



Monterey County Board of Supervisors

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Board Order

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Luis A. Alejo to:

Agreement No.: A-15116

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with RQI Partners, LLC for the HeartCode learning tool at NMC for an amount not to exceed \$88,208 with an agreement term of April 1, 2021 through March 31, 2024.
- b. Authorize the Chief Executive Officer for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) (\$8,820) of the original cost of the agreement.
- c. Approve the NMC Chief Executive Officer's recommendation to accept non-standard insurance, limitations on liability, and limitations on damages provisions within the agreement.

PASSED AND ADOPTED on this 9th day of February 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting March 9, 2021.

Dated: March 11, 2021
File ID: A 21-044
Agenda Item No.: 18

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

RESUSCITATION QUALITY IMPROVEMENT PROGRAM MASTER SERVICES AGREEMENT

This Resuscitation Quality Improvement (“RQI”) Master Services Agreement (“Agreement”) is entered into and effective as of **April 1, 2021**. (“Effective Date”) by and between **RQI Partners, LLC** (“RQIP”), a Delaware Limited Liability Company with its principal place of business at 7272 Greenville Ave., Suite P2020, Dallas, Texas, 75231 and the **County of Monterey, on behalf of Natividad Medical Center**, an acute care hospital, having its principal place of business at 1441 Constitution Blvd., Salinas CA 93906 (“Customer”). Collectively, RQIP and Customer are referred to as the “Parties.” *RQIP is a partnership between the American Heart Association and Laerdal Medical*, specifically established to sell, service and support their Resuscitation Quality Improvement Program for customers on their behalf.

1. Definitions.

“**Program**” or “**RQI**” means the Program portfolio as described in Section 2 and the subject of this Agreement.

“**HeartCode**” means the branded program, or its successors, which forms a part of the RQI Portfolio and delivers a program eLearning activity to enable learners to achieve a traditional AHA course completion ecard.

“**System Implementation**” or “**Implementation**” means the satisfactory installation of any equipment to be provided as a part of the service, and proof that the system is operational evidenced by implementation of systems for ten users.

“**Order Form**” means the ordering document representing purchase of any Services agreed to between the parties signed under this Agreement. The term “Order Form” also includes any subsequent document intended by the Parties to effect a change to the Service, such as a Change Request Form or Order Modification Form.

“**Service**” means all services ordered by the Customer to be included in RQI Order Forms that are subject of this Agreement.

“**Users**” means Customer's employees, consultants, contractors, clients or agents who are authorized to use the Service and have been supplied user identifications and passwords by Customer, or by RQIP at Customer's request.

2. Program Description – Resuscitation Quality Improvement (RQI).

The RQI portfolio of Programs is a system developed jointly by the American Heart Association and Laerdal Medical AS to assist in the continuous improvement of resuscitation skills provided by healthcare workers. RQI Partners, LLC, is a joint venture of the American Heart Association and Laerdal Medical Corporation established to sell, service and support the RQI Program.

The Program utilizes a variety of learning tools to assist in competence development through frequent, small quantities of learning activities, including performance feedback and measurement. The Program implemented at Customer site includes some or all the following as specified in an Order Form:

- **Skills learning activities** for the practice of resuscitation skills using special simulation learning stations deployed at all locations;
- **Simulation Stations** that include all necessary equipment to ensure completion of skills learning activities;
- **Simulations & Feedback By Telephone** to allow emergency call takers to improve competence in guiding bystanders through critical resuscitation skills;

- **Knowledge and decision-making e-learning activities** and may include interactive web-based and video content;
- **HeartCode Program** an e-learning system which provides an alternative method of delivery of traditional AHA healthcare provider and course completion ecard;
- **Learning management system** to ensure the suitable management of learning activities within, reporting and administration of the Program;
- **Debriefing of Case Performance** to provide guidance on system improvement;
- **Rolling electronic eCredential maintenance** system that maintains the electronic credential for Verified Competence, compliance documents for the Customer, and the validity periods;
- **Get With The Guidelines -Resuscitation** system for collection of data and measurement of system improvement. Customers electing to engage in the Get With The Guidelines (GWTG) system on an Order Form under this Agreement, must also have completed an American Heart Association Get With The Guidelines Unified Participation Agreement to be eligible in that activity.

3. Service.

- 3.1. Provision of Service.** Customer agrees that the purchase of User subscriptions for Service is not contingent upon the delivery of any future functionality or features, nor is it dependent upon any oral or written public comments made by RQIP with respect to future functionality or features.
- 3.2. Additional Users.** User subscriptions for the Service are for named Users and cannot be shared or used by more than one User but, except for HeartCode licenses, may be reassigned by Customer to new Users replacing former Users who have separated from employment, changed job status or function, or otherwise no longer require ongoing use of the Service. HeartCode licenses are considered consumed at User commencement in the Program and may not be assigned. Customer acknowledges that RQIP may conduct usage audits and invoice Customer, and Customer agrees to pay, for any usage above the number of subscriptions specified in Customer's Order Forms, and also adjust future billing rates to the new subscription level indicated by Customer's actual usage. Unless otherwise specified in the relevant Order Form:
- (a) the term of the additional User subscriptions shall be coterminous with the expiration of the then current subscription term; and
 - (b) pricing for the additional User subscriptions shall be the same as that for the pre-existing subscriptions, prorated for the remainder of the then current subscription term.
- 3.3. Administrative Users.** Each subscription will include a number of User accounts that include limited system administration features, the number of which shall be agreed from time to time between the parties.
- 3.4. Authorized Support Contacts.** Customer will designate one or more Administrative Users who are authorized to invoke technical support and permit technical support technicians to access and make changes to Customer's Services.

4. Use of the Service.

The Service included in the Fees stated on the Order Form may include:

- 4.1. Simulation Learning Stations-** all equipment for skills simulation activities as provided on the Order Form (not including the use of any consumables required to operate the equipment). Except in the case of an out of box failure or product defect, Customer is responsible for replacing manikin faces and lungs, wipes, adult and infant

bag, adult and infant clothing. Customer acknowledges that in receiving the Service it does not take title or ownership to any of the equipment provided for the Services under this Agreement.

4.2. System Implementation – services to ensure that equipment installed at the Customer’s site is operational and that site administrators have been orientated to enable them to manage and operate the provided systems. An Implementation Fee shall be included on the Order Form to cover such establishment charges.

4.3. Equipment Support – services to ensure that the provided equipment for the Service remains operational and functional. In the case of failure of equipment RQIP will, as far as commercially reasonable, undertake to repair or replace at its own discretion and expense within five working days of the reported failure.

4.4. Customer Support - standard telephone and online support to Customer’s Authorized Support Contacts during normal RQIP Support Hours (generally Monday-Friday, 8 a.m. to 8 p.m. and Saturday 10 a.m. to 6 p.m. Eastern time, except holidays), which are subject to change.

4.5. Software and Data Handling - use of commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week, except for: (i) planned downtime; or (ii) any unavailability caused by circumstances beyond RQIP’s reasonable control, including acts of God, acts of government, flood, fire, earthquakes, acts of terror, strikes or other labor problems (other than those involving RQIP employees), computer, telecommunications, internet service provider or hosting facility failures or delays involving hardware, software or power systems not within RQIP possession or reasonable control, and network intrusions or denial of service attacks. RQIP service level commitments will be in accordance to the RQI Partners Service Levels, Practices, and Commitments document attached hereto as Exhibit B.

5. Customer Responsibilities. Customer is responsible for all activities that occur under Customer's User accounts. Customer shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (b) use commercially reasonable efforts to preserve and care for the Simulation Learning Stations and prevent unauthorized access to, or use of, the Service, and notify RQIP promptly of any unauthorized use; (c) comply with all applicable local, state, federal, and foreign laws in using the Service and not use the Service in a manner that would violate any federal or state laws of the United States; and (d) not move any RQIP equipment beyond the designated facility where it was installed, modify, dispose of, transfer or otherwise devalue the Simulation Learning Stations without prior written approval by RQIP.

6. Fees & Payment.

6.1. Fees. Customer shall pay all fees specified in all executed Order Forms. Except as otherwise stated on an Order Form, all fees are quoted and paid in United States dollars. In the case of the Service, and except for Implementation Fees and other services as stated on an Order Form:

- (a) fees are based on the number of User subscriptions purchased on the relevant Order Form, not the extent of actual usage;
- (b) fees are refundable on a pro-rated basis as related only to termination of this agreement; and
- (c) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form.

6.2. Customer Invoicing & Payment. Customer shall provide complete and accurate billing and contact information to RQIP and notify RQIP of any change to such information. Fees for the Service will be invoiced in advance in accordance with the terms set forth in the relevant Order Form. Unless otherwise stated in the

Order Form, charges are due net thirty (30) days from receipt of a certified invoice by the Monterey County Auditor-Controller.

- 6.3. System Implementation and Subscription Fees.** Upon completion of equipment delivery and System Implementation as defined in Section 1 of this Agreement RQIP will initiate immediate billing for the Implementation Fees. Unless otherwise provided on the Order Form, the fees for the subscription, and associated billing, on the Service shall commence on the initiation of the first subscription being activated.
- 6.4. Taxes.** Unless otherwise stated, RQIP's fees do not include any local, state, federal or foreign taxes, levies or duties of any nature ("Taxes"). Customer is responsible for paying all Taxes, excluding only taxes based on RQIP's income. If RQIP has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer unless the Customer qualifies for exemption of some or all of the Taxes and Customer provides RQIP with a valid tax exemption certificate authorized by each appropriate taxing authority.
- 6.5. Suspension of Service.** If Customer's account is ninety (90) days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, RQIP reserves the right to suspend the Service provided to Customer, without liability to Customer, until the overdue amounts are paid in full.

7. Proprietary Rights.

- 7.1. Reservation of Rights.** Customer acknowledges that in providing the Service, RQIP utilizes (a) trademarks and service marks; (b) certain audio and visual information, documents, software and other works of authorship; and (c) other technology, software, hardware, products, know-how and other trade secrets, designs, inventions and other tangible or intangible technical material and other intellectual property licensed to RQIP (collectively, "RQIP Licensed IP") and that the RQIP Licensed IP is covered by intellectual property rights licensed to Customer under this Agreement (collectively, "RQIP IP Rights"). Other than as expressly stated in this Agreement, no license or other rights in or to the RQIP Licensed IP or RQIP IP Rights are granted to Customer, and all licenses and rights are expressly reserved.
- 7.2. License Grant.** To the extent Customer orders Services under this Agreement, RQIP grants Customer and its Users a worldwide, non-exclusive, non-transferable, non-sublicensable right to access and use the Service in accordance with the terms of this Agreement.
- 7.3. Restrictions.** Customer shall not (a) modify, copy or create derivative works based on the Service or RQIP Licensed IP; (b) create Internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets; (c) disassemble, reverse engineer, or decompile the Service or RQIP Licensed IP, or access it in order to (i) build a competitive product or service; (ii) build a product or service using similar ideas, features, functions or graphics of the Service; or (iii) copy any ideas, features, functions or graphics of the Service; or (d) permit any use, removal or changes to any branding marks or logos on any components of the Service.

8. Customer Data.

- 8.1. General.** As between RQIP and Customer, all data obtained by RQIP from Customer through the provision of the Service, including all data results compiled by RQIP in providing the Service ("Customer Data") is owned exclusively by Customer. Customer Data shall be considered Confidential Information subject to the terms of

this Agreement. Customer grants RQIP, the American Heart Association and Laerdal Medical, an unrestricted, royalty-free, irrevocable license to maintain and distribute aggregated compilations of Customer Data (“Aggregated Data”) and to use such Aggregated Data for future studies and reports; provided, that the Aggregated Data will not reveal any personal information or the identity of Customer or any information in violation of FERPA (as defined below).

8.2. Learning Service Data. RQIP may access Customer's User accounts, including Customer Data, solely to respond to service or technical problems or at Customer's request. Customer agrees that RQIP may distribute certain Customer Data to support service, licensing and accreditation organizations for the benefit of Users. RQIP will release the minimum data required to adequately credit Users for educational activities completed.

9. Confidentiality.

9.1. Definition of Confidential Information. As used in this Agreement, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential at the time of disclosure or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure Confidential Information expressly includes all proprietary information and details that are generally considered “trade secrets” in the medical education and quality improvement services, medical and health-related technology and resuscitation technology industries. Confidential Information (except for Customer Data) shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (d) is received from a third party without breach of any obligation owed to the Disclosing Party. Confidential information of RQIP 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.

9.2. Confidentiality. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

9.3. Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Section 9, the Disclosing Party shall have the right, in addition to any other remedies, to seek injunctive relief, restraining order or other equitable relief to prevent breaches of this Section 9, it being specifically acknowledged by the parties that a violation of any of the terms of this Section 9 will cause the Disclosing Party irreparable injury for which adequate remedy at law is not available.

10. Warranties.

- 10.1. General.** Each party represents and warrants that it has the legal power to enter into this Agreement. RQIP represents and warrants that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision of the Service; (ii) it owns or otherwise has sufficient rights to the Service and the RQIP Licensed IP to grant the rights and licenses granted in this Agreement; and (iii) the Service, RQIP Licensed IP and RQIP Licensed Rights do not infringe any intellectual property rights of any third party.
- 10.2. Non-Exclusion.** RQIP represents and warrants that RQIP, its officers, directors, and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal healthcare programs as defined in 42 U.S.C. §1320a-7b(f) (the “federal healthcare programs”), (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared ineligible to participate in the federal healthcare programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in RQIP being excluded from participation in the federal healthcare programs. This shall be an ongoing representation and warranty and RQIP shall immediately notify Customer of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give Customer the right to terminate this Agreement immediately for cause.
- 10.3. FERPA.** RQIP represents and warrants that it will not disclose any information in violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and the Family Educational Rights and Privacy Act Regulations (34 CFR Part 99), as amended or otherwise modified from time to time, and that Education Records, as defined by FERPA, shall remain in the ownership of Customer.
- 10.4. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, RQIP MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. RQIP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

11. Mutual Indemnification.

RQIP shall defend, indemnify, save, and hold harmless Customer its trustees, officers, employees and agents from and against any and all judgments, damages, costs and expenses, including reasonable attorney's fees, paid or incurred by Customer to the extent arising out of any claim, action or proceeding for the negligent acts or omissions of RQIP.

Customer shall defend, indemnify, save, and hold harmless RQIP its officers, employees and agents from and against any and all judgments, damages, costs and expenses, including reasonable attorney's fees, paid or incurred by RQIP to the extent arising out of any claim, action or proceeding for the negligent acts or omissions of Customer.

12. Limitation of Liability.

- 12.1. Limitation of Liability.** EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 6 (PAYMENT OF FEES), 7.3 (RESTRICTIONS), 9 (CONFIDENTIALITY), and 11 (INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE LIMITS OF THE INSURANCE AS STATED IN SECTION 17.

12.2. Exclusion of Consequential and Related Damages. EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 9 (CONFIDENTIALITY) and 11 (INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGE.

12.3. Limitation of Action. Except for actions for non-payment or breach of either party's intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than two (2) years after the cause of action has accrued.

13. Term & Termination.

13.1. Term of Agreement. The Initial Term of this Agreement begins on April 1, 2021 and continues through March 31, 2024.

13.2. Term of User Subscriptions. User subscriptions for Services commence on the start date of the first subscription commences and continues for the subscription term specified in the Order Form. The parties may agree to extend the Term of this Agreement, providing that the extension is approved in writing by both parties on an Order Form and states the conclusion date of the extended term and the price for the respective subscriptions and services.

13.3. Termination for Cause. A party may terminate this Agreement for cause: (a) upon thirty (30) days written notice of a material breach to the other party if the breach remains uncured at the expiration of the cure period; or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon any termination for cause by Customer, RQIP shall refund Customer any prepaid fees for the Service for the remainder of the User subscription term after the date of termination. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to RQIP prior to the effective date of termination.

13.4. Termination for any reason. Either party reserves the right to terminate this Agreement on the first anniversary of the commencement of the first subscription, provided that 90 days' notice is given in advance of that date. Thereafter, the Agreement may be terminated without cause with 180 days advanced notice in writing.

13.5. Effect of Termination.

- (a) **No Release.** The expiration or termination of this Agreement, for any reason, shall not release either Party from any obligation or liability to the other party under this Agreement that has already accrued, including any payment obligation, or that accrues between notice of termination and the effective date of termination. Following the termination of this Agreement, RQIP will invoice the Customer for any outstanding fees and expenses due and owing under this Agreement, and the Customer shall pay all such amounts to RQIP in accordance with the payment terms set forth in Section 6.
- (b) **Return of Materials.** Upon termination of this Agreement, Customer shall:
 - (i) in accordance with instructions given by either RQIP or its Service Provider, use reasonable care to remove any RQIP Equipment located at the Customer's premises, package all items, and insure and safely return such equipment to the address specified at the expense of the customer;

- (ii) provide reasonable cooperation and assistance to and appropriate access by RQIP or its Service Provider for deactivating the Services; and, if applicable, removing equipment; and
- (iii) if termination was by RQIP for cause or for convenience by Customer, pay all reasonable fees and expenses related to the deactivation, removal, packaging, shipping and delivery of, and any tangible items related to, the Services, including travel costs if work at Customer's location(s) is required.

13.6. *Surviving Provisions.* The following provisions shall survive any termination or expiration of this Agreement: Sections 5 through 9, 11, 12, and 16 and paragraph 13.4.

14. General Terms for Order Forms

14.1. *Governance Of Order Forms* - An Order Form and the use of the Service(s) ordered shall be governed in all cases by this Master Services Agreement between RQIP and Customer. An Order Form shall state the date of the Agreement, any services or changes to be covered by the Order Form, pricing for any services to be provided under the Order Form, and any special conditions. Any additional terms and conditions specific to the Service(s) shall not be effective until the Order Form is signed by authorized representatives of both parties. If an Order Form is to be agreed between the parties at the time of signing this Agreement, it shall be included as Exhibit A and shall be considered authorized by the signing of this Agreement.

14.2. *Subscriptions On Order Forms* - The number of active users in the Program subscriptions may be assessed on the first day of each calendar quarter, and additional users beyond the quantity in the Master Services Agreement (MSA) and/or any Order Form(s) shall be added to such MSA and Order Form(s) and subject to billing at the point assessed. The Order is intended by both parties to run for the full term for each Service in the Order Details, and the parties acknowledge by signing the Order Form that they are aware of the current expiration date of the Agreement and the provisions for renewal and termination.

15. General Provisions.

15.1. *Relationship of the Parties.* This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

15.2. *Notices.* All notices under this Agreement shall be in writing and given to the party's address first written above, and shall be deemed to have been given, unless returned due to delivery problems, upon the earliest of: (a) personal delivery; (b) written confirmation of receipt by the other party; or (c) the second business day after mailing.

15.3. *Publicity.* Neither party may issue press releases relating to this Agreement without the other party's prior written consent.

15.4. *Waiver and Cumulative Remedies.* No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated in this Agreement, the remedies provided in the Agreement are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

15.5. *Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

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

17. Insurance.

17.1. Evidence of Coverage:

Prior to commencement of this Agreement, RQI Partners, LLC shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained.

This verification of coverage shall be sent to Customer’s Contracts/Purchasing Department, unless otherwise directed. RQI Partners, LLC 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 RQI Partners, LLC.

17.2. Qualifying Insurers: All coverage’s 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 Customer’s Contracts/Purchasing Director.

17.3. Insurance Coverage Requirements: Without limiting RQI Partners, LLC duty to indemnify, RQI Partners, LLC shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

17.4. 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, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence, and subject to the terms and exclusions therein.

(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 County approval.)

Exemption/Modification (Justification attached; subject to approval)

17.5. 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 County approval.)

Exemption/Modification (Justification attached; subject to approval)

17.6. Workers' Compensation Insurance. If RQI Partners, LLC employs other 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 County approval.)

Exemption/Modification (Justification attached; subject to approval)

17.7. Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), 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, RQI Partners, LLC 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.

(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 County approval.)

Exemption/Modification (Justification attached; subject to approval)

18. Other Insurance Requirements:

18.1. All insurance required by this Agreement shall be 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 RQI Partners, LLC completes its performance of services under this Agreement.

18.2. Customer shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof.

18.3. Prior to the execution of this Agreement by Customer, RQI Partners, LLC shall file certificates of insurance with Customer's Contracts/Purchasing Department, showing that RQI Partners, LLC has in effect the insurance required by this Agreement. RQI Partners, LLC 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.

18.4. RQI Partners, LLC 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, Customer shall notify RQI Partners, LLC and RQI Partners, LLC shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by RQI Partners, LLC to maintain such insurance is a default of this Agreement, which entitles Customer, at its sole discretion, to terminate the Agreement immediately.

19. Governing Law and Venue. This Agreement shall be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules. The state and federal courts located in the State of California shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party consents to the exclusive jurisdiction of these courts. Each party also waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.


20. Entire Agreement. This Agreement, including all exhibits and addenda and all Order Forms signed under this Agreement, constitutes the entire agreement between the parties, and supersedes all prior agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the parties. In the event of any conflict between the provisions in this Agreement and any exhibit or addendum, or Order Form, the terms of the exhibit, addendum or Order Form shall prevail to the extent of any inconsistency. Notwithstanding any language to the contrary within it, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

21. Counterparts. This Agreement may be executed in counterparts, either in physical or digital form, which, taken together, shall form one legal instrument.


AGREED

RQI Program Master Services Agreement – Rev 12/7/19

RQI Partners, LLC

By: 
Print Name: Christopher DeSposito
Title: VP, Customer Impact
Date: 1/22/2021

**County of Monterey, on behalf of Natividad
Medical Center**

By: 
Print Name: Gary R. Gibson
Title: CEO
Date: 2/15/21

Reviewed for Fiscal Provisions



1-27-2021

Reviewed and approved as to form.



Deputy County Counsel
1/27/2021

Exhibit A

Target Go Live: 1/1/2021

Quotation



Quote #: Q-02243-2
Date: 1/20/2021
Expires On: 60 Days From Quotation Date

RQI Partners LLC

7272 Greenville Avenue
 Dallas, Texas 75231
 USA

Customer
 Susan Watson
 Natividad Medical Center
 1441 Constitution Blvd
 Salinas, CA 93901
 (831) 783-2851
wsatonsv@natividad.com

Senior Sales Manager: Suzanne Sands
Email: suzanne.sands@rqipartners.com

Initial and Implementation Fees

Number	PRODUCT NAME	CONTRACTED TERM	TOTAL QUANTITY	PRICE PER UNIT	TOTAL PRICE
1	HeartCode BLS Online Part 1	36	995.00	\$24.80	\$24,676.00
2	HeartCode ACLS Online Part 1	36	189.00	\$129.60	\$24,364.80
3	HeartCode PALS Online Part 1	36	195.00	\$129.60	\$25,272.00
4	Activation Fees	0	459.00	\$14.00	\$6,426.00
TOTAL:					\$80,738.80
TAX					\$7,468.34

CONTRACT TOTAL: \$88,207.14

For Contract Term: 1/1/2021 - 12/31/2023.

This quote represents a good faith offer for services that, unless withdrawn orally or in writing by RQI Partners prior to acceptance, are accepted by signing and returning to the representative who submitted to you. The agreement created by your acceptance guarantees the pricing indicated in the quote subject to additional terms and conditions that will be attached as a Master Services Agreement that you will have 30 business days to review and either accept or reject without penalty to you.

Customer acknowledges that RQI Partners may conduct usage audits and Invoice Customer, and Customer agrees to pay for any usage above the number of subscriptions specified in the Customer's Order Forms. Except in the case of an out of box failure or product defect, customer is responsible for replacing manikin faces and lungs, wipes, adult and infant bag, adult and infant clothing.

Exhibit B



Exhibit B - RQI Partners
Service Levels, Practices, and Commitments
Rev 2.0

RQI Partners Service Levels, Practices, and Commitments

Service Details

The "RQI Service" consists of the RQI1Stop learning platform and the RQI Course Content.

Service Availability

The RQI Service will be available 99.9% of the time, excluding scheduled maintenance periods defined below.

Monitoring

The RQI Service is monitored continuously for availability, stability, security & quality by our Cloud Operations Team & Security Operations Team.

Revision History

Revision Number	Effective Date	Notes
1.0	03/02/2020	Initial version
2.0	06/29/2020	Renamed document. Updated Cloud Ops contact phone number.

Definitions

RQI Site Administrator: The organization's representative that manages the RQI1Stop system.

Scheduled Maintenance & Downtime

Maintenance is scheduled & executed regularly. Most often, scheduled maintenance does not result in downtime. In the event that downtime of the RQI Service will be needed for maintenance, the downtime will be communicated to the RQI Site Administrators via email two weeks ahead of time.

During maintenance events that require downtime, the RQI1Stop site will provide an update of when the RQI Service is expected to be available.

Severity Levels

Service issues are categorized as follows:

- Severity Level 1 – A complete RQI Service failure. An error renders the RQI Service inaccessible or inoperable.
- Severity Level 2 – All or some substantial functionalities of the RQI Service are inoperable, but a workaround exists.
- Severity Level 3 – Customer is impacted, but there is not a substantial disruption to customer operations.

RQI Partners Service Levels, Practices, and Commitments

Severity Level 1 Reporting Instructions for Clients

During Normal Business Hours:

Customers should call the RQI Customer Support Team (contact information below). In the event that the call cannot be answered, e.g., due to high call volume, the customer can leave a voicemail.

After Normal Business Hours:

Customers should contact the Cloud Operations Team at the following:

- CloudOps@Laerdal.com
- +1 (888) 764-3990

Severity Level 2 & 3 Reporting Instructions for Clients

Learners should contact their RQI Site Administrator for assistance with issues.

If the RQI Site Administrator cannot resolve the issue, the RQI Site Administrator should contact their RQI Impact Manager.

If the RQI Impact Manager cannot be reached, the RQI Site Administrator will contact the RQI Customer Support Team directly. If the RQI Impact Manager cannot resolve the issue, the RQI Impact Manager should contact the RQI Customer Support Team.

The RQI Customer Support Team will attempt to resolve the issue, or the issue may be escalated to the Application or Cloud Operations Team. The RQI Customer Support Team will keep the RQI Site Administrator informed of the resolution progress.

Response Times

- Severity Level 1 – Information related to Severity Level 1 incidents will be posted on the website, and emailed to RQI Site Administrators immediately, as the details become available.

The following response times are for when a client contacts the RQI Customer Support Team via email / voicemail message.

- Severity Level 2 – The client will receive a response within 4 working hours (i.e., potentially the next business day).
- Severity Level 3 – The client will receive a response within 1 business day (i.e., potentially the next business day).

Resolution Times

- Severity Level 1 – The resolution time for a Severity Level 1 incident is 4 hours.
- Severity Level 2 and 3 – If the resolution requires a change in the current code base, RQI Partners will make commercially reasonable efforts to resolve Severity Level 2 and 3 incidents in the next development sprint (i.e., up to 4 to 8 weeks).

RQI Partners Service Levels, Practices, and Commitments

Contact Information for Customer Support

RQI Partners Impact Manager

Impact Managers are assigned to support specific RQI program clients and to provide first level support to the clients.

- Location – Field
- Service Hours
 - Monday through Friday, 9:00 am to 5:00 pm local time.
- Contact Information:
 - Impact Manager's contact info was distributed to the clients during the Implementation Phase prior to Go-Live.

RQI Customer Support Team

The RQI Customer Support team provides support to RQI Site Administrators responsible for managing RQI Programs for their site.

- Location - Wappingers Falls, NY
- Service Hours
 - Monday through Friday, 8:00 am to 8:00 pm US Eastern Time
 - Saturday, 10:00 am to 6:00 pm US Eastern Time,
 - Closed Sunday
- Contact Information:
 - +1 (800) 594-9935
 - RQISupport@rqiinpartners.com

Customer Communications

The RQI Application Support Manager will send an email to RQI Site Administrators, notifying them of RQI Service-related issues. The RQI Director of Customer Support will be the backup for this task.

Emails to Customer RQI Site Administrators will come from RQISupport@RQIPartners.com.

The email list for RQI Site Administrators will be maintained by the RQI Application Support Manager, based on an export from the RQI1Stop application.

Timely updates of Severity Level 1 items, and at the completion of maintenance requiring downtime, will be sent to the RQI Site Administrators.