

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General of the Department of Health and Human Services (OIG-HHS) (collectively the "United States"); Endoscopic Technologies, Inc. ("Estech"); and [REDACTED] ("Relator") (hereafter referred to collectively as "the Parties"), through their authorized representatives.

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Estech is a California corporation headquartered in San Ramon, California that manufactures and distributes medical devices.

B. On August 21, 2007, Relator filed a qui tam action in the United States District Court for the Southern District of Texas captioned United States ex rel. [REDACTED] v. Endoscopic Techs., Inc., Civil Action No. 07-2705 (S.D. Tex.) (hereinafter "the Civil Action").

C. In the Civil Action, Relator alleges that Estech submitted or caused to be submitted false or fraudulent claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh, by engaging in the following conduct (the "Covered Conduct") from September 2005 through October 2008:

(1) Relator alleges that Estech caused false claims to be submitted by improperly instructing hospitals and other healthcare providers to code minimally invasive procedures using its Cobra Cardiac Electrosurgical Unit, Cobra Surgical System, and Cobra Adhere Surgical System (collectively, "Ablation Devices") as "open" procedures when it knew such procedure codes were not correct;

(2) Relator alleges that Estech promoted the sale and use of its Ablation Devices for the treatment of atrial fibrillation when it knew that such treatment was not medically necessary and knowingly caused false and/or fraudulent claims to be submitted to Medicare for such treatment;

(3) Relator alleges that Estech caused false claims to be submitted by knowingly inducing hospitals to purchase its Ablation Devices by providing free or discounted marketing services and loaning Cobra Cardiac Electrosurgical Units to hospitals at less than fair market value; and

(4) Relator alleges that Estech knowingly promoted the sale and use of its Ablation Devices for the treatment of atrial fibrillation, a use that has not been approved by the United States Food and Drug Administration, in violation of the Food, Drug and Cosmetic Act, 21 U.S.C. §§ 331(a) & (d).

D. The United States contends that it has certain civil claims, as specified in Paragraph 3, below, against Estech for engaging in the Covered Conduct.

E. The United States also contends that it has certain administrative claims against Estech for the Covered Conduct under the provisions for permissive exclusion from Medicare, Medicaid and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(b), the provisions for permissive exclusion from TRICARE under 32 C.F.R. § 199.9, and the provisions for civil monetary penalties under 42 U.S.C. § 1320a-7a.

F. Estech denies the contentions set forth in Paragraph C and the claims and allegations made in the Civil Action. This Agreement represents a compromise to avoid continued litigation and associated risks and is neither an admission of liability by Estech nor a concession by the United States that its claims are not well founded.

G. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below:

III. TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations in this Agreement, and for good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

1. Estech shall pay to the United States the sum of one million, four hundred thousand (\$1,400,000) (the "Settlement Amount"). On the Effective Date of this Agreement, this sum shall constitute a debt due and immediately owing to the United States. Estech further agrees to pay Relator \$100,000 for expenses and attorneys' fees and costs (the "Relator's Attorneys' Fees Amount"). The foregoing payments shall be made as follows:

a. Estech shall pay to the United States the Settlement Amount plus interest accrued thereon at the rate of 2.125% per annum, in accordance with the payment schedule attached hereto as Exhibit A ("Payment Schedule"). Within 10 days after the Effective Date of this Agreement, Estech shall pay the United States the initial fixed payment in the amount of \$20,000 ("Initial Payment") and thereafter make principal payments with interest according to the schedule in Exhibit A.

b. All payments set forth in Paragraph 1(a) shall be made to the United States by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Southern District of Texas. The entire balance of the Settlement

Amount, or any portion thereof, plus any interest accrued on the principal as of the date of any prepayment, may be prepaid without penalty.

c. Contingent upon the United States receiving the Initial Payment from Estech and as soon as feasible after receipt, the United States agrees to pay \$3,000 to Relator.

Contingent upon the United States receiving each additional payment from Estech identified in the schedule in Exhibit A and as soon as feasible after receipt of each payment, the United States agrees to make the corresponding additional payment to the Relator according to the schedule in Exhibit A.

d. In addition to the Settlement Amount, Estech agrees to pay the Relator's Attorneys' Fees Amount, in accordance with the payment schedule attached hereto as Exhibit B ("Relator Attorneys' Fees Payment Schedule"), in full satisfaction of Relator's right to fees and costs authorized by 31 U.S.C. § 3730(d). Within five (5) business days after receiving notice that the Federal Civil Action has been dismissed, Estech shall pay \$12,500 ("Initial Payment") to Relator, by check payable to her counsel, and thereafter make payments according to the schedule in Exhibit B.

2. If Estech fails to make any of the payments described in Paragraph 1(a) above at the specified time, upon written notice to Estech of this default, Estech shall have ten (10) calendar days to cure the default. If the default is not cured within the ten-day period: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 2.125% from the Effective Date of this Agreement to the date of default, and at a simple rate of 12% per annum from the date of default until the date of payment; (b) the United States may pursue any and all actions for collection as it may choose, including, without limitation, filing an action for specific performance of this

Agreement; and (c) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to Estech by any department, agency, or agent of the United States. Estech agrees not to contest any collection action undertaken by the United States pursuant to this Paragraph 2, and to pay the United States all reasonable costs incurred in any such collection action, including attorney's fees and expenses.

3. Subject to the exceptions in Paragraph 6 (concerning excluded claims), below, in consideration of the obligations of Estech in this Agreement, conditioned upon Estech's full payment of the Settlement Amount, and subject to Paragraph 19, below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Estech from any civil and administrative monetary claims the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Food Drug and Cosmetic Act, 21 U.S.C. §§ 331(a), 331(d), and 332; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud. No individuals are released by this Agreement.

4. Subject to the exceptions in Paragraph 6 (concerning excluded claims), below, in consideration of the obligations of Estech in this Agreement, conditioned upon Estech's full payment of the Settlement Amount, and subject to Paragraph 19, below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), Relator, for herself and for her heirs, successors, attorneys, agents, and assigns, agrees to release Estech from any civil monetary claim the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

5. OIG-HHS expressly reserves all rights to institute, direct, or maintain any administrative action seeking exclusion against Estech, and/or its officers, directors, and employees from Medicare, Medicaid, or other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) or 42 U.S.C. § 1320a-7(b) (permissive exclusion). Estech and OIG-HHS are engaged in the negotiation of a potential Corporate Integrity Agreement (CIA) and have reached a common understanding on the basic terms of such a CIA. Estech shall use its best efforts and negotiate in good faith to execute a CIA with OIG-HHS within 90 days after the Effective Date of this Agreement (defined in Paragraph 32 below). Upon execution of the CIA, OIG-HHS shall provide a release to Estech pursuant to which OIG-HHS will agree not to institute, direct, or maintain an administrative action seeking an exclusion against Estech under 42 U.S.c. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct.

6. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Estech and Relator) are the following claims of the United States: (a) any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code); (b) any criminal liability; (c) except as expressly provided in this Agreement, any administrative liability, including mandatory and/or permissive exclusion from Federal health care programs; (d) any liability to the United States (or its agencies) for any conduct other than the Covered Conduct; (e) any liability based upon such obligations as are created by this Agreement; (f) any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services; (g) any liability for failure to deliver goods or services due; or (h) any liability of individuals, including directors, officers and employees.

7. Relator and her heirs, successors, attorneys, agents, and assigns agree not to object to this Agreement and agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B) and, conditioned upon receipt of Relator's share, Relator, for herself individually, and for her heirs, successors, agents, and assigns, fully and finally releases, waives, and forever discharges the United States, its officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. § 3730; from any claims arising from the filing of the Civil Action; and from any other claims for a share of the Settlement Amount; and in full settlement of any claims Relator may have under this Agreement. This Agreement does not resolve or in any manner affect any claims the United States has or may have against the Relator arising under Title 26, U.S. Code (Internal Revenue Code), or any claims arising under this Agreement.

8. In consideration of the obligations of Estech in this Agreement, conditioned upon the full payment of the Settlement Amount and Relator's Legal Fees, Relator, for herself and for her heirs, successors, agents, and assigns, agrees to generally release, acquit, waive, and forever discharge Estech and all the current and former officers and directors, employees, agents, attorneys, owners and shareholders of Estech from any and all rights, claims, expenses, debts, liabilities, demands, obligations, costs, damages, injuries, actions and causes of action of every nature, whether known or unknown, suspected or unsuspected, in law or in equity from the beginning of the world to the Effective Date of this Agreement including but not limited to those she advanced or could have advanced in the Civil Action or otherwise under the False Claims Act, 31 U.S.C. §§ 3729-3733, for expenses or attorneys' fees and costs under 31 U.S.C. § 3730(h), or under 31 U.S.C. § 3730(h) for employment decisions by Estech and/or other statutory or common law doctrines of payment by mistake, unjust enrichment, breach of contract, fraud, or

the like. The foregoing sentence is intended to be interpreted as a general release. Furthermore, Relator covenants not to sue Estech, its current and former officers and directors, employees, agents, attorneys and shareholders of Estech with respect to any and all rights, claims, expenses, debts, liabilities, demands, obligations, costs, damages, injuries, actions and causes of action of every nature, whether known or unknown, suspected or unsuspected, in law or in equity, including those for attorneys' fees and costs arising prior to the Effective Date of this Agreement.

9. Estech has provided sworn financial disclosure statements (Financial Statements) to the United States and the United States has relied on the accuracy and completeness of those Financial Statements in reaching this Agreement. Estech warrants that the Financial Statements are complete, accurate, and current. If the United States learns of asset(s) in which Estech had an interest at the time of this Agreement that were not disclosed in the Financial Statements, or if the United States learns of any misrepresentation by Estech on, or in connection with, the Financial Statements, and if such nondisclosure or misrepresentation changes the estimated net worth set forth in the Financial Statements by \$200,000 or more, the United States may at its option: (a) rescind this Agreement and file suit based on the Covered Conduct or (b) let the Agreement stand and collect the full Settlement Amount plus one hundred percent (100%) of the value of the net worth of Estech previously undisclosed. Estech agrees not to contest any collection action undertaken by the United States pursuant to this provision, and immediately to pay the United States all reasonable costs incurred in such an action, including attorney's fees and expenses.

10. In the event that the United States, pursuant to Paragraph 9 (concerning disclosure of assets), above, opts to rescind this Agreement, Estech agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar

theories, to any civil or administrative claims that (a) are filed by the United States within 90 calendar days of written notification to Estech that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on August 21, 2007.

11. Estech waives and shall not assert any defenses Estech may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

12. Estech fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Estech has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

13. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or intermediary or any state payer, related to the Covered Conduct; and Estech agrees not to resubmit to any Medicare carrier or intermediary or any state payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

14. Estech agrees to the following:

a. Unallowable Costs Defined: that all costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh and 1396-1396v; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Estech, its present or former officers, directors, employees, shareholders, and agents in connection with the following shall be “Unallowable Costs” on government contracts and under the Medicare, Medicaid, TRICARE, Veterans Affairs (“VA”), or FEHBP programs:

- (1) the matters covered by this Agreement;
 - (2) the United States’ audit(s) and civil investigation(s) of the matters covered by this Agreement;
 - (3) Estech’s investigation, defense, and corrective actions undertaken in response to the United States’ audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney’s fees);
 - (4) the negotiation and performance of this Agreement;
 - (5) the payment Estech makes to the United States pursuant to this Agreement and any payments that Estech may make to Relator, including costs and attorneys fees; and
 - (6) the negotiation of the CIA referenced in Paragraph 5 above, and any obligations undertaken pursuant to such a CIA to: (i) retain an independent review organization to perform reviews as described in the CIA; and (ii) prepare and submit reports to OIG-HHS.
- However, nothing in this paragraph 14(a)(6) that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority

applicable to Estech. (All costs described or set forth in this Paragraph 14(a) are hereafter “Unallowable Costs.”)

b. Future Treatment of Unallowable Costs: These Unallowable Costs shall be separately determined by Estech, and Estech shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Estech or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, VA or FEHBP programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Estech further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Estech or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. Estech agrees that the United States, at a minimum, shall be entitled to recoup from Estech any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The

United States reserves its rights to disagree with any calculations submitted by Estech or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on Estech or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Estech's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

15. Estech agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Estech shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Estech agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by its counsel or other agent.

16. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 8 (relator release paragraph), above, and Paragraph 17 (waiver for beneficiaries paragraph), below.

17. Estech agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors,

legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

18. Estech warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Estech, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Estech was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

19. If within 91 days of the Effective Date of this Agreement or of any payment made under this Agreement, Estech commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of Estech's debts, or seeking to adjudicate Estech as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Estech or for all or any substantial part of Estech's assets, Estech agrees as follows:

a. Estech's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Estech shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Estech's obligations under this Agreement may be avoided under

11 U.S.C. § 547; (ii) Estech was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Estech.

b. If Estech's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Estech for the claims that would otherwise be covered by the releases provided in Paragraph 3, above. Estech agrees that (i) any such claims, actions, or proceedings brought by the United States (including any proceedings to exclude Estech from participation in Medicare, Medicaid, or other Federal health care programs) are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceedings described in the first clause of this Paragraph, and Estech shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) Estech shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding that are brought by the United States within 60 calendar days of written notification to Estech that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on August 21, 2007; and (iii) the United States has a valid claim against Estech in an amount not less than \$4,736,560, and the United States may pursue its claim in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding.

c. Estech acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

20. Upon receipt of the Initial Payment described in Paragraph 1, above, the United States and Relator shall promptly sign and file in the Civil Action a Notice of Intervention and Joint Stipulation of Dismissal with prejudice of the Civil Action pursuant to the terms of the Agreement.

21. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

22. Estech represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

23. Relator represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

24. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the District of the Southern District of Texas.

25. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

26. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

27. The individuals signing this Agreement on behalf of Estech represent and warrant that they are authorized by Estech to execute this Agreement. The individual(s) signing this Agreement on behalf of Relator represent and warrant that they are authorized by Relator to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

28. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

29. This Agreement is binding on Estech's successors, transferees, heirs, and assigns.

30. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

31. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

32. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 6/15/09

BY: *Edward Crooke*
EDWARD C. CROOKE
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 6/9/09

BY: *Michelle Zingaro*
MICHELLE ZINGARO
Assistant United States Attorney
United States Attorney's Office
for the Southern District of Texas

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

THE UNITED STATES OF AMERICA

DATED: _____

BY:

EDWARD C. CROOKE
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice


DATED: _____

BY:

MICHELLE ZINGARO
Assistant United States Attorney
United States Attorney's Office
for the Southern District of Texas

DATED: 6/15/99

BY:




GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

ENDOSCOPIC TECHNOLOGIES, INC.

DATED:

6/5/09

BY:



JOHN PAYLIDIS
Chief Executive Officer
Endoscopic Technologies, Inc.

DATED: _____

BY:

ROGER GOLDMAN
Latham & Watkins, LLP
Counsel to Endoscopic Technologies, Inc.



ENDOSCOPIC TECHNOLOGIES, INC.

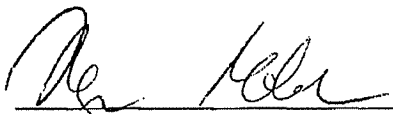
DATED: _____

BY: _____

JOHN PAVLIDIS
Chief Executive Officer
Endoscopic Technologies, Inc.

DATED: 6/8/09

BY: _____

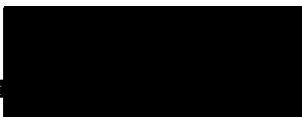

ROGER GOLDMAN
Latham & Watkins, LLP
Counsel to Endoscopic Technologies, Inc.

JUN-10-2009 11:12 From: SANFORDWITTELS+HEIS 2027427776

To: 97635602701

P.2/2

RELATOR



DATED: 6/10/09

BY:



Relator

DATED: _____

BY:

MITCHELL KREINDLER
Kreindler & Associates
Counsel to Relator

DATED: _____

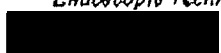
BY:

DAVID W. SANFORD
Sanford, Wittels & Heisler, LLP
Counsel to Relator

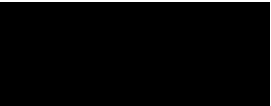
DATED: _____

BY:

GRANT MORRIS
Law Offices of Grant Morris
Counsel to Relator

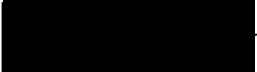


RELATOR



DATED: _____

BY:



Relator

DATED: 6/10/09

BY:

MITCHELL KREINDLER
Kreindler & Associates
Counsel to Relator

DATED: 6/8/09

BY:

DAVID W. SANFORD
Sanford, Witale & Heisler, LLP
Counsel to Relator

DATED: 6/08/09

BY:

GRANT MORRIS
Law Offices of Grant Morris
Counsel to Relator



EXHIBIT A

SETTLEMENT AND RELATOR SHARE PAYMENT SCHEDULE

Quarter	Payment	Relator's Share
at signing	20,000.00	3,000.00
06/30/2009	27,331.25	4,099.69
09/30/2009	27,225.00	4,083.75
12/31/2009	27,118.75	4,067.81
03/31/2010	27,012.50	4,051.88
06/30/2010	44,406.25	6,660.94
09/30/2010	44,207.03	6,631.05
12/31/2010	44,007.81	6,601.17
03/31/2011	43,808.59	6,571.29
06/30/2011	43,609.38	6,541.41
09/30/2011	43,410.16	6,511.52
12/31/2011	43,210.94	6,481.64
03/31/2012	43,011.72	6,451.76
06/30/2012	105,312.50	15,796.88
09/30/2012	104,781.25	15,717.19
12/31/2012	104,250.00	15,637.50
03/31/2013	103,718.75	15,557.81
06/30/2013	153,187.50	22,978.13
09/30/2013	152,390.62	22,858.59
12/31/2013	151,593.75	22,739.06
03/31/2014	150,796.87	22,619.53

EXHIBIT B

RELATOR ATTORNEYS' FEES PAYMENT SCHEDULE

Quarter	Payment
at signing	12,500.00
06/30/2009	12,500.00
09/30/2009	12,500.00
12/31/2009	12,500.00
03/31/2010	12,500.00
06/30/2010	12,500.00
09/30/2010	12,500.00
12/31/2010	12,500.00