



# Service Contract

Remel Inc. 12150 Santa Fe Tr Dr., Lenexa KS 66215  
Part of Thermo Fisher Scientific

Customer Service (800) 871-8909

County of Monterey on behalf of Natividad  
Customer Med Center  
City Salinas State CA  
Contact Name Salvador Cervantes  
Contact Phone/E-mail cervantess@natividad.com

Quote Reference # 418485-042418  
Date 4/24/2018  
Valid Until 4/17/2018

Requested Activity (Act)			
Instrument	Serial #		Description
Y52814	1169314901170220		VERSATREK 528 W/14 DRAWERS
Y611031	5MKFND2		VT COMPUTER PKG, CLINICAL/VET

Estimate				
Part#	Qty	Description	Unit Price	Extension
523219	1	Service Contract Annual Fee - VersaTREK	\$ 7,424.00	\$ 7,424.00
			\$	-
			\$	-
			\$	-
			\$	-

**Terms And Conditions**

Unlimited on-site Field Service and Technical Support  
Remote Diagnostics  
One (1) Preventative Maintenance visit including all PM supplies  
Coverage during standard business hours - Mon-Fri (excludes weekends and holidays)  
All replacement parts, labor, and travel expenses are included  
Software upgrades included

**Instructions**

Email purchase order to **Robert.smith@thermofisher.com**

Purchase Order address: **Remel Inc. 12076 Santa Fe Dr, Lenexa, KS 66215**

Remel Inc is part of Thermo Fisher Scientific

Please use FAX# (216) 351-5456 only for non-urgent repair requests.  
**E-mail is preferred.**

Customer agrees to the above Terms & Conditions by providing a purchase order against this quote **Total (plus applicable taxes) \$ 7,424.00**

Authorized Manager (Thermo Fisher Scientific) \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_  
Customer(Print Name) \_\_\_\_\_ Signature (If required) \_\_\_\_\_ Date \_\_\_\_\_

Reviewed as to fiscal provisions  
*[Signature]*  
Auditor/Controller  
County of Monterey  
1 of 1  
5-3-18

*[Signature]*  
COUNTY CLERK  
COUNTY OF MONTEREY

## TERMS AND CONDITIONS OF SERVICE

Remel Inc., a part of Thermo Fisher Scientific (hereinafter defined as "Thermo Fisher") agrees to perform and Customer agrees to pay for the servicing of equipment subject to the following terms and conditions. This order shall be deemed accepted upon the signature of customer's acceptance of the Thermo Fisher copy of this order or the commencement of Service by Thermo Fisher.

*The term of this agreement shall be for a period of twelve (12) months, from July 1, 2018 through June 30, 2019, unless terminated earlier by either party by providing thirty (30) days prior written notice. Termination or expiration of this agreement shall not relieve Customer of any obligations incurred prior to the effective date of termination.*

1. Service Thermo Fisher shall repair those instruments identified which are not operating and restore them to product specifications as determined by Thermo Fisher within the 48 contiguous United States and the District of Columbia, Monday through Friday (excluding Thermo Fisher holidays) during the hours of 8:00 a.m. to 5:00 p.m. local standard time ("Normal Hours"). For service calls requested outside of Normal Hours or weekends or nationally observed holidays, Thermo Fisher will bill Customer at Thermo Fisher's after-hours service rate. Upon request by Customer, Thermo Fisher shall provide a list of holidays to Customer at the beginning of each calendar year.

(a) Employees and agents of Thermo Fisher shall, while on the premises of the Customer, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

(b) No repairs or modifications have been made by anyone other than an authorized Thermo Fisher Service Representative.

(c) The instrument was installed within ninety (90) days of shipment from the manufacturer's or dealer's location, whichever applicable, and was installed by an authorized Thermo Fisher Service Representative when required by Thermo Fisher.

(d) Any replacements by Thermo Fisher do not extend the original warranty period.

(e) During the applicable warranty period, Thermo Fisher shall, at its cost repair those instrument malfunctions which occur notwithstanding that the instrument is being operated in accordance with Thermo Fisher's instruction manual for such instrument. Thermo Fisher shall ship a manual with each device at no additional cost to Customer. A service call shall be considered complete when Thermo Fisher demonstrates by an appropriate test procedure that the instrument is operating in accordance with its performance specifications. Thermo Fisher shall provide to the customer a copy of the Field Service Report detailing the work performed by Thermo Fisher's Field Service Representative. Thermo Fisher reserves the right to make any changes in the design or construction of this instrument at any time, without any obligation.

(f) Thermo Fisher warrants that instrument service rendered by Thermo Fisher to the customer hereunder shall be performed by Thermo Fisher in a workmanlike manner resulting in satisfactory instrument performance.

### 2. Payment

(a) Customer agrees to make payment of the total charge as a single payment within thirty days from receipt of a certified invoice by the Monterey County Auditor-Controller. Charges are exclusive of all state, local, use, excise and other taxes. Any such tax shall be paid by the Customer unless the Customer furnishes a valid exemption certificate to Thermo Fisher.

### 3. Replacement Parts

There shall be no charge to Customer for parts provided by Thermo Fisher for warranty service repair, other than supplies of consumables, customer maintenance items, printer paper, pens, specialized lamps and fuses. Any additional charges that are not covered by the Service Contract will be quoted by the Field Service Representative and the Customer has the option to initiate an amendment to include additional costs. Any and all future amendments shall be agreed to in writing by both parties. Thermo Fisher provides a three (3) month warranty with replacement parts.

### 4. Key Operator

Customer shall designate a key operator who shall be made available to Thermo Fisher to describe instrument malfunctions to Thermo Fisher Representatives by telephone and who shall be qualified to perform simple adjustments and corrections as requested by Thermo Fisher's representatives. Failure to designate a key operator or to perform customer maintenance as specified in the instrument instruction manual, may result at Thermo Fisher's option in a service call.

### 5. Equipment Modification

Thermo Fisher reserves the right to make any changes in the design or construction of Thermo Fisher's instruments without incurring any obligation to make any changes whatsoever in the instruments described in this agreement. User agrees to allow Thermo Fisher at Thermo Fisher's expense to make retrofits or design changes which improve instrument reliability but do not change instrument performance characteristics.

### 6. Limitations

(a) Exceptional Causes of Equipment Malfunction. Repair of equipment malfunction for the following abnormal conditions is not covered by this Agreement and shall be performed by Thermo Fisher at its current service rate for labor and parts:

i. Shipping damage incurred enroute to Customer's site or because of moving equipment. Thermo Fisher shall promptly provide a cost estimate for repairs to the consignee for filing claims to carriers for shipping damage.

ii. Flood, lightning, earthquake, tornado, hurricane or fire, bombing, armed conflict, malicious mischief, sabotage or other natural or manmade disasters.

iii. Physical abuse, misuse, sprinkler damage, electrical surge or abnormal power variation.

iv. Repairs, maintenance, or modifications made by anyone other than Thermo Fisher trained personnel or without Thermo Fisher's supervision and/or approval.

v. Relocation and reinstallation of equipment are not covered under this Agreement; although upon request Thermo Fisher, shall supervise the removing, crating, relocation and reinstallation of equipment at Thermo Fisher's current service rate.

(b) Maintenance or replacement of media (i.e., floppy disks, plotter supplies, etc.) whatever the reason for loss, failure or damage is not covered by this

Agreement.

- (c) The servicing of non-Thermo Fisher material or equipment is not covered by this Agreement. This includes non-Thermo Fisher material or equipment purchased for Engineering Specials.
- (d) Beta-site support is not covered by this Agreement.
- (e) Unless Customer is under a current written service agreement which covers service calls, service calls made to train operators, not equipment malfunction, are not covered by this Agreement.

#### 7. Warranty

Subject to the conditions set forth in this Agreement, Thermo Fisher warrants that Service rendered by Thermo Fisher to the Customer hereunder shall be performed by Thermo Fisher in a workmanlike manner and thereafter, the instrument shall perform in accordance with its published specifications for ninety (90) days from date of Service. Thermo Fisher's sole obligation under this Agreement is to provide Service as described in Section 1, Service. THERMO FISHER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY REPLACEMENTS BY THERMO FISHER DO NOT EXTEND THE ORIGINAL WARRANTY PERIOD.

#### 8. Indemnification and Limitation of Liability

Thermo Fisher agrees to indemnify, defend and save Customer, its officers, directors, employees, agents and representatives harmless from all losses, expenses, demands and claims made against Customer, its officers, directors, employees, agents and representatives because of any personal injuries, death or property damage to the extent it is caused by the negligence or willful misconduct by Thermo Fisher, its employees, agents or representatives in connection with its performance of services.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING BUT NOT LIMITED TO, LOST PROFITS AND BUSINESS INTERRUPTION), REGARDLESS OF WHETHER EITHER PARTY: (A) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) IS NEGLIGENT. IN NO EVENT WILL THERMO FISHER'S TOTAL LIABILITY EXCEED THE TOTAL CHARGE OF THIS SERVICE ; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION DOES NOT APPLY TO EITHER PARTY'S LIABILITY IN THE EVENT (a) ITS PRODUCTS INFRINGE A THIRD PARTY'S U.S.-BASED INTELLECTUAL PROPERTY RIGHT; (b) PERSONAL INJURIES SUSTAINED BY THIRD PARTIES ARE CAUSED BY EITHER PARTY'S NEGLIGENCE OR WILLFUL MISCONDUCT; OR (c) EITHER PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS.

#### 9. Insurance

9.1 Thermo Fisher maintains insurance policies which have the following minimum limits and coverage:

- (a) Comprehensive general liability insurance for a limit of \$1,000,000 (one million) for each occurrence and \$2,000,000 (two million) in the aggregate,
- (b) Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- (c) Workers' Compensation Insurance, If Thermo Fisher employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

9.2 Other Insurance Requirements

All insurance required by this Agreement shall be with a company rated A or better by AM Best and reasonably acceptable to Customer and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Thermo Fisher completes its performance of services under this Agreement.

Customer shall be given notice in writing at least thirty days in advance of any reduction in coverage or limit, cancellation, or intended non-renewal thereof by Thermo Fisher. Each policy shall provide coverage for Thermo Fisher and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide a certificate of insurance naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance, but only to the extent required by written contract.** The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99. Blanket endorsements are acceptable.

Prior to the execution of this Agreement by Customer, Thermo Fisher shall file certificates of insurance with Customer's Contracts/Purchasing Department, showing that the Thermo Fisher has in effect the insurance required by this Agreement. Thermo Fisher shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Thermo Fisher shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Customer, annual certificates to Customer's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Client shall notify Thermo Fisher and Thermo Fisher shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Thermo Fisher to maintain such insurance is a default of this Agreement, which entitles Customer, at its sole discretion, to terminate the Agreement immediately.

#### 10. Customer Responsibilities

- (a) Customer shall provide Thermo Fisher personnel reasonable access the equipment whenever service is required. Customer shall cooperate with Thermo Fisher personnel so that service can be performed efficiently and without interruption.
- (b) Thermo Fisher shall be allowed use of Customer equipment which Thermo Fisher personnel deem necessary for performance of service.
- (c) Customer shall be responsible for the procurement, installation, and maintenance of all non-Thermo Fisher communication media including but not limited to telephone and communication equipment for the remote transmission of data. Charges for such equipment or media in connection with the



performance of service under this Agreement shall be borne by Customer.

**11. General**

- (a) Thermo Fisher agrees not to knowingly disclose any information or data obtained pursuant to the performance of this Agreement when such information or data is clearly identified as proprietary. Confidential information of Thermo Fisher does not include information that is or becomes publicly known or available as a result of Customer's proper compliance with the California Public Records Act.
  - (b) Thermo Fisher reserves the right to determine the assignment of its employees in the performance of this Agreement.
  - (c) Neither party shall assign this Agreement without prior written consent of both parties.
  - (d) This document constitutes the complete and exclusive agreement between Thermo Fisher and the Customer concerning the servicing of equipment and no addition to or modification of any provision of this Agreement shall be binding on Thermo Fisher unless made in writing and signed by a duly authorized representative of Thermo Fisher.
  - (e) This Agreement shall be governed by the internal laws of the State of California. Customer consents to venue and jurisdiction over any action related to this Agreement in United States District Courts located in the county of Monterey.
- Any provision(s) of this Agreement which in any way contravenes the law of any state or country in which this Agreement is effective shall to the extent of such contravention of law, be deemed separable and shall not affect any other provision or the validity of this Agreement.