AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE: DO-C1

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2. AMENDMENT/MODIFICATION NO.: P000 10

3. EFFECTIVE DATE: SEP 19, 2003

4. REQUISITION/PURCHASE REQ. NO.: ARS02-086-000100

5. PROJECT NO. *(If applicable)*:

6. ISSUED BY CODE SP0300

Defense Supply Center Philadelphia
700 Robbins Avenue
Philadelphia, PA 19111-5098
DSCP-HRAA-F. TALLENT
PH: 215-737-2969; FX: 7774

7. ADMINISTERED BY *(If other than Item 6)* CODE S4404A

DCMC San Antonio
615 E. Houston Street
PO Box 1040
San Antonio, TX 78294

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

The Wornick Co.
Right Away Division
200 North First Street
McAllen, TX 78505

CODE 060120 FACILITY CODE

(X) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

X 10A. MODIFICATION OF CONTRACT/ORDER NO. SP0300-03-D-Z107

10B. DATED *(SEE ITEM 13)* 03-31-03

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting and Appropriation Data *(If required)*

SG 97X4930.5CS0 01 26.0 S33150 Amount: No Change

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(X) A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

X FAR CLAUSE 52.243-1, Changes Fixed Price

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☒ is not, ☐ is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

MRE XXIII - NSN: 8970-00-149-1094

Continued on Page 2

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*: Keith Frase President

16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*: JAMES A LECOLLIER

15B. CONTRACTOR/OFFEROR: Keith Frase *(Signature of person authorized to sign)*

15C. DATE SIGNED: 9/16/03

16B. UNITED STATES OF AMERICA BY James A Lecollier *(Signature of Contracting Officer)*

16C. DATE SIGNED: 9/18/03

THIS AGREEMENT, made and entered into this 19th day of SEP 2003, by and between the United States Government through its agency, the Defense Supply Center Philadelphia (DSCP), an operational component of the Defense Logistics Agency (DLA), by its authorized agent, the Procurement Contracting Officer (PCO) (hereinafter referred to as the "Government") and The Wornick Company (hereinafter called the contractor.)

WITNESSETH THAT,

1. The Government and the Contractor hereby agree to the following terms and conditions hereinafter set forth, for the use of the personal property listed in paragraph 2 hereof.

2. ASSETS.

   This agreement authorizes the Contractor to take possession of and retain on the premises described below (the approved premises) the Multivac R530 Horizontal Form Fill and Seal Machines, serial number 640 (the equipment or the property) for the period specified in paragraph 9 below. The approved premises shall be the Contractor's plant located at: The Wornick Company, Processed Products Division, 10825 Kenwood Road, Cincinnati, OH 45242.

3. INSTALLATION:

   If installation is needed, the Contractor shall be responsible for all costs to install the equipment and prepare for its operation.

4. Upon commencement of the term of this agreement, the Contractor shall retain possession of the equipment "as is" without warranty, express or implied, on the part of the Government as to condition or fitness for any purpose. Accountability of the property shall be established by execution of this agreement. Spares support of the machinery shall be in accordance with Paragraph 7 of this agreement.

5. USAGE.

   a. *Government Use.* Approval for the use of the equipment on Government contracts will be freely granted, but the Procurement Contracting Officer (PCO) must authorize such use in any supply contract on which the equipment will be used (See FAR 45.402). Unless the use of the equipment is authorized by a clause in the supply contract, the contractor desiring to use the equipment must request written authorization by the contracting officer cognizant of the equipment (the equipment contracting officer). If authorization is granted, it will be implemented by a modification to the supply contract.

b. *Commercial Use Up To 25%.*

Commercial use is also encouraged and is hereby authorized, but for a total period of use not to exceed thirteen weeks (25%) of the contractor's normal work schedule in any fiscal year (See DFARS 245.407). That is, for a contractor running five eight-hour shifts per week, the use here authorized should not exceed sixty-five eight-hour shifts in a fiscal year (Any portion of a shift shall be counted as a whole shift for the purpose of calculating this limitation. A fiscal year is 365 days from the inception of the agreement, including day one (or 366 days if the fiscal year includes a February 29th). The contractor shall keep an accurate record of all use. Any questions about the computation of the 25% limitation should be directed to the equipment Contracting Officer either before the commencement of this agreement or as soon as possible thereafter.

c. *Commercial Use Exceeding 25%.*

DSCP has been delegated the approval for commercial use. DSCP must approve commercial use exceeding 25% of the time available for use, as determined in accordance with DFARS 245.407. A contractor desiring to exceed that limit should therefore request from the PCO permission to do so, and such requests should comply with the requirements of DFARS 245.407, should specify the duration of use exceeding 25% requested and should be submitted at least six weeks before the projected use.

6. RESTRICTIONS.

a. The property shall be restricted to the limitations of the applicable Multivac R530 Technical Manuals and applicable FDA and USDA regulations.

b. Qualified operators and technicians shall be the only persons permitted to operate or make repairs on this property.

c. The Contractor is not authorized to effect any nonstandard modifications to the property without the written consent of the Contracting Officer.

7. SPARES AND SUPPORT EQUIPMENT.

The contract by which the Government purchased this property includes spare parts to maintain this property. In the event a manufacturer furnished spare part is either damaged or consumed during this agreement; the Contractor shall repair or replace that item at no cost to the Government. Attachment 1 lists the parts furnished by the Government or the equipment manufacturer and delivered to the contractor. The Contractor shall provide a list of all spare parts being returned to the Government upon the return of such property.

8. RIGHT OF PREEMPTIVE USE.

The equipment's primary purpose is to augment the surge capacity available to the Government. Since the government expects to authorize use of the equipment for commercial contracts, the Government reserves the right to preempt such use whenever, in the judgment of the Contracting Officer, exigent circumstances require that the equipment be reserved solely for Government contracts. In such instances, the Contracting Officer will provide two weeks written notice to the Contractor that the Government is exercising it's right of preemptive use. At the end of that two-week period, use of the equipment for commercial contracts shall cease and it may be used only as directed by the Contracting Officer. The Contractor should consider this right of preemptive use and must provide for it in any commercial contract for which it intends to use the equipment. A shared production agreement or some similar arrangement is recommended.

9. PERIOD OF AGREEMENT.

This agreement shall be for a term of one year from its effective date, which shall be the date the Contractor's offer (this document signed by the Contractor) is executed by the PCO, which shall be not more than 30 days after the offer is submitted to the Government. The agreement shall be terminable at any time during the year by either party giving to the other two weeks (fourteen calendar days) written notice of termination. The notice period will begin when it is received; day one will be the day after receipt; and the agreement will expire at the end of the fourteenth calendar day after receipt. In the absence of such notice, the agreement shall renew for an additional period of one year, and so on from year to year, until either party shall give the other two weeks written notice of termination. This agreement constitutes general authorization for the contractor to have possession of the equipment on the approved premises. Authorization for use must be specifically requested and granted as provided in paragraph 5, Usage, above, except to the extent authorization is specifically granted in that paragraph.

10. RENTAL CHARGES.

a. The Contractor shall pay the Government a rental fee (rent) based on the use of the equipment in any non-government work. The usage fee shall be $195.00 for any 8-hour shift or part thereof, or $243.75 for any 10-hour shift or part thereof. The rental fee shall be calculated as follows:

Monthly Rent: Number of 8 hour shifts X $195.00 = Rental Fee.
Number of 10 hour shifts X $243.75 = Rental Fee.

b. The Contractor shall be responsible for maintaining usage records and providing such records, which are certified by the resident USDA Inspector or designated DCMC official, to the PCO (Attn: Paul Ferrante) with a statement describing the rental fee due, and a certified check in accordance with Paragraph 10 f. This

documentation and payment shall be provided to the Government on or before the 10th day after each calendar month. For any month in which the contractor has no non-government use, the contractor shall forward a notarized statement of non-usage no later than the 10th day after each such month.

c. This rental assessment does not limit the Government's right to reassess a higher rental fee if subsequent information demonstrates that a higher rental fee was due in accordance with calculation in Paragraph 10.a.

d. The rental accrued at the expiration, termination or revocation of this agreement, shall be paid to the Government on or before the 10th day thereafter.

e. Failure of the Contractor to provide the information required by paragraph b, above, to the PCO (Attn: Paul Ferrante) by the 10th of each succeeding month shall result in a rental charge for the month not reported on, of $3,750.00, which equals 1% of the purchase price.

f. Payment of rent for the equipment and spare parts will be made by check in the following manner:

(i). For the Multivac R530 use cost under paragraph 5 above submit to:

THRU
Defense Supply Center Philadelphia
700 Robbins Avenue, Building 6B,
Attn: Mr. Paul Ferrante
Philadelphia, PA 19111-5092

TO
DFAS Columbus Center
Gulf Coast C&A Division
P.O. Box 182231
Columbus, OH 43218-2231

(ii). Payment shall be annotated to indicate the Agreement Number (contract & modification number). The payment should indicate any offsets authorized in the agreement.

11. VALUE OF THE PROPERTY.

In the event of loss of the Multivac R530, the indemnification value to the U.S. Government shall be $375,000.00.

12. MAINTENANCE OF GOVERNMENT PROPERTY.

The Contractor shall maintain the property in accordance with the appropriate Multivac Technical Manuals. The Contractor shall not cause any loss of coverage under the manufacturer's warranty. Should coverage under the warranty be lost, the Contractor shall be responsible for replacing any part that would be otherwise covered under the warranty. If replacement of a Multivac R530 component is required to maintain the Multivac R530 in usable condition, the warranty provisions from the manufacturer will be used to effect replacement. In the event that the warranty has expired or does not cover the damaged part and the damage is not caused by the negligence of the Contractor or his agents or employees, the Contractor is authorized to purchase the required part and deduct the amount of that part from the above monthly rate once the part has been delivered. If there are no commercial charges for that month, the Contractor shall carry over the amount until there is a month that has commercial charges. The replacement cost may be used as a credit only to offset rental costs. In no case will the spare part replacement be reimbursable. The Government will not provide replacement components. The determination as to the cause of the part's damage or failure is the responsibility of the Contracting Officer or designee.

13. CONDITIONS FOR RETURN OF MULTIVAC R530 TO THE U.S. GOVERNMENT.

Any repair or maintenance work required to be performed before returning property to the Government is a contractor's cost. The equipment shall be inspected by a Government representative designated by the Contracting Officer and returned to the U.S. Government via DD Form 1149.

14. The Contractor will provide operators, additional parts and maintenance at no cost to the Government.

15. The Contractor, at his own expense, shall store and maintain the equipment in good condition and repair and make all necessary replacement of components and parts during the term of the agreement. The Contractor shall furnish all lubricants, maintenance and shop usage items. The Contractor shall assume all charges for the use or maintenance of this equipment during the term of this agreement. Maintenance shall be in accordance with good manufacturing practices and paragraph 18. Contractor shall, during the term of this agreement, make no changes or alterations in the equipment, except with written consent of the Contracting Officer.

16. The Contractor shall not mortgage, pledge, assign, transfer, sublet or part with possession of the equipment in any manner to any third party either directly or indirectly, except that this provision shall not preclude the Contractor from permitting the use of the equipment by a third party with the prior written approval of the Contracting Office, and the Contractor shall not do or suffer anything whereby any of the equipment shall or may be encumbered, seized, taken in execution, attached, destroyed or injured.

17. After taking possession as provided in clause 4, the Contractor shall be solely responsible for the equipment until it is returned to the Government as provided for in this agreement. The equipment shall be returned in as good a condition as when received, reasonable wear and tear excepted. If the Contractor fails to return the equipment, the Contractor shall pay to the government the amount specified in paragraph 11 above, as the value of the equipment less the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the equipment was usable. If the Contractor returns the equipment in other than as good a condition as when received, reasonable wear and tear excepted, the Contractor shall pay to the government the amount specified in paragraph 11 as the value of the equipment less both the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the equipment was usable and the scrap value of the equipment.

18. The Contractor shall take all steps necessary to protect the interests of the Government in the equipment, and the Contracting Officer may require the Contractor, at its own expense, to take reasonable measures, including but not limited to the procurement of insurance as may be necessary to protect such interest.

19. On or before the last day of the term of this agreement or, in the event of earlier termination, as soon after termination as possible, the Contractor shall return the equipment to the location designated by the Contracting Officer. The Contractor shall be responsible and pay for all costs, including packaging, handling and transportation charges, to deliver the equipment to the designated location, except that the Contractor's responsibility for return transportation charges shall not exceed the amount required to return the property to DSCP, Philadelphia, PA. In the event the Government incurs any packaging, handling or transportation costs in the return of the property, the Contractor shall promptly reimburse the Government upon presentation of a statement thereof. In the event a return location is not provided by the Contracting Officer before the completion or revocation of this agreement, the Contractor agrees to continue to store, maintain, prepare for shipment and assume full responsibility and liability for the property, at no cost to the Government, for a period up to 60 days after expiration or revocation of this agreement.

20. The property is provided without operators. Any operators deemed incompetent by the Contracting Officer shall be barred from using the equipment.

21. In addition to the requirements set forth in any other part of this Agreement, the Contractor shall submit reports and records as required by FAR 52.245-2 Government Property (Fixed Price Contracts). These records shall be submitted in duplicate to the Administrative Contracting Officer (ACO) or his/her designee. The ACO shall provide a copy to James Lecollier, Defense Supply Center Philadelphia, Attn: DSCP-HRAA, 700 Robbins Avenue, Building 6B, Philadelphia, PA 19111-5092.

22. Upon request of the Contractor, the Contracting Officer shall furnish without charge, copies of drawings, specifications, or instructions as the Contractor may require for the operation of repair of the equipment and as may, in the discretion of the Contracting Officer, be reasonably available.

23. INDEMNIFICATION.

The Contractor shall indemnify and hold the Government harmless against claims (including reasonable expenses of litigation and/or settlement) for damages to the equipment of the Contractor or claims by third persons (including officers, agents, servants or employees of the Contractor) for death, personal injury, loss of or damage to equipment arising from Contractor's authorized or unauthorized use of the equipment and occurring during the term of the agreement. The Contractor shall assume all risk of loss, damage or destruction to the equipment. Nothing contained in this paragraph shall be deemed to affect liability of the government to its own employees. In the event of a claim or notice of legal action arising under this agreement, the party (Government or Contractor) first receiving notice of the action shall notify the other as soon as possible after receipt of said claim or notice.

24. At all times, the Contracting Officer (or authorized designee) shall have access to the job site whereon any of the equipment is situated for the purposes of inspecting or inventorying the same, or for the purpose of removing the same in the event of the termination of the agreement.

25. CONTROL AND MAINTENANCE OF GOVERNMENT PROPERTY.

The contractor shall be solely responsible for the storage and maintenance of the equipment at no cost to the Government. The provisions of Subpart 45.5 of the Federal Acquisition Regulations (FAR) and the DOD FAR Supplement that set forth requirements for establishing and maintaining control over Government equipment are incorporated by reference and made part hereof.

26. ADJUSTMENT OF RENTALS – STATE OR LOCAL TAXATION.

Except as may be otherwise provided, the rental rates established in this agreement do not include any State or local tax on the equipment herein. If and to the extent that the State and local government hereinafter make such equipment taxable by Act of Congress, then in such event the agreement shall be renegotiated.

27. Except as otherwise specified in this agreement, all notices to either of the parties to this agreement shall be sufficient if mailed in a sealed postpaid envelope addressed as follows:

To the Contractor		The Wornick Company, Prepared Foods ~~Processed Products~~ Division 10825 Kenwood Road Cincinnati, OH 45242
To the Government	TO	Mr. James A. Lecollier Defense Supply Center Philadelphia Attn: DSCP-HRAA 700 Robbins Avenue, Building 6B Philadelphia, PA 19111-5092
	COPY	DCMA Dayton Area C. Building 30 1725 Van Patton Drive Wright-Patterson AFB, OH 45433-5302

28. DEFINITIONS.

As used throughout this agreement, the following terms shall have the meanings set forth below.

a. The term "Contracting Officer" means the person executing this agreement on behalf of the Government, and any other officer or civilian employee who is properly designated Contracting Officer, and the term includes, except as otherwise provided, the authorized representative of the Contracting Officer acting within the limits of his authority.

b. The term "Administrative Contracting Officer" refers to the Contracting Officer who is responsible for administering this agreement.

29. PURPOSE.

The specific purpose of this agreement is to provide the Defense Logistics Agency / Defense Supply Center Philadelphia with surge capability in the event of a contingency, and for the Contractor to develop a commercial business base thereby reducing the Contractor's dependency on the Government, which would strengthen the retort pouch industrial base and reducing costs in the Government.

30. UNAUTHORIZED TO COMMIT U.S. GOVERNMENT.

The Contractor is not authorized to commit the U.S. Government to any transactions. Requests for sale of defense articles will be subject to established review procedures and applicable statutes and regulations.

31. APPROVAL.

This agreement shall be subject to the written approval of the Director of Contracting or his duly authorized representative and shall not be binding until approved.

32. ALTERATIONS.

The following changes were made in this agreement before the parties signed it hereto:

NONE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this day and year first above written.

UNITED STATES OF AMERICA

BY _____
CONTRACTING OFFICER

The Wornick Company
~~Processed Products~~ Division
Prepared Foods

BY _____
TITLE: V.P. Finance

ATTACHMENT 1

MULTIVAC R530 PARTS LIST

Spare parts accompanying the Multivac machine:

One (1) sealbar
One (1) set of calrod heaters for the sealbar
One (1) sealing die gasket
One (1) set of sealbar activating membranes
One (1) small parts kit of items as detailed below

Contents of the Multivac spare parts kit with each machine

QUANTITY	DESCRIPTION	DIMENSION	PART NUMBER	STOCK NUMBER
02	O-RING	ID12X2	78.301.0122.00	880328
10	O-RING	ID26X2MM	78.301.0262.00	886811
05	O-RING	ID28X2	78.301.0182.00	880412
10	O-RING	ID40X2	78.301.0402.00	883688
10	O-RING	ID58X2MM	78.301.0582.00	886810
05	O-RING	ID70X2MM	78.301.0702.00	886591
20	O-RING	ID10X3MM	78.301.0103.00	883117
20	O-RING	ID14X3MM	78.301.0143.00	883929
20	O-RING	ID22X3	78.301.0223.00	886600
20	O-RING	ID30X3	78.301.0303.00	883468
20	O-RING	ID44X3MM	78.301.0443.00	886631
10	O-RING	ID55X3	78.301.0553.00	880415
02	O-RING	ID75X2.5	78.301.0752.00	886618
02	O-RING	ID95X2.5MM	78.301.0952.50	886611
10	K-RING	D24/14X8MM	78.310.0142.40	886809
10	SHAFT SEAL	55/45X7MM	78.310.0455.50	886808
06	K-RING	40.9/50.9/3.5	80.209.4010.00	880320
06	K-RING	40MM OD	80.209.4010.10	884177
02	K-RING	60MM OD	80.209.4010.30	883410
02	SPRING	D39.8 L61	19.781.3840.00	880321
02	SPRING	D49.5X90X4.25	19.781.4249.00	886534
02	TENSION SPRING	AD24.8 L150	19.784.4024.10	880153
01	KIT—GASKET SET	SPG/92154 FOR	80.209.4082.18	886901
01	KIT—GASKET SET	FOR 80203305102	80.209.4082.19	886902
02	BRAKE PIN	D20X12MM	11.531.8410.01	886481
02	PISTON CUP D39X23	S/P 16513/39	80.275.1113.09	883072
01	TOOTHED BELT	W21 L520	79.632.2104.00	887532
01	AIR ROLLER VALVE	SPG/92485 1/8"	80.255.2112.21	885639
01	KIT—GASKET SET	F/AIR SWITCH	80.260.4780.32	886716
01	WABCO VALVE 24 VT	STANDARD TYPE	80.260.4805.00	883670
01	RELAY	(SOLID STATE)	85.631.5126.00	888503

01	TOOTHED BELT	16X375 AT5	79.633.2075.41	886543
01	TOOTHED BELT	16X660 AT5	79.633.2132.41	886545
01	PRESSURE SWITCH	W/1.5M CABLE	11.486.1105.03	886270
01	TOOTHED BELT	11X545MM	79.633.2109.11	886547
02	PROXIMITY SWITCH	NT5 30VDC R530	85.463.1025.13	886846
02	PROXIMITY SWITCH	QM/134/2M F.CYL	85.463.1012.00	887062
01	PROXIMITY SWITCH	NI10-G19-AP9	85.463.1015.50	882285
10	G-CARTRIDGE FUSE	M 0.2A C 250V	85.411.1100.38	884812
10	FUSE	2 AMP 250V	85.411.1100.48	880145
10	FUSE	6.3 AMP 250V	85.411.1100.53	881746
02	RELAY (SCHRACK)	24VDC STANDARD	85.631.5125.10	880621
01	RELAY (KACO) 24V	RB51002L703	85.631.5125.50	884843
01	RELAY (KACO)	RD19420L701	85.631.5125.51	886140
20	FORMING GASKET	3.2MM SILICONE	81.861.1210.32	880302
01	TOOTHED BELT Z50	50X1000 AT20	79.633.3050.61	886655
01	TOOTHED BELT	16X780 AT5 Z156	79.633.2156.41	887560
01	TOOTHED BELT	AT5 16X750	79.633.2150.41	887848