

SETTLEMENT AGREEMENT

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 (“OIG-HHS”) of the Department of Health and Human Services (“HHS”) (collectively the “United States”), DFine, Inc. (“DFine”), and Brian Eberhard (“Relator”), through their authorized representatives. Collectively, all of the above will be referred to as “the Parties.”

RECITALS

A. DFine is a privately-held medical device company organized under the laws of Delaware, with its principal place of business located in San Jose, California. At all relevant times, DFine developed, manufactured, distributed, marketed, and sold medical devices in the United States, including a radiofrequency vertebral augmentation device sold under the trade name StabiliT® Vertebral Augmentation System, RF -TVA™ (the “Covered Device”).

B. On or about July 8, 2010, Relator filed a *qui tam* action in the United States District Court for the Western District of Tennessee captioned *United States ex rel. Eberhard v. DFine, Inc.*, Case No. 10-CV-2474, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the Civil Action). Relator alleges that DFine used so-called “User Preference Evaluations” (hereinafter “UPEs”) as vehicles to pay participating physicians kickbacks to use the Covered Device in vertebral augmentation procedures involving Medicare beneficiaries.

C. The United States contends that DFine submitted or caused to be submitted claims for payment to the Medicare Program (Medicare), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1.

D. The United States contends that it has certain civil claims against DFine arising from the following conduct during the period from January 1, 2007, through December 31, 2009: DFine employed UPEs as vehicles to pay participating physicians kickbacks to use the Covered Device in vertebral augmentation procedures involving Medicare beneficiaries. Although DFine collected information from participating physicians about their use of the Covered Device, it knowingly and intentionally used UPEs as a means of increasing device sales by paying certain targeted physicians to select the Covered Device. Each of the UPEs required the use of the Covered Device. In each case, DFine paid each participating physician a fee ranging from \$250 to \$500. DFine solicited physicians for the UPEs in order to convert their business from a competitor's product and/or persuade the physicians to use the Covered Device. The United States further alleges that during the period December 1, 2008, through December 31, 2010, DFine paid improper remuneration in a variety of other forms, including travel expenses, lavish dinners, entertainment, and promotional speaker fees, to physicians located in Chicago, IL and Little Rock, AR in order to induce the use of the Covered Device in vertebral augmentation procedures involving Medicare beneficiaries.

As a result of the foregoing conduct, the Government alleges that DFine caused false or fraudulent claims for vertebral augmentation procedures using the Covered Device to be submitted to Medicare. That conduct is referred to below as the "Covered Conduct."

E. DFine denies the allegations in the Covered Conduct and expressly denies any wrongdoing or liability for the Covered Conduct. This Settlement Agreement is neither an admission of liability by DFine nor a concession by the United States that its claims are not well founded.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator's reasonable expenses, attorneys' fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. DFine shall pay to the United States the sum \$2,391,120 (the "Settlement Amount"), plus interest accrued thereon at the rate of 2.5% per annum from July 5, 2011, and continuing until and including the day before the final payment is made under this Agreement. On the Effective Date of this Agreement, this sum shall constitute a debt due and immediately owing to the United States. The Settlement Amount shall be paid as follows:

a. DFine shall pay to the United States the Settlement Amount plus interest accrued thereon at the rate of 2.5% per annum, in accordance with the payment schedule attached hereto as Exhibit A. On or before October 15, 2011, DFine shall pay the United States the initial fixed payment in the amount of \$1,000,000 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 Western District of Tennessee. 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.

2. If DFine fails to make any of the payments described in Paragraph 1(a) above at the specified time, upon written notice to DFine of this default, DFine shall have twenty (20) calendar days to cure the default. If the default is not cured within the twenty-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 2.5% 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 DFine by any department, agency, or agent of the United States. DFine 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. Conditioned upon the United States receiving the initial fixed payment in the amount of \$1,000,000 from DFine, as described in paragraph 1.a, above, and as soon as feasible after receipt, the United States shall pay \$105,805.89 to Relator by electronic funds transfer. Contingent upon the United States receiving each additional payment from DFine identified in the schedule in Exhibit A, as soon as feasible after receipt of each payment, the United States

agrees to make the corresponding additional payment to Relator according to the schedule in Exhibit A.

4. Following receipt of written instructions from Relator, DFine agrees to pay to Relator an aggregate total of \$70,360.00 pursuant to 31 U.S.C. § 3730(d) for expenses and attorney's fees and costs arising from the filing of the Civil Action.

5. Subject to the exceptions in Paragraph 8 (concerning excluded claims) below, and conditioned upon DFine's full payment of the Settlement Amount, and subject to Paragraph 21, 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 releases DFine, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and officers, directors, and affiliates; and the successors and assigns of any of them, from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; 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.

6. Subject to the exceptions in Paragraph 8 below, and conditioned upon DFine's full payment of the Settlement Amount, and subject to Paragraph 21, below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases DFine, together with its current and former parent corporations, divisions, current or former owners, and officers, directors, and affiliates and their

successors and assigns of any of them, from any civil monetary claim the Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

7. In consideration of the obligations of DFine in this Agreement and the Corporate Integrity Agreement (CIA), entered into between the OIG-HHS and DFine, conditioned upon DFine's full payment of the Settlement Amount, the OIG-HHS agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against DFine under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in Paragraph 9 (concerning excluded claims), below, and as reserved in this Paragraph. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude DFine from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) based upon the Covered Conduct. Nothing in this Paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 8, below.

Notwithstanding the foregoing, in the event of a default that is not cured within twenty (20) days as defined in Paragraph 2, above, OIG-HHS may exclude DFine from participating in all Federal health care programs until DFine pays the Settlement Amount and reasonable costs as set forth in Paragraph 2, above. OIG-HHS will provide written notice of any such exclusion to DFine. DFine waives any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7), and agrees not to contest such exclusion either administratively or in any state or federal court.

Reinstatement to program participation is not automatic. If at the end of the period of exclusion DFine wishes to apply for reinstatement, DFine must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. DFine will not be reinstated unless and until OIG-HHS approves such request for reinstatement.

8. Notwithstanding the releases given in Paragraphs 5 through 7 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory 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 obligations 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; and
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

9. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but 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). Conditioned upon Relator's receipt of the payment described in Paragraph 3, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

10. In consideration of the obligations of DFine in this Agreement, conditioned upon the full payment of the Settlement Amount and Relator's attorneys' fees, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases DFine, together with its current and former parent corporations, divisions, current or former owners and officers, directors and affiliates and their successors and assigns for any of them 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 he 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 attorney's fees and costs under 31 U.S.C. § 3730(d), or under 31 U.S.C. § 3730(h) for employment decisions by DFine 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 DFine, its current and former officers and directors, employees, agents, attorneys and shareholders of DFine 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 attorney's fees and costs arising prior to the Effective Date of this Agreement.

11. DFine 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. DFine warrants that the Financial Statements are complete, accurate, and current. If the United States learns of asset(s) in which DFine 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 DFine 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 \$250,000 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 DFine previously undisclosed. DFine 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.

12. In the event that the United States, pursuant to Paragraph 11 (concerning disclosure of assets), above, opts to rescind this Agreement, DFine 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 120 calendar days of written notification to DFine that this Agreement has been rescinded, and

(b) relate to the Covered Conduct, except to the extent these defenses were available on July 8, 2010.

13. DFine waives and shall not assert any defenses DFine 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.

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

15. 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 DFine 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.

16. DFine agrees to the following:

a. “Unallowable Costs” Defined: 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. §§ 1395-1395kkk-1 and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of DFine, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (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) DFine’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 DFine makes to the United States pursuant to this Agreement and any payments that DFine may make to Relator, including costs and attorneys fees; and
- (6) the negotiation of, and obligations undertaken pursuant to the CIA to:
 - (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and
 - (ii) prepare and submit reports to the OIG-HHS,

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs). However, nothing in this Paragraph 16.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 DFine.

b. Future Treatment of Unallowable Costs: If applicable, Unallowable Costs shall be separately determined and accounted for by DFine, and DFine 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 DFine or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: If applicable, DFine 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 DFine 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. DFine agrees that the United States, at a minimum, shall be entitled to recoup from DFine 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 DFine or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on DFine 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 DFine's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

17. DFine agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, DFine 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. DFine further 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 another on its behalf.

18. 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 19 (waiver for beneficiaries paragraph), below.

19. DFine 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.

20. DFine 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 the initial scheduled payment to the United States in the amount of \$1,000,000. 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 DFine, 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 DFine was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

21. If within 91 days of the Effective Date of this Agreement or of any payment made under this Agreement, DFine 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 DFine's debts, or seeking to adjudicate DFine as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for DFine or for all or any substantial part of DFine's assets, DFine agrees as follows:

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

b. If DFine'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 DFine for the claims that would otherwise be covered by the releases provided in Paragraphs 5 through 7, above. DFine agrees that (i) any such claims, actions, or proceedings brought by the United States 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 DFine shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to

an automatic stay; (ii) DFine 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 120 calendar days of written notification to DFine that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on July 8, 2010; and (iii) the United States has a valid claim against DFine in the amount of \$10,091,900, 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. DFine acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

22. Upon receipt of the payment described in Paragraph 1, above, the United States and Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal with prejudice of the Civil Action pursuant to Rule 41(a)(1).

23. 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.

24. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

25. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Western District of Tennessee. For purposes of construing this Agreement, 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 undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

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

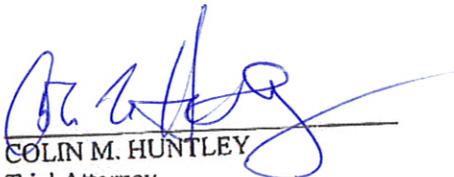
29. This Agreement is binding on DFine's successors, transferees, heirs, and assigns.

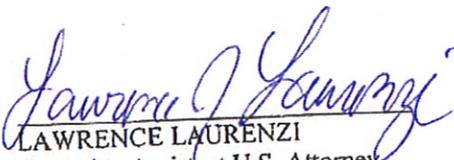
30. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

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: September 30, 2011 BY: 
COLIN M. HUNTLEY
Trial Attorney
Commercial Litigation Branch, Civil Division
United States Department of Justice

DATED: 9-30-11 BY: 
LAWRENCE LAURENZI
Executive Assistant U.S. Attorney
United States Attorney's Office
Western District of Tennessee

DATED: 9/30/11 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

DFINE, INC.

DATED: 9-15-11

BY: Kevin Mosher
KEVIN MOSHER
Chief Executive Office

DATED: 9-16-2011

BY: [Signature]
LEO CUNNINGHAM
LEE-ANNE MULHOLLAND
Wilson Sonsini Goodrich & Rosati

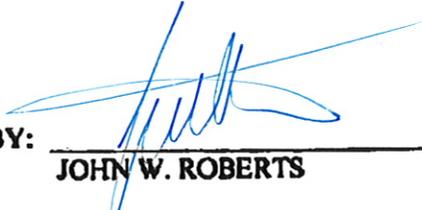
Counsel to DFine, Inc.

RELATOR BRIAN EBERHARD

DATED: 9/16/11

BY: 
BRIAN EBERHARD

DATED: 9/17/11

BY: 
JOHN W. ROBERTS
Counsel to Relator Brian Eberhard

DATED: 09-17-2011

BY: 
W. JOSEPH WERNER, Jr.
Counsel to Relator Brian Eberhard

EXHIBIT A

PAYMENT SCHEDULE

Quarter	Payment	Interest (2.5%)	Principal	Balance	Relator Share
				2,391,120.00	
15-Oct-11	\$1,009,498.97	\$9,498.97	\$1,000,000.00	\$1,391,120.00	\$105,805.89
15-Jan-12	\$120,689.98	\$8,694.50	\$111,995.48	\$1,279,124.52	\$12,649.55
15-Apr-12	\$120,689.98	\$7,994.53	\$112,695.45	\$1,166,429.07	\$12,649.55
15-Jul-12	\$120,689.98	\$7,290.18	\$113,399.80	\$1,053,029.28	\$12,649.55
15-Oct-12	\$120,689.98	\$6,581.43	\$114,108.54	\$938,920.73	\$12,649.55
15-Jan-13	\$120,689.98	\$5,868.25	\$114,821.72	\$824,099.01	\$12,649.55
15-Apr-13	\$120,689.98	\$5,150.62	\$115,539.36	\$708,559.65	\$12,649.55
15-Jul-13	\$120,689.98	\$4,428.50	\$116,261.48	\$592,298.17	\$12,649.55
15-Oct-13	\$120,689.98	\$3,701.86	\$116,988.11	\$475,310.06	\$12,649.55
15-Jan-14	\$120,689.98	\$2,970.69	\$117,719.29	\$357,590.77	\$12,649.55
15-Apr-14	\$120,689.98	\$2,234.94	\$118,455.04	\$239,135.73	\$12,649.55
15-Jul-14	\$120,689.98	\$1,494.60	\$119,195.38	\$119,940.35	\$12,649.55
15-Oct-14	\$120,689.98	\$749.63	\$119,940.35	\$0.00	\$12,649.55
Total	2,448,279.73	57,159.73	2,391,120.00		\$257,600.49