



LAERDAL MEDICAL CORPORATION
("LAERDAL")

Subscription:
Turnkey SimCapture®
Cloud Subscription Service

CUSTOMER (Enter Company's Full Legal Name): County of Monterey, on behalf of Natividad Medical Center (hereinafter the " Customer ")		
	Customer Contact Information:	Billing Contact Information: (if different from Customer contact)
Attention:	Larissa Bradford	Natividad Accounts Payable
Address:	1441 Constitution Blvd	N/A
City, State/Province, Zip/Post Code:	Salinas, CA 93906	N/A
Phone:	831-783-2854	N/A
Fax:	N/A	N/A
Email:	bradfordle@natividad.com	accountspayableemail@natividad.com

Initial quote # Q-681120

This MSA covers all future quotes for Turnkey SimCapture® Cloud Subscription Service and will take precedence over any previous MSA.

Start Date	The date of completion of Implementation Service
Initial Term (Minimum period of 60 months commencing on Start Date)	60 months
Payment Schedule	All software and services will be billed at the pricing and in accordance with the payment schedule set forth in Exhibit E: SimCapture Cloud Service Subscription Order Form as per Quotes Q-681120

1. **Subscription Terms.** Each Order Form is governed by and incorporates the following documents collectively referred to as the Agreement.
 - (i) Order Form; and
 - (ii) LAERDAL Service Terms including all Exhibits. Exhibits B and C will require customer signature later in the Implementation process. The Agreement consists of the following Exhibits attached hereto, and incorporated herein by this reference:
 - Exhibit A: Statement of Work
 - Exhibit B: Technical Services (template)
 - Exhibit C: Installation checklist (template)
 - Exhibit D: Support and Maintenance Services
 - Exhibit E: SimCapture Cloud Service Subscription Order Form as per Quotes Q-681120

All capitalized terms used herein have the meanings stated in the Agreement.

2. **Payment Terms.**

- 2.1 All Subscription Fees and Hardware and Implementation Service Fees are invoiced at time of shipment. LAERDAL shall submit to the Contract Administrator an invoice on a form reasonably acceptable to Customer. If not otherwise specified, the LAERDAL may submit such invoice periodically or at the completion of services, but in any event, not later than 90 days after completion of services. The invoice shall set forth the amounts claimed by LAERDAL for the previous period, together with an itemized basis for Administrator or

his or her designee shall certify the invoice, either in the requested amount or in such other amount as Customer approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

- 2.2 In the event that Customer requests that LAERDAL personnel travel to provide services pursuant to this Agreement onsite at the Natividad Medical Center campus, LAERDAL shall be reimbursed for reasonable travel expenses subject to the terms and conditions of the Monterey County Travel and Business Expense Reimbursement Policy. A copy of the policy is available online at <https://www.co.monterey.ca.us/government/departments-a-h/auditor-controller/policies-and-procedures>. To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

2.3 Purchase Orders.

- a. Required. If Customer enters into an Order Form and requires a purchase order number on its invoice(s), then Customer will inform LAERDAL in advance and will issue a purchase order number to LAERDAL prior to commencement of the Subscription Service. LAERDAL will not be obligated to commence the Service prior to receipt of the purchase order number. Any terms and conditions (other than the purchase order number) contained in a Customer's purchase order will not apply to this Agreement and will be considered null and void. The terms of this Agreement will apply to any customer purchase order.

- 2.4 Risk Upon Shipment. The grant of license to the Subscription Service to Customer commences upon the Start Date. The transfer of title to the hardware components of the Service occurs upon delivery of the hardware components to location designated by Customer.

3. Additional Order Form(s). Additional hardware and/or Services may be purchased by Customer and LAERDAL entering into additional Order Forms which shall be subject to the LAERDAL Service Terms including Exhibits.

4. Each party agrees to be bound by the terms of this Agreement.

LAERDAL SERVICE TERMS

DEFINITIONS

"Affiliate" includes in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party.

"Authorized User" means those individual users of the Service limited to Customer, its employees, faculty, students and others participating in Customer's simulation training activities all of whom are expressly authorized by Customer to use the Service.

"Order Form" means the first pages of this Agreement noted as Subscription Order Form.

"CFE" means the Customer furnished equipment and services defined in Exhibit B necessary for the Service.

"Customer Data" means any Customer data, information or material submitted to LAERDAL or inputted by the Customer or by any Authorized User into the Service for the purpose of using the Service or facilitating the Customer's use of the Service or any Output as defined below.

"Data Protection Legislation" means the General Data Protection Regulation EU 679/2016, California Consumer Privacy Act, Cal. Civil Code § 1798.100 *et seq.* and all federal, state and local legislation which applies to a party relating to the use of personal data.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organizational measures is as defined in the Data Protection Legislation.

"Customer Representative" means a person duly authorized by the Customer to act on its behalf for the purposes of this Agreement and notified to LAERDAL as such by written notice.

"Documentation" means the then current explanatory and informational materials concerning the Service, in printed or electronic format, and which LAERDAL has released for general distribution to its customers.

"Effective Date" means the date specified as such in the Order Form.

"Hardware Fee" means the fee listed as such on the Order Form in respect of the hardware supplied by LAERDAL for use with the Service.

"Implementation Service" means the implementation and training services detailed in Exhibits A, B and C.

"Implementation Service Fee" means the fee listed as such on the Order Form in respect of the Implementation Service Fee.

"Initial Term" means the initial term of this Agreement as set forth on the Order Form commencing from the Start Date.

"Intellectual Property Rights" means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, including moral rights and similar rights.

"Laerdal Hardware Form Factor(s)" means the LAERDAL owned equipment found on the Order Form.

"Normal Working Hours" means 8:00AM – 8:00PM EST Mon- Fri

"Output" means the results generated through use of the Subscription Service.

"Parties" means the Customer and LAERDAL.

"Renewal Term" means any additional periods of this Agreement after the Initial Term as described in Section 9.1 being a period of twelve (12) months commencing on an anniversary of the Start Date.

"Service" means the Subscription Service (including the support and maintenance service set out in the SimCapture milestones) and the Implementation Service, as may be modified by LAERDAL from time to time.

"SimCapture" or **"SimCapture Subscription Software"** mean the online software applications used or made available by LAERDAL to provide the Subscription Service including any enhancements, updates or new versions.

"Start Date" means the date by which Laerdal has completed the Implementation Service or one hundred and eighty (180) days from the Effective Date, whichever is the earlier.

"Subscription Fee" means the annual fees for the Subscription Service which are set in the Order Form for the Initial Term and are thereafter adjusted on an annual basis for any Renewal Term in accordance with Clause 3.2 of this Agreement.

“Subscription Service” means (i) the online software application subscription service including the SimCapture Subscription Software offered by LAERDAL listed on the Order Form to the Customer via the Web Site together with the use by the Customer of the Laerdal Hardware Form Factor(s) and (ii) the support and maintenance services detailed in the SimCapture milestones which commence on completion of the Implementation Service.

“Term” has the meaning given to it in Clause 9.1 (being the Initial Term together with any subsequent Renewal Term).

“Third-Party Service” any data, information or material submitted or provided by LAERDAL via the Service authored or provided by or from any third party.

“Electronic Storage Allotment” means the maximum electronic storage allotment provided to Customer for the storage and hosting of Customer’s electronic files as part of the Subscription Service provided hereunder.

“Web Site” means the web site(s) through which the Subscription Service is made available to Customer or any other website notified to the Customer by LAERDAL from time to time.

1. SERVICE

1.1 **Access to and Use of the Service.** Subject to the terms of this Agreement, LAERDAL shall provide the Implementation Service and the Subscription Service and LAERDAL hereby grants to Customer the non-exclusive, non-transferable right to use and access (and to permit Authorized Users to use and access) the Subscription Service via a designated Web Site and the Laerdal Hardware Form Factor(s) solely for the benefit of Customer’s own training purposes in simulated environments or using simulation technologies PROVIDED ALWAYS that the use of the Subscription Service will not involve actual patients in any clinical setting. Customer acknowledges that the title and ownership of the Laerdal Hardware Form Factor(s) will remain with Laerdal at all times.

1.2 **Hosting and Electronic Storage Allotment.** LAERDAL shall, as part of the Service, provide the Customer with the Subscription Service. Hosting fees for the Subscription Service are included in the Subscription Fee unless the Customer requires a dedicated server due to the size of the installation or for other purposes. In the event that Customer requires a dedicated server, additional hosting fees will be applicable for the Subscription Service as detailed in the Order Form approved and signed by both Parties. The Electronic Storage Allotment for Customer is 20 TB on the cloud.

1.3 **Authorized Users.** Customer must ensure that only Authorized Users have access to and use of the Service. If the Customer is notified or becomes aware that an unauthorized user and/or third party has gained access to or used the Service, Customer shall promptly notify LAERDAL. Customer shall take all reasonable steps to ensure that no Authorized Users shall take any action in breach of this Agreement. Such steps shall include, but shall not be limited to, imposing password restrictions on use of the Service, securing the Customer’s system, and administering and monitoring use of the Service. Customer shall ensure that all Authorized Users comply with this Agreement, and shall be liable for all acts or omissions by such Authorized Users.

1.4 **Reporting.** Customer shall promptly report to LAERDAL any actual or suspected violation of Clause 1.1, 1.2 or 1.3 above and shall take such further steps as may reasonably be requested by LAERDAL to prevent or remedy any such violation.

1.5 **Restrictions.** Customer shall not (a) use the Service in any manner which is not expressly authorized by this Agreement or which breaches any applicable law; (b) copy or reproduce any SimCapture Subscription Software, in whole or in part (excluding reports generated by the Service Output functions); (c) modify, translate or create derivative works of any SimCapture Subscription Software, either directly or through any third party, including but not limited to translated or localized releases of the Product; (d) reverse engineer, decompile, disassemble or otherwise reduce any SimCapture Subscription Software to source code form; (e) distribute, sublicense, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes or otherwise transfer the Subscription Service or Customer’s right to access and use SimCapture Subscription Software; or (f) remove or modify any copyright, trademark or other proprietary notice of LAERDAL or its licensors on the Output or contained within SimCapture Subscription Software; (g) provide access to the Hardware or SimCapture to any party other than Authorized Users; or (h) access the Hardware or SimCapture in order to (A) build a competitive product or service, or (B) copy any ideas, features or functions. Customer acknowledges that the Service is a training tool and shall not use the Service to diagnose, treat, cure, mitigate, or prevent a disease or condition of a patient.

1.6 **Cooperation.** Customer acknowledges that the rendering of the Implementation Services and the Subscription Services will require the good faith cooperation of Customer. Therefore, Customer agrees to provide all information reasonably requested by LAERDAL in order to perform the Implementation Services and the Subscription Services. LAERDAL may rely upon all decisions and approvals from Customer, and LAERDAL shall not be liable for any matter as a result of following Customer’s specific instructions.

2. INTELLECTUAL PROPERTY RIGHTS AND RESTRICTIONS

Ownership of Intellectual Property. The Customer acknowledges and agrees that the Subscription Service and all SimCapture Subscription Software used hereunder is and shall at all times remain, the sole and exclusive property of LAERDAL or its licensors, including, without limitation, all worldwide Intellectual Property Rights embodied in, related to, or represented by, the Service or any version thereof. Customer may from time to time provide suggestions, comments, improvements, enhancements, or other feedback to LAERDAL regarding the Hardware or SimCapture (“Feedback”). Feedback is and shall be given entirely voluntarily. LAERDAL shall be free to use, disclose, reproduce, modify, adapt, creative derivative works from, license, sublicense (through multiple tiers) or otherwise distribute, and exploit the Feedback provided to it as it sees fit for any purpose (for its own benefit and for the benefit of others) on a worldwide, royalty-free basis, in perpetuity, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise. LAERDAL shall not publish any such material in a manner that identifies Customer without the prior written approval of Customer.

3. FEES

3.1 **Fees.** All Software and Services will be billed at the pricing and in accordance with the payment schedule set forth Exhibit E: “SimCapture Cloud Service Subscription Order Form” as per Quote Q-681120 and shall adhere to the payment terms set forth herein Section 2.1 “Payment Terms”. Total Agreement amount not to exceed \$21,273.

3.2 **Increases to Subscription Fee.** Negotiations for rate changes shall be commenced, by LAERDAL, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the Customer and LAERDAL

3.4 Taxes. Customer is responsible for any taxes related to its purchase of the Service and the Customer will pay the Subscription Fee without any reduction for taxes. If LAERDAL is obligated to collect or pay any such taxes, the taxes shall be invoiced to Customer unless Customer provides LAERDAL with a valid tax exemption certificate by the appropriate taxing authority. If Customer is required by law to withhold any taxes from its payments to LAERDAL, Customer must provide LAERDAL with an official tax receipt or other appropriate documentation to support such withholding.

4. CUSTOMER DATA

4.1 Customer Data Ownership and Warranty. LAERDAL and Customer acknowledge that all Customer Data entered and used with the Service is and shall remain the property of Customer and nothing in this Agreement shall restrict Customer's use of its Customer Data. Customer Data shall be considered Confidential Information subject to the terms of this Agreement. LAERDAL shall have no responsibility for the accuracy, quality, legality, reliability, integrity or appropriateness of Customer Data that is not personal data. LAERDAL and its licensors are not liable or responsible for any results generated using Customer Data or Output. Customer represents and warrants that (a) it has the authority and right to transmit Customer Data to LAERDAL and to grant the license under Section 4.2, and has collected and processed all Customer Data in compliance with all laws, rules and regulations, including Data Protection Legislation; and (b) the use of Customer Data will not infringe the intellectual property rights or other proprietary rights of any third party.

4.2 License to LAERDAL. Subject to the terms and conditions of this Agreement, Customer grants LAERDAL and its Affiliates a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable right to use display, transmit, modify and prepare derivative works of the aggregated or de-identified Customer Data and Output in any media. LAERDAL may aggregate and/or de-identify Customer meta-data with similar data from other customers and third parties to create anonymous or aggregated meta-data that does not identify any individual or the metrics or information pertaining to any individual or its domain ("Aggregated Meta-Data"). LAERDAL will own all rights to Aggregated Meta-Data, and has the irrevocable right to maintain, store, use and disclose Aggregated Meta-Data.

4.3 Use of Third-Party Service. LAERDAL shall have no responsibility for the accuracy, quality, integrity, legality, reliability, or appropriateness of Third-Party Service and LAERDAL shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of any Third-Party Service. Customer acknowledges that use of any Third-Party Service generated, obtained or acquired through the use of the Services is at Customer's sole risk and discretion. LAERDAL and its licensors are not liable or responsible for any results generated using Third-Party Service.

4.4 Confidentiality. Each party and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. Neither party shall disclose any confidential records or other confidential information received from the other party or prepared in connection with the performance of this Agreement, unless the other party specifically permits it to disclose such records or information. Each party shall promptly transmit to the other party any and all requests for disclosure of any such confidential records or information. Neither party shall use any confidential information gained by it in the performance of this Agreement except for the sole purpose of carrying out its obligations under this Agreement.

4.5 Data protection.

SimCapture is not intended to be used or to ever be used to store protected health information or other patient data. Customer instructs LAERDAL to process, transmit, store or disclose the Customer Data in order to provide the Service. Customer is solely responsible for determining the suitability of the Service for the Customer's needs and for complying with any applicable data privacy and data protection regulations, laws or conventions applicable to the Customer Data and the Customer's use of the Service. LAERDAL may access Customer Data solely to respond to service or technical problems or at the Customer's request.

5. LAERDAL'S OBLIGATIONS

5.1 General. LAERDAL undertakes that the Service will be performed substantially in accordance with the Documentation. Substantial performance is not met if there is a material breach by LAERDAL.

5.2 Availability. Subject to scheduled outages for maintenance and other announced downtime, LAERDAL shall make the Service available for use by Authorized Users as contemplated in this Agreement 99.5% of the time each calendar month of the Term (the "Availability Requirement"). The Availability Requirement will not include downtime due to force majeure events, routine maintenance, or emergency maintenance; provided that any downtime for routine or emergency maintenance in excess of four hours in any calendar month shall not be excluded from the Availability Requirement. In the event the Services are not available 99.5% of the time, but are available at least 99% of the time, then in addition to any other remedies available under this Agreement or applicable law, LAERDAL shall issue Customer a credit in the amount of ten percent (10%) of the fees paid by Customer in the month in which the failure occurred. In the event the Service is not available at least 98% of the time, then in addition to any other remedies available under this Agreement or applicable law, LAERDAL shall issue Customer a credit in the amount of twenty percent (20%) of the fees paid by Customer in the month in which the failure occurred. In the event Availability is less than 98%, the credit shall be thirty percent (30%). Additionally, in the event LAERDAL fails to achieve the Availability Requirement during any two months in a rolling four-month period or in the event Service Availability falls below 98% in any single month or less than 99% in any two out of four months, then, in addition to and cumulative of all other remedies available to Customer, Customer may terminate this Agreement for material, non-curable breach, without further obligation, on written notice to LAERDAL. The credit may be used against future fees due from Customer; provided that in the event of termination, LAERDAL shall refund any unused credits to Customer in cash. Customer may, in its sole discretion, elect to (i) receive the foregoing credit as LAERDAL's sole and exclusive liability and Customer's sole and exclusive remedy for the failure; or (ii) waive the credit and pursue all remedies available to Customer under the Agreement. The remedies available to Customer in the preceding sentence are conditional upon Customer notifying LAERDAL of the unavailability of the Service in writing within 72 hours of becoming aware of such Service outage and providing LAERDAL with sufficient documentation of the Service outage to enable LAERDAL to reproduce and verify the same.

5.3 Limitation. LAERDAL's undertaking in clause 5.1 above shall not be applicable in the event that any outage or Service failure arises from (a) any modification to the Service not made by or at the direction of LAERDAL (b) use of the Service in a manner not described in the Documentation or this Agreement, (c) use of the Service in any unlawful, improper or inappropriate manner or for any unlawful, improper or inappropriate purpose, (d) as a result of the negligence or intentional misconduct of Customer, (e) any data, equipment, software, service or resource not provided by LAERDAL or (f) any interruptions of access to the Subscription Service due to poor network connectivity.

5.4 Remedies for Loss of Customer Data. In the event that there is a loss or corruption of Customer Data directly caused by use of or access to the Service, LAERDAL will use commercially reasonable efforts to restore or correct such Customer data. If LAERDAL is unable to correct or restore such data, Customer's sole and exclusive remedy shall be to terminate this Agreement for material, non-curable breach, without further obligation, on written notice to LAERDAL and upon such termination LAERDAL shall refund to Customer a pro-rated portion of the Subscription Fee.

5.5 Customer Security. For hardware and related systems located on or accessible from Customer's premises, Customer is solely responsible for implementing adequate firewall, password and other security measures to protect Customer's systems, data and applications from unwanted intrusion, whether over the Internet or by other means. In the event any unauthorized access to the Subscription Services is suspected by Customer, it shall notify LAERDAL in writing within 72 hours of discovery of the unauthorized access and fully cooperate with LAERDAL in order to investigate and remediate such access.

5.6 Dependencies. Customer acknowledges and agrees that (a) the Service requires access to and use of the Internet and that the Internet is an unregulated, public network over which LAERDAL exerts no control and (b) LAERDAL has no responsibility for operating and maintaining Customer's servers, personal computers or other devices and their connection to the Internet to access and use the Service.

6. CUSTOMER OBLIGATIONS

6.1 Access. The Customer shall provide LAERDAL with all necessary access to Customer site, information and cooperation as may be required by LAERDAL in order to provide the Services including but not limited to Customer Data, security access information and Implementation Services as detailed in the SimCapture milestones. Customer is responsible to provide LAERDAL with all floor plans and to provide direct communication with any pertinent Customer parties, which may include but not be limited to, the Simulation Coordinator, IT/Networking Specialist and Facility Services. Customer shall perform all its obligations under this Agreement in a timely and efficient manner. The Customer is responsible to receive, unload and take ownership of equipment at Customer site and move said equipment to Implementation rooms per dates established in Exhibit B.

6.2 Applicable laws and permits. The Customer shall comply with all applicable laws and regulations with respect to its activities under this Agreement and shall maintain all necessary licenses, consents and permissions necessary for LAERDAL and its subcontractors to perform their obligations under this Agreement.

6.3 Network. Customer shall ensure that its network and systems comply with the relevant specification provided by LAERDAL in Exhibit B as amended from time to time.

6.4 Connections. Customer shall, to the extent permitted by law, be solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to LAERDAL's data centers and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

7. LIMITATION OF LIABILITY

7.1 Except as expressly provided in this Agreement, Customer assumes sole responsibility for the Customer Data, the Output and for conclusions drawn from such use. LAERDAL has no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to LAERDAL by the Customer in connection with the Service or any actions taken by LAERDAL at the Customer's direction.

7.2 The warranties to any hardware supplied under this Agreement are those made by the applicable manufacturers only. Except as stated expressly in this section 7 and to the maximum extent permitted by applicable law, LAERDAL and its licensors do not make any warranty of any kind, whether express, implied, statutory or otherwise, including without limitation warranties of merchantability, fitness for a particular use, and non-infringement. LAERDAL and its licensors do not warrant that the operation of the Hardware provided hereunder will be error-free or uninterrupted. The hardware and the Subscription Service are not designed, manufactured, or intended for high risk activities, such as life support systems where the use or failure of the Service could lead to death or personal injury.

7.3 All warranties, representations, conditions and all other terms of any kind whatsoever implied by law are to the fullest extent permitted by applicable law, excluded from this Agreement.

7.4 EXCEPT FOR THE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, EITHER PARTY'S INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, FOR BREACH OF CLAUSE 4.4 (CONFIDENTIALITY), AND FOR BREACH OF CLAUSE 4.5 (DATA SECURITY), (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) SHALL NOT EXCEED \$2,000,000. THE LIMITATIONS ON LIABILITY IN THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, (WHETHER IN CONTRACT, TORT, INDEMNITY OR OTHERWISE), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ON LIABILITY ARE AN ESSENTIAL PART OF THIS AGREEMENT, AND WILL BE VALID AND BINDING EVEN IF ANY REMEDY IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE

8. INDEMNIFICATION

8.1 Infringement Indemnification. LAERDAL shall defend Customer and its officers, directors, employees, and agents against any claim that the Customer's use of the Service in accordance with this Agreement infringes any third party intellectual property rights, including patent, copyright, trade mark or database right and shall indemnify the Customer for all damages, settlements, costs and expenses (including reasonable attorneys' fees) awarded against Customer in judgment or settlement of such claims provided that Customer (i) promptly notifies LAERDAL in writing of such suit, claim or proceeding, at LAERDAL's sole expense, (ii) gives LAERDAL reasonable information, assistance and cooperation required to defend such suit, claim or proceeding, and

(iii) allows LAERDAL sole authority to defend or settle the claim. Customer may be represented in the defense of any such claim, at Customer's expense, by counsel of Customer's selection. LAERDAL shall have no liability for settlements made or costs incurred without its express written consent. LAERDAL shall not enter into any stipulated judgment or settlement that purports to bind Customer without the County of Monterey Board of Supervisor's express written authorization, which shall not be unreasonably withheld or delayed.

8.2 General Indemnity. LAERDAL will hold harmless, indemnify, and defend Customer and its respective employees, officers, directors, agents, and assigns from and against any and all third party claims, losses, liabilities, costs (including reasonable attorneys' fees) or damages resulting from: (i) the breach by LAERDAL or its personnel of its confidentiality or security obligations under this Agreement; (ii) the non-compliance by LAERDAL or its personnel with applicable law; (iii) death, personal injury, bodily injury or any real or tangible personal property damage caused or incurred by LAERDAL or its personnel; (iv) gross negligence, or intentional, willful or criminal misconduct of LAERDAL or its personnel; and (v) any breach incident involving any Customer data in LAERDAL's possession, custody, or control or Customer's network or systems.

8.3 Relief. If the Service becomes or is likely to become the subject of an infringement claim, then, in addition to defending the claim and paying any damages and attorneys' fees as required above, LAERDAL shall, at its option and in its sole discretion, either (a) immediately replace or modify the Service, without loss of material functionality or performance, to make it non-infringing or (b) immediately procure for Customer the right to continue using the Service pursuant to this Agreement. Any costs associated with implementing either of the above alternatives will be borne by LAERDAL. If LAERDAL fails to provide one of the foregoing remedies within forty-five (45) days of notice of the claim, this Agreement shall terminate and LAERDAL shall refund to Customer all prepaid Subscription Fees, plus all one-time (e.g., professional service) fees prorated over five (5) years.

8.4 Exclusions. The provisions of Clause 8.1 notwithstanding, LAERDAL shall not have any liability to Customer, and to the extent that any claim is based upon (i) use of the Service in conjunction with any data (including Third-Party Service), equipment, service, software or resource not provided by LAERDAL, where the Service alone would not be infringing or otherwise be the subject of the claim, (ii) any modification to the Service not made by or at the direction of LAERDAL (iii) use of the Service in any unlawful manner or in any manner not authorized under this Agreement, or (iv) any claim of infringement or violation of any patent, copyright, trademark or trade secret in which Customer has a pecuniary or other material interest, or (v) any portion of the Service which LAERDAL has designed in accordance with specifications provided by Customer.

8.5 Exclusive Remedy. The indemnification remedies set forth in this Clause 8 shall constitute the exclusive remedies of Customer and the sole liability of LAERDAL with respect to claims of intellectual property infringement or violation.

9. TERMS AND TERMINATION

9.1 Term. Unless earlier terminated pursuant to Section 9.2, this Agreement is to commence date of execution by Customer and remain effective for five (5) years and will continue in full force and effect for so long as LAERDAL provides any Service to Customer under one or more Subscription Orders, unless otherwise terminated as set forth herein. This Agreement shall automatically terminate upon the expiration or termination of all Order Forms.

9.2 Termination

9.2.1 Termination for Material Breach. This Agreement may be terminated prior to the end of the Term by either party in the event of a material breach of this Agreement by the other party; provided that (i) the non-breaching party provides not less than 60 days prior written notice to the breaching party of its intent to terminate this Agreement because of such breach and (ii) such breach is not reasonably cured within such 60-day period.

9.2.2 Termination for Lack of Government Funding Customer's payments to LAERDAL under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for Customer's purchase of the indicated quantity of services, then Customer may give written notice of this fact to LAERDAL, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the Customer may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

9.3 Effect of Termination. Upon the expiration or any termination of this Agreement and/or any Order for any reason: (a) Customer shall, and shall cause all Authorized Users to, immediately cease using the Service; (b) LAERDAL may immediately deactivate Customer's account; (c) all outstanding payments to LAERDAL shall promptly be paid in full; (d) customer shall return all Laerdal owned equipment; and (e) following the expiration of ninety (90) days after the termination date, LAERDAL may destroy Customer's account and all related data, provided that upon Customer's written request to LAERDAL received by LAERDAL no later than thirty (30) days from the effective date of such termination, LAERDAL shall permit Customer temporary access to the Service for a period not to exceed five (5) days and for the sole purpose of permitting Customer to retrieve any Customer data accessible through the Service.

9.4 Survival. The parties' rights and obligations under Sections 1, 2, 4, 7, 8, 9, and 10, and any other provisions which by their terms or nature are intended to survive, will survive the expiration or termination of this Agreement for any reason, and will be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

10. GENERAL PROVISIONS

10.1 Publicity. From time-to-time LAERDAL and/or Customer may develop statements regarding Customer's use of the Service and the relationship between the Parties. Either Party, subject to the prior approval of the other Party, may use such Statements. In addition, Customer may cite that LAERDAL is the source of the Service in any publication that reports the use of the Service and LAERDAL may cite Customer as a user of the Service without prior consent.

10.2 Force Majeure. Neither Customer nor LAERDAL shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's reasonable control (a "Force Majeure Event"), including, without limitation, acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather,

earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall in good faith use its best efforts to perform its duties and obligations under this Agreement.

If either Customer or LAERDAL wishes to claim protection with respect to a Force Majeure Event, it shall as soon as possible following the occurrence or date of such Force Majeure Event, notify the other Party of the nature and expected duration of the force majeure event and shall thereafter keep the other Party informed until such time as it is able to perform its obligations.

10.3 Dispute Resolution; Choice of Law. LAERDAL agrees that this AGREEMENT, and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws. Any dispute that arises under or relates to this AGREEMENT shall be resolved in the Superior Court of California in Monterey County, California. LAERDAL shall continue to perform under this AGREEMENT during any dispute. The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

10.4 Assignment Neither party may assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of Customer.. None of the services covered by this Agreement shall be subcontracted without the prior written approval of Customer. Notwithstanding any such subcontract, LAERDAL shall continue to be liable for the performance of all requirements of this Agreement.

10.5 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

10.6 Waiver: Any waiver of any terms and conditions of this Agreement must be in writing and signed by Customer and LAERDAL. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

10.7 Change Management: Change management.

10.7.1 LAERDAL's Subscription Fee and Implementation Service Fee is based on the allocation of its personnel to perform the Services or hardware purchased. If there are any changes due to:

- any delays or failures by the Customer in fulfilling its obligations per charges outlined in Exhibit B or
- any request for additional services or hardware from the Customer or
- any request for services outside of Normal Working Hours or
- any requests for additional or repeat training or
- any incorrect information sent by Customer to LAERDAL as part of the Site Summary Requirements Checklist or under any other obligation of the Customer within the SimCapture milestones or under this Agreement or
- any other delays or deficiencies not attributable to LAERDAL

then this may result in a change to the Subscription Fee, Hardware Fee or the Implementation Service Fee and/or a delay to the implementation and provision of the Service which shall be handled in accordance with 10.7.2 below and will be based on the then current list price.

10.7.2 Customer and LAERDAL shall meet to discuss the change and the impact to the Subscription Fee and/or the Implementation Service Fee and/or the schedule for the Implementation Service and any such impact shall be agreed by parties entering into a written change order to this Agreement.

10.8 Complete Agreement. The Parties agree that this Agreement (including the Order Form, the Laerdal Service Terms, the Exhibits attached) constitutes the entire agreement between the parties and supersedes all prior agreements, understandings and communications, oral or written, between the Parties regarding the subject matter of this Agreement. Except as otherwise provided herein, additional or conflicting terms contained in any standardized form or correspondence of or from Customer are expressly unenforceable under this Agreement unless such terms and conditions are contained in an amendment to this Agreement duly executed by both Parties.

10.9 Notices. Any notice by a Party under this Agreement shall be in writing and either personally delivered, delivered by facsimile or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address specified on the Order Form or such other address of which either Party may from time to time notify the other in accordance with this Section 10.8, or via email provided receipt of such email is acknowledged by the receiving party. All notices shall be in English and shall be deemed effective on the date of personal delivery, upon confirmation of a facsimile transmission, one day after deposit with an overnight courier, or five days after deposit in the mail.

10.10 Compliance with Laws. Customer shall, and shall ensure that all Authorized Users, comply with (i) all applicable United States laws and regulations which may govern the use of software by entities or persons located abroad, including without limitation the Export Administration Act of 1979, as amended (the "Act"), any successor legislation and the Export Administration Regulations issued by the Department of Commerce under the Act, and (ii) all applicable foreign laws and regulations, including, without limitation, laws with respect to the privacy and transmission of information and data.

10.11 Counterpart and Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, and each of which together shall constitute a single instrument.

10.12 Government Purposes. The Service was developed solely at private expense and is commercial computer software and related documentation within the meaning of the applicable civilian and military Federal acquisition regulations and any supplements thereto. If the user of the Service is an agency, department, employee, or other entity of the United States Government, under FAR 12.212 and DFAR 227.7202, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Services, including technical data or manuals, is governed by the terms, conditions and covenants contained in the LAERDAL standard commercial license agreement, as contained herein.

10.13 **Audit.** Customer shall have the right to examine, monitor and audit all records, documents, conditions, and activities of LAERDAL and its subcontractors related to services provided under this Agreement. Any audit shall be upon 30 days prior written notice, conducted in a manner which does not unreasonably interfere with LAERDAL's business and pursuant to a mutually agreed upon scope. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of Customer or as part of any audit of Customer, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

10.14 **Customer Records.** When this Agreement expires or terminates, upon request LAERDAL shall return to Customer any Customer records which LAERDAL received from Customer to perform services under this Agreement.

10.15 **Maintenance of Records:** LAERDAL shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to services performed under this Agreement. LAERDAL shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then LAERDAL shall retain said records until such action is resolved.

10.16 **Non-Discrimination:** During the performance of this Agreement, LAERDAL, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in LAERDAL's employment practices or in the furnishing of services to recipients. LAERDAL shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. LAERDAL and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

10.17 **Independent Contractor:** In the performance of work, duties, and obligations under this Agreement, LAERDAL is at all times acting and performing as an independent LAERDAL and not as an employee of Customer. No offer or obligation of permanent employment with Customer or particular County department or agency is intended in any manner, and LAERDAL shall not become entitled by virtue of this Agreement to receive from Customer any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. LAERDAL shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection therewith, LAERDAL shall defend, indemnify, and hold Customer and the County of Monterey harmless from any and all liability, which Customer may incur because of LAERDAL's failure to pay such taxes.

11. **Insurance.**

11.1 **Evidence of Coverage:**

Prior to commencement of this Agreement, LAERDAL shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate.

This verification of coverage shall be sent to Natividad's Contracts Department, unless otherwise directed. LAERDAL shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Customer has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of LAERDAL.

11.2 **Qualifying Insurers:** All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by Natividad's Contracts Department Manager.

11.2 **Insurance Coverage Requirements:** Without limiting LAERDAL's duty to indemnify, LAERDAL shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

11.3 **Commercial General Liability Insurance,** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations (which will be under a separate policy with the same limits as General Liability), with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to Customer approval.)

☐ Exemption/Modification (Justification attached; subject to approval)

11.4 **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 \$500,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to Customer approval.)

☐ Exemption/Modification (Justification attached; subject to approval)

11.5 Workers' Compensation Insurance. If LAERDAL 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.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to Customer approval.)

☐ Exemption/Modification (Justification attached; subject to approval)

11.6 Professional Liability Insurance. if a license is required by the California Business and Professions Code for LAERDAL to engage in the business or professional service which is subject to the Agreement, in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the LAERDAL shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

12 Other Insurance Requirements:

12.1 All insurance required by this Agreement shall be with a company 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 LAERDAL completes its performance of services under this Agreement.

12.2 Each liability policy except Employers' Liability shall provide that Customer shall be given notice in writing at least thirty days in advance of cancellation. Each policy shall provide coverage for LAERDAL 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.

12.3 **Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds** with respect to liability arising out of the LAERDAL'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 Customer and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by LAERDAL's insurance.**

12.4 Prior to the execution of this Agreement by Customer, LAERDAL shall file certificates of insurance with Natividad's Contracts Department, showing that LAERDAL has in effect the insurance required by this Agreement. LAERDAL shall file a new or amended certificate of insurance within five 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.

12.5 LAERDAL 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 Natividad's Contracts Department. If the certificate is not received by the expiration date, Customer shall notify LAERDAL and LAERDAL shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by LAERDAL to maintain such insurance is a default of this Agreement, which entitles Customer, at its sole discretion, to terminate the Agreement immediately.

Signature Page to follow

This Agreement has been entered into by duly authorized persons representing each party on the date signed by LAERDAL below:

LAERDAL:

DocuSigned by:
Signed: James Baker
44F0D494B5BD4D1
Print Name: James Baker
Title: Lead Contract Specialist
Date: 10/2/2023 | 7:33 PM CEST

DocuSigned by:
Signed: Judy Schneider
E78BF42C03F241E
Print Name: Judy Schneider
Title: Contract Specialist
Date: 10/3/2023 | 4:34 AM PDT

COUNTY OF MONTEREY ("Customer"):

Signed: _____
Print Name: Charles R. Harris
Title: Chief Executive Officer (CEO)
Date: _____

APPROVED AS TO LEGAL PROVISIONS

DocuSigned by:
Signed: Stacy Saetta
C09C0E199F443A0
Print Name: Stacy Saetta
Title: Chief Deputy County Counsel.
Date: 10/5/2023 | 7:33 PM PDT

APPROVED AS TO FISCAL PROVISIONS

DocuSigned by:
Signed: Jennifer Forsyth
4E7E9578754544E
Print Name: Jennifer Forsyth
Title: Auditor-Controller Analyst II
Date: 10/9/2023 | 9:33 AM PDT

Exhibit A
Statement of Work

Statement of Work. LAERDAL shall perform the services and provide the materials to Customer as set out in this Statement of Work and its accompanying exhibits, which are hereby incorporated by reference.

Customer Scope, LAERDAL Scope, Boundaries, and Change Management

1. Customer Scope.

- a. Customer confirms that the Site meets the following minimum requirements in the Site Requirements Summary
- b. SimCapture should be connected to a 1Gb/s capable network switch with a minimum 10 Mb/s per SimCapture outbound to Laerdal's cloud platform on the internet. For any additional details, please refer to supporting network documentation.
- c. Customer agrees to run, terminate and test all network cables (minimum CAT6) associated with AV equipment provided by LAERDAL
- d. Customer agrees to setup network drops and install patch panel for network cable termination in server room
 - i. HVAC: Please make sure your server room can adequately cool the equipment listed in the Order Form
 - ii. Temperature in the server room should stay around 65 degrees and never exceed 75 degrees
 - iii. Humidity should be between 20% and 60%, never to exceed 60%
- e. Customer is responsible for the firewall and necessary Power over Ethernet (PoE) switches, Customer must provide IP schema to LAERDAL two (2) weeks prior to the onsite installation
- f. Customer is responsible for the removal and disposal of all existing AV equipment (e.g. cameras, microphones, etc) where the LAERDAL equipment will be installed
- g. Customer is responsible for a dust free and ready for installation environment.
- h. Customer is responsible for running all conduit, data, gang boxes, recess mounts for all locations where a hard ceiling exists. LAERDAL'S A/V packages and services support drop ceiling locations only.
- i. Customer Site is secured against theft, vandalism, unauthorized access or damage

2. LAERDAL Scope.

- a. Subject to any Customer Software License and Services Agreement
 - i. Project management services before and during the project
 - ii. Hardware indicated in Order Form
 - iii. Software indicated in Order Form
- b. Installing, integrating and testing the hardware and configuring the hardware and CFE to provide access to the Subscription Service
- c. providing training to selected Customer personnel to demonstrate the following:
 - i. Administration & Set-up (Pro & ENT)
 - ii. Features & Functions (Pro & ENT)
 - iii. Scenarios & Evaluations (ENT)
 - iv. Calendar & Reporting (ENT)
- d. LAERDAL shall perform all of the Implementation Service during Normal Working Hours.

3. Boundaries.

- a. The scope does not cover costs associated with delays caused by schedule changes of applicable services provided by third parties who are hired by Customer, such as general contractors, electricians, facilities management, subcontractors, or Customer
- b. The scope does not cover costs associated with union labor requirements. Additional union labor costs will be assessed with Customer and sent as a change order.

4. Change Management

- a. Both parties shall cooperate with each other in ensuring that they meet their respective obligations within the Statement of Work. Each party acknowledges that any delays or failures in fulfilling its obligations in the Statement of Work above may result in a delay to the other

party in fulfilling its obligations and the parties agree to follow the Change Management procedure in Clause 10.7 of the Service Terms to address any changes to the Implementation Service Fee and/or the Subscription Fee and/or to the Implementation Schedule.

Milestones and requirements for installation:

- 1. Overview of SimCapture milestones illustrated below:



- 2. Installation timelines to be provided by LAERDAL and install dates will be confirmed upon receipt of a signed Technical Services Agreement (TSA) (see Exhibit B) by Customer.
- 3. If the Customer requests a change to installation dates after returning the Technical Services Agreement OR if site requirements documented in this Statement of Work are not completed by the date set in the Technical Services Agreement, LAERDAL reserves the right to charge the Customer a change fee in the amount noted in the Technical Services Agreement.
- 4. To perform implementation Site must have all necessary building permits and other authorizations for the Service.
- 5. Remote access connection (VPN or other mechanism) is available to LAERDAL prior to the Implementation Service to allow for ongoing support of the Service.
- 6. At installation agent will have Site sign the TSA (see Exhibit B)
- 7. Within thirty (30) days after the implementation has been completed, Customer shall provide written notice to LAERDAL of any remaining work or deficiencies in previous work of which Customer is aware. LAERDAL shall complete such work and remedy all such deficiencies within sixty (60) days after implementation.

Exhibit B
Technical Service Agreement (template)

County of Monterey, on behalf of Natividad Medical Center

Technical Service Agreement

SimCapture **Pro or Enterprise** Site Readiness and Install Date Confirmation

The purpose of this document is to provide CUSTOMER Site Readiness Responsibilities and Installation Date Scheduling Commitments. By signing this document, customer agrees that if site is not ready per the site requirements included here within TWO weeks prior to the scheduling hold dates agreed upon, install dates MAY be subject to being pushed out until site is confirmed ready.

Installation Date Commitments:

Signature of this form allows Laerdal Medical to put the following dates on a Schedule Hold for the installation of your SimCapture/LiveCapture per the Master Service Agreement. XX-XX Dates will be held for two weeks, of which if signed form is not returned, said dates will be released. New dates can be requested and are subject to availability at that time.

By signing this form, customer agrees that site readiness preparations will be coordinated such that customer site is ready, per the Site Readiness Requirements. Approximately three weeks prior to the Installation Scheduled Hold Dates, the Laerdal Project Manager will schedule a Site Readiness Meeting with customer. Written confirmation from customer of Site Requirements being met will be required. If the Laerdal Project Manager Site Readiness assessment determines the site will not be ready by the agreed upon Scheduled Hold Dates, the installation will be pushed out to the next mutually available installation date. If Laerdal Project Manager confirms site is ready and receives written site readiness confirmation from customer, the Scheduled Hold Dates will be moved to Confirmed Status.

Customer also agrees that all pre-install requirements outlined in the below Site Requirements Summary will be completed, tested, and confirmed operational before the first day of the Laerdal Medical Installation XX-XX. Any pre-install requirements not completed before the first date of install that present significant delays or an inability for the Laerdal Medical install team to complete the install within the confirmed timeline such as but not limited to construction not being complete, cables not being pulled/terminated/activated, network not being set up per specified requirements, switches not installed/configured for PoE/PoE+, centralization server not set up per requirements, simulators to be integrated with SimCapture not updated and/or operational, and client furnished equipment not set up and configured will result in an automatic rescheduling for the next available dates and incur a \$6,000 rescheduling fee which a Purchase Order must be received prior to the Laerdal installation team returning.

Site Readiness Responsibilities:

Signature of this form confirms CUSTOMER has agreed to have the outlined requirements met prior to installation. Two weeks prior to Scheduled Hold Installation Dates, the Laerdal Project Manager will host a Site Readiness Meeting to review. Customer will be required to provide written confirmation of site requirements being met and site ready. Any incorrect, or incomplete information that Laerdal may receive on the written confirmation or failure to provide written confirmation before the above-mentioned period, may be subject to installation rescheduling.

Any incorrect or incomplete information that Laerdal may receive on the signed checklist or a failure to return the signed checklist before the above-mentioned period, will result in an automatic rescheduling to the end of the present installation due date.

SimCapture Products and Services:

This Technical Service Agreement is for SimCapture Products and Services per Quote # Q-681120.

Customer Furnished Equipment

CFE must be set up and configured prior to start of installation. For example, SimCapture Work Station device or Network Switches.

Workstation Devices Examples:

- ☐ Control stations
- ☐ Monitor stations
- ☐ Debrief stations

- ☐ Learner stations
- ☐ Patient stations

Simulator List:

Simulator integration with SimCapture refers to the ability to automatically capture patient monitor feeds if appropriate hardware in place, and, depending on the simulator, data trends from the recorded sessions. Please note: Some simulator brands may require manual integration. Customer must provide a list of all simulators they wish to have integrated with SimCapture during the installation two weeks prior to confirmed install dates. Simulators and applicable peripherals (ex. patient monitors, control PCs, etc.) must be updated and operational prior to confirmed installation date.

Site Requirements Prior to Install

See the attached Site Requirements Summary which documents all actions that must be completed before Laerdal Medical can begin the product installation.

SITE REQUIREMENTS SUMMARY

Signature of this form confirms CUSTOMER has agreed to have the outlined requirements met prior to installation. Two weeks prior to Scheduled Hold Installation Dates, the Laerdal Project Manager will host a Site Readiness Meeting to review. Customer will be required to provide written confirmation of site requirements being met and site ready. Any incorrect, or incomplete information that Laerdal may receive on the written confirmation or failure to provide written confirmation before the above-mentioned period, may be subject to installation rescheduling.

General Work Standards

- ☐ All AV data cables have been run, terminated and tested
- ☐ Construction is complete and the space is dust free and ready for installation
- ☐ All permitting, fire stopping, and infection control actions have been completed as applicable in accordance with your institutions policies and procedures
- ☐ Downtime at the simcenter has been planned so that Laerdal Medical can complete the SimCapture system installation.
- ☐ Customer has identified resources from the network, IT and server teams to provide real-time support during the full Laerdal Medical install
- ☐ Laerdal Medical will have exclusive use of all rooms during the agreed upon on-site installation days during the hours of 8:00 am to 5:00 pm. Any schedule outside of these hours must be discussed with the Laerdal Medical team no later than two calendar weeks previous to the first day onsite. Hours worked outside of 8:00 am to 5:00 pm will be billed at the rate agreed upon in your signed Scope of Work.

AV Install Preparation Actions

- ☐ Equipment locations in floor plans have been confirmed and approved
- ☐ Network is PoE+ and meets the requirements as listed in the Statement of Work
- ☐ AV data cables and PoE+ network switches have been tested

Third Party AV *(Remove if)*

- ☐ All SimCapture servers have been racked, cabled, and powered on with an active network connection
- ☐ All AV cameras, microphones, cables, DSPs, etc. have been installed
- ☐ All AV/Network cabling has been run to all SimCapture servers and fully tested
- ☐ All A/V equipment and connections have been tested to ensure integration with the SimCapture system

Customer Furnished Equipment

- ☐ Specifications for purchased workstations have been sent to the Laerdal Medical Project Manager
- ☐ Workstation devices have been configured according to specifications in the Statement of Work
- ☐ Naming scheme for all SimCapture server products purchased has been sent to the Laerdal Medical Project Manager
***Note:** the first 8 characters of each naming convention must be unique (i.e. SimCap01, SimCap02, CUSTOMERSIMBRIDGE)
- ☐ Admin account details for all Customer furnished equipment have been sent to the Laerdal Medical Project Manager

Simulators

- ☐ Simulator physical and network setup have been detailed and sent to the Laerdal Project Manager
- ☐ Simulators have been or will be setup prior to Laerdal Medical's arrival

Network

- ☐ Network has been configured according to the Laerdal Medical Network Topology Diagram sent by the Project Manager.
- ☐ IP addresses for each SimCapture server have been provided to the Laerdal Medical Project Manager
- ☐ IP addresses for AV equipment, workstations and simulators (if applicable) have been provided to the Laerdal Medical Project Manager
- ☐ One active port is available each workstation
- ☐ SMTP details have been provided to the Laerdal Medical Project Manager to enable notifications
- ☐ VPN account credentials to access to the center network and Laerdal Medical servers have been provided for the Laerdal Medical Team

Network Ports

- ☐ For Capture device to Cloud SC communication, TCP 443 has been allowed from LAERDAL and Dante Networks to Cloud SC at *.simcapture.com. TCP 443 and 3478 traffic has been allowed from internal networks to Capture device on LAERDAL network and Cloud SC at *.simcapture.com (TCP 443 only). RDP access granted for support (RDP) via VPN to LAERDAL VLANS and Dante VLANS. If there is a dedicated Simulator network configured, then TCP 443 has been allowed to *.SimCapture.com.
 - Port 443 - Web browser access to Capture device and Cloud SC at *.Simcapture.com. Always used for Video centralization between Capture node and Cloud SC at Web browser access to Capture node and Cloud SC at *.Simcapture.com.
 - Port 3478 – Used to stream live video; only on Capture devices

- ☐ For advanced audio and paging communication, Dante traffic must be allowed per the below table if possible, any-traffic between Dante and LAERDAL network, otherwise refer to table below. IGMP Snooping must be turned off for the ports to carry audio and QoS could be required if Dante traffic experiences latency or sync issues.

Application	Port	Protocol	Source	Destination	Use
LAERDAL Multiplexer	80, 443	TCP	Control, Multiplex Workstations	LAERDAL-VLAN Cameras	RTMP Camera Streams
LAERDAL Software	443	TCP	Control, Debrief, SP, Student, Monitor Workstations	Cloud server and LAERDAL servers	SimCapture/LiveCapture Product Functionality
	3478	UDP	Any workstation	Cloud Server	Live Streaming
Symetrix Composer	49184, 49344	UDP	D-VLAN Dante DSPs and Amplifiers	LAERDAL-VLAN LAERDAL servers	Control and meter feedback, Channel Names
	8000, 49472, 59472	UDP	Control Workstations	D-VLAN DSP's and Amplifiers	SymNet Communications, Routing
	21	FTP	LAERDAL-VLAN LAERDAL servers	D-VLAN DSP's and Amplifiers	Firmware Updates
	48631	TCP	LAERDAL-VLAN LAERDAL servers	D-VLAN DSP's and Amplifiers	Remote Terminal
Remote Support	RDP port 3389	TCP	External networks	All devices on LAERDAL-VLAN, D-VLAN, and Central Server	Remote Access

AV Packages

Standard AV Package – The following requirements have been met for each room

- ☐ 1x 1000 BaseT Network drop with PoE (15.4w) for Axis P8221 Audio module
- ☐ 2x 1000 BaseT Network drops with PoE (12.95w) for Axis M5525-E cameras
- ☐ 1x 1000 BaseT Network drops with PoE+ (25.5w) for StewartAudio Amp
- ☐ 1x 1000 BaseT Network drop for SimCapture Hardware Form Factor
- ☐ 1x 15 amp power circuit for SimCapture Hardware Form Factor
- ☐ 1x 1000 BaseT Network drop for SimCapture HDMI to IP device capture (if applicable)
- ☐ 1x 15 amp power circuit for SimCapture HDMI to IP device capture (if applicable)

Advanced AV Package -- The following requirements have been met for each room

- ☐ 1x 1000 BaseT Network drop with PoE (15.4w) for Axis P8221 Audio module
- ☐ 2x 1000 BaseT Network drops with PoE (12.95w) for M5525-E cameras
- ☐ 1x 1000 BaseT Network drops with PoE+ (25.5w) for StewartAudio Amp
- ☐ 1x 1000 BaseT Network drop with PoE+ (25.5w) for Symetrix DSP
- ☐ 1x 1000 BaseT Network drop for Symetrix DSP (DANTE connection)
- ☐ 1x 1000 BaseT Network drop for SimCapture Hardware Form Factor
- ☐ 1x 15 amp power circuit for SimCapture Hardware Form Factor
- ☐ 1x 1000 BaseT Network drop for SimCapture HDMI to IP device capture (if applicable)
- ☐ 1x 15 amp power circuit for SimCapture HDMI to IP device capture (if applicable)

Control Room -- The following requirements have been met for each room

- ☐ 1x 1000 BaseT Network drop with PoE + (25.5w) for Symetrix DSP
- ☐ 1x 1000 BaseT Network drop for Symetrix DSP (DANTE connection)
- ☐ 1x SimCapture Control station, to start, stop and annotate SimCapture sessions
- ☐ 1X Computer to display Axis Cameras in multiplex view via Axis Camera Companion 3
- ☐ 1x 1000 BaseT Network drop for SimCapture control PC
- ☐ 1x 1000 BaseT Network drop for Axis Multiplex PC

Additional Fixed Camera -- The following requirements have been met for each additional fixed camera purchased

- ☐ 1x 1000 BaseT Network drop in ceiling with PoE (5.9w) for Axis P3374 camera

Additional PTZ Camera -- The following requirements have been met for each additional PTZ camera purchased

- ☐ 1x 1000 BaseT Network drop in ceiling with PoE (12.95w) for Axis M5525-E camera

Hallway Paging - -- The following requirements have been met for each hallway paging package purchased

- ☐ 1x 1000 BaseT Network drop at rack location for Stewart Audio Amplifier
- ☐ 1x 15 amp power circuit at rack location for Stewart Audio Amplifier

Headphone Station Package - -- The following requirements have been met for each switching scaler package purchased

- ☐ 1x 1000 BaseT Network drop with PoE (12.95w) at headphone location

Pillow Speaker Package - -- The following requirements have been met for each switching scaler package purchased

- ☐ 1x 1000 BaseT Network drop at speaker location for Stewart Audio Amp

Voice Changer Package - The following requirements have been met for each voice changer purchased

- ☐ 1x 120v power

Confederate Microphone Package - The following requirements have been met for each confederate microphone package purchased

- ☐ 1x 1000 BaseT Network drop with PoE (12.95w) for RDL RU-MLB2P
- ☐ 2x 120v power for Revolabs HD-DUAL-NM

Small Conference Room Package - -- CFE requirements will be outlined and determined after the site survey

Medium Conference Room Package - -- CFE requirements will be outlined and determined after the site survey

Large Conference Room Package - -- CFE requirements will be outlined and determined after the site survey

Please return this document signed and dated to [PM name and email].

County of Monterey, on behalf of Natividad Medical Center
1441 Constitution Blvd. Salinas, CA 93906

Authorized Representative of County of Monterey, on behalf of Natividad Medical Center

Signed By: __ Template not for Signature

Print Name: ____ Template not for Signature

Date: _____ Template not for Signature

Exhibit C
Installation Checklist

SimCapture Cloud Installation Guide & Checklist

These tasks must be completed before installation can begin.

Pre-Install Checklist Finished ☐

- SimCapture Hardware Form Factor purchased and on site
- Workstations identified (Debrief \ Control \ Monitoring)
- A/V equipment (established, purchased and installed)
 - Cameras
 - Microphones
 - Audio modules
 - DSPs (if applicable)
- Naming conventions established
- Networks established and ports configured
- IP address ranges determined and assigned
- MAC and IP addresses of SimCaptures, cameras and audio modules recorded and verified

Unpack and setting up the Hardware

Note: Make sure the PCs, OS and SW are up to date. Please start this process before you continue the unpacking and setup of the simulator. Be aware this can take a long time.

Connect the chargers for the PCs ☐

Connect the PCs to Internet and make sure they have the latest Windows Updates ☐

Note: If item is present and intact, write “V”

SimCapture Hardware Form Factor ☐

AXIS IP cameras ☐

Additional Monitors ☐

Test all AV equipment ☐

- cameras, microphones, audio modules (if applicable)

Install SimCapture software package (refer to 00065124 SimCapture Cloud Node and

Camera Setup Guide)	<input type="checkbox"/>
Upgrade SimCapture software if needed	<input type="checkbox"/>
Test centralization of the data to the Cloud	<input type="checkbox"/>
Audio levels and video inputs confirmed	<input type="checkbox"/>
Added IP cameras to Cloud	<input type="checkbox"/>
Startup LLEAP and connect to SimCapture	<input type="checkbox"/>
Stress testing of the full system setup	<input type="checkbox"/>
Verified monitor interfaces have the camera feeds and sound	<input type="checkbox"/>
Verified camera control is functioning on monitor interfaces	<input type="checkbox"/>
Provided instruction on how to use the A/V paging GUI (if applicable)	<input type="checkbox"/>
Performed long and short recordings	<input type="checkbox"/>
Tested software communication between Cloud and SimCapture devices	<input type="checkbox"/>
Tested live and debrief streaming functionality with LLEAP and SimPad	<input type="checkbox"/>
Demonstrate and explain functionality to Customer	<input type="checkbox"/>
How to start/record a session	<input type="checkbox"/>
How to connect to LLEAP	<input type="checkbox"/>
How to connect to SimPad	<input type="checkbox"/>
How to start/record a session	<input type="checkbox"/>
How to debrief a session	<input type="checkbox"/>
How to shutdown the system	<input type="checkbox"/>

Product:	
Serial number (if applicable):	
Installation Date:	
Customer Name:	
Institution:	
Customer Number:	
Customers email:	
Installer:	

Overall result: Completed ☐ Needs follow up* ☐

* If follow up is needed, please comment:

Further information about Laerdal simulators and solutions:

- ☐ Yes, customer would like to receive further information about Laerdal simulators and solutions
- ☐ No, please do NOT send information via email

Customer
Signature _____ **Template not for Signature** _____ Date

Installer
Signature _____ **Template not for Signature** _____ Date

Exhibit D**Support and Maintenance Services****1. LAERDAL's Obligations**

- 1.1 General.** As part of the Subscription Service, LAERDAL shall provide Customer with the technical support and maintenance services described below commencing on the completion of the Implementation Service for the duration of the Initial Term and any subsequent Renewal Term.
- 1.2 Upgrades and Updates.** LAERDAL may provide Customer with any updates, enhancements and fixes ("Maintenance Releases") to the SimCapture Subscription Software and Documentation from time to time using remote access only. Customer shall accept such Maintenance Releases. Hardware that has been modified in any way may not be compatible with Maintenance Releases and LAERDAL shall have no obligation to make such Maintenance Releases compatible with any modified SimCapture hardware. Any Maintenance Releases which require on-site attendance from LAERDAL for installation shall be considered a change and shall be handled in accordance with Clause 10.7 of the Service Terms.
- 1.3 Error corrections SimCapture Software.** Upon written notification by Customer (or oral notification with written confirmation) of an error in the SimCapture Subscription Software, LAERDAL shall verify whether such error exists and, if so, shall use all reasonable diligence to promptly correct the error and restore functionality of the Service in conformity with the Documentation for the Service. Any error that prevents the SimCapture Subscription Software from operating will be prioritized by LAERDAL. LAERDAL will access the Service remotely to diagnose errors. Any attendance by LAERDAL at Customer Site to diagnose and correct errors will be a change handled in accordance with Clause 10.6 of the Service Terms.
- 1.4 Hardware repair.** The ownership of the Laerdal Hardware Form Factor(s) is retained by LAERDAL. In the event of any failure in a Laerdal Hardware Form Factor(s) LAERDAL will initially attempt a remote diagnosis of the failure and will try to resolve the issue remotely. If LAERDAL determines that a Laerdal Hardware Form Factor(s) has failed and can easily be replaced by Customer, LAERDAL will use commercially reasonable efforts to ship out the replacement part to Customer within 3-5 working days. If LAERDAL determines that a Laerdal Hardware Form Factor(s) has failed and requires a technician to replace it, LAERDAL will dispatch a technician to arrive on-site in a commercially reasonable period of time and replace the defective part.
- 1.5 Hardware.** All other hardware will be covered under the applicable manufacturers' warranty as from the Effective Date and will be subject to any limits under the applicable manufacturers' warranty.
- 1.6 Exclusions:** SimCapture Software capabilities affected as a result of Customer's network speed or functionality are not considered errors for which LAERDAL is responsible under Clause 1.3 above. Any work undertaken by LAERDAL to address such issues will be considered a change and will be handled in accordance with Change Management procedure in clause 10.7 of the Service Terms. Support for a Laerdal Hardware Form Factor(s) damaged by act of nature (such as, but not limited to, lightning, flooding, tornado,

earthquakes, and hurricanes), misuse, accident, abuse of the SimCapture or components (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions), modification, unsuitable physical or operating environment, improper maintenance by Customer or removal or alteration of equipment or parts identification labels without written permission from LAERDAL, obvious tampering or breaking the protective seal is excluded from LAERDAL's warranty and all LAERDAL costs associated with repairing the same shall be considered a change under the Change Management process in accordance with Clause 10.7 of the Service Terms. Spyware/virus removal or data backup services are excluded. Repair of damage or defects which are purely cosmetic and do not affect device functionality is excluded.

- 1.7 CFE.** LAERDAL has no responsibility for CFE or third-party hardware or Third Party Service.

2. Customer's Obligations

- 2.1 Contacting Support.** Customer shall contact LAERDAL for all support issues related to the Service and/or the hardware. Responses to critical issues will occur within 4 hours during Normal Working Hours.
- 2.2 Access.** Customer shall provide LAERDAL with remote access via secure Virtual Private Network to Customer Data contained in the Subscription Service. LAERDAL will use such data solely for its internal purposes of providing customer support.
- 2.3 Antivirus.** Customer is responsible for the implementation and maintenance of antivirus software on its CFE and SimCapture and must notify LAERDAL before the installation of such software. If LAERDAL determines that the antivirus software installed on any SimCapture Subscription Software causes errors, LAERDAL will not be responsible for correcting such errors and may require active or real-time scanning to be disabled in the antivirus software or the complete removal of such software from the hardware.
- 2.4 Information.** Customer shall provide the Service Tag or Serial Number of the SimCapture and any other information as requested by the LAERDAL when reporting an issue.
- 2.5 Error messages.** If requested by LAERDAL, Customer shall identify error messages received and when they occur; what activities preceded the error message; and what steps Customer has already taken to attempt to solve the problem. Customer also be asked to run Intel's or Lenovo's Computer Hardware Diagnostic tool and provide the error codes to LAERDAL.
- 2.6 Maintenance of Site and CFE.** Customer is responsible for the maintenance of all CFE and the Site and shall inform LAERDAL of any planned maintenance which may affect the Subscription Service.

Exhibit E**SimCapture Cloud Service Subscription Order Form as per Quote Q-681120****SimCapture Cloud Pro**

QTY	PRODUCT	DESCRIPTION	TERM (MONTHS)	LIST PRICE	UNIT PRICE	EXTENDED PRICE
1	227-00950	SimCapture Pro Cloud Annual Subscription Includes: SimCapture Node with warranty and support, Cloud based storage and access, software support and maintenance, and SimCapture Mobile App. Internet access required for operation.	60	\$4,099.00	\$17,272.50	\$17,272.50
1	227-SV2SC	Conversion Discount SimView to SimCapture		\$-2,000.00	\$-2,000.00	\$-2,000.00
SimCapture Cloud Pro TOTAL:						\$15,272.50

ITEM TOTAL :	\$15,272.50
SHIPPING/HANDLING :	\$0.00
ADDITIONAL CHARGE/CREDIT :	\$0.00
TAX :	\$0.00
TOTAL :	\$15,272.50

The following terms are hereby incorporated into customer's order:**I. Products:**

Products that are currently on contract will be removed immediately if manufacturing or distribution of the product is discontinued.

II. Payment:

- Storage Purchase price includes cloud-based storage and centralization hosted by LAERDAL.
- Payment SimCapture Cloud Service Subscription is invoiced in advance of annual SimCapture Cloud Service Start Date anniversary. AV Hardware and Project Implementation Services, if applicable, are purchased at the time of order. Customer shall certify the invoice, either in the requested amount or in such other amount as Customer approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice, unless otherwise stated in a corresponding change order or new Statement of Work covering such services.
- Support Services SimCapture Cloud support and maintenance is included in the subscription price. Support and maintenance on SimCapture Cloud includes all software updates and new releases, phone and email support, and hardware support.
- Support and maintenance on turnkey AV equipment, if applicable, is included through the first year in the purchase price. Subsequent years are optional and recommended and billed at 5% of the turnkey AV equipment total.
- Professional Services includes project management, assembly, shipping, installation, integration, training, and related travel expenses.

III. Warranty:

- One (1) year warranty on manufactured products and 90-day warranty on refurbished products
- Two (2) year parts replacement warranty with technical assistance by phone on all Hill-Rom refurbished products

IV. Delivery:

Delivery of product to a specific location within your building, if requested is at an additional charge and not included in this quote

V. Training/Education:

Onsite and Virtual Education will expire one (1) year from date of purchase. Exceptions include:

- Educational Pathway trainings will expire two (2) years from date of purchase. Five (5) or more Ed Path Training days will expire in five (5) years.
- Contracts/Technology Sustainment Program (TSP)
- Advanced Care & Maintenance Courses

VI. CANCELLATION or RESCHEDULING of EDUCATIONAL or TECHNICAL SERVICES WILL RESULT IN CANCELLATION/RESCHEDULING FEES.

- 7 DAYS OR LESS: 100% of Course / Service Cost
- 8 DAYS to 2 WEEKS: 75% of Course / Service Cost
- 15 DAYS to 20 DAYS: 50% of Course / Service Cost
- WEEKS or MORE: NO FEE