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AURA  
Flexible Spending Account

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January 1, 2006

Plan # 513

Summary Plan Description, Plan #513. This document constitutes the Summary Plan Description required by ERISA § 102.

Plan Document. The plan document is available by request in the Tucson, NOAO Human Resources Office.

## 1. Introduction

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AURA maintains a Flexible Spending Account Plan (the "Plan") for the benefit of employees of the National Optical Astronomy Observatory/National Solar Observatory. This Summary Plan Description explains the benefits and contains important information such as rules for eligibility, how to enroll and laws that protect your rights.

The purpose of the AURA Flexible Spending Account (FSA) Plan is to provide individuals with a tax-savings plan to pay for:

- eligible out-of-pocket health care expenses not covered by health and dental insurance plans,
- work related dependent care expenses such as for a day care center, and
- pre-tax premiums for health and dental benefits.

These expenses are normally paid with after-tax dollars from an individual's net take-home pay. However, when an individual participates in the Plan, he or she funds a FSA account with pre-tax payroll deductions.

This means that deductions are not subject to federal or state income taxes or Social Security - Medicare taxes under the Federal Insurance Contribution Act (FICA). After an individual pays for an eligible expense, he or she can receive reimbursement for those expenses.

Please read this Summary Plan Description carefully. We want you to be fully informed before you enroll and while you are a participant. You should direct any questions you have to the Administrator. There is a plan document on file, which you may review if you desire. If there is a conflict between this Summary Plan Description and the plan document, the plan document will control. If there is a conflict between an insurance contract and either the plan document or this Summary Plan Description, the insurance contract will control.

## 2. General Information About the Plan

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Plan Name:	AURA Flexible Spending Account Plan
Type of Plan:	Section 125 Plan-Fringe Benefit Plan
Plan Year:	January 1 – December 31
Plan Number:	# 513
Original Effective Date:	May 1, 1991.
Funding Medium Type of Plan Administration:	All administrative charges will be covered by AURA. Employees contribute to the plan by pre-tax payroll deductions.

Plan Sponsor: AURA  
Attn: NOAO Human Resources Manager  
950 N. Cherry Ave.  
Tucson, AZ 85719  
Tel: (520) 318-8386

Plan Sponsor's Employer  
Identification Number: 86-0138043

Plan Administrator: AURA  
Attn: NOAO Human Resources Manager  
950 N. Cherry Ave.  
Tucson, AZ 85719  
Tel: (520) 318-8386

Claim Administrator: Mountain States Administrative Services  
7202 E. Rosewood  
Tucson, AZ 85710  
  
Tel: Tucson 520-722-0811  
Phoenix 602-778-7033  
Toll Free 800-866-4731

Agent for Service of  
Legal Process: Director  
AURA  
950 N. Cherry Ave.  
Tucson, AZ 85719  
Tel: (520) 318-8386

Service of legal process may also be made on  
the Plan Administrator.

Plan Document: The written plan document required by ERISA §  
402 consists of this document.

Important Disclaimer *If the terms of this summary document conflict  
with terms of the plan document, the terms of the  
plan document will control, unless superseded by  
applicable law.*

### 3. Eligibility and Participation Requirements

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To participate in the Plan, there are certain rules you must satisfy. First, you must meet the conditions for coverage under our group medical insurance as explained in AURA's Policies and Procedures Manual. If you are eligible for group medical insurance, you may enroll in this Plan. Otherwise, you may join the Plan when you become eligible for our group medical insurance. If you elect not to participate when you first become eligible, you may enroll during the 30-day election period preceding each Plan Year.

Employees who are not eligible to participate in our group medical insurance are not eligible for this Plan.

To join the Plan, you must complete an enrollment form. The enrollment form includes your choices for each of the benefits offered under the Plan. You must also authorize us to set some of your earnings aside to pay the benefits you elect.

### 4. Operation

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Before the start of each Plan Year, you may elect to have some of your future compensation contributed to the Plan. Compensation under our Plan means base pay, excluding overtime and bonuses. Your contributions are placed in special accounts we set up on your behalf and used to pay or reimburse you for the benefits you chose. The portion of your pay contributed to the Plan is not subject to federal or state income tax or to Social Security tax. This allows you to use tax-free dollars to pay certain expenses you normally pay with taxable dollars. However, if you receive a reimbursement for an expense under the Plan, you cannot claim a tax credit or deduction for the reimbursed expense on your tax return.

### 5. Contributions

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You must decide during the election period which benefits you want and how much to contribute to each. Since you forfeit any balance in your accounts at the end of the Plan Year, it is important that you make your choices carefully based on what you expect to spend on each benefit or expense during the Plan Year. The amount, up to the allowed limit, you designate will be deducted from each pay check during the Plan Year and used to pay or reimburse you for covered expenses as they are incurred.

The election period is December 1 through December 31. However, if you are not eligible January 1, your election period will be the 30 days beginning the day you meet the eligibility requirements.

During the election period, you may change elections you previously made. You may also choose not to participate in the Plan during the next Plan Year. If you do not give the Administrator a new election form during the election period, no deductions will be made during the next Plan Year.

Generally, you may not change your elections during the Plan Year. However, you may change your elections if there is a change in your family status. Federal law considers the following to be examples of a change in family status:

- You marry or divorce.
- You have a child or adopt one.
- Your spouse and/or child(ren) dies.
- Your spouse starts or ends employment.
- You or your spouse's employment status changes from full-time to part-time or from part-time to full-time.
- You or your spouse takes an unpaid leave of absence.
- Your spouse has a significant change in health coverage directly attributable to your spouse's employment.

Any election change must be due to and consistent with the reason the change was permitted. With respect to the Health Care Reimbursement Plan, you may increase, but not decrease, your election as the result of a change in family status.

If you have a change in family status, ask the Administrator for forms to change your elections.

If there is a change in health insurance premium expense, we will automatically adjust your contribution election for the remainder of the Plan Year. If the increase in premium expense is significant, you may either change your election or revoke it. However, you may revoke your election in this situation only if we provide another health plan with similar coverage and you agree to participate in that plan. If no other health plan exists, no revocation is permitted.

## 6. Benefits

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### **Insurance Premium Payment Plan:**

The Insurance Premium Payment Plan allows you to use tax-free dollars to pay premiums for our group medical and dental plans. If you elect, we will establish accounts for you for each type of coverage. Limits on the amounts may apply.

The Administrator may terminate or modify Plan benefits at any time, subject to the provisions of our insurance contracts. We will not be liable to you if an insurance company fails to provide any of the benefits, even if the failure to provide benefits is due to our negligence or gross neglect (for example, if we fail to enroll you or pay premiums). Also, your participation will end when you leave employment, are no longer eligible under the terms of the insurance policies, or when insurance coverage terminates. However, continuation rights under COBRA may exist for the Health Care Reimbursement Plan if there is a positive balance upon termination.

### **Health Care Reimbursement Plan:**

The Health Care Reimbursement Plan enables you to save taxes on health care expenses not covered by our group medical and dental insurance. You place a portion of your compensation in an account from which we reimburse you for out-of-pocket expenses incurred by you and your dependents. The expenses, which qualify, are those permitted by the Internal Revenue Code (as outlined in IRS Publication 502, Medical and Dental Expenses) except you may not be reimbursed for premiums of other health care

coverage maintained outside the Plan. A list of most covered expenses is available from the Administrator.

The most you may contribute to your Health Care Reimbursement Plan the Employer determines each Plan Year.

### **Dependent Care Assistance Program:**

The Dependent Care Assistance Program permits you to direct a portion of your pre-tax compensation to an account from which you are reimbursed for dependent day care expenses necessary for your employment. If you are married, you may use the account if you and your spouse both work, or if your spouse is incapacitated or, in some situations, if your spouse is a full-time student. Single employees may also use the account.

An eligible dependent is any member of your household for whom you can claim expenses on federal income tax Form 2441 "Credit for Child and Dependent Care Expenses". Children must be under age 13. Children age 13 or older and other dependents must be physically or mentally unable to care for themselves. Dependent Care arrangements, which qualify, include:

- A Dependent Day Care Center. If the service is provided by a facility that cares for more than six individuals, the facility must comply with state and local laws.
- An Educational Institution for pre-school children. For older children, only expenses for non-school care are eligible.
- An individual who provides care in or outside your home. The individual may not be your child under age 19 or anyone you claim as a dependent for federal tax purposes.

The law places limits on the amount of money that can be paid to you in a calendar year from your Dependent Care Assistance account. Also, you should make sure the dependent care expenses you are paying qualify under our Plan. For the reimbursements from this account to be excludable from your income, you must provide with your federal tax return a statement from the service provider that includes the provider's name, address, and in most cases, the taxpayer identification number and the amount of the expense.

Federal law provides a tax credit for certain dependent care expenses. You may save more money by taking advantage of the tax credit rather than using the Dependent Care Assistant Program under our Plan. Ask your tax adviser which is better for you.

## **7. Claim Procedures**

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During the Plan Year, we will automatically pay medical and dental insurance premiums from your Insurance Premium Payment account. You must submit a claim to receive reimbursement of incurred expenses from your Health Care Reimbursement and Dependent Care Assistance accounts. Expenses are incurred when the services are performed, not when they are paid. The Claims Administrator will provide claim forms. To request reimbursement give the Claims Administrator a completed claim form and

itemized bills from the service provider. If the expense is covered by your medical or dental insurance, instead of itemized bills give the Administrator the Explanation of Benefits provided by the insurance company. We cannot reimburse you for insured expenses until the Explanation of Benefits is available.

You will receive payment within 30 days if the claim qualifies as a benefit or expense covered by the Plan. Payments from the Health Care Reimbursement account are available to the full extent of your annual election even though we have not collected all your contributions. However, you will be reimbursed from the Dependent Care Assistance Plan only to the extent that there are sufficient funds in your account to cover your request. Reimbursements are not subject to income tax or Social Security tax.

You forfeit money remaining in your accounts at the end of the Plan Year. However, qualifying expenses incurred in the Plan Year for which you claim reimbursement within 60 days after that Plan Year will be paid before any amount is forfeited. Requests for reimbursements received more than 60 days after the end of the Plan Year will not be paid. Because unclaimed balances are forfeited, it is important that you carefully and conservatively decide how much to contribute to your account. You want to be as certain as you can that the amount you decide to place in each account will be used entirely.

If you leave our employ during the Plan Year for a reason other than your death, your right to benefits will be determined as follows:

- You remain covered by insurance only for the period for which premiums were paid prior to your termination of employment.
- You can request reimbursement for qualifying dependent care expenses for the remainder of the Plan Year from the balance in your Dependent Care Assistance account at termination of employment.
- Your participation in the Health Care Reimbursement Plan ceases. You may submit claims for health care expenses incurred prior to your termination. If there is a positive balance in your healthcare account you may be eligible to continue in the Health Care Reimbursement Plan under COBRA for the remainder of the Plan Year but your contributions during the continuation period are not exempt from tax.

If you die, your beneficiaries or your estate may submit claims for the remainder of the Plan Year until each account is depleted.

When you receive tax-free benefits under our Plan, the amounts of your contribution to Social Security and our contribution on your behalf are reduced. Because of this, your Social Security benefits may be slightly reduced.

You should submit reimbursement claims during the Plan Year, but not later than 60 days after the end of a Plan Year. Any claims submitted after that will not be considered. Claims for insured benefits will be reviewed in accordance with procedures in the policies. Other claims should be directed to the Claims Administrator of the Plan. If a non-insured claim under the Plan is denied, you or your beneficiary will receive written notification. The notification will include reference to the specific provisions of the Plan on which the denial was based, a description of additional information needed to

process the claim, and an explanation of the claims review procedure. If we fail to respond within 90 days, your claim is treated as denied.

Within 60 days after denial of a claim, you or your beneficiary may submit a written request for reconsideration of the application to the Administrator. Such request should be accompanied by documents to support your appeal. You or your beneficiary may review pertinent documents and submit issues in writing. The Administrator will review the claim and provide, within 60 days, a written response. This period may be extended an additional 60 days under certain circumstances. In this response, the Administrator will provide specific reference to the provisions of the Plan on which the decision is based. The Administrator has the exclusive right to interpret the appropriate plan provisions. Decisions of the Administrator are conclusive and binding.

## 8. Amendment or Termination of the Plan

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AURA, as Plan Sponsor, has the right to amend or terminate the Plan at any time.

The Plan may be amended or terminated by a written instrument signed by the Human Resources Manager or an official of AURA authorized to amend or terminate the Plan and to sign insurance contracts with the Insurance Company or other carrier, including amendments to those contracts.

## 9. No Contract of Employment

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The Plan is not intended to be, and may not be construed as constituting, a contract or other arrangement between you and AURA to the effect that you will be employed for any specific period of time.

## 10. Highly Compensated and Key Employees

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AURA, as Plan Sponsor, has the right to amend or terminate the Plan at any time. To qualify for tax-exempt treatment, our Plan may not unfairly favor highly compensated employees and key employees. If you are in these categories, we may have to reduce your contributions and benefits to make the Plan non-discriminatory. A plan is considered to favor highly compensated or key employees if they receive more than 25% of all the benefits of the Plan.

Plan experience will determine if contribution limits apply to highly compensated or key employees. You will be notified if you are affected.

## 11. Plan Accounting

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The Claims Administrator will give you a statement of your accounts periodically during the Plan Year. These statements will show the balance in your accounts for payment of your benefits. You want to be sure to spend all the money designated for a particular benefit by the end of the Plan Year to avoid forfeiture.

## 12. Statement of ERISA Rights

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As a participant in the Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (“ERISA”). ERISA provides that all participants shall be entitled to:

Examine, without charge, at the plan administrator’s office and the other specified locations, such as worksites, all documents governing the plan including insurance contracts, and a copy of the latest annual report (Form 5500 Series), if any, filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.

Obtain, on written request to the plan administrator, copies of documents governing the operation of the plan, including insurance contracts and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The administrator may make a reasonable charge for copies.

Receive a summary of the Plan’s annual financial report, if any is required by ERISA to be prepared. The Plan Administrator is required by law to furnish each participant with a copy of any required summary annual report.

Continue health care coverage for yourself, spouse or dependents if there is a loss of coverage under the plan as a result of a qualifying event. You or your dependents may have to pay for such coverage. Review this summary plan description and the documents governing the plan on the rules governing your COBRA continuation coverage rights.

In addition to creating rights for plan participants ERISA imposes duties on the people who are responsible for the operation of the employee benefits plan. The people who operate your plan, called “fiduciaries” of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a plan benefit or exercising your rights under ERISA.

If your claim for a benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report (if any) for the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case the court may require the plan administrator to provide the material and pay you up to \$110 a day until you receive the material, unless the material were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits, which is denied or ignored, in whole or in part, you may file suit in the state or Federal court.

If it should happen that plan fiduciaries misuse the plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA or HIPAA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration.

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