

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE 2		PAGE 1 OF 6		
2. AMENDMENT/MODIFICATION NO. P00009		3. EFFECTIVE DATE See Blk. 16C		4. REQUISITION/PURCHASE REQ. NO. See Block 14		5. PROJECT NO. (If applicable)	
6. ISSUED BY CODE		SPE3S1		7. ADMINISTERED BY (If other than Item 6) CODE		SPE3S1	
DLA TROOP SUPPORT SUBSISTENCE SUPPLY CHAIN 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA Initiator: Michael Olsakowski DMO0027 Tel: 2157377127 Email: Michael.Olsakowski@dla.mil				DLA TROOP SUPPORT SUBSISTENCE SUPPLY CHAIN 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA			
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)  THERMO PAC, LLC 1609 STONE RIDGE DR STONE MOUNTAIN GA 30083-1109 USA				(X)		9A. AMENDMENT OF SOLICITATION NO.	
						9B. DATED (SEE ITEM 11)	
				X		10A. MODIFICATION OF CONTRACT/ORDER NO. SPE3S1-22-D-Z148	
						10B. DATED (SEE ITEM 13)  2021 DEC 21	
CODE 0CBU1		FACILITY CODE					

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.

Offers 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)

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

CHECK ONE	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	54.243-1
	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 \_\_\_\_\_ copies to the issuing office.

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

See Continuation Sheet

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)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
		Russell Manuel	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		Russell Manuel	2023 DEC 15
		(Signature of Contracting Officer)	

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I. The following applies to contract SPE3S1-22-D-Z148.

All other terms and conditions remain the same.

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the United States Government through its agency, the Defense Logistics Agency Troop Support Philadelphia (DLA Troop Support), 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 ThermoPac, LLC (hereinafter called the contractor.)

WITNESSETH THAT, the Government and the Contractor hereby agree to the following terms and conditions hereinafter set forth, for the use of the Government-furnished property listed in paragraph 1 hereof.

1.ASSETS.  
(a)This agreement authorizes the Contractor to take possession of and retain on the premises described below (the approved premises) the Prodo-Pak Vertical Form Fill and Seal (VFFS) Machines, model PVSH 250 CSW10 serial number 1368 (the equipment or the property) for the period specified in paragraph 9 below. The approved premises shall be the Contractor's plant located at:

ThermoPac, LLC  
1609 Stone Ridge Drive  
Stone Mountain, GA 30083.

(b)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.

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

3.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. 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 FAR 45.301). 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%

DLA Troop Support has been delegated the approval for commercial use. DLA Troop Support must approve commercial use exceeding 25% of the time available for use, as determined in accordance with FAR 45.301. 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 FAR 45.301, should specify the duration of use exceeding 25% requested and should be submitted at least six weeks before the projected use.

4.RESTRICTIONS.  
(a)The property shall be restricted to the limitations of the applicable Prodo-Pak VFFS 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.

5.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 its 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.

6.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

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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 3, Usage, above, except to the extent authorization is specifically granted in that paragraph.

7.RENTAL CHARGES.

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.

(a)The Contractor shall be responsible for maintaining usage records and providing such records, which are certified by the resident USDA Inspector or designated Defense Contract Management Command (DCMC) official, to the PCO (Attn: Tiendung Nguyen; Tiendung.nguyen@dla.mil) with a statement describing the rental fee due, and a certified check in accordance with Paragraph 7(f) 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 statement of non-usage no later than the 10th day after each such month.

(b)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 7(a)

(c)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.

(d)Failure of the Contractor to provide the information required by paragraph b, above, to the PCO (Attn: Tiendung Nguyen (Tiendung.nguyen@dla.mil) by the 10th of each succeeding month shall result in a rental charge for the month not reported on, of \$7,295.00, which equals 1% of the purchase price.

(e)Payment of rent for the equipment will be made by check in the following manner:

(i). For the PVSH 250 CSW10 use cost under paragraph 5 above submit to:

DLA Troop Support (FTRC)  
700 Robbins Avenue, Building 6B,  
Attn: Tiendung Nguyen  
Philadelphia, PA 19111-5092

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

8.VALUE OF THE PROPERTY.

In the event of loss of the PVSH 250 CSW10, the indemnification value to the U.S. Government shall be \$729,440.00.

9.MAINTENANCE AND MODIFICATION OF GOVERNMENT PROPERTY.

(a)The Contractor shall maintain the property in accordance with the appropriate 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 PVSH 250 CSW10 component is required to maintain the PVSH 250 CSW10 in usable condition, the warranty provisions from the manufacturer will be used to effect replacement. The Government will not provide replacement components.

(b)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 or repair of the equipment and as, in the discretion of the Contracting Officer, may be reasonably available.

(c)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.

(d)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 9. Contractor shall, during the term of this agreement, make no changes or alterations in the equipment, unless the exceptions in FAR 52.245-1(c)(2) apply or with written consent of the Contracting Officer.

(e)The Contractor is not authorized to effect any nonstandard modifications to the property without the written consent of the Contracting Officer, except as authorized below.

(i)Contractor is authorized to repair, modify, and/or alter the Vertical Form Fill & Seal Machine, Model PVSH250 CSW10 in order to get it in usable condition and to modify the equipment from a single roll Vertical Form Fill & Seal

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Machine to a double roll Vertical Form Fill & Seal Machine, and Contractor is liable for all costs affiliated with these repairs, modifications, or alterations. The Government is not liable for any prior or future costs the Contractor has incurred or may incur for such Contractor repairs, modifications, or alterations to the Vertical Form Fill & Seal Machine. Any other modifications or alterations of the Vertical Form Fill & Seal Machine for any other purposes not listed here are prohibited, unless the exceptions in FAR 52.245-1(c)(2) apply.

(f)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.

10.OPERATORS.  
The property is provided without operators. The Contractor will provide operators, additional parts and maintenance at no cost to the Government. Any operators deemed incompetent by the Contracting Officer shall be barred from using the equipment.

11.CONDITIONS FOR RETURN TO THE U.S. GOVERNMENT.  
(a)After taking possession, 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 8 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 8 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.

(b)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.

(c)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 a 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 DLA Troop Support, 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.

12.THIRD PARTY USE.  
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.

13.REPORTS AND RECORDS.  
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 52.245-1(f) Government Property (Fixed Price Contracts). These records shall be submitted to the Administrative Contracting Officer (ACO) or his/her designee. The ACO shall provide a copy to Tiendung Nguyen, DLA Troop Support, Philadelphia, Tiendung.nguyen@dla.mil

14.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.

15.ACCESS TO JOB SITE.  
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.

16.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.

17.NOTICES.  
Except as otherwise specified in this agreement, all notices to either of the parties to this agreement shall be

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<p>sufficient if emailed to the parties at the email addresses below or mailed in a sealed postpaid envelope addressed as follows:</p> <p>To the Contractor:</p> <div>ThermoPac, LLC 1609 Stone Ridge Drive Stone Mountain, GA 30083</div> <div>Email: Llis@AMERIQUAL.com</div> <p>_____</p> <p>To the Government:</p> <div>Mr. Tiendung Nguyen DLA Troop Support Philadelphia Attn: Operational Rations-FTRC 700 Robbins Avenue, Building 6B Philadelphia, PA 19111-509</div> <div>Email: Tiendung.nguyen@dla.mil</div> <p>18.ADDITIONAL CLAUSE The following clauses to the contract:</p> <div>FAR 52.245-1 Government Property FAR 52.245-9 Use and Charges DFARS 252.211-7007 DFARS 252.245-7001 DFARS 252.245-7002 DFARS 252.245-7003 DFARS 252.245-7004</div> <p>19.DEFINITIONS. As used throughout this agreement, the following terms shall have the meanings set forth below.</p> <div>(a) "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.</div> <div>(b) "Administrative Contracting Officer" refers to the Contracting Officer who is responsible for administering this agreement.</div> <p>20.PURPOSE. The specific purpose of this agreement is to provide the Defense Logistics Agency / DLA Troop Support, 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.</p> <p>21.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.</p> <p>22.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.</p> <p>IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this day and year first above written.</p> <div>UNITED STATES OF AMERICA<div>ThermoPac, LLC</div></div> <div>BY _____<div>CONTRACTING OFFICER</div></div> <div>BY _____<div>TITLE:</div></div>		

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SECTION J - LIST OF ATTACHMENTS

List of Attachments

Description	File Name
ATTACH__	Government Furnished Equipment - Memorandum for Record for Contract SPE3S1-22-D-Z148 and SPE3S1-21-D-Z131 -