



National Astronomical Observatory, Chinese
Academy of Sciences



Memorandum of Understanding
between
Catholic University of the North
and
National Astronomical Observatory, Chinese Academy of Sciences

In Santiago de Chile, Republic of Chile, on November 22, 2016, on one hand the National Astronomical Observatory, Chinese Academy of Sciences, hereinafter referred as NAOC, located at A20 Datun Road, Chaoyang District, Beijing – China, represented by its Director General, Dr. **Jun Yan**, and, on the other hand, the Catholic University of the North, hereinafter referred as UCN, represented by its President, M. Sc. **Jorge Tabilo Álvarez**, named by means of the Decree of Great Chancery N° 01/2013, dated 11th March 2013, located at Avenida Angamos 0610, Antofagasta – Chile, both consider the following agreement represents an excellent platform for developing astronomy and related science and technology on a collaborative basis. It is also their intention to provide the opportunities for scientists, engineers and students in their areas of specialty to contribute to the advancement of knowledge in astronomy.

Article I: Purpose.

The UCN and NAOC (hereinafter “the Parties”) agree to form a bilateral partnership with the express purpose of developing joint projects at the Ventarrones site (hereinafter “the Project”). The aim of the Project is to create a modern, world-class scientific research base for observational astronomy in Chile.

Article II: Partnership and Representation

Both Parties will dedicate financial, material and human resources to the Project, and will, in good faith, provide all reasonable conveniences and accommodations to each other. UCN will delegate the participation of daily operations in the Project to the Institute of Astronomy of the University; while NAOC, which has been granted International Organization status (Law code: N°.5.172) in Chile by a Presidential Decree on February 2nd, 2016, will delegate its participation to the Chinese Academy of Sciences South America Center for Astronomy (CASSACA), which has its main offices in Santiago de Chile.

Article III: Governance.

The partnership shall appoint a Board of Directors, which initially will consist of two persons from each Party, to be responsible for all important decisions of the Project. One member of the Board will be the Board Chair at any given time, and this position can be rotated among all Board members with mutual consent. The Chair will be responsible to call and organize meetings of the Board on a regular basis, and keep records of Board discussions and decisions. The Board will choose a Director of Operations for the Project, and approve major programs and budgets proposed by the Director. The Board is the main governing body of this partnership, and the Director of Operations is obligated to report to the Board in a timely manner all important issues of the Project's operations. The Director of Operations will have to comply with the rules and regulations of its position to be defined in a posterior specific agreement between the parties.

Article IV: Operations.

The Project shall form a special Project Office, under management by the Director of Operations. The Director is responsible for the routine work of the project office, its personnel assignments, its budget and progress reports. The Project Office retains its members through either party, which actually hires them. These employments will comply with the rules and regulations of their respective institutions. In the near term (within the next two years after the signing of this Memorandum of Understanding), the project office will be located on the UCN campus, with administrative assistances provided by the University. The Director of Operations will be able to sign certain contracts with outside entities on behalf of the Project, when it is legally appropriate, with the oversight and approval of the Board. As the Project is not yet a legally registered entity in Chile, other contracts of its operations may need to be signed by official representatives of both Parties, again with the consent of the Board.

Article V: Funding Structures.

Funding for the Project can be in two basic forms: cash contribution and in-kind contribution. All in-kind (non-cash) contributions will be given its cash-equivalent value, based on a pre-agreed-upon assessment of the actual item at the time of the acceptance by the Project. The Director of Operations is fully responsible for obtaining a reasonable assessment (relying on expertise of external sources if necessary), keeping the books on the contributions, and providing prompt, detailed accounting and explanations of the contributions to the Board.

The Project shall establish separate, independent accounts to manage the cash portions of the operation's funds. All cash contributions and expenditures will be part of the Project's budget and must be accounted for on a quarterly basis in compliance with the rules and regulations of the financial offices of both Parties, and accept routine auditing. Both Parties promise to make regular and necessary contributions in order to sustain the normal operations and planned development of the Project.

Article VI: Voting Rights.

Both sides seek constructive collaborations on all endeavors within the Project, to which the two parties contribute with their best efforts and share the governance with equal voting rights by default. However, where required, one party may cede its voting rights on a specific project to its counterpart at the time of each relevant agreement's signature, in return for compensatory benefits proportional to its contributions (including in-kind contributions such as land rights and the use of facilities) to that specific project.

UCN retains full and independent governance of the Cerro Ventarrones site outside the land used by or directly servicing the Project.

Article VII: Ownership, Access and Withdrawal Guidelines.

It is understood that UCN is currently the legal lessee of the land of the Ventarrones site with a long-term lease from the Chilean government. All other properties of the Project once accepted as contributions and unless otherwise specified in written form and agreed upon, are owned by the Project, and will be accounted for by the financial rules and regulations of both parties. Use or relocation of these properties must obtain prior permission from the Director of Operations, and for major items, the permission must be in written form. The Project will grant reasonable and convenient accesses of its properties to all members of both parties, provided that it is part of the undertakings of the Project, and that timely requests are made.

NAOC has the independent legal status of an International Scientific Research Organization granted by the Chilean Government, it therefore enjoys certain special privileges and benefits (such as exemption from import taxes). This means that it may be in the Project's interest to have some of its properties officially owned and administered through CASSACA, which is NAOC's sole representative in Chile. In these cases, measures shall be taken to ensure that both parties still have equal access to the said properties.

Properties in the form of contributions to the Project may be withdrawn by the party who made the original contribution in case, for instance, a specific endeavor within the Project is changed or canceled. The withdrawal of any significant contribution must be approved by the Director of Operations in writing, and be accounted for in a timely manner. The ownership of the property, once withdrawn from the Project, will immediately return to its original source.

Article VIII: Near Term Goals.

Both Parties recognize the importance of taking prompt actions on several critical issues to ensure the Project moves forward on a reasonable pace. These include:

- 1) Extend the current land lease for the site to at least 35 years;

- 2) Staff the project office with two or more full-time members and ensure their proper working environment;
- 3) Establish the appropriate financial accounts and mechanisms to be able to receive and expend cash funds and other contributions as necessary. As a temporary measure, these accounts may be setup separately in association with the Institute of Astronomy at UCN and CASSACA in Santiago, until independent accounts for the Project can be legally established. It is necessary to have certain portions of the funds kept in accounts which can maintain currencies in the form of US dollars in order to avoid risks associated with exchange rate fluctuations;
- 4) Conduct surveys of the site on behalf of the Project, build up fences, signposts and gates, and take other necessary measures to limit access to the site as well as protect the on-site properties;
- 5) Build up infrastructures, such as access roads, work spaces (e.g., trailers), power and water supplies, and means of telecommunications (including fast internet connection) in order to ensure the basic working conditions and safety onsite;
- 6) Produce concrete mid- and long-term operational master plans for the entire site and each individual technical/educational project to be located on the site. This includes identifying the goals, timelines, necessary materials, equipment, staffing and budget levels. These plans should also include, as required, a reliable way of communicating remotely with those on site and an emergency/backup plan.

It is the responsibility of the Director of Operations to take timely measures on each of these action items and report to the Board on the progress in the near term on monthly basis.

Article IX: Specific Agreements.

It is understood that this Memorandum of Understanding states the general rules for carrying out the Project. Every major endeavor made under the present document shall be set out in specific agreements, either independently or as an addendum of this MoU, and will be signed in due course. Such agreements will include the description of the project or activity, detail of the objective/s, financing conditions, execution time, obligations of the parties, and any other provision considered necessary for its successful implementation.

In addition, each party will appoint an Agreement Coordinator who will be responsible for the development and fulfillment of the commitments, as well as an annual evaluation submitted in the form of a report that will include the results achieved over the period.

Article X: Confidentiality.

Each Party shall take all reasonable precautions to keep detailed information about the Project confidential between the partners. Before releasing confidential information to a third party, one Party should have the written consent of the other.

Article XI: Use of Information.

Data and information exchanged or obtained under the present Memorandum of Understanding may be used solely for the objectives thereof, and it must not be reproduced, commercialized or given to third parties without previous authorization of the other party.

When using the information, the Party is forced to acknowledge the corresponding credits provided by the other party in all reports and publications made as a result or consequence of the reference project.

Article XII: Intellectual Property.

If the cooperation between the Parties, under the auspice of the present Memorandum of Understanding, have generated product of commercial value or intellectual property rights, these will be shared in equal proportions by both Parties in ownership, and governed by respective national law and international agreement on the subject. The Parties shall deal with specific issues of possible licenses and/or another type of instrument of transfer in specific agreement for each project of research and/or technical development. In case that these developments are transferred or licensed to third parties, their benefits will be shared by the Parties in equal proportions, unless otherwise specified by additional agreement(s) relevant to that project.

Article XIII: Use of Corporative Image.

Should a Party require using logos of the other party, it shall seek authorization through the coordinator of the agreement, stating the reason for the requirement and the kind of application where it will be used (graphics, electronic, etc.). The authorization that will be given by writing will state the use of logos and the period of time that they can be used.

Article XIV: Labor Relationship.

This Memorandum of Understanding is of a nature eminently academic, therefore, it causes no labor link nor gives rise to social benefits among faculties and researchers of the institutions. Personnel commissioned for the performance of actions at the other institution will continue to be absolutely under direct dependency of their origin institution in the same conditions they had before this commission.

Article XV: Liability

It is expressly agreed that the Parties will not have civil liability for damages that may be caused, as a result of unforeseen circumstances or external forces. The Parties will seek appropriate sources of insurance for items of the Project necessary to be secured of replacement values.

Article XVI: Travel Documents and Health Insurance.

Each Party is responsible for advising its commissioned personnel who will perform activities under the present agreement to travel with the required documentation, such as passport, visa (when necessary) and particularly a health and accident insurance, which can be provided by the origin institution, according to their own regulations, or it can be purchased by the person concerned, through the stipulation of a policy with a wide coverage with an insurance company for the period of stay at the institution of destination.

In those cases where there is no insurance that covers against every event as mentioned above, the **original institution** will be responsible for covering the expenses resulting from the medical care and extension of stay under medical prescriptions received by the affected personnel.

Article XVII: Good Faith.

Each Party shall make reasonable efforts to participate in the formulation, development and efficient implementation of the Project that is described in this document. Each agrees to cooperate, act and fulfill all obligations under this Memorandum of Understanding in a prompt and responsible manner. Each Party undertakes to notify promptly, in accordance with the structure of project management, any significant information, fact, problem or delay that may affect the realization of the Project.

Article XVIII: Exclusivity.

Both Parties agree that the current partnership is an exclusive entity in the sense that any new member who wishes to join will need to win the approval by both Parties. Only in the case that both parties agree with the inclusion of the member it will be considered. Once a new member is accepted, a specific agreement has to be written describing the scope, responsibility, duties, financial conditions and any matter related to the inclusion of the new partner.

Article XIX: Staff.

Except for the Director of Operations, who should be appointed and/or removed by the Board, each Party will be exclusively responsible for select, hire, evaluate, replace, monitor, punish and dismiss of all participants from its side for the Project. Administrative actions concerning staff working in the Project can be recommended by the Director of Operations. The Parties shall work together to ensure that all Chilean laws, including those concerning labor, tax, social security and immigration, are complied with by all staff working on the Project in Chile.

Article XX: Chilean Time.

It is understood that both parties will ensure that each specific project developed as part of the Project will give access to 10% of the usable time to Chilean Astronomical Institutions. The way of granting access to this time will be detailed in specific agreements for each of the endeavors to be carried out as part of the Project.

Article XXI: Problem Resolution.

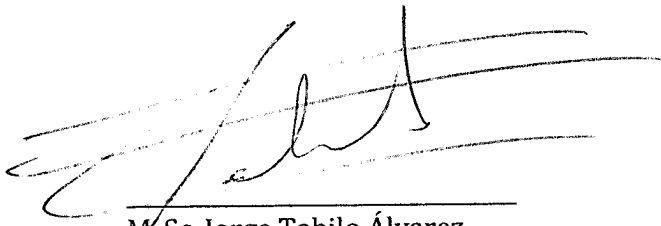
Major decisions will be made either by full consultation within the Board of Directors or, in case of significant differences, by a vote (based on the voting rights described in Article XI above). If the Board cannot resolve the disputes on its own, both Parties agree to make higher-level attempts to find a negotiated solution. In the extreme cases where the differences are deemed irreconcilable, either Party can propose the dissolution of the partnership by giving written notice to the other side ninety (90) days ahead of time.

Article XXII: Terms of this Agreement.

This Agreement will take effect immediately upon the signing of both Parties' representatives at the appropriate location. Unless otherwise amended, it will be effective for five (5) years starting from the date of the signature, and can be extended beyond the initial five (5) years based on mutual agreement.

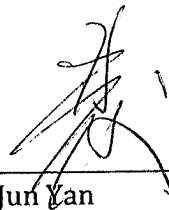
This Agreement may be terminated at any time by any of the parties, through a written notice submitted to the other party with at least six (6) months in advance. In the event of an early termination, the work in progress must continue until its final execution.

Representative of UCN



M. Sc. Jorge Tabilo Álvarez
President

Representative of NAOC



Dr. Jun Yan
Director General

Date: November 22, 2016
Location: Santiago de Chile - Chile.