Subcontractor's obligations under this agreement other than those already notified to the Company and described in Schedule 1 of the Funding Agreement.

23.2 If during the term of this agreement, a Conflict arises, or is likely to arise, The Subcontractor must:

- (1) immediately notify the Company in writing of that Conflict and of the steps the Subcontractor propose to take to resolve or otherwise deal with the Conflict;
- (2) make full disclosure to the Company of all relevant information relating to the Conflict; and
- (3) take steps as the Company may, if it chooses to, reasonably require to resolve or otherwise deal with that Conflict.

23.3 If The Subcontractor fails to notify the Company under this clause, or is unable or unwilling to resolve or deal with the Conflict as required, the Company may terminate this agreement under clause 27.

24. Dispute Resolution

24.1 If a dispute arises out of this agreement, or in relation to any other Activities funded by the Company in which the Subcontractor is involved (**Dispute**), each Party must comply with this clause 24 before starting arbitration or court proceedings (except proceedings for interlocutory relief).

24.2 Where a Dispute involves the Commonwealth, the Subcontractor agrees to cooperate with the Company in resolving the Dispute in accordance with clause 26 of the Funding Agreement.

24.3 A Party claiming a Dispute has arisen must give the other Party notice setting out details of the Dispute.

24.4 During the 14 days after a notice is given under clause 24.3 (or longer period if the Parties to the Dispute agree in writing), each Party must use its reasonable efforts to resolve the Dispute.

- 24.5 If the Parties cannot resolve the Dispute, the Company will refer the Dispute to a mediator agreed to by the parties to the Dispute.
- 24.6 If the Parties to the Dispute cannot agree on a mediator within seven days after the period set out under clause 24.4, the chairman of LEADR or the chairman's nominee will appoint a mediator.
- 24.7 The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a Party to the Dispute except if both Parties agree in writing.
- 24.8 Any information or documents disclosed by a Party under this clause:
- (1) must be kept confidential; and
 - (2) may only be used to attempt to resolve the Dispute.
- 24.9 Each Party must pay its own costs of complying with this clause. The parties to the Dispute must equally pay the costs of any mediator.
- 24.10 A Party to a Dispute may terminate the dispute resolution process by giving notice to each other after it has complied with clauses 24.1 to 24.4. Clauses 24.8 and 24.9 survive termination of the dispute resolution process.

25. Term

- 25.1 Subject to clause 25.2, unless terminated earlier under clause 26 or 27, this agreement will commence on the date of last signature and will remain in force until all the Activities, Milestones and Deliverables have been completed.
- 25.2 If the Funding Agreement is terminated before all the Activities, Milestones and Deliverables have been completed in accordance with its terms, this agreement will end on that earlier date.

26. Termination with Costs and Reduction

- 26.1 The Company will only exercise its rights under this clause where the Commonwealth exercises its rights under clause 27 of the Funding Agreement.
- 26.2 The Company may, by written notice to the Subcontractor, terminate this agreement in whole or reduce the scope of this agreement without prejudice to the rights, liabilities, or obligations of either party accruing prior to the date of termination. If this agreement is terminated or reduced in scope the Company will only be liable for:
- (1) payments under the payment provisions of this agreement that were due before the effective date of termination; and
 - (2) subject to clauses 26.4 and 26.5, any reasonable costs incurred by the Subcontractor and directly attributable to the termination or partial termination of this agreement.

- 26.3 Upon receipt of a notice of termination or reduction in scope the Subcontractor must:
- (1) stop work as specified in the notice;
 - (2) take all available steps to minimise loss resulting from that termination and to protect Company Confidential Information and Activities Material; and
 - (3) continue work on any part of the Activities not affected by the notice.
- 26.4 If there is a reduction in scope of the obligations under this agreement, the Company's liability to pay any part of the Funds will, in the absence of agreement to the contrary, abate proportionately to the reduction in the obligations under this agreement.
- 26.5 The Company will not be liable to pay compensation for loss of prospective profits for a termination or reduction in scope under this clause or loss of any benefits that would have been conferred on the Subcontractor had the termination or reduction not occurred.

27. Termination for Default

- 27.1 The Company may immediately terminate this agreement by giving written notice to The Subcontractor of the termination if:
- (1) the Company is satisfied that any statement made in the Statement of Work is incorrect, incomplete, false or misleading in a way which may have affected:
 - (a) the terms and conditions of this agreement; or
 - (b) action taken by the Company under this agreement;
 - (2) the Subcontractor fails to fulfil, or is in breach of any of the Subcontractor's obligations under this agreement and the Subcontractor does not rectify the omission or breach within 10 Business Days of receiving a notice from the Company to do so;
 - (3) the Subcontractor is unable to pay all the Subcontractor's debts when they become due;
 - (4) if The Subcontractor is an incorporated body:
 - (a) the Subcontractor fails to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*;
 - (b) proceedings are initiated to obtain an order for the Subcontractor's winding up or any shareholder, member or director convenes a meeting to consider a resolution for the Subcontractor's winding up;

- (c) the Subcontractor comes under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* or equivalent provisions in other legislation, or an order has been made to place the Subcontractor under external administration; or
 - (d) notice is served on the Subcontractor or proceedings are taken to cancel the Subcontractor's incorporation or registration or to dissolve The Subcontractor as a legal entity;
- (5) The Subcontractor ceases to carry on a business relevant to the performance of the Activities.

28. Effect of termination of agreement

- 28.1 Termination of this agreement for any reason will be without prejudice to the continuing enforceability of any rights or obligations of the Parties accrued at the time of termination.
- 28.2 Unless agreed otherwise by the Parties, on the termination of this agreement the Parties continue to be bound by the obligations under clauses 11 (Access), 13 (Activities IP) 14 (Disclosure of Information) 16 (Indemnity) 17 (Insurance), 21 (Acknowledgment and Publicity), 22 (Use of Party's name), 24 (Dispute Resolution).

29. GST

- 29.1 In this clause:
- (1) GST exclusive consideration means the consideration payable or to be provided for a Supply, but for the application of this clause;
 - (2) Recipient means a Party to whom a Supply is made;
 - (3) Supply means a supply made under or in connection with this agreement;
 - (4) Supplier means a Party making a Supply; and
 - (5) words or expressions that are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning in this clause.
- 29.2 Any consideration to be paid or provided for a Supply, unless specifically described in this agreement as 'GST-inclusive', does not include an amount on account of GST.
- 29.3 Despite any other provision in this agreement if a Supplier makes a Supply on which GST is imposed (not being a Supply the consideration for which is specifically described in this agreement as 'GST-inclusive'):
- (1) the GST-exclusive consideration for that Supply, is increased by, and the Recipient must also pay to the Supplier, an amount equal to the

GST-exclusive consideration multiplied by the prevailing rate of GST;
and

- (2) the amount by which the GST-exclusive consideration is increased under clause 29.3(1) must be paid to the Supplier by the Recipient without set-off, deduction or requirement for demand, at the same time as the GST-exclusive consideration is payable or to be provided.

29.4 If a payment to a Party under this agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that Party, then the payment will be calculated on the GST exclusive basis for that loss, cost or expense incurred (plus GST where applicable).

29.5 A Recipient need not make a payment for a taxable Supply until the Supplier has given the Recipient a tax invoice for the Supply to which the payment relates.

30. Notices and other communications

30.1 A notice, demand, consent, approval or communication under this agreement (Notice) must be:

- (1) in writing, in English and signed by a person duly authorised by the sender; and
- (2) hand delivered or sent by prepaid post, facsimile or Electronic Communication.
- (3) to the recipient's address for Notices specified in Schedule 2, as varied by any Notice given by the recipient to the sender.

30.2 A Notice given in accordance with clause 30.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (1) if hand delivered, on delivery;
- (2) if sent by prepaid post, on the fifth Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
- (3) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,
- (4) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* if a notice was being given under a law of the Commonwealth

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

31. Approvals and consents

31.1 Except where this agreement expressly states otherwise, a Party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this agreement.

32. Assignment

32.1 Neither Party may assign or attempt to assign or otherwise transfer or encumber any right or obligation arising out of this agreement except:

- (1) in accordance with the Funding Agreement; and
- (2) with the written consent of the other Party.

33. Relationship

33.1 Each Party agrees that:

- (1) nothing contained in this agreement constitutes either of them as agent, partner or trustee of the other, or creates any agency, partnership or trust for any purpose whatsoever; and
- (2) except as otherwise specifically provided in this agreement a Party does not have any authority or power to act for, or to create or assume any responsibility or obligation on behalf of, the other Party.

33.2 The Subcontractor will not, by virtue of this agreement, be or for any purpose be deemed to be the Company's employees, partners or agents.

33.3 The Subcontractor must not represent itself, and must ensure that the Subcontractor's employees, partners, agents or sub-contractors do not represent themselves, as being employees, partners or agents of the Company or the Commonwealth.

34. Sub-contracting

34.1 The Subcontractor remains responsible for the performance of any subcontractor it uses to carry out any of the Activities.

35. Costs

35.1 Each Party must pay its own costs of negotiating, preparing and executing this agreement.

36. Counterparts

36.1 This agreement may be executed in counterparts. All executed counterparts constitute one document.

37. No merger

37.1 The rights and obligations of the Parties under this agreement do not merge on completion of any transaction contemplated by this agreement.

38. Entire agreement

38.1 This agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all previous agreements or understandings between the Parties in connection with its subject matter.

39. Further action

39.1 Each Party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this agreement and any transaction contemplated by it.

40. Severability

40.1 A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or parts of the terms of this agreement continue in force.

41. Waiver

41.1 A Party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the Party giving the waiver.

42. Compliance with Laws and Policies

42.1 The Subcontractor must, in carrying out the Subcontractor's obligations under this agreement, comply with:

- (1) all relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or local authority; and
- (2) any Commonwealth policies notified by the Company to the Subcontractor.

42.2 In particular, The Subcontractor must ensure that when conducting or permitting the conduct of research at any facility that has received NCRIS Funds, The Subcontractor and all users of any such facility strictly observe and comply in every respect with all applicable Commonwealth, State and Territory legislation and all relevant regulatory agencies operating in Australia, being legislation, codes and guidelines in force at any time and from time to time during the term of this agreement.

- 42.3 When conducting or permitting the conduct of research pursuant to the field of research undertaken at the Subcontractor's facility forming part of NCRIS which involves the use of ionising radiation, The Subcontractor must ensure that persons performing procedures involving ionising radiation are appropriately trained and hold a relevant current licence from the appropriate State authority.
- 42.4 Whenever reasonably required by the Company, The Subcontractor must promptly furnish to Us written evidence of compliance with the requirements of clauses 42.1 and 42.2.
- 42.5 In the remainder of this clause:
- (1) **'Code'** means the National Code of Practice for the Construction Industry, a copy of which appears on the Internet at www.workplace.gov.au/building;
 - (2) **'Industry Guidelines'** means the Australian Government Industry Guidelines for the Code, revised September 2005, published by the Department of Employment and Workplace Relations, a copy of which appears on the Internet at www.workplace.gov.au/building;
 - (3) **'Activities Parties'** means all contractors, subcontractors, suppliers, consultants and employees who perform work in relation to the Activities.
- 42.6 Where the Funds result in construction and building activity, subject to the financial thresholds specified in the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, revised September 2005, the Subcontractor must comply with the Code and the Industry Guidelines.
- 42.7 The Subcontractor must ensure that:
- (1) all requests for tender in relation to the Activities made by The Subcontractor or any other Activities Parties contain the commitment to apply the Code and Industry Guidelines as set out in the document entitled 'Indirectly Funded Projects', a copy of which appears at <http://www.workplace.gov.au/workplace/AdvancedSearch?search=indirectly+funded+Activities>
 - (2) all contracts entered into in relation to the Activities by The Subcontractor or any of the Activities Parties contain the commitment to apply the Code and Industry Guidelines as set out in the document referred to in clause 42.7(1).
- 42.8 The Subcontractor must maintain adequate records of The Subcontractor's compliance, and that of each of the Activities Parties, with the Code and the Industry Guidelines. The Subcontractor must permit the Commonwealth and those authorised by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, full access to the Subcontractor's premises and records, and those of the Activities Parties, to:
- (1) inspect any work, material, machinery, appliance, article or facility;

- (2) inspect and copy any record relevant to the Activities and works governed by this agreement;
- (3) interview any person; or
- (4) request the Subcontractor or any Activities Party to produce a specified document within a specified period, being not less than 14 days in person, by fax or by post;

as is necessary to allow validation of progress by the Subcontractor and the Activities Parties in complying with the Code and the Industry Guidelines.

- 42.9 The Commonwealth and those authorised by the Commonwealth may publish or otherwise disclose information in relation to compliance by the Subcontractor and the Activities Parties with the Code and the Industry Guidelines. The Subcontractor must obtain the consent of the Activities Parties to the publication or disclosure of information under this clause.
- 42.10 The Subcontractor must not appoint the Activities Party if that appointment would constitute a breach of a sanction for a failure to comply with the Code.

43. Governing law and jurisdiction

- 43.1 This agreement is governed by the law of Victoria and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

Signed as an agreement on the 13th day of August 2007.

Signed for Astronomy Australia Ltd by an authorised officer in the presence of

Signature of witness

Name of witness (print)

Signature of officer

Martin Cole

Name of officer (print)

Chair

Office held

Signed for [Subcontractor] by an authorised officer in the presence of

Signature of witness

Name of witness (print)

Signature of officer

Warrick Couch

Name of officer (print)

Chair

Office held

SCHEDULE 1 STATEMENT OF WORK

BACKGROUND

This Statement of Work describes the activities and milestones for the components of the NCRIS Optical and Radio Astronomy Capability for which AAO is responsible: the AAT infrastructure refurbishment, the new AAT instrument and the Australian Gemini Office (AusGO).

The plan assumes that NCRIS funds flow from 1 July 2007. Quarterly payment amounts (in advance), the activities to be carried out during each quarter, and the milestones to be achieved by the end of each quarter are given for FY07-08; provisional annual payments, activities and milestones are given for the rest of the NCRIS program period.

ACTIVITIES AND MILESTONES

AAT Infrastructure Refurbishment

Period	Activities and Milestones
2007-08 Q1	<ul style="list-style-type: none"> • Initialise AAT infrastructure refurbishment project • Hire project manager • Identify suitable consultants • Commence design of air conditioning chiller replacement • Tender for purchases of replacement capital equipment • Prepare program for instrumentation refurbishment • Prepare program for architectural and buildings works • Commission inspection and report phase activities on AAT dome subsystems: <ul style="list-style-type: none"> ○ structure and fabric ○ drive and control systems ○ crane, bogies and rail ○ shutter and windscreen ○ maintenance platform ○ tube access platform • Commission inspection and report phase activities on infrastructure subsystems <ul style="list-style-type: none"> ○ primary mirror elevator and trolley ○ main floor hatch and 2nd floor hatch
2007-08 Q2	<ul style="list-style-type: none"> • Commission inspection and report phase activities on AAT telescope subsystems: <ul style="list-style-type: none"> ○ telescope mount ○ main drive and control ○ hydrostatic support system ○ telescope optics ○ mirror support systems and encoders • Commission inspection and report phase activities on architectural and building subsystems: <ul style="list-style-type: none"> ○ fabric ○ HVAC ○ electrical ○ hydraulic

	<ul style="list-style-type: none"> ○ lifts ● Scope and design works for instrumentation refurbishment work packages ● Scope and design works for architectural and building refurbishment work packages ● Scope and design HVAC work packages ● Consultants and specialists undertake inspections and deliver reports on telescope subsystems
2007-08 Q3	<ul style="list-style-type: none"> ● Tender for air conditioning chiller replacement ● Consultants and specialists undertake inspections and deliver reports on dome subsystems ● Review reports and prepare tenders for dome subsystems refurbishment ● Consultants and specialists undertake inspections and deliver reports on architectural and building subsystems ● Review reports and prepare tenders for architectural and building systems refurbishment ● Identify architectural and building refurbishment work packages for internal and external resources, tendering as required ● Sign contract for air conditioning chiller replacement ● Review reports and prepare tenders for telescope subsystems refurbishment ● Sign contracts for telescope subsystems refurbishment
2007-08 Q4	<ul style="list-style-type: none"> ● Commission inspection and report phase activities on infrastructure subsystems <ul style="list-style-type: none"> ○ aluminising plant ● Identify instrumentation refurbishment work packages for internal and external resources, tendering as required ● Commence miscellaneous instrumentation works ● Commence miscellaneous architectural and building works. ● Sign contracts for dome subsystems refurbishment ● Sign contracts for architectural and building works ● Sign contracts for instrumentation refurbishment ● Install and commission air conditioning chiller replacement ● Review reports and prepare tenders for infrastructure subsystems refurbishment ● Ongoing miscellaneous works ● Sign contracts for infrastructure subsystems refurbishment ● Commence telescope subsystems refurbishment works ● Commence architectural and building refurbishment works ● Ongoing miscellaneous works
2008-09	<ul style="list-style-type: none"> ● Telescope subsystem refurbishment works ● Architectural and building refurbishment works ● Commence dome refurbishment works ● Ongoing miscellaneous works
2009-10	<ul style="list-style-type: none"> ● Commence infrastructure refurbishment works ● Complete telescope subsystem refurbishment works ● Complete dome refurbishment works ● Ongoing miscellaneous works
2010-11	<ul style="list-style-type: none"> ● Complete infrastructure system refurbishment works ● Complete architectural and building system refurbishment ● Complete miscellaneous works

New AAT Instrument

Period	Activities and Milestones
2007-08 Q1	<ul style="list-style-type: none"> • Initialise new AAT instrument project • Appoint project manager, project scientist and other key members of project team • Start conceptual design study • Explore nominal and alternative conceptual designs • Develop revised science cases
2007-08 Q2	<ul style="list-style-type: none"> • Hold community workshop to discuss science case and conceptual design • Draft initial science requirements document • Draft initial functional requirements document
2007-08 Q3	<ul style="list-style-type: none"> • Complete initial science requirements document • Complete initial functional requirements document • Write conceptual design report • Hold conceptual design review • Complete conceptual design study
2007-08 Q4	<ul style="list-style-type: none"> • Start preliminary design phase
2008-09	<ul style="list-style-type: none"> • Write preliminary design report • Hold preliminary design review • Complete preliminary design phase • Start final design phase
2009-10	<ul style="list-style-type: none"> • Write final design report • Hold final design review • Complete final design phase • Start construction phase
2010-11	<ul style="list-style-type: none"> • Complete construction phase • Commissioning phase • Start of science observations

The process for selecting the new instrument will involve consultations with the AAO's user community and approvals from the AAT and AAL Boards. To date, options for the new instrument have been discussed at an open meeting of the Australian user community on 18 May 2006, at the AAO Users' Committee meetings on 27 July 2006 and 9 February 2007, and at the AAT Board meetings on 20-22 September 2006 and 2-3 April 2007. The science cases and current technical concepts will be presented to the AAO Users' Committee on 26 July 2007 and to an Australian community meeting in the second quarter of FY07-08. The final conceptual design review will occur in the third quarter of FY07-08 and will involve the AAO Users' Committee to provide feedback from the user community. A final decision on which instrument to pursue will probably be taken by the AAT Board in mid-2008, and approval for this course of action will then be sought from the AAL Board, which will have been receiving progress reports on a regular basis throughout this whole process.

Australian Gemini Office (AusGO)

Period	Activities and Milestones
2007-08 Q1	<ul style="list-style-type: none"> • Continue current level of support for RSAA-based AusGO • Begin recruitment of Australian Gemini Scientist (AGS) • Begin recruitment of Australian Deputy Gemini Scientists (DGS)

2007-08 Q2	<ul style="list-style-type: none"> • Continue current level of support for RSAA-based AusGO • Complete recruitment of AGS • Complete recruitment of Australian DGS • Prepare for AusGO transfer from RSAA to AAO
2007-08 Q3	<ul style="list-style-type: none"> • AusGO begins operations from AAO with new AGS and DGS • AusGO supports Australian involvement in 8m-class telescopes by: <ul style="list-style-type: none"> ○ managing Australian time allocation processes for both Gemini and Magellan ○ AGS and DGS performing specified Gemini support duties ○ supporting Gemini instruments as required ○ managing the two Magellan support astronomers
2007-08 Q4	<ul style="list-style-type: none"> • AusGO supports Australian involvement in 8m-class telescopes
2008-09	<ul style="list-style-type: none"> • AusGO supports Australian involvement in 8m-class telescopes
2009-10	<ul style="list-style-type: none"> • AusGO supports Australian involvement in 8m-class telescopes
2010-11	<ul style="list-style-type: none"> • AusGO supports Australian involvement in 8m-class telescopes

Note that the AusGO will continue to be based at RSAA through to the end of 2007, with AAO taking over responsibility from 1 January 2008, at which point AusGO funding starts to flow from NCRIS to the AAO.

SCHEDULE 2 ADDRESS FOR SERVING NOTICES

Company

Attention: Chief Operating Officer
Address: Swinburne University of Technology (H39 CASC), 1 Alfred Street,
Hawthorn, VIC 3122
Facsimile: (03) 9214 4396
Email: mark.mcauley@astronomyaustralia.org.au

Subcontractor

Attention: Executive Officer
Address: AAO, P.O. Box 296, Epping, NSW 1710
Facsimile: (02) 9372 4880
Email: eo@ao.gov.au

SCHEDULE 3 REPORTING REQUIREMENTS

The Subcontractor must report to the Company Quarterly in arrears in July, October, January and April each year by no later than the twelfth of these months in the following format:

Quarterly report: <<Project name>>

Author: <<Your name>>

Date: <<Today's date>>

Status summary

<<Summarise (perhaps only one paragraph) the overall progress over the quarter and clearly state whether, "The project is ahead of schedule" or "The project is on schedule" or "The project is behind schedule".>>

Milestones

<<Report against any milestones that have been achieved since the project's last report, and for any outstanding milestones that should have been achieved by now. Also flag if you have significant concerns over meeting future milestones.>>

Budget (GST exclusive)

FY XX/XX QX	Actual	Budget
Project receipts		
NCRIS grant funds	\$	\$
Other funds (list)	\$	\$
Sub-contractor's funds	\$	\$
Total receipts	\$	\$
Project payments		
Salaries	\$	N/A
Overheads	\$	N/A
Capital purchases	\$	N/A
Other	\$	N/A
Total payments	\$	\$

<<Complete the above table for receipts and payments incurred during the last quarter. Note: Include 'capitalised' payments that were used to create assets.>>

FY XX/XX QX	Actual	Budget
Assets created		
Asset 1 value to date	\$	\$

<<State the value of any asset(s) or work-in-progress at the end of the quarter.>>

Successes during the quarter

<<Describe the successes your team has achieved during the last quarter. You may wish to give details regarding completed milestones.>>

Issues during the quarter

<<Describe the issues your team has encountered since the last status report. You may wish to comment upon milestones that have been missed.>>

AAL will endeavour to keep the reporting burden low. However, the quarterly report due in July each year will include additional information for the yearly progress report to be submitted to DEST. The report format will be defined by DEST and will include:

- Overview of status of Project, eg addressing highlights, difficulties or breakthroughs.
- A description of activities undertaken, including discussion of unexpected or unusual activities.
- A description of progress against the milestones set out in the relevant Annual Business Plan, including discussion of agreed milestones not fully met and explanation;
- Discussion of any deviations from the Project Plan or the agreed relevant Annual Business Plan, including:

additional activities undertaken (nature of activities, reason for undertaking the activities, realised or expected benefits from the additional activities);

agreed activities not completed and an explanation why they were not completed; and

remedial action proposed, including timeframes.

- Discussion of the level of cash and in-kind coinvestment received against expected levels.

Attachments

- Performance against agreed performance indicators for operational NCRIS facilities.
- The audited detailed statement referred to in item 12.2(b), which addresses the applicable provisions of clauses 12.3, 12.5, 12.6 and 12.7.
- Any confidential information is to be clearly identified as such and presented in a separate attachment.

SCHEDULE 4 DETAILS OF INSURANCE AND ASSETS

Item 1 **Insurance**

The new instrument for the Anglo-Australian Telescope will be insured for the cost to build during construction and delivery of the instrument. Once installed, the instrument will not be insured.

Item 2 **Asset**

Description: New Instrument for the Anglo-Australian Telescope.

Location: Anglo-Australian Observatory, Siding Spring NSW and Epping NSW.

Ownership: Anglo-Australian Telescope Board.

Estimated Purchase price: \$4,250,000.

NCRIS funds form 100% of the purchase price.

SCHEDULE 5 PLANNING SCHEDULE

The Subcontractor acknowledges that the Company must provide the Department with an annual business plan in April each year for the following financial year. Accordingly, the Subcontractor agrees to cooperate with the Company in assisting to develop the business plan as required by the Department.

The Subcontractor acknowledges that significant changes to the Budget or the Statement of Work will need to be made in consultation with the Company and are subject to approval by the Department.

Each Annual Business Plan should set out the activities to be undertaken to progress the Project Plan during the coming financial year (ie 1 July to 30 June) in a format that is agreed by Us. The Annual Business Plans must include, but are not limited to, the following:

- Outline of status of Project, eg addressing highlights, difficulties or breakthroughs since the previous 30 June.
- Description of activities to progress the Project Plan during the period of the Annual Business Plan.
- Description of the proposed governance and management arrangements to ensure efficient and effective operation of the Project.
- Description of proposed activities to promote the Project nationally and internationally for the period of the Annual Business Plan.
- Description of proposed processes to decide access and pricing for merit-based research for the period of the Annual Business Plan.
- Description of proposed processes for access and pricing other than through the merit-based processes for the period of the Annual Business Plan.
- Staffing and financial projections for the period of the Annual Business Plan.
- Discussion of the expected level of cash and in-kind coinvestment and its impact on the Project.
- Proposed Milestones for the period of the Annual Business Plan. Examples include:
 - Installation and commissioning of flagship instruments
 - Staffing targets
 - Level and nature of usage of infrastructure
 - Financial targets
 - Levels of co-investment
- Any confidential information is to be clearly identified as such and presented in a separate attachment.

SCHEDULE 6 BUDGET (GST EXCLUSIVE)**AAT refurbishment**

	07/08 Q1	07/08 Q2	07/08 Q3	07/08 Q4	2008/09	2009/10	2010/11	2011/12
Receipts								
NCRIS grant	\$250,000	\$250,000	\$300,000	\$300,000	\$1,100,000	\$1,100,000	\$800,000	\$0
Payments								
Total payments	\$250,000	\$250,000	\$300,000	\$300,000	\$1,100,000	\$1,100,000	\$800,000	\$0

AAT instrument

	07/08 Q1	07/08 Q2	07/08 Q3	07/08 Q4	2008/09	2009/10	2010/11	2011/12
Receipts								
NCRIS grant	\$200,000	\$200,000	\$200,000	\$420,000	\$1,700,000	\$1,900,000	\$1,300,000	\$0
Payments								
Total payments	\$200,000	\$200,000	\$200,000	\$420,000	\$1,700,000	\$1,900,000	\$1,300,000	\$0

WIP Value	07/08 Q1	07/08 Q2	07/08 Q3	07/08 Q4	2008/09	2009/10	2010/11
AAT Instrument	\$0	\$200,000	\$400,000	\$750,000	\$1,500,000	\$3,000,000	\$4,250,000

AusGO

	07/08 Q1	07/08 Q2	07/08 Q3	07/08 Q4	2008/09	2009/10	2010/11	2011/12
Receipts								
NCRIS grant	\$0	\$0	\$75,000	\$75,000	\$306,000	\$318,000	\$330,500	\$168,500
Payments								
Total payments	\$0	\$0	\$75,000	\$75,000	\$306,000	\$318,000	\$330,500	\$168,500

Notes:

The quarterly budget breakdown for each of 2008/09, 2009/10 and 2010/11 will be specified in the yearly business plan to be provided by The Company to The Department in April 2008, April 2009 and April 2010 respectively.

The sub-contractor will be entitled to charge to the project:

- Overheads at an equitable rate relevant to the sub-contractor's other projects; and,
- For the use of any of the sub-contractor's own workshops, facilities, etc at an equitable rate relevant to the sub-contractors other projects.