

WORK FOR OTHERS AGREEMENT

WORK FOR OTHERS AGREEMENT # insert # here

This Work for Others Agreement ("Agreement"), effective **<INSERT DATE>**, is made between SAIC-Frederick, Inc., a Delaware, U.S. corporation, a wholly owned subsidiary of Science Applications International Corporation and the prime Operations and Technical Support Requestor at NCI Frederick (hereinafter known as "SAIC-F"), having an office at P.O. Box B, Frederick, MD 21702 and **<INSERT REQUESTOR'S FULL LEGAL NAME AND TYPE OF ENTITY AND WHERE FORMED>** (hereinafter known as "REQUESTOR"), having an office at **<INSERT REQUESTOR'S FULL ADDRESS>**. It is understood by the Parties that SAIC-F is obligated to comply with its Operations and Technical Support Contract with the United States Government (herein called the "Government") represented by the National Cancer Institute at Frederick (hereinafter known as "NCI-Frederick", when providing goods or services to the REQUESTOR under this Agreement.

I. DESCRIPTION OF WORK

SAIC-F shall perform the work, defined in the **<GOVERNMENT REVIEW QUESTIONNAIRE>** on a **<INSERT: fixed unit price OR labor hour>**basis, subject to the attached Terms and Conditions.

II. SAIC-F AND REQUESTOR ADMINISTRATIVE CONTACTS

INSERT Name	INSERT Name
INSERT Title	INSERT Title
INSERT REQUESTOR's Full Legal Name	SAIC Frederick, Inc.
INSERT Street Address 1	P.O. Box B
INSERT Street Address 2	
INSERT City, State Zip	Frederick, MD 21702
Tel. No. INSERT	Tel. No. INSERT
Fax No. INSERT	Fax No. INSERT

III. TERM OF THE AGREEMENT

This Agreement is effective on **<INSERT START DATE>** (the "Effective Date") and shall continue through **<INSERT END DATE>**, unless otherwise extended or terminated by the parties in accordance with the provisions of this Agreement (the "Term").

In consideration of the mutual obligations assumed under this Agreement, REQUESTOR and SAIC-F agree to the Terms and Conditions attached hereto and incorporated by reference and represent that this Agreement is executed by duly authorized representatives as of the dates below. It shall be understood that SAIC-F does not consider the Work For Others agreement to be a subcontract under any prime contract the Requestor may have and any federal agency flow down provisions contained within the Requestor's associated prime contract, if any, shall not apply.

AGREED BY:

[insert REQUESTOR'S full legal name in CAPS and BOLD]

SAIC-FREDERICK, INC.

By: _____
 Name: _____
 Title: _____
 Date: _____

By: _____
 Name: _____
 Title: _____
 Date: _____

TERMS AND CONDITIONS

1.0 PRICE AND PAYMENT TERMS

- (a) [Guidance Note: This template is drafted for fixed price or fixed unit price basis type efforts. If Labor Hour efforts are anticipated, Contracts staff should amend appropriately.] The total Firm Fixed Price for the work to be performed under this Agreement is **\$<\$_____>** in accordance with the schedule included as Attachment 1 of this Agreement. **<OPTIONAL INSERT FOR INCREMENTALLY FUNDED AGREEMENTS: This Agreement is incrementally funded in the amount of \$_____.** Unless the price of this Agreement is amended in writing by mutual agreement of the parties, REQUESTOR is not obligated to compensate SAIC-F beyond the total price defined herein. The price set forth herein includes all applicable taxes and duties including, but not limited to, sales, use, and value-added taxes, arising out of or relating to SAIC-F's delivery of goods or services to REQUESTOR, or SAIC-F's performance of this Agreement. SAIC-F shall be solely liable for all taxes, other than sales taxes, which may be properly and lawfully assessed or imposed on SAIC-F by any competent authority in connection with the performance of this Agreement.
- (b) Invoices shall clearly reference this Agreement and contain a unique invoice number. Invoices shall identify billable units, milestones or agreed to deliverables with associated prices, extended by category. Invoices shall also include the "Amount Previously Billed", the "Amount of this Invoice", and the "Total Amount Billed to Date" SAIC-F shall mail invoices to the following address: **< If a Labor Hour Agreement is anticipated substitute the above language with the following: Invoices shall clearly reference this Agreement and contain a unique invoice number. Invoices shall identify labor categories, hourly rates, labor hours, extended totals by category, material and other direct costs and material handling costs. Invoices shall also include the "Amount Previously Billed," the "Amount of this Invoice," and the "Total Amount Billed to Date." SAIC-F shall mail invoices to the following address:>**
- <Insert REQUESTOR Name>**
- Attention: <Agreement Administrator>**
- <Address>**
- (c) SAIC-F shall submit invoices to REQUESTOR not more than once per month. REQUESTOR shall pay the invoice within thirty (30) days after receipt of an invoice. If SAIC-F fails to receive payment within sixty (60) days of its submission of an invoice, SAIC-F shall have the right exercisable in its own sole discretion, in addition to its other rights and remedies, to cease further performance of the Services hereunder.

[Note: <INSERT if the estimated term of this Agreement exceeds 90 days or the estimated cost exceeds \$25,000> The REQUESTOR shall provide sufficient advance funding before work commences hereunder to reimburse SAIC-F for costs to be incurred in the performance of this Agreement. In such event, SAIC-F shall, concurrent with the execution of the Agreement, issue an invoice to the REQUESTOR in an amount sufficient to permit the work to proceed for one hundred twenty (30) days. Such invoice will be due and payable upon receipt. SAIC-F shall have no obligation to commence performance until payment of this initial invoice. Thereafter SAIC-F shall invoice the REQUESTOR monthly in accordance with Paragraph 1(c) above.]

2.0 TECHNICAL AND CONTRACTUAL REPRESENTATIVES

- (a) The following authorized representatives are hereby designated for this Agreement:

REQUESTOR:

Technical:

INSERT Name

INSERT Title

INSERT Street Address 1

INSERT Street Address 2

INSERT City, State Zip

Tel. No. INSERT

Fax No. INSERT

Contractual:

INSERT Name

INSERT Title

INSERT Street Address 1

INSERT Street Address 2

INSERT City, State Zip

Tel. No. INSERT

Fax No. INSERT

SAIC-F:

Technical:

INSERT Name

INSERT Title

P.O. Box B

Frederick, MD 21702

Tel. No. INSERT

Fax No. INSERT

Contractual:

INSERT Name

INSERT Title

P.O. Box B

Frederick, MD 21702

Tel. No. INSERT

Fax No. INSERT

- (b) Contacts with SAIC-F or REQUESTOR which affect the price, schedule, statement of work or the Terms and Conditions of this Agreement, shall be made only between the authorized contractual representatives. No changes to this Agreement shall be binding upon either party unless incorporated in a written modification signed by each party's authorized contractual representative cited above (which may be modified or revised in writing).
- (c) The effort set forth in the Statement of Work and Schedule (Attachment 1) will be performed under the technical direction of SAIC-F's technical representative and shall be provided on a good faith effort. SAIC-F does not guarantee the completion of reports or other deliverables or results within the timeframe specified. When, in SAIC-F's opinion, a change in technical direction is required that deviates from the Statement of Work in order to achieve the results required, this will be considered a Change to the Agreement, REQUESTOR's contractual representative shall be notified immediately, in writing, to request authorization of such change pursuant to Section 3.0 herein. Until such authorization is granted by REQUESTOR's contractual representative, SAIC-F shall perform in accordance with the Agreement as written.
- (d) Any notice to be given hereunder by either Party to the other shall be in writing and shall be deemed received when delivered by confirmed facsimile or recognized international courier. The Parties agree that notices delivered orally, or by electronic mail on the Internet do not constitute official, enforceable notices hereunder.
- (e) If any Party changes its address or facsimile number during the term of this Agreement it shall so advise the other Party in writing.

3.0 CHANGES

Either party may propose changes to the Statement of Work and/or Schedule set forth in the Attachment 1. In the event of such a proposed change, the parties will negotiate any adjustments in scope, price/cost, schedule or other terms of this Agreement needed to account for the change. No such change shall be effective until agreed to by the parties in the form of a written modification to this Agreement.

4.0 WARRANTY

The services shall be performed in a professional and workmanlike manner. SAIC-F SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED STANDARDS, GUARANTEES, OR WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, OR ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE.

5.0 TERMINATION

Performance of work under this Agreement may be terminated at any time by either Party, without liability, upon giving thirty (30) days written notice to the other Party. In the event of termination the REQUESTOR shall reimburse SAIC-F for all services performed through the effective date of the termination at the price(s) stated in this Agreement. SAIC-F may terminate this Agreement effective immediately upon written notice to REQUESTOR if REQUESTOR fails to make any payment in full as and when due hereunder.

6.0 INDEMNIFICATION

The REQUESTOR shall indemnify, defend and hold harmless SAIC-F, NCI-Frederick and any persons acting on their behalf, (and its successors, officers, directors, and employees) from any and all liabilities, claims, and expenses of whatever kind and nature for injury to or death of any person or persons, and for property loss or damage to any real or tangible personal property arising out of SAIC-F's performance of this Agreement, except to the extent such death, injury, loss or damage was caused by the negligent acts or omissions of SAIC-F or NCI-Frederick. SAIC-F shall promptly notify the REQUESTOR, in writing, of any claim and shall reasonably cooperate with the REQUESTOR in the defense and settlement of the claim. This Section shall survive termination of this Agreement.

7.0 INFRINGEMENT INDEMNITIES

The REQUESTOR shall indemnify, defend and hold the Government, SAIC-F and their officers, agents, and employees (together the Indemnified Parties) harmless from and against any claim, suit or proceeding ("claim") brought against the Indemnified Parties, asserting that the goods or services, or any part thereof, arising out of any acts required or directed by the REQUESTOR to be performed under this Agreement, to the extent such acts are not already performed at the Government's Facility, constitutes an infringement of any patent, trademark, trade secret, copyright or other intellectual property right, and REQUESTOR shall pay all damages and costs awarded against and reasonable expenses incurred by the Indemnified Parties in connection with such claim including reasonable attorney's fees.

8.0 COSTS; RISKS; LIABILITIES

Except to the extent of the indemnification provisions of this Agreement for tort claims resulting in bodily injury or real or tangible personal property damage, **NEITHER PARTY SHALL BE LIABLE, UNDER ANY CIRCUMSTANCES FOR ANY ANTICIPATORY OR LOST PROFIT, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES OF ANY KIND (COLLECTIVELY "NON-DIRECT DAMAGES") RESULTING FROM THE PERFORMANCE OR NON-PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT EVEN IF THOSE NON-DIRECT DAMAGES ARE: ATTRIBUTED TO BREACH OF THIS AGREEMENT, TORT, NEGLIGENCE, OR OTHER CAUSE; EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF NON-DIRECT DAMAGES; OR EVEN IF, UNDER APPLICABLE LAW, NON-DIRECT DAMAGES ARE CONSIDERED DIRECT DAMAGES.**

9.0 PATENT RIGHTS

The work to be performed under this Agreement is not anticipated to involve research, development, or demonstration. If any intellectual property is developed under this Agreement, such intellectual property will be governed by the intellectual property provisions of the SAIC-F OTS Prime Contract No. N01-CO-12400 with the NCI-Frederick.

10.0 RIGHTS IN TECHNICAL DATA

The REQUESTOR, SAIC-F, and the Government shall have the right to use, disclose and duplicate for any purpose whatsoever, and have others do so, all technical data first produced or used in the performance of work under this Agreement, (Technical Data is defined as set forth in 48 CFR 27-401). Any REQUESTOR furnished property or materials that are marked as proprietary information, necessary for, or pertaining to work under this Agreement, will not be disclosed outside the Government or SAIC-F, without the express written consent of the REQUESTOR, and will otherwise be returned to the REQUESTOR by or before termination of this Agreement.

11.0 PUBLICATION MATTERS

If either party wishes to publish any article, report, or study that discloses developments or findings resulting from the work performed under this Agreement, the publishing party shall provide the other party no less than thirty (30) days in which to review and comment on the proposed publication. Except as otherwise permitted by law, in no event shall either party publish or otherwise disclose information the other party has in good faith identified as proprietary.

12.0 SIMILAR OR IDENTICAL SERVICES

SAIC-Frederick, Inc. and NCI-Fredericks hall have the right to perform services similar or identical to those identified in Attachment 1 for parties other than REQUESTOR, provided that doing so does not result in use or disclosure of information REQUESTOR has in good faith identified as proprietary.

13.0 NON-COMPETITION

REQUESTOR represents that, to the best of its knowledge and belief, SAIC-Frederick, Inc.'s performance of the work described in Attachment 1 will not place SAIC-Frederick, Inc. in competition with the private sector.

14.0 DISPUTES

It is the intent of the parties that any disputes arising under this Agreement be resolved expeditiously, amicably, and at the level within each Party's organization that is most knowledgeable about the relevant issues. The Parties understand and agree that the procedures outlined in this Section are not intended to supplant the routine handling of inquiries and complaints through informal contact of the Parties. Accordingly, for purposes of the procedures set forth in this Section, a "dispute" is a disagreement that the Parties have been unable to resolve by the normal and routine channels ordinarily used for resolving disagreements. Pending the final disposition of a dispute, other than a dispute arising out of a Change as defined in Article 3 above, the Parties shall at all times proceed diligently with the performance of this Agreement. The Parties agree to follow the procedures set forth below with regard to settling disputes arising out of this Agreement:

- (a) The complaining Party will notify the other Party in writing of the reasons for the dispute, and the Parties will work together to resolve the matter as expeditiously as possible. A formal written response will not be required, but the responding Party may put its position in writing in order to clarify the issues or suggest possible solutions.
- (b) If the dispute remains unresolved fifteen (15) days after the delivery of the complaining Party's written notice, either party may request a meeting to address the dispute, which meeting shall include at least one senior management representative for each party and shall take place no later than ten (10) business days of the date of the request.
- (c) If the Parties are unable to reach a resolution of the dispute after following these procedures, or if either Party fails to participate when requested, then it is agreed that the dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall take place in the County of Frederick, State of Maryland. The arbitrator(s) shall be bound to follow the provisions of this Agreement in resolving the Dispute, and may not award punitive damages or any damages excluded by this Agreement. It is agreed that all documentary submissions, presentations, and proceedings shall be in the English language. The decision of the arbitrator(s) shall be final and binding on the

parties, and any award of the arbitrator(s) may be entered or enforced in any court of competent jurisdiction.

The Parties hereby waive any immunity, sovereign or otherwise, that would otherwise have to such jurisdiction and agree that all rights, obligations, and liabilities hereunder shall be determined in the same manner and to the same extent as those of any private litigant under like circumstances.

All costs of the arbitration shall be shared equally between the Parties, but the Parties specifically agree that each Party shall bear the expense of any costs incurred by it for its own counsel, experts, witnesses, preparation of documents, presentations, and logistics related to the proceedings.

15.0 FORCE MAJEURE

Neither party shall be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, terrorism, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), acts of any governmental body, failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, or inability to obtain labor, materials, power, equipment, or transportation (collectively referred to herein as "Force Majeure event"). Each party shall use its reasonable efforts to minimize the duration and consequences of any failure of or delay in performance resulting from a Force Majeure event.

If a Force Majeure event occurs, the suffering Party must immediately give notice to the other Party which includes a description of the event and the estimated impact on timely performance of the work affected. The Party injured by the suffering Party's inability to perform (the "injured Party") may elect to: (i) extend the performance period up to the length of time the Force Majeure Event exists or (ii) terminate this Agreement or any part of the material and/or services not already received and procure the material and/or services elsewhere.

Unless the injured Party provides written notice of termination to the suffering Party within thirty (30) days after being notified of the Force Majeure Event as per the immediately preceding paragraph then option (i) shall be deemed selected.

16.0 ASSIGNMENT

This Agreement shall not be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. In the event the Prime Contract of SAIC Frederick, Inc. with the Government is succeeded by a successor prime contractor selected by the Government, this Agreement may be assigned by SAIC-Frederick, Inc. to the successor prime contractor.

17.0 COMPLIANCE WITH LAWS

The Parties hereto represent and warrant that this Agreement and its performance do not violate any law, regulation or policy of the United States. Either Party hereto shall be relieved of its obligations to perform under this Agreement to the extent such performance would violate any law, regulation or policy of the United States. When performing any work or services under this Agreement, each Party shall comply with all institutional, local, state, and national safety, health, and security regulations, and laws.

Both Parties shall comply with all applicable laws, rules, regulations and public policies ("Laws") that prohibit unethical conduct regarding the obtaining, retention or conduct of business or an unfair advantage. Both Parties acknowledge and agree that they shall not directly or indirectly give, offer, promise, authorize, or allow to be given, offered, or promised, anything of value to an official or employee of any government, state-owned enterprise, international organization including subdivisions thereof or entities acting on behalf of a government, state-owned enterprise, international organization or subdivision thereof (any such employee or official referred to collectively as "Official"), while knowing or having reason to know that such thing of value is to be given, offered, or promised to an Official (including political parties or officials thereof or candidates for foreign office) in order to: (i) influence any official act

or decision of such Official, or (ii) induce such Official to use his influence to affect or influence any act or decision of any government (or any subdivision thereof), or (iii) assist the Parties in obtaining or retaining business, or in directing business to any person or obtain an unfair advantage for the Parties in any respect.

Should either Party violate any of the Laws then: (i) non-violating Party shall have the right to immediately terminate this Agreement for cause; (ii) the non-violating Party shall have a right of action against the violating Party for the recovery of any monetary payment(s) or thing(s) of value made or given by that Party in breach of such Laws; and (iii) the violating Party shall indemnify the other Party for any penalty, loss or expenses incurred by the non-violating Party as a result of the violating Party's breach of any of its obligations under this Article.

18.0 PUBLICITY AND DISCLOSURE

Except in accordance with Paragraph 11.0, Publication Matters, both Parties agree that they shall not disclose information concerning work under this Agreement to any third party, unless such disclosure is necessary for the performance of the Agreement. No news releases, public announcement, denial or confirmation of any part of the subject matter of this Agreement or any phase of any program hereunder shall be made without prior written consent of the other Party. The restrictions of this paragraph shall continue in effect upon completion or termination of this Agreement for such period of time as may be mutually agreed upon in writing by the parties. In the absence of a written established period, no disclosure is authorized. Failure to comply with the provisions of this Clause may be cause for termination of this Agreement.

19.0 RELATIONSHIP OF THE PARTIES

This Agreement shall not constitute, create, give effect to, or otherwise imply a joint venture, partnership, or business organization of any kind. SAIC-F and REQUESTOR are independent parties, and neither shall act as an agent for or partner of the other for any purpose. Nothing in this Agreement shall grant to either party any right to make any commitments of any kind for or on behalf of the other party without the prior written consent of the other party. SAIC-F shall not be restricted from performing services for others and shall not be bound to REQUESTOR except as provided under this Agreement.

20.0 NON-WAIVER OF RIGHTS

The failure of either Party to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms or conditions at any time thereafter.

21.0 REMEDIES

Any rights and remedies specified under this Agreement shall be cumulative, non-exclusive and in addition to any other rights and remedies available at law or equity.

22.0 SEVERABILITY

If any term contained in this Agreement is held or finally determined to be invalid, illegal or unenforceable in any respect, in whole or in part, such term shall be severed from this Agreement, and the remaining terms contained herein shall continue in force and effect, and shall in no way be affected, prejudiced or disturbed thereby.

23.0 INTERPRETATION

The captions and headings used in this Agreement are solely for the convenience of the parties, and shall not be used in the interpretation of the text of this Agreement. Each party has read and agreed to the specific language of this Agreement; therefore no conflict, ambiguity or doubtful interpretation shall be construed against the drafter.

24.0 EXPORT LAWS AND REGULATIONS

Each Party agrees that it will comply with all applicable U.S. export laws and regulations, and that each will neither undertake, nor cause, nor permit to be undertaken, any activity which is (1) illegal under any laws, decrees, rules or regulations in effect in the United States; or (2) would have the effect of causing the other party to be in violation of any laws, decrees, rules or regulations in effect in the United States.

25.0 EXPORT CONTROL COMPLIANCE for FOREIGN PERSONS

The subject technology of this Agreement (together including data, services, and hardware provided hereunder) may be controlled for export purposes under the International Traffic in Arms Regulations (“ITAR”) controlled by the U.S. Department of State or the Export Administration Regulations (“EAR”) controlled by the U.S. Department of Commerce. ITAR controlled technology may not be exported without prior written authorization and certain EAR technology requires a prior license depending upon its categorization, destination, end-user and end-use. Exports or re-exports of any U.S. technology to any destination under U.S. sanction or embargo are forbidden.

Access to certain technology (“Controlled Technology”) by Foreign Persons (working legally in the U.S.) may require an export license if the Controlled Technology would require a license prior to delivery to the Foreign Person’s country of origin. SAIC-F is bound by U.S. export statutes and regulations and shall comply with all U.S. export laws. SAIC-F shall have full responsibility for obtaining any export licenses or authorization required to fulfill its obligations under this Agreement.

26.0 ORDER OF PRECEDENCE

This Agreement and all of the exhibits, schedules and documents attached hereto are intended to be read and construed in harmony with each other, but in the event of an inconsistency or conflict between provisions of this Agreement, the inconsistency or conflict shall be resolved by giving precedence in the following order:

- (a) Attachment 1: Statement of Work and Schedule
- (b) Terms and Conditions
- (c) Referenced specifications

Non-disclosure Agreement, if applicable

27.0 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without regard to its conflict or choice of law provisions.

28.0 ENTIRE AGREEMENT

This Agreement, including all documents incorporated herein by reference, shall constitute the entire agreement and understanding between the parties hereto and shall supersede and replace any and all prior or contemporaneous representations, agreements or understandings of any kind, whether written or oral, relating to the subject matter hereof.

ATTACHMENT 1 STATEMENT OF WORK/SCHEDULE

This Statement of Work is incorporated in the Work for Others Agreement (“Agreement”) by and between SAIC Frederick, Inc. (“SAIC-F”) and <REQUESTOR Name> (“REQUESTOR”).

It is understood that all work directed under this Agreement must be within the purpose, mission, general scope of effort, or special competency of SAIC-F as the OTS Requestor supporting the FFRDC in accordance with FAR 35.017-3. In addition, the REQUESTOR agrees that to the best of its knowledge, SAIC-F is not in competition with the domestic private sector for any work directed hereunder.

A. SCOPE OF SERVICES

The Services to be provided by SAIC-F, including activities, milestones, performance time frames, and other requirements in sufficient detail to provide a basis for performance evaluation.

SAIC-F shall perform services for REQUESTOR, including (but not limited to) the following:

B. DELIVERABLES

Deliverables and the due date for each deliverable.

C. ACCEPTANCE AND TESTING

Special requirements, procedures, and criteria for testing or acceptance of deliverables.

D. PAYMENT AND RATES

The basis for payment, including hourly rates for each applicable category. (Or include Fixed Unit Rate schedule as applicable)

E. EXPENSES

All types of expenses that will be reimbursed (such as travel, per diem, supplies, copying, or other charges in connection with the performance of the Services) and any applicable restrictions or limits on expenses.
