

October 21, 2009

Meso Scale Discovery  
9238 Gaither Road  
Gaithersburg, MD 20877

Attn: Erin Grossi

Dear Ms. Grossi:

The enclosed Solicitation/Contract/Order for Commercial Items requires your immediate attention and must be returned to the Purchasing Department, NCI-Frederick no later than November 4, 2009. Please submit the completed solicitation with a Certificate of Insurance as referenced in # 19 of the attached SAIC-Frederick, Inc. terms and conditions.

Please be sure to complete/send the following:

Contractor/Offeror Remittance Address and blocks # 10b, 12, 16, 21, 22, 27a, 27b and 27c of form SF 1449-09.

All pricing in Section A, Supplies/Services and any attached equipment lists.

All blank lines within Section B, Specifications/Work Statement.

All Vendor Self-Certification and Administrative Information in Section C8.

All documents as requested in Section C20, Submittal Format.

The solicitation and all accompanying documents can be sent via facsimile to 301-228-4342, alternate fax 301-846-5311 or via email to ferronev@mail.nih.gov.

If you have any questions regarding this matter, please contact me at (301) 846-1125.

Sincerely,



Valerie Ferrone, Sr. Buyer  
Purchasing Department

VF/jh  
(Attachment)

**SAIC-Frederick, Inc.**  
**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS**  
OFFEROR TO COMPLETE BLOCKS 10b, 12, 16, 21, 22, and 27

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NO.	5. SOLICITATION NO. M10-039	6. SOLICITATION DATE 10-21-09
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7. FOR SOLICITATION INFORMATION, CALL	a. Name Valerie Ferrone b. Telephone No. 301-846-1125	8. OFFER DUE DATE/LOCAL TIME November 4, 2009 3:00 pm
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9. ISSUED BY  SAIC-Frederick, Inc. NCI-Frederick P.O. Box B Frederick, MD 21702-1201  1050 Boyles Street, Ft. Detrick Room 213	10a. THIS ACQUISITION IS SET ASIDE FOR: <input type="checkbox"/>	11. DELIVERY FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/>
	SIZE STANDARD: NAICS:	12. DISCOUNT TERMS
	10b. DUNS#: _____ CAGE CODE: _____	
	MARYLAND SALES AND USE TAX DIRECT PAY PERMIT #3	13. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP

14. DELIVER TO NCI-Frederick 1050 Boyles Street Frederick, MD 21702-1201	15. SUBMIT INVOICE TO SAIC-Frederick, Inc. Accounts Payable P.O. Box B Frederick, MD 21702-1201 Telephone No. 301-846-1136
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16a. CONTRACTOR/OFFEROR Meso Scale Discovery 9238 Gaither Road Gaithersburg, MD 20877 Attn: Erin Grossi  Telephone No.	16b. REMITTANCE ADDRESS
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17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT
	Service Contract (Year 1)				
	Service Contract (Opt. 1, Yr. 2)				
	Service Contract (Opt. 2, Yr. 3)				
	Attach additional sheets as necessary				

23. TOTAL AWARD AMOUNT (for SAIC-Frederick, Inc. use only) \$

24a. SOLICITATION INCORPORATES FAR 52.212-1, FAR 52.212-3, AND FAR 52.212-4 BY REFERENCE IF NOT ATTACHED.  
APPLICABLE ADDENDA  ARE  ARE NOT ATTACHED.  
24b. SOLICITATION INCORPORATES FAR 52.222-26, FAR 52.222-35, AND FAR 52.222-36 BY REFERENCE IF NOT ATTACHED.  
24c. SAIC STANDARD TERMS AND CONDITIONS, DATED 04/20/09, ARE INCORPORATED BY REFERENCE IF NOT ATTACHED.  
24d. CONTRACT/PURCHASE ORDER INCORPORATES FAR 52.212-4 BY REFERENCE.  
APPLICABLE ADDENDA  ARE  ARE NOT ATTACHED.

25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ONE COPY TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

26. AWARD OF CONTRACT: REFERENCE \_\_\_\_\_ OFFER DATED \_\_\_\_\_. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

27a. SIGNATURE OF OFFEROR/CONTRACTOR	28a. SIGNATURE OF SAIC-Frederick, Inc. OFFICIAL
27b. NAME AND TITLE OF SIGNER (Type or Print)	28b. NAME OF AUTHORIZED INDIVIDUAL
27c. DATE SIGNED	28c. DATE SIGNED

**SAIC-Frederick, Inc.**

**Solicitation No. M10-039**

**A. SUPPLIES/SERVICES**

<u>ITEM #</u>	<u>SUPPLIES / SERVICES</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u> <u>YEAR 1</u> (CY' 10)	<u>RENEWAL</u> <u>OPTION 1</u> <u>YEAR 2</u> (CY' 11)	<u>RENEWAL</u> <u>OPTION 2</u> <u>YEAR 3</u> (CY' 12)
1.	Service Contract Covering the following:	1	Yr	\$	\$	\$

Sector Imager  
S/N: 1200040512194  
Model: 6000

Equipment is located in Building 560, Room 1127

**B. SPECIFICATIONS/WORK STATEMENT**

1. General terms of the service agreement will be as follows:

EMERGENCY SERVICE:

Provided during normal working hours.

Parts and labor shall be included.

Response time shall be 24 hours.

(response time is defined as the time elapsed between notification to authorized vendor representative \_\_\_\_\_, telephone number and time repair is initiated at the repair site).

PM VISITS:

Number of PM visits per year \_\_\_\_\_ (minimum one per year).

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Parts (damaged due to normal wear), travel and labor shall be included.

Maintenance of the equipment shall be performed by authorized technical service representatives, who on each visit shall perform visual and electrical inspection as deemed necessary.

Any service not covered under this service agreement must be directly authorized and confirmed by Leon Debes, Scientific Support Equipment Specialist, 301-846-5642 or Tammy Ovejera, Scientific Support Equipment Coordinator, 301-846-1706.

2. All work shall be performed for the SAIC-Frederick, Inc. at the location shown in A-1.
3. Contractor shall present to the Equipment Maintenance Office (Building 1050, Room 225) an activity report following any and all site visits (emergency or preventative maintenance). If unable to deliver this report personally, Contractor shall FAX or e-mail within 24 hours of said site activity (301-846-6154) or (ncifredem@nih.gov). Neglect of this clause may result in Contractor performance deficiency citation(s).
4. If contractor is unable to submit an annual invoice for this agreement, state frequency of invoicing (monthly, quarterly, etc.).

**C. CONTRACT TERMS/LOGISTICS**

1. If consumables or other parts are excluded from coverage under this contract, a list of all excluded items must accompany this offer. Any items not listed shall be considered covered by this service maintenance agreement should award occur.
2. Effective dates for this subcontract shall be from 12/1/09 through 11/30/10.
3. SAIC-Frederick, Inc. reserves the right to propose or discontinue maintenance service and pay for covered time only (pro-rata) on an item by item basis.
4. PERIOD OF PERFORMANCE. (CY dates are shown below for option years).

Initial Term of Contract is December 1, 2009 through November 30, 2010, with two (2) one-year options.

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5. Offers of a multi-year service maintenance agreement for coverage of the cited equipment will be considered. Please quote pricing for a one (1) year agreement and renewal option(s) as specified in A.1. This solicitation is intended to result in either a one (1) year contract or a one (1) year contract and option(s) to renew.
6. This is a multi-year contract, however, funds are not presently available for years 2 and 3; obligation to purchase is contingent upon the availability of appropriated funds.

7. SAIC-FREDERICK, INC. HOLIDAYS

Delivery shall not be made on any of the below listed holidays:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Veterans Day
Presidents Day	Columbus Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

Delivery shall be scheduled for the following work day.

8. VENDOR SELF CERTIFICATION

Information is available at the Acquisition Central website, <http://acquisition.gov/>.

A. Central Contractor Registration

By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the Central Contractor Registration (CCR) database prior to award, during performance and through final payment of any contract, basic agreement, or blanket purchasing agreement resulting from this solicitation. Full text is available at FAR Part 52.204-7 or complete information at <http://www.ccr.gov>.

B. Annual Representations and Certifications

The North American Industry Classification System (NAICS) code for this acquisition is \_\_\_\_\_ (insert NAICS code).

The small business size standard for this procurement is \_\_\_\_\_ (insert size standard). The small business size standard is based on a concern submitting an offer in its own name to furnish a product which it did not itself manufacturer is 500 employees.

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The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <https://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation, and as of the date of this offer are incorporated in this offer by reference except any changes identified below.

Any changes inserted below will be identified by clause number, title and date. These amended representation(s) and /or certification(s) are also incorporated in this offer and are current, accurate and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

a. Administrative Information

Offeror shall provide the following information:

1. Payment Terms: \_\_\_\_\_
2. Contact Name: \_\_\_\_\_
3. Contact phone number \_\_\_\_\_
4. Contact facsimile number \_\_\_\_\_
5. Contact e-mail address: \_\_\_\_\_

9. OFFERS. All proposals, modifications and/or withdrawals must be signed, dated and received in the place specified and at the time required in this solicitation document.

Telephone offers will not be accepted; however, offers will be accepted transmitted via facsimile machine (301) 846-5311.

Offers may be withdrawn by written notice received at any time before the exact time set for receipt of bids in accordance with FAR clause 52.214-7(e).

Offers must be compliant with all solicitation requirements in order to be eligible for award.

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Offers may be submitted on SAIC-Frederick, Inc. forms or on offeror letterhead stationery. For the latter, the same format must be utilized and the offeror must enter "see attached" next to the sections that are separately addressed on their letterhead. All attached pages must be marked with the solicitation number. If the pricing structure renders the offeror unable to conform to the requested format. Offer must state 1) the reason(s) for non-conformance and 2) the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offerors that fail to furnish the required representations or information, or reject the terms and conditions of the solicitation will be excluded from consideration.

10. By offer submission the offeror agrees that in the event the prime contract of SAIC Frederick, Inc. is succeeded by a successor contractor as selected by the Government, before any award by SAIC Frederick, Inc. the offer may be assigned to the successful contractor.

### 11. INVOICE SUBMISSION

A. Invoices shall be prepared in accordance with the following:

1. All invoices should be received directly in the Accounts Payable Department for processing.
  - By Mail - SAIC-Frederick, Inc.  
Attn: Accounts Payable  
P.O. Box B  
Frederick, Maryland 21702-1201
  - By e-mail - [apinvoices@mail.nih.gov](mailto:apinvoices@mail.nih.gov)
  - By fax - 301-846-7081
2. Payment terms begin upon receipt of a valid invoice in Accounts Payable.
3. An invoice is a written request for payment under the contract for items delivered or services rendered. In order to be proper, an invoice must include, as applicable, the following:
  - a. Invoice date, (note: date of Contractor's invoice shall not be earlier than delivery/service date);
  - b. Contractor name;
  - c. Order number and Contract number, as entered in Blocks 4 and 2 of SF-1449-09, respectively (including delivery order number, if applicable);
  - d. Description of items or services, quantity, contract unit of measure, contract unit price, and extended total;
  - e. Payment terms and any trade discounts or allowances;

- f. Name and address to which payment is to be sent; and
- g. Name, title, phone number, and mailing address of person to be notified in event of a defective invoice.
- h. Back-up documentation for fees and expenses, such as airline tickets, telephone bills, rental car receipts, parking receipts, hotel receipts, etc.

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- B. SAIC-Frederick, Inc. shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for services rendered and accepted, less any deductions provided in this contract.

**12. PAYMENT BY ELECTRONIC FUNDS TRANSFER**

a. All payments by SAIC-Frederick, Inc. under this contract shall be made by electronic funds transfer (EFT). As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

b. In the event SAIC-Frederick, Inc. is unable to release one or more payments by EFT, the Contractor agrees to either -

- 1. Accept payment by check or some other mutually agreeable method of payment; or
- 2. Request SAIC-Frederick, Inc. to extend payment due dates until such time as payment can be made by EFT, however see Suspension of Payment provision below.

c. Mandatory submission of Contractor's EFT information.

1. The Contractor is required to provide SAIC-Frederick, Inc. with the information required to make payment by EFT. The Contractor shall provide this information directly to the SAIC-Frederick, Inc. Accounts Payable Department in Frederick, Maryland (The Designated Office) upon notification of award, and *no later than 15 days prior to submission of the first request for payment*. In the event the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office.

2. If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office.

3. *Mechanisms for EFT payment.* SAIC-Frederick, Inc. may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System.

4. *Suspension of Payment.*

a. SAIC-Frederick, Inc. is not required to make any payment under this contract until after receipt by the designated office of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper

invoice and delays in accrual of interest penalties apply.

b. If the EFT information changes after submission of correct EFT information, SAIC-Frederick, Inc. shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the

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Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

5. *Liability for uncompleted or erroneous transfers.*

a. If an uncompleted or erroneous transfer occurs because SAIC-Frederick, Inc. used the Contractor's EFT information incorrectly, SAIC-Frederick, Inc. remains responsible for -

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

b. If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of SAIC-Frederick's release of the EFT payment transaction instruction, and -

- (i) If the funds are no longer under the control of the payment office, SAIC-Frederick, Inc. is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, SAIC-Frederick, Inc. shall not make payment and the Suspension of Payments provisions shall apply.

6. *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction, the date specified for settlement of the payment is on or before the prompt payment due date.

7. *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to SAIC-Frederick, Inc., is incorrect EFT information within the meaning of paragraph (d) of this clause.

8. *Liability for change of EFT information by financial agent.* SAIC-Frederick, Inc. is not liable for errors resulting from changed to EFT information provided by the Contractor's financial agent.

9. *Payment information.* The payment office shall forward to the Contractor available

payment information that is suitable for transmission as of the date of release of the EFT instruction. SAIC-Frederick Inc. may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, SAIC-Frederick, Inc. does not guarantee that any particular format or

method of delivery is available at any particular payment office and retains the latitude to use the

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format and delivery method most convenient to SAIC-Frederick, Inc. If SAIC-Frederick, Inc. makes payment by check in accordance with paragraph (a) of this clause, SAIC-Frederick, Inc. shall mail the payment information to the remittance address in the contract.

10. *EFT information.* The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- a. The contract number (or other procurement identification number).
- b. The Contractor's name and remittance address, as stated in the contract(s).
- c. The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- d. The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- e. The Contractor's account number and the type of account (checking saving, or lockbox).
- f. If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- g. If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

13. Contractor must provide a formal Service Maintenance Agreement or Terms of Service on Company letterhead.

14. All services provided against this contract shall be subject to the terms and conditions of this contract. In the event of conflict between a service and this contract, the contract shall control.

15. Should SAIC-Frederick, Inc. find the service not in compliance with the contract, contractor shall re-perform the service at no extra charge.

16. The SAIC-Frederick, Inc. retains the right to access the contractor's pertinent accounting records, personnel, job sites, warehouses and other contract related areas to the extent that such accounts are relevant to the contract work. This right may be exercised at any time during the course of the contract and will occur during normal business hours upon thirty days notice to the contractor.

17. NON-HIRING. For the term of this agreement and for sixty (60) calendar days thereafter, neither buyer nor seller shall solicit, offer employment, or hire the other's employees without the prior consent of the employing party. This does not apply to employees independently responding to advertised positions on company websites or media advertisements.

18. SAIC-Frederick, Inc. is eligible for Federal Supply Schedule pricing. If the items offered are on FSS, the contract number must be cited and a copy of the GSA Schedule or VA Schedule must accompany the offer.

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19. QUESTIONS.

- Questions concerning this solicitation shall be directed in writing to Valerie Ferrone Purchasing Department, SAIC-Frederick, Inc., 1050 Boyles Street, Frederick, MD 21702, telephone (301) 846-1125, fax: (301) 228-4342, or email: ferronev@mail.nih.gov by October 28, 2009.

- The written questions received by date above and the answers to those questions will be provided to all offerors.

20. SUBMITTAL FORMAT All forms and submissions must be in the required format to be eligible for award. Failure to adhere to any completion requirement will cause the offer to be considered non-responsive.

Proposal Elements. Offeror shall submit a complete proposal that contains the following elements:

- Form SF 1449-08 with signature and requisite blocks completed.
- Insurance Certificates as referenced in number nineteen of the Terms and Conditions.

Mailing Envelope. Offeror must return the proposal with the solicitation number M10-039 clearly visible on the outside of the proposal envelope. The SAIC-Frederick, Inc. will not be responsible for the handling of any offers not returned with the solicitation number shown in the required manner.

Proposal Package. The proposal packages shall be addressed as follows: SAIC-Frederick, Inc., 1050 Boyles Street, Frederick, MD 21702-1201, ATTN: Valerie Ferrone, Rm. 213.

21. The offeror must provide with the proposal Certificates of Insurance in accordance with #19 of the attached SAIC-Frederick Terms and Conditions.

**D. EVALUATION**

1. EVALUATION FACTORS

- a. Basis of award shall be as follows:
  - 1. Conformance to all solicitation specifications
  - 2. Vendor Performance History
  - 3. Acceptability of Product/Service
  - 4. Cost

2. Award of any order or subcontract as a result of this solicitation will NOT be made to any supplier with evident deficient past performance as documented in the SAIC-Frederick, Inc. Vendor File.

## TERMS AND CONDITIONS

### 1. GOVERNMENT RELATIONSHIP

This Order is made by SAIC-Frederick, Inc., a Subsidiary of Science Applications International Corporation under its contract with the National Cancer Institute at Frederick (NCI-Frederick). The provisions and clauses contained herein are influenced by and reflect the relationship of the parties in that contract, which was awarded and is administered under the provision of the Federal Acquisition Regulation (FAR). There is no privity of contract between the Seller and the Government.

### 2. GENERAL RELATIONSHIP

The Seller is not an employee of SAIC-Frederick, Inc. for any purpose whatsoever. Seller agrees that in all matters relating to this Order it shall be acting as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Order. Seller shall have no right, power or authority to create any obligation, expressed or implied, on behalf of Buyer and/or Buyer's customers and shall have no authority to represent Buyer as an agent.

### 3. DEFINITIONS

Buyer – SAIC-Frederick, Inc.

Seller – The party (contractor) receiving the award from SAIC-Frederick, Inc.

Prime Contract – The Government contract under which this Order is issued (see paragraph 1 entitled "Government Relationship").

NCI Government Contracting Officer –The NCI-Frederick person with the authority to interpret, modify, administer, and/or otherwise make decisions with regard to the Prime Contract". This term includes authorized representatives of the NCI-Frederick Contracting Officer within their delegated authority.

Contracting Officer – The SAIC-Frederick, Inc. person with the authority to enter into and administer Orders. The term includes authorized representatives of the Contracting Officer acting within their delegated authority.

Order – The contractual agreement between SAIC-Frederick, Inc. and the Seller.

Special Definitions – See paragraph 4 for the special definitions that apply in the use of the solicitation and award clauses of this Order.

### 4. SOLICITATION AND AWARD CLAUSES – SPECIAL DEFINITIONS

FAR clauses included in this Order, including any solicitation document, shall be interpreted as follows:

Unless a purposeful distinction is made clear and the context of the clause requires retention of the original definition, the term "Contractor" shall mean Seller, the term "Contract" shall mean this Order, the term "Subcontractor" shall mean subcontractors of Seller at any tier, and the terms "Government", "Contracting Officer" and equivalent phrases shall mean SAIC-Frederick, Inc. and SAIC-Frederick's Contracting Officer, respectively. It is intended that the referenced clauses shall apply to Seller in such manner as is necessary to reflect the position of Seller as a contractor to SAIC-Frederick, Inc. to insure Seller's obligations to SAIC-Frederick, Inc. and to the United States Government, and to enable SAIC-Frederick, Inc. to meet its obligations under its Prime Contract.

Full text of the referenced clauses may be found in the FAR (Code of Federal Regulation [CFR] Title 48), obtainable from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402 or online at <http://www.arnet.gov/far/>.

Copies of the clauses will be furnished by the Contracting Officer upon request.

### 5. ENTIRE AGREEMENT

This Order, including all attachments and/or documents incorporated by reference by Buyer, shall constitute the entire agreement between Buyer and Seller. No other document (including Seller's proposal, quotation or acknowledgement forms, etc.) shall be a part of this Order, even if referred to, unless specifically agreed to in writing by Buyer. No right that Buyer has regarding this Order may be waived or modified except in writing by Buyer.

### 6. ACCEPTANCE AND MODIFICATION OF TERMS

Acceptance of this Order by Seller may be made by signing the acknowledgement copy hereof or by partial performance hereunder, and any such acceptance shall constitute an unqualified agreement to all terms and conditions set forth herein unless otherwise modified in writing by the parties. Any additions, deletions or differences in the terms proposed by Seller are objected to and hereby rejected, unless Buyer agrees otherwise in writing. No additional or different terms and conditions proposed by the Seller in accepting this Order shall be binding upon Buyer unless accepted in writing by Buyer and no other addition, alteration or modification to, and no waiver of any of the provisions herein contained shall be valid unless made in writing and executed by Buyer

and Seller. Seller shall perform in accordance with the Description/Quantity schedule set forth in this Order and all attachments thereto.

## **7. LEGAL CONSTRUCTION AND INTERPRETATIONS**

This Order shall be governed by and interpreted in accordance with the principles of Federal Contract Law, and to the extent that Federal Contract Law is not dispositive, and the state law becomes applicable, the law of the State of Maryland shall apply.

## **8. COMPLIANCE WITH LAWS AND REGULATIONS**

Seller shall submit all certifications required by Buyer under this Order and shall at all times, at its own expense, comply with all applicable Federal, State and local laws, ordinances, administrative orders, rules or regulations.

## **9. GIFTS**

Seller shall not make or offer a gratuity or gift of any kind to Buyer's employees or their families. Seller should note that the providing of gifts or attempting to provide gifts under government subcontracts might be a violation of the Anti-Kickback Act of 1986 (4 U.S.C. 51-58).

## **10. MARYLAND SALES AND USE TAX**

The State of Maryland has issued Direct Payment Permit #3, effective date August 29, 1996, to SAIC-Frederick, Inc. that will be issued to vendors of NCI-Frederick for purchases of goods and services. A copy of this Permit is available to vendors upon request. As a holder of a Direct Payment Permit, SAIC-Frederick, Inc. is authorized to make direct payment of sales and use tax to the State of Maryland. Accordingly, sellers that provide goods and services to SAIC-Frederick, Inc. are relieved from collecting sales tax from SAIC-Frederick, Inc. Therefore, sellers to SAIC-Frederick, Inc. shall not place a separate line item for tax on any invoice sent to SAIC-Frederick, Inc. Please note that the Permit is not to be used by sellers to make purchases free of sales tax, nor shall the Permit be transferred or assigned.

## **11. BUYER FURNISHED DATA AND MATERIALS**

Seller agrees that it will keep confidential and not disclose, disseminate or publish the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data, computer programs and software or other technical or proprietary information furnished, loaned or bailed by Buyer hereunder (hereinafter collectively referred to as (items/information), and will use such items/information only in the performance of this Order or, if authorized, other orders from Buyer, and not otherwise without Buyer's written consent.

All such items furnished, loaned or bailed by Buyer hereunder, or fabricated, manufactured, purchased, or otherwise acquired by Seller for the performance of this Order and specifically charged to Buyer, are the property of Buyer.

Upon completion, expiration or termination of this Order, Seller shall return all such items in good condition, reasonable wear only excepted, together with all spoiled and surplus items to Buyer, or make such other

disposition thereof as may be directed or approved by Buyer. Seller agrees to replace, at its expense, all such items not so returned. Seller shall make no charge for any storage, maintenance or retention of such items. Seller shall bear all risk of loss for all such items in Seller's possession.

Seller also agrees to use any designs or data contained or embodied in such items in accordance with any restrictive legends placed on such items by Buyer or any third party. If Buyer furnishes any material, for fabrication hereunder, Seller agrees: (i) not to substitute any other material for such fabrication with Buyer's prior written consent, and (ii) that title to such material shall not be affected by incorporation in or attachment to any other property.

## **12. NOTICE OF DELAY**

Seller agrees to immediately notify Buyer in writing of any actual or potential delay in Seller's performance under this Order. Such notice shall, at a minimum, describe the cause, effect, duration and corrective action proposed by Seller to address the problem. Seller shall give prompt written notice to the Buyer of all changes to such conditions.

## **13. CHANGES AND SUSPENSION**

Buyer may, by written notice to Seller at any time, make changes within the general scope of this Order in any one or more of the following: (a) drawings, designs or specifications; (b) quantity; (c) time or place of delivery; (d) method of shipment or packing; and (e) the quantity of Buyer furnished property. Buyer may, for any reason, direct Seller to suspend, in whole or in part, delivery of goods or performance of services hereunder for such period of time as may be determined by Buyer in its sole discretion. If any such change or suspension causes a material increase or decrease in the cost of, or the time required for the performance of any part of the work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule, or both, provided Seller shall have notified Buyer in writing of any claim for such adjustment within twenty (20) days from the date of notification of the change or suspension from Buyer. No such adjustment or any other modification of the terms of this Order will be allowed unless authorized by Buyer by means of a written modification to the Order. Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

## **14. ADVERTISING**

Seller agrees that prior to the issuance of any publicity or publication of any advertising that in either case makes reference to this Order, or to Buyer, Seller will obtain the written permission of Buyer with respect thereto.

## **15. CONFIDENTIAL INFORMATION**

Seller shall not at any time, even after the expiration or termination of this Order, use or disclose to any person for any purpose other than to perform this Order, any information it receives, directly or indirectly from Buyer in connection with this Order, except information that is or becomes publicly available, or is rightfully received by Seller from a third party without restriction. Upon request by Buyer, Seller shall return to Buyer all documentation and other material containing such information.

## 16. INDEMNIFICATION

Seller shall indemnify, defend and hold harmless Buyer from and against any and all claims, liabilities, damages, losses, causes of action, lawsuits, costs and expenses, including reasonable attorneys' fees and litigation costs incurred in connection therewith and regardless of legal theory (hereinafter referred to as "claims"), occasioned wholly or in part by any act or omission of Seller or any of its lower tiers, or their employees, agents or representatives arising out of or relating to this Order. Notwithstanding the foregoing, Seller's obligations under this Section shall not apply to any claims that are finally determined by a court of competent jurisdiction to be occasioned solely by the negligence or willful misconduct of Buyer.

## 17. INFRINGEMENT INDEMNITIES

Seller shall, at its expense, indemnify, defend, save and hold Buyer and its successors, affiliates, officers, directors, employees, agents, independent contractors and customers, and the officers, agents and employees of such customers (hereinafter collectively referred to in this section as "Buyer") harmless from and against any and all damages, liabilities, penalties, interest and costs awarded against and reasonable expenses, including without limitation attorneys' fees that result or arise out of or relate to, in whole or part, any claims, suits, proceedings, actions, causes of action and demands brought against the Buyer asserting that the deliverables, including without delivery, including without limitation all software, goods or services, or any part thereof, furnished under this Order, or the creation, delivery, use modification, reproduction, release, performance, display or disclosure, including without limitation resale or sublicensing thereof, constitutes an infringement of any patent, trademark, trade secret, copyright or other proprietary or intellectual property right or rights of privacy or publicity. In the event such goods or services or use thereof are enjoined in whole or in part, Seller shall at its expense and Buyer's option undertake one of the following: (i) obtain for Buyer the right to continue the use of such goods or services; (ii) in a manner acceptable to Buyer, substitute equivalent goods or services or make modifications thereto so as to avoid such infringement and extend this indemnity thereto; or (iii) refund to Buyer an amount equal to the purchase price for such goods or services plus any excess costs or expenses incurred in obtaining substitute goods or services from another source.

Notwithstanding this Section 17, should the deliverables or portion thereof be held to constitute an infringement and use as contemplated by this Order be enjoined or be threatened to be enjoined, Seller shall notify Buyer and immediately, at Seller's expense; (i) procure for Buyer the right to continue to use the deliverables or portion thereof with a version that is non-infringing, provided that the replacement or modified version meets any applicable specifications to Buyer's satisfaction. If (i) or (ii) are not available to Seller, in addition to any damages or expenses reimbursed under this section, Seller shall refund to Buyer all amounts paid to Seller by Buyer under this Order.

## 18. NON-WAIVER OF RIGHTS

The failure of Buyer to insist upon strict performance of any of the terms and conditions in this Order 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. Acceptance or payment of any part of the Order shall not bind Buyer to accept future shipments or performance of services nor deprive Buyer of the right to return goods already accepted or for which Buyer has made payment. Acceptance or payment shall not be deemed to be a waiver of Buyer's right to cancel or return all or any part of the goods because of failure to conform to the Order or by reason of defects, whether latent or patent, or other breach of warranty, or to make any claim for damages of any and all kind.

## 19. INSURANCE REQUIREMENTS FOR WORK ON A GOVERNMENT INSTALLATION

If this Order entails effort on a Government installation, including any off-site buildings owned or leased by the Government, the Seller must provide and maintain the minimum amounts of insurance stated below.

At Buyer's request, Seller agrees to provide Certificates of Insurance evidencing that the required insurance coverages are in force and providing not less than thirty days written notice prior to any cancellation or restrictive modification of the policies.

Further, the required insurance coverages below shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer. The below required coverages and their limits in no way lessen nor affect Seller's other obligations or liabilities set forth in this Order.

Seller agrees to purchase and maintain at its own expense the following insurance coverages with minimum limits as stated:

- (i) Statutory Workers' Compensation and Employer's Liability in an amount no less than \$1 Million per occurrence covering its employees, including a waiver of subrogation obtained from the carrier in favor of Buyer;
- (ii) Commercial General Liability in an amount no less than \$1 Million per each occurrence and \$2 Million in this Aggregate covering bodily injury, broad form property damage, personal injury, products and completed operations, contractual liability and independent contractors' liability. Buyer, its officers and employees shall be included as Additional Insureds and a waiver of subrogation shall be obtained from the carrier in favor of Buyer;
- (iii) Automobile Liability in an amount no less than \$1 Million Combined Single Limit for Bodily Injury covering use of all owned, non-owned, and hired vehicles. Buyer, its officers and employees shall be included as Additional Insureds on the policy;

- (iv) Professional Liability in an amount no less than \$1 Million per occurrence covering damages caused by any acts, errors, and omissions arising out of the professional services performed by Seller, or any person for whom the Seller is legally liable. To the extent that coverage for Seller's services are not excluded in (ii) above by virtue of being deemed not of a professional nature, this requirement does not apply.
- (v) All-Risk Property Insurance in an amount adequate to replace property, including supplies covered by this Order, of Buyer and/or Buyer's customer that may be in the possession or control of Seller. Buyer shall be named as a Loss Payee with respect to loss or damage to said property and/or supplies furnished by Buyer.

The required insurance coverages above shall be primary and non-contributing with respect to any other insurance that may be maintained by Buyer and notwithstanding any provision contained herein, Seller, and its employees, agents, representatives, consultants, subcontractors and suppliers, are not insured by the Buyer, and are not covered under any policy of insurance that the Buyer has obtained or has in place.

Any self-insured retentions, deductibles and exclusions in coverage in the policies required under this Article shall be assumed by, for the account of, and at the sole risk of Seller which provides the insurance and to the extent applicable shall be paid by Seller. In no event shall the liability of Seller be limited to the extent of any insurance or the minimum limits required herein.

## **20. EXPORT CONTROL COMPLIANCE FOR FOREIGN PERSONS**

Seller shall not, nor shall Seller authorize or permit its employees, agents or lower tiers to disclose, export or re-export any Buyer information, or any process, product or services that is produced under this Order, without prior notification to Buyer and complying with all applicable Federal, State and local laws, regulations and ordinances, including the regulations of the U.S. Department of Commerce and/or the U.S. Department of State. In addition, Seller agrees to immediately notify Buyer if Seller is listed on any of the Department of State, Treasury or Commerce proscribed persons or destinations lists, or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part.

Under its contract with NCI-Frederick, Buyer conducts research activities that include export-controlled technology that cannot be readily segregated. Buyer may require Seller (including any lower tiers) to place restrictions on their work force performing onsite at SAIC-Frederick, Inc. to protected individuals as established under the guidelines of the Commerce Department Export Administration Regulations (EAR) and the State Department International Traffic in Arms Regulations (ITAR).

Contractors (including any lower tiers) may be required to disclose the status of personnel proposed to perform work onsite prior to award.

Contractors shall include in all agreements and related documents with lower tiers, notice to third parties that the export of any process, goods and/or technical data from the United States may require an export control license from the U.S. Government and that, failure to obtain such export control license may result in termination of Order, and/or criminal liability under U.S. laws.

## **21. ASSIGNMENT**

Neither this Order nor any interest herein may be assigned, in whole or in part, without the prior written consent of Buyer except that the Seller shall have the right to assign this Order to any successor of such party by way of merger or consolidation or the acquisition of substantially all of the business and assets of the Seller relating to the subject matter of this Order. This right shall be retained provided that such successor shall expressly assume all of the obligations and liabilities of the Seller under this Order, and that the Seller shall remain liable and responsible to Buyer for the performance and observance of all such obligations.

Notwithstanding the foregoing, any amounts due the Seller may be assigned in accordance with the provisions of the clause 52.232-23, Assignment of Claims.

In the event the prime contract of SAIC-Frederick, Inc. with the Government is succeeded by a successor contractor selected by the Government, this Order may be assigned to the successor contractor.

## **22. DISPUTES**

(A) If a decision relating to the Prime Contract is made by the NCI-Frederick Contracting Officer and such decision is also related to this Order, said decision, if binding upon Buyer under the Prime Contract shall in turn be binding upon Buyer and Seller with respect to such matter; provided, however, that if Seller disagrees with any such decision made by the NCI Contracting Officer and Buyer elects not to appeal any such decision, Seller shall have the right reserved to Buyer under the Prime Contract with the Government to prosecute a timely appeal in the name of Buyer, as permitted by the contract or by law, Seller to bear its own legal and other costs. If Buyer elects not to appeal any such decision, Buyer agrees to notify Seller in a timely fashion after receipt of such decision and to assist Seller in its prosecution of any such appeal in every reasonable manner. If Buyer elects to appeal any such decision of the NCI Contracting Officer, Buyer agrees to furnish Seller promptly a copy of such appeal. Any decision upon appeal, if binding upon Buyer, shall in turn be binding upon Seller. Pending the making of any decision, either by the NCI Contracting Officer or on appeal, Seller shall proceed diligently with performance of this Order.

If, as a result of any decision or judgment which is binding upon Seller and Buyer, as provided above, Buyer is unable to obtain payment or reimbursement

from the Government under the Prime Contract for, or is required to refund or credit to the Government, any amount with respect to any item or matter for which the Buyer has reimbursed or paid Seller, Seller shall, on demand, promptly repay such amount to Buyer. Additionally, pending the final conclusion of any appeal hereunder, Seller shall, on demand promptly repay any such amount to Buyer. Buyer's maximum liability for any matter connected with or related to this Order which was properly the subject of a claim against the Government under the Prime Contract shall not exceed the amount of the Buyer's recovery from the Government.

Seller agrees to provide certification that data supporting any claim made by Seller hereunder is made in good faith and that the supporting data is accurate and complete to the best of the Seller's knowledge or belief, all in accordance with the requirements of the Contracts Disputes Act of 1978 (41USC601-613) and implementing regulations. If any claim of Seller is determined to be based on upon fraud or misrepresentation, Seller agrees to defend, indemnify, and hold Buyer harmless for any and all liability, loss, cost, or expense resulting there from.

Any dispute not addressed in paragraph (A) above, will be subject to paragraph (B) as described below.

(B) Buyer and Seller agree to first enter into negotiations to resolve any controversy, claim or dispute ("dispute") arising under or relating to this Order. The parties agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If good faith negotiations are unsuccessful, Buyer and Seller agree to resolve the dispute by binding and final 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 Order in resolving the dispute, and may not award punitive damages. 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.

Seller hereby waives any immunity, sovereign or otherwise, that it would otherwise have to such jurisdiction and agrees that its rights, obligations, and liabilities hereunder shall be determined in the same manner and to the same extent as those of a 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.

Pending any decision, appeal or judgment referred to in this provision or the settlement of any dispute arising under this Order, Seller shall proceed diligently with the performance of this Order.

## **23. NOTIFICATION OF DEBARMENT/SUSPENSION**

By acceptance of this Order either in writing or by performance, Seller certifies that as of the date of award of this Order neither the Seller, lower tiers, nor any of its principals, is debarred, suspended, or proposed for debarment by the Federal Government. Further, Seller shall provide immediate written notice to the Buyer in the event that during performance of this Order the Seller or any of its principals is debarred, suspended, or proposed for debarment by the Federal Government.

## **24. QUALITY ASSURANCE/INSPECTION**

All goods furnished and services performed pursuant hereto shall be subject to inspection and test by Buyer at all reasonable times and places, during the Order term, and in any event, prior to Final Acceptance as that term is defined in the Statement of Work. No inspection made prior to Final Acceptance shall relieve Seller from responsibility for defects or other to meet the failure requirements of this Order. In the event that goods furnished or services supplied are not in accordance with the Statement of Work and Schedule or other requirements; Buyer may require Seller to promptly correct, repair, replace or re-perform the goods or services. The cost of correction, repair, replacement, or re-performance shall be determined under Section 7 of this Order. If Seller fails to proceed with reasonable promptness to perform the required correction, repair, replacement, or re-performance, Buyer may terminate the Order for default. If Seller is unable to accomplish the foregoing, then Buyer may procure such materials and services from another source or perform such services in-house and charge to Seller's account all costs, expenses and damages associated therewith. Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations hereunder.

## **25. ORDER OF PRECEDENCE**

In the event of an inconsistency or conflict between these SAIC Terms and Conditions and the Order issued, the inconsistency or conflict shall be resolved by giving precedence in the following order:

- 1) The Order including SAIC-Frederick, Inc. Standard Terms and Conditions, Exhibits thereto and any provisions.
- 2) Specifications and/or drawings.
- 3) Other documents or exhibits when attached.

## **26. TERMINATION**

### **Termination for Convenience**

1) Buyer shall have the right to terminate this Order, in whole or in part, at any time, without cause, by providing written notice to Seller. Upon receiving notice of such termination, Seller shall:

- a) stop all work on this Order on the date and to the extent specified;
- b) place no further contracts hereunder except as may be necessary for completing such portions of the Order that have not been terminated; and

c) terminate all contracts to the extent that they may relate to portions of the Order that have been terminated; and

d) protect all property in which Buyer has or may acquire an interest and deliver such property to Buyer.

2) Within twenty (20) days from such termination, Seller may submit to Buyer its written claim for termination charges in the form prescribed by Buyer. Failure to submit such claim within such time shall constitute a waiver of all claims and a release of all Buyer's liability arising out of such termination. Under no circumstances shall Seller be entitled to anticipatory or lost profits.

3) Buyer reserves the right to verify claims hereunder and Seller shall make available to Buyer, upon its request, all relevant, non-proprietary books and records for inspection and audit (e.g. time cards and receipts). If Seller fails to afford Buyer its rights hereunder, Seller shall be deemed to have relinquished its claim.

### Termination for Default

1) Buyer may, by written notice of default to Seller, terminate the whole or any part of this Order, in any one of the following circumstances:

a) Seller fails to make delivery of the goods or to perform the services within time specified herein or any extension thereof; or

b) Seller fails to perform any of the other provisions of this Order in accordance with its terms and does not cure such failure within a period of ten (10) days after receipt of notice from Buyer specifying such failure; or

c) Seller becomes insolvent or the subject of proceedings under any law relating to the relief of debtors or admits in writing its inability to pay its debts as they become due.

2) If this Order is so terminated, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may deem appropriate, goods or services similar to those terminated. Seller shall be liable to Buyer for any excess costs of such similar supplies or services.

3) Seller shall transfer title and deliver to Buyer, in the manner and to the extent requested in writing by Buyer at or after termination, such complete or partially completed articles, property, materials, parts, tools, fixtures, plans, drawings, information and contract rights as Seller has produced or acquired for the performance of the terminated part of this Order, and Buyer will pay Seller the contract price for completed articles delivered to and accepted by Buyer and the fair value of the other property of Seller so requested and delivered.

4) Seller shall continue performance of this Order to the extent not terminated. Buyer shall have no obligation to Seller with respect to the terminated part of this Order except as herein provided.

### 27. SECURITY

Under its contract with NCI-Frederick, SAIC-Frederick, Inc. may be required to conduct, on persons performing work on Government Owned or controlled installations,

individual background checks prior to the commencement of effort. As part of this process, information will be required to enable SAIC-Frederick, Inc. to conduct the appropriate background checks, including name (including any aliases), daytime phone number, SSN, date of birth, and country of birth. Individuals who are unable or unwilling to provide the required information and/or receive the required authorizations will not be allowed access to NCI-Frederick or any controlled premises.

Seller agrees to comply with the Information Technology (IT) systems security and /or privacy specifications set forth in the Agreement; the Federal Information Security Management Act of 2002; Office of Management and Budget (OMB) Circular A-130, Appendix III, "Security of Federal Automated Information Systems", and the DHHS Automated Information Systems Security Program (AISSP) Handbook, which may be found at the following websites: Federal Information Security Management Act of 2002; OMB A-130 Appendix III and DHHS AISSP Handbook : <http://csrc.nist.gov/sec-cert/>  
[http://www.whitehouse.gov/omb/circulars/a130/a130appendix\\_iii.html](http://www.whitehouse.gov/omb/circulars/a130/a130appendix_iii.html),  
[http://intranet.hhs.gov/infosec/policies\\_guides.html](http://intranet.hhs.gov/infosec/policies_guides.html)

The Seller further agrees to include this provision in any Order awarded pursuant to the Agreement. Failure to comply with these requirements may constitute cause for termination under Paragraph 26 of these Terms and Conditions.

The Seller shall be responsible for properly protecting all information used, gathered, or developed as a result of the Agreement. The Seller shall establish and implement appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of sensitive Government information, data and/or equipment. Any Seller employee who may have access to sensitive information under this agreement shall complete the form entitled, "Commitment to Protect Non-Public Information – Contractor Agreement," which may be found at the following website: [http://ais.nci.nih.gov/forms/Non-Disclosure\\_Form.pdf](http://ais.nci.nih.gov/forms/Non-Disclosure_Form.pdf)

A copy of each signed and witnessed Non-Disclosure agreement shall be submitted to the Contracting Officer prior to performing any work under the Agreement.

The Seller shall assure that each employee has completed the NIH Computer Security Awareness Training (<http://irtsectraining.nih.gov>) prior to performing any work under this contract.

The Seller shall maintain and submit to the Contracting Officer a listing by name and title of each individual working under this contract, who has completed the NIH required training. Any additional security training completed by Seller staff shall be included on this listing.

In addition, during all activities and operations on Government premises, the Seller shall comply with DHHS, including National Institutes of Health (NIH), rules of conduct. Should the Seller have questions concerning these requirements or need of procedural guidance to ensure compliance they may contact the cognizant SAIC-Frederick, Inc. acquisition representative.

## **28. TOBACCO USE AT THE NCI-FREDERICK**

In accordance with the Department of Health and Human Services (HHS) directive, the NCI-Frederick campus is a tobacco free workplace. Use of tobacco in any form is prohibited on the entire NCI-Frederick campus. This includes personal vehicles while on NCI-Frederick property and all government vehicles, regardless of their location.

This policy applies to all employees, Government and Contractor, visitors, subcontractors, vendors and guests of the NCI-Frederick, and extends to all HHS owned or leased facilities and properties external to the NCI-Frederick campus where the sole tenant(s) are HHS and/or SAIC-Frederick employees.

## **29. PAYMENT AND INVOICING**

Payment – Work accepted by Buyer shall be paid for in U.S. dollars (\$USD) within the negotiated terms upon receipt of proper invoice.

## **30. STANDARDS OF BUSINESS ETHICS**

Seller, including all lower tiers are expected and required to comply fully with Buyer's standards of business ethics and conduct and to inform appropriate Buyer officials immediately of any illegal or unethical conduct in their dealings with Buyer's officers or employees. Copies of the Buyer's Code of Ethics and contacts for such reports are available under Corporate Governance at <http://investors.saic.com/documentdisplay.cfm?DocumntID=4179>.

## **31. SEVERABILITY**

If any term contained in this Subcontract 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 Subcontract, and the remaining terms contained herein shall continue in force and effect, and shall in no way be affected, prejudiced or disturbed thereby.

## **32. INTERPRETATION**

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

## **33. ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS**

Seller agrees to comply with Section 508 of the Rehabilitation Act of 1973 ( 29 U.S.C. 794d ) as amended by P.L. 105-220 under Title IV (Rehabilitation Act Amendments of 1998). Electronic and Information Technology (EIT) developed, procured, maintained, and/or used under this contract shall be in compliance with the "Electronic and Information Technology Accessibility Standards" set forth by the Architectural and Transportation Barriers Compliance Board (also

referred to as the "Access Board") in 36 CFR Part 1194. The complete text of Section 508 Final Standards can be accessed at <http://www.access-board.gov/sec508/standards.htm>. Applicable standards to this requirement are set forth in 36 CFR Part 1194.21 through 26.

Seller further agrees to include this provision in any Order awarded pursuant to the Agreement. Failure to comply to these requirements may constitute cause for termination under Paragraph 26 of these Terms and Conditions.