Master Agreement

This Master Agreement (the "Agreement") between **SureTest, Inc.,** a Delaware Corporation, with offices located at 2550 Meridian Boulevard, Suite 200, Franklin, TN 37067 ("**SureTest**"), and **San Bernardino County** on behalf of Arrowhead Regional Medical Center, with offices located at 400 N Pepper Ave, Colton, CA 92324 ("**Client**") is effective as of the 22nd day of August, 2023 ("Effective Date").

1.   Engagement. This Agreement sets forth the terms and conditions that shall govern the engagement between SureTest and Client. Individual projects under this Engagement ("Projects") shall be described in Work Orders to be executed by the parties. Each Work Order shall describe the scope of work to be performed, the time period for performance, the deliverables, the compensation to be paid, and any other terms and conditions applicable to the Work Order. In the event of any conflict between the terms of a Work Order and the terms of this Master Agreement, the terms of the Work Order shall prevail.

2.   Compensation. SureTest shall be compensated in the amount and manner as set forth in each Work Order.

3.   Invoicing and payment. Invoicing and payment terms shall be set forth in each Work Order.

4.   Trade Secrets and Confidential Information.

a.   During the term of this Agreement, each party (a "Receiving Party") may have access to and may become familiar with various trade secrets and confidential information of the other party (the "Disclosing Party"), including without limitation financial, operational and development information, software and computer programs and related source codes, object codes and documentation, patient and employee data, processes, customer lists, prospective customer information, employee lists and prospective employee data that are owned by the Disclosing Party or in which the Disclosing Party has property or license rights (all of such items contained in any tangible or electronic form, or disclosed verbally or visually, herein referred to as the "**Confidential Information**").

b.   Notwithstanding the foregoing, Confidential Information shall not include (i) information which is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, (ii) becomes available to the Receiving Party on a non-confidential basis from a source not bound by an obligation of confidentiality to the Disclosing Party, (iii) was known to the Receiving Party prior to its disclosure by the Disclosing Party, or (iv) is developed independently by the Receiving Party without reference to the Disclosing Party's Confidential Information.

c.   The Receiving Party shall not, either during the term of this Agreement or at any time thereafter, use the Confidential Information in any way other than in connection with its performance hereunder or as required by law nor disclose any of the Confidential Information, directly or indirectly, other than to its employees, subcontractors or affiliates who have a need to access to such

information in connection with their performance or as required by law. The Receiving Party shall take commercially reasonable measures to protect the security and prevent the improper disclosure of Confidential Information, which shall in no event be less rigorous than those utilized by the Receiving Party to protect its own Confidential Information. The Receiving Party shall disclose the Confidential Information only to those employees, agents or representatives having a need for access to the Confidential Information for purposes of their performance, and who are bound by obligations of confidentiality and non-disclosure that are no less stringent than those contained herein.

d.   Confidential Information may be disclosed by the Receiving Party as required by law, provided that the Receiving Party shall provide the Disclosing Party prompt advance notice of the legal requirement for disclosure, so that the Disclosing Party may seek a protective order, or other legal relief.

e.   Upon termination of this Agreement all Confidential Information in the Receiving Party's custody or control shall be immediately returned to the Disclosing Party, and the Receiving Party shall destroy all records, notes, compilations and other documentation (on all forms of media) containing Confidential Information of the Disclosing Party.

f.   The parties each acknowledge that there may be no adequate remedy at law for its failure to comply with the terms of this Section. Accordingly, in the event a Receiving Party fails to comply with these terms, the Disclosing Party shall have the right, without prejudice to any other rights or remedies available to it, to seek equitable relief to enforce and protect its rights hereunder, by way of temporary restraining order or injunction, and such other alternative relief as may be appropriate, without the necessity of posting any bond or surety.

5.   Ownership of Work Product.

a.   Unless otherwise set forth in a Work Order, all reports, documentation, software, designs, specifications and other tangible materials developed, created or provided by SureTest as identified deliverables in the course of the performance of Projects under this Agreement ("Work Product") shall be sole and exclusive property of SureTest.

b.   Work Product shall not include any commercial off the shelf software ("COTS Software") that is incorporated in any deliverable, and the ownership and rights surrounding the use of any such COTS Software shall be as set forth in the applicable COTS Software end user license or sublicense agreement. Work Product shall include any SureTest templates or tools that are incorporated in any deliverable, any materials of common or general utility not unique to Client (collectively, "Common Materials and Tools").

c.   All ideas, techniques, processes, methodologies, innovations, skills and know-how as well as deliverables under any Work Order ("Innovations") created, developed or learned by SureTest in the course of any Projects undertaken hereunder shall be the sole and exclusive property of SureTest.

d.   Anything herein to the contrary notwithstanding, each party shall be free to use, for any purpose, its skills, know-how and expertise, and all general ideas, techniques, and

knowledge that such party learned in the course of their respective performances hereunder, provided that neither party may use or disclose Work Product or Confidential Information of the other party.

6.   Intentionally omitted.

7.   No Unauthorized Use of Third-Party Technology or Information. SureTest will not bring to Client or use in the performance of the Projects any confidential information, device, material, document, trade secret or the like of any third party that is not generally available to the public. Client agrees that it shall not disclose to SureTest any confidential information of any third party, nor grant access to SureTest to any third-party licensed software, except as shall be consistent with Client's license agreement.

8.   SureTest Representations and Warranties

     a.   SureTest represents and warrants (a) that there are no other agreements of any nature with any person or entity which would prevent SureTest from entering into this Agreement, and (b) that SureTest has made no outstanding assignments, grants, licenses, encumbrances, obligations or agreements, either written, oral or implied, inconsistent with this Agreement.

     b.   Any warranties set forth in a Work Order shall not apply to any non-conformance of a deliverable arising from modification of any deliverable by anyone other than Company.

     c.   EXCEPT AS EXPRESSLY PROVIDED HEREIN, SURETEST'S PERFORMANCE HEREUNDER SHALL BE WITHOUT WARRANTY, EXPRESSED OR IMPLIED, AND THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.   Independent Contractor. This Agreement is intended to create an independent contractor relationship between the parties. Nothing will be construed as creating an exclusive relationship between the parties. Under no circumstance will SureTest's employees be construed as Client's employees.

10.   Indemnification and Insurance. SureTest shall indemnify, hold harmless and defend Client from, any and all costs, liabilities, damages, attorneys' fees, or expenses of any kind that arise out of a claim alleging that the Work Product (as defined in Section 6, above), excluding all Client products and services and third party products or services or works of authorship or inventions, infringe a validly existing U.S. patent or copyright, or other intellectual property right of a third party. Should the Work Product become the subject of infringement of such patent, copyright or other intellectual property right, SureTest shall procure for Client (i) the right to continue using the same, or (ii) replace or modify it to make it non-infringing, provided that the replacement or modification performs the same functions and matches or exceeds the performance and functionality of the original Work Product at no additional cost to Client. In the event that SureTest shall reasonably determine that neither (i) nor (ii) above is commercially practicable, Client shall return the infringing Work Product and SureTest shall refund the fees and expenses paid by Client to SureTest for such Work Product. SureTest shall have no obligation or liability for any claim

based upon or resulting from (A) the use, operation or combination of the Work Product with non-SureTest programs, data, equipment or documentation if such infringement would have been avoided but for such use, operation or combination; (B) modification of the Work Product, unless such modification has been performed by SureTest or at its direction; (C) the non-compliance with SureTest's designs, specifications or user documentation; or (D) information, direction, specifications or materials provided by Client or by a third party not under SureTest's control. The foregoing states the entire liability of SureTest and the exclusive remedy of Client with respect to infringement of any third party intellectual property rights, whether under theory of indemnity, breach of contract, warranty or otherwise. Without in anyway affecting the indemnity herein provided and in addition thereto, SureTest shall secure and maintain throughout the Agreement term the types of insurance with limits as shown and under the requirements set forth in Attachment B, as attached hereto and incorporated herein.

11.   Duties of Client. Client shall provide reasonable support to allow SureTest to perform the Projects in a timely manner, including the following: access to facilities and systems; information and access to client personnel; a reasonable work environment; timely responses to requests for information. It shall be Client's responsibility to maintain system security and protect Client data, including virus protection, data backup and reasonable security procedures.

12.   HIPAA. SureTest understands that in the course of its performance hereunder, SureTest may have access to Protected Health Information as defined under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, 45 C.F.R. Parts 160 – 164) ("HIPAA"). SureTest agrees that in such event it shall be deemed a Business Associate of Client as provided under HIPAA and SureTest agrees to the terms of the Business Associate Agreement attached hereto as Attachment A.

13.   Term and Termination.

     a.   This Master Agreement shall commence on the Effective Date and shall remain in effect for a period of three (3) years, unless terminated earlier by a party as provided herein. This Agreement may be terminated (i) by either party for convenience upon thirty (30) days' written notice or (ii) by the non-breaching party in the event of a material breach which is not cured by the breaching party within thirty (30) days following written notice of breach provided by the non-breaching party (specifying in reasonable detail the act(s) or omission(s) claimed to constitute the breach). Upon any termination of this Agreement each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such termination, except that: (x) no termination of this Agreement for convenience by Client shall have the effect of terminating any Work Order in effect at the time of such termination that, by its terms, may not be terminated for convenience, and the terms and conditions of this Agreement shall continue to govern any such Work Order(s) until such Work Order(s) expire or are terminated as may be provided for therein; and (y) any termination of this Agreement shall not affect the parties' rights and obligations under all sections of this Agreement that by their nature are intended to survive termination or expiration of the Agreement, nor shall any such termination relieve either party from any liability arising from any breach of this Agreement, as the case may be. Client shall be responsible for payment for Work performed prior to the effective date of termination.

b. Upon the expiration or termination of this Agreement, all Client Confidential Information, and all reproductions, copies and embodiments thereof, shall be returned by SureTest to Client.

14. **Force Majeure.** Neither party shall be liable to the other for a failure to perform hereunder to the extent that such failure is caused by fire, earthquake, flood, riot, insurrection, war, act of terror, epidemic, or other cause beyond the reasonable control of the party whose performance has been affected.

15. **Taxes**. Client shall be responsible for payment of all sales, use, excise and other taxes levied in connection with the Projects, except that SureTest shall be responsible for taxes based upon SureTest's income, and for payroll taxes levied in connection with SureTest employees. If Client is a tax-exempt entity under any applicable provision of the Internal Revenue Code of the United States and/or under state law, Client shall provide SureTest with a copy of the applicable tax exemption certificates for the Company.

16. **Limitation of Liability.** EXCEPT AS DESCRIBED IN THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING DAMAGES (INCLUDING LOSS OF DATA, REVENUE, AND/OR PROFITS) COSTS OR EXPENSES (INCLUDING LEGAL FEES AND EXPENSES), WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THIS AGREEMENT REGARDLESS OF WHETHER THE LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES OR OTHERWISE, AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. EXCEPT AS ARISING UNDER SURETEST'S INDEMNIFICATION OBLIGATIONS OR FROM SURETEST'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF LAW, IN NO EVENT SHALL SURETEST'S LIABILITY TO CLIENT EXCEED, IN THE AGGREGATE FOR ALL CLAIMS, ONE MILLION DOLLARS (US$1,000,000).

17. **Medical Liability Disclaimer.** The parties recognize that their performance hereunder may result in information being provided to physicians and other clinical personnel at Client. As between Client and SureTest, Client shall have sole responsibility for the use of information and for medical treatment of patients and clinical outcomes. Reliance by Client upon information provided by SureTest, or by systems that SureTest has provided or worked on shall not diminish the responsibility of Client for medical treatment, patient care and clinical outcomes.

18. **General Terms.**

a. This Agreement and the Work Orders entered into hereunder constitute the complete agreement between Client and SureTest with respect to the Projects, superseding any previous oral or written agreement, arrangement or understanding between the parties. This Agreement shall be governed by the laws of the State of California without reference to choice of law principles. The exclusive jurisdiction for any legal proceeding regarding this Agreement shall be the Superior Court of California, San Bernardino County, San Bernardino District, and the parties expressly agree that jurisdiction and venue are proper in said courts. If any action or claim concerning this Agreement is

brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

       b. This Agreement and any Work Orders entered into hereunder may only be amended by a written amendment signed by both parties.

       c. SureTest shall not assign any of its rights or any of its obligations under this Agreement without the prior written consent of Client, which shall not be unreasonably withheld, conditioned or delayed. Subject to the foregoing, this Agreement shall inure to the benefit of the successors and assigns of Client, and shall be binding upon SureTest's successors and permitted assigns.

       d. Any notices required or permitted hereunder may be given to the appropriate party by email and by certified mail, postage prepaid, return receipt requested or by nationally recognized overnight courier service, at the address specified below or at such other address as the party shall specify in writing. Notices shall be deemed effective upon receipt regardless of the method of transmittal.

    If to SureTest:
        SureTest, Inc.
        2550 Meridian Blvd, Suite 200
        Franklin, TN 37067
        Attn: CEO

    With a copy (email) to: legalnotice@suretest.health

    If to Client: The address of Client's principal place of business or administrative offices.

Either party may change the designated address for receipt of notices by notifying the other party in writing of such change.

19. **Electronic Signatures.** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

Signature page follows

In Witness Whereof, the parties hereto have executed this Agreement as of the date first written above.

SURETEST, INC.   **CLIENT: SAN BERNARDINO COUNTY**
                                                               ON BEHALF OF ARROWHEAD
                                                               REGIONAL MEDICAL
                                                               CENTER

Signed: _____   Signed: _____

Print Name: _____   Print Name: _____

Title: _____   Title: _____

Address: 2550 Meridian Blvd   Address: _____
           Suite 200
           Franklin, TN 37067   _____
           Office: (615) 721-3233
           Fax: (615) 866-0640   Phone: _____

                                                     _____

Attachment A: Business Associate Addendum

This Business Associate Agreement ("Agreement") is entered into this August 22, 2023 by and between **SureTest, Inc.** ("Business Associate") and **San Bernardino County on behalf of Arrowhead Regional Medical Center** ("Client"). Business Associate and Client are parties to certain underlying agreements whereby Business Associate's performance on behalf of Client may involve the use and disclosure of Protected Health Information. This Agreement defines the parties' obligations with respect to Business Associate's use and disclosure of Protected Health Information.

1. _Definitions_. As used herein, the following terms shall have these designated meanings:

    1.1   "Breach" has the same meaning as set forth in Section 13400 of HITECH and shall include the unauthorized acquisition, access, use or disclosure of PHI that compromises the security and/or privacy of such PHI. Any impermissible use or disclosure of Unsecured PHI is presumed to be a Breach requiring notification, except where an exception exists or where a Business Associate or Covered Entity, as applicable, demonstrates that there is a low probability that Unsecured PHI has been compromised based on a risk assessment, involving the analysis of required factors, that there is a low probability that the Unsecured PHI has been compromised: (i) the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the protected health information or to whom the disclosure was made; (iii) whether the protected health information was actually acquired or viewed; and (iv) the extent to which the risk to the PHI has been mitigated.

    1.2   "Electronic Protected Health Information" or "Electronic PHI" means Protected Health Information that is transmitted by electronic media and/or maintained in electronic media.

    1.3   "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, including the "Final Rule: Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the HITECH Act and the Genetic Information Nondiscrimination Act; and Other Modifications of the HIPAA Rules."

    1.4   "HITECH" means the Health Information Technology for Economic and Clinical Health Act, a portion of the American Recovery and Reinvestment Act of 2009, and the regulations promulgated thereunder.

    1.5   "Privacy Standards" means the Standards for Privacy of Individually Identifiable Health Information promulgated by the US Department of Health and Human Services, 45 CFR Parts 160 and 164 as may be amended from time to time.

    1.6   "Protected Health Information" or "PHI" means information that is created or received by a healthcare provider, health plan, employer or healthcare clearinghouse that relates to the past, present or future physical or mental health or condition of an individual, the provision of healthcare to an individual or the past, present or future payment for the provision of healthcare to an individual and that identifies the individual or with respect

to which there is a reasonable basis to believe the information can be used to identify the individual.

1.7 "Security Standards" means the Security Standards promulgated by the US Department of Health and Human Services, 45 CFR Parts 160 and 164 as may be amended from time to time.

1.8 "Underlying Agreement(s)" means any contract or agreement between Client and Business Associate whereby Business Associate supplies goods and/or services to or on behalf of Client.

1.9 "Unsecured Protected Health Information" or "Unsecured PHI" means PHI that is not secured through the use of a technology or methodology specified by the Secretary of the US Department of Health and Human Services pursuant to HITECH.

2. _Use and Disclosure of Protected Health Information_. Except as otherwise stated herein, Business Associate shall use and disclose Protected Health Information only as required to perform its obligations under the Underlying Agreement(s). Business Associate shall not, and shall ensure that its employees, contractors, subcontractors and agents do not, use or disclose PHI received from Client in any manner that would violate the Privacy Standards or Security Standards if so used by Client. Business Associate is responsible for full compliance with the Privacy Standards and Security Standards, as required by HITECH, to the same extent as Client.

3. _Business Associate's Responsibilities Regarding Protected Health Information_. With regard to its use and/or disclosure of Protected Health Information, Business Associate agrees to:

   a. use and/or disclose PHI only as permitted by this Agreement or as required by law;

   b. use appropriate safeguards to prevent unauthorized use or disclosure of PHI, including, without limitation, implementing administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that Business Associate creates, receives, maintains or transmits on behalf of Client;

   c. comply, where applicable, with HIPAA Standards with respect to Electronic Protected Health Information to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement

   d. promptly report to Client (i) any use or disclosure of PHI of which Business Associate becomes aware that is not permitted or required by this Agreement; (ii) any security incident or incident that compromises or could compromise the confidentiality, integrity and availability of Electronic PHI created, received, maintained or transmitted on behalf of Client; and/or (iii) any Breach of Unsecured PHI, including identifying each individual whose information has been or is reasonably believed to have been subject to the Breach, and sufficient details concerning the nature of the breach, the date it occurred and the date of discovery, the type of information involved and the steps Business Associate is taking to investigate, remediate and mitigate against further damage or losses. Business Associate will notify Client of any of the above events no later than five (5) business days after Business Associate becomes aware of such event;

   e. in the event of a security incident involving Electronic PHI or a Breach of Unsecured PHI, mitigate to the extent practicable any harmful effects of such incident or breach;

f.   require all its employees and agents that receive, use or have access to PHI to agree in writing to appropriately safeguard PHI in accordance with the requirements of the applicable requirements of § 164.504(e)

g.   ensure, in accordance with 45 CFR § 164.502(e)(1)(ii) and 164.308(b)(2), that any subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to the Protected Health Information, including complying with the applicable Security Regulation requirements.

h.   make available its internal practices, books and records relating to the use and disclosure of PHI to the Secretary of HHS for purposes of determining the parties' compliance with HIPAA and /or HITECH;

i.   within ten (10) business days after receiving a written request from Client, provide to Client such information as is requested and necessary to enable Client to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with HIPAA. Such information shall include, at a minimum, the date of any disclosure by the Business Associate, the name and address of the entity or person to whom disclosure was made, a description of the PHI so disclosed and a description of the purpose for which such disclosure was made. Business Associate agrees to implement appropriate record keeping processes to enable it to comply with the requirements of this section;

j.   make available PHI in its possession for amendment and/or incorporate any such amendments or corrections into the PHI in accordance with the HIPAA regulations;

k.   promptly report to Client any subpoena, court or other administrative order or discovery request calling for release or disclosure of PHI so that Client will have an opportunity to seek protective relief or otherwise direct Business Associate's response to such request;

l.   upon termination of this agreement, return to Client or destroy all PHI in its possession maintained or stored in any form or media, and retain no copies, if it is feasible to do so. If return or destruction is not feasible, Business Associate agrees to extend all protections contained in this Agreement to its use and or disclosure of any retained PHI following termination of this Agreement, and to limit all further uses and/or disclosures to those purposes that make the return or destruction of the PHI not feasible.

4. *Permitted Uses and Disclosures of PHI*. Notwithstanding the restrictions and conditions upon the use and/or disclosure of PHI set forth herein, Business Associate may use PHI for its proper management and administration and to fulfill Business Associate's legal responsibilities.

5. *Minimum Necessary Representation*. Business Associate represents and warrants that it shall request, use and/or disclose only the amount of PHI that is minimally necessary to perform its obligations under the Underlying Agreement(s). In addition, Business Associate represents and warrants that it will institute and implement policies and practices to limit its uses and disclosures of PHI to that which is minimally necessary to perform its obligations under the Underlying Agreement(s).

6. *Client's Responsibilities*. Client agrees to notify Business Associate promptly in writing of any arrangements between Client and any individual who is the subject of PHI that may impact Business Associate's use and disclosure of PHI under this Agreement.

7. *Termination*. In addition to any other rights or remedies Client may have under this Agreement or at law or in equity, Client may terminate this Agreement if Business Associate has breached a material term of this Agreement, which has not been cured within ten (10) days of the date of notice of breach. In such event, Client, in its sole discretion, may also terminate any and all Underlying Agreements that require use and/or disclosure of PHI by Business Associate. This Agreement shall terminate automatically if there is no Underlying Agreement in effect that requires use and/or disclosure of PHI by Business Associate.

8. *Injunctive Relief*. The parties stipulate that any unauthorized use and/or disclosure of PHI could cause Client irreparable harm. Therefore, in such event, Client shall be entitled to such injunctive relief as shall be deemed appropriate by a court of competent jurisdiction without a requirement for posting of bond. Such injunctive relief shall be available in addition to any other rights or remedies available at law or in equity.

9. *Indemnification*. Business Associate shall indemnify, defend and hold harmless Client for any and all claims, inquiries, costs or damages incurred by Client arising from a violation by Business Associate of its obligations under this Agreement. Client shall give Business Associate prompt written notice of any claim or other action for which it intends to seek indemnification.

10. *Miscellaneous*.

    10.1   Amendments. Any amendment, addendum or modification to this Agreement must be in writing signed by the parties.

    10.2   Interpretation and Governing Law. This Agreement shall operate as an addendum to the Underlying Agreement(s). This Agreement is entered into based upon the parties' intent to comply with HIPAA and HITECH. This Agreement should be construed in accordance with HIPAA, HITECH and the regulations promulgated thereunder, to the extent applicable. In addition, this Agreement should be construed light of any interpretations and guidance regarding HIPAA/HITECH issued by the US Department of Health and Human Services from time to time. To the extent that any portion of HIPAA and/or HITECH is materially amended in a manner than changes the obligations of the parties under this Agreement, the parties agree to execute whatever amendments or additional documents may be necessary to effectuate such revised obligations.

    10.3   Severability and Waiver. If any provision of this Agreement cannot be enforced, the remaining portion of the Agreement will remain in effect and will be deemed to be modified to be valid and enforceable to the fullest extent permitted by law. If either party waives any provision of this Agreement, that does not mean any other provision(s) are also waived or that the same provision is waived at any other time or for any other purpose.

10.4   <u>Beneficiaries</u>.   Business Associate and Client are the only beneficiaries to the consideration or other requirements and provisions of this Agreement.

10.5   <u>Notice</u>. Whenever notice is required to be given under this Agreement such notice shall be given in the manner specified in the Underlying Agreement(s).

ATTACHMENT B
INSURANCE REQUIREMENTS

SureTest agrees to provide insurance set forth in accordance with the requirements herein. If SureTest uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, SureTest agrees to amend, supplement or endorse the existing coverage to do so.

1. Without in anyway affecting the indemnity herein provided and in addition thereto, SureTest shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

    a. <u>Workers' Compensation/Employer's Liability</u> – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all persons including volunteers providing services on behalf of SureTest and all risks to such persons under this contract. If SureTest has no employees, it may certify or warrant to Client that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by Client's Director of Risk Management. With respect to contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

    b. <u>Commercial/General Liability Insurance</u> – SureTest shall carry General Liability Insurance covering all operations performed by or on behalf of SureTest providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:
        i. Premises operations and mobile equipment.
        ii. Products and completed operations.
        iii. Broad form property damage (including completed operations).
        iv. Explosion, collapse and underground hazards.
        v. Personal injury.
        vi. Contractual liability.
        vii. $2,000,000 general aggregate limit.

    c. <u>Automobile Liability Insurance</u> – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence. If SureTest is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and

property damage per occurrence. If SureTest owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

d. <u>Umbrella Liability Insurance</u> – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

e. <u>Professional Liability</u> –Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim and two million ($2,000,000) aggregate limits

<div align="center">or</div>

<u>Errors and Omissions Liability Insurance</u> – Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the Agreement work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after Agreement completion.

f. <u>Cyber Liability Insurance</u> - Cyber Liability Insurance with limits of no less than $1,000,000 for each occurrence or event with an annual aggregate of $2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved Client entities and cover breach response cost as well as regulatory fines and penalties.

2. Additional Insured. All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming Client and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for Client to vicarious liability but shall allow coverage for Client to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

3. Waiver of Subrogation Rights. SureTest shall require the carriers of required coverages to waive all rights of subrogation against Client, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit SureTest and SureTest's employees or agents from waiving the right of subrogation prior to a loss or claim. SureTest hereby waives all rights of subrogation against Client.

4. Policies Primary and Non-Contributory. All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by Client.

5. Severability of Interests. SureTest agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between SureTest and Client or between Client and any other insured or additional insured under the policy.

6. Proof of Coverage. SureTest shall furnish Certificates of Insurance to Client Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and SureTest shall maintain such insurance from the time SureTest commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, SureTest shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

7. Acceptability of Insurance Carrier. Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

8. Deductibles and Self-Insured Retention. Any and all deductibles or self-insured retentions in excess of $10,000 shall be declared to and approved by Risk Management.

9. Failure to Procure Coverage. In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, Client has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by Client will be promptly reimbursed by SureTest or Client payments to SureTest will be reduced to pay for Client purchased insurance.

10. Insurance Review. Insurance requirements are subject to periodic review by Client. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of Client. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against Client, inflation, or any other item reasonably related to Client's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. SureTest

agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of Client to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of Client.