

## 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”), Vasso Godziachvili Godiali, M.D. (“Godiali” or “Defendant”), and Innovative Solutions Consulting, LLC (“Innovative Solutions” or “Relator”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. Godiali was a vascular surgeon in Bay City, Michigan, and was the owner of a clinic known as Bay City Vascular P.C.

B. On November 30, 2015, Relator filed a *qui tam* action in the United States District Court for the Eastern District of Michigan captioned *United States ex rel. Innovative Solutions Consulting, LLC v. Vasso Godziachvili Godiali, M.D.*, Case No. 1:15-cv-14150-TLL-PTM, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”).

C. The United States contends that Godiali submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”), and the Medicaid Program, 42 U.S.C. §§ 1396-1396w-5 (“Medicaid”).

D. On June 23, 2014, the Centers for Medicare & Medicaid Services (“CMS”) suspended Godiali’s payments pursuant to 42 C.F.R. § 405.371(a)(2) based upon credible allegations of fraud (“CMS Suspension”). The total amount held by the CMS as a result of this payment suspension is \$9,202,780.78 (“Suspended Amount”). As of May 9, 2023, Godiali has an outstanding payment with Wisconsin Physicians Service Health Solutions (“WPS”), owed to

HHS/CMS, in the amount of \$20,121.63 (“Overpayment Amount”). After accounting for the Overpayment Amount, the remaining amount held by the United States as a result of the CMS Suspension shall be defined as the “Available Suspended Amount,” which is \$9,182,659.15 as of May 9, 2023.

E. On July 11, 2019, the United States filed an *in rem* civil forfeiture action against certain financial assets held by Godiali; his wife, Anna Godiali; and entities owned by Godiali and Anna Godiali, Case No. 1:19-cv-12056 (E.D. Mich.) (the “Civil Forfeiture Action”). Godiali and Anna Godiali each filed individual claims on the assets at issue in the Civil Forfeiture Action. Godiali and Anna Godiali have resolved their claims in the Civil Forfeiture Action pursuant to the Stipulation to Lift Stay and for Entry of Consent Judgment and Final Order of Forfeiture (“Forfeiture Order”), entered by the Court.

F. The United States contends that it has certain civil claims against Godiali arising from submitting, or causing to be submitted, false claims to the Medicare and Medicaid programs from 2009 through 2016, in connection with the conduct described in Paragraph G below.

G. On February 8, 2022, Godiali pleaded guilty to one count of healthcare fraud under 18 U.S.C. § 1347 (“Plea Agreement”). On May 3, 2023, Godiali was sentenced, and on May 4, 2023, judgment was entered (“Criminal Judgment”). As part of the Plea Agreement, Godiali agreed that the following facts are true and accurate. Godiali admits, acknowledges, and accepts responsibility for the following facts:

Godiali, a resident of Bay County, Michigan, was a physician licensed to practice in the State of Michigan. Godiali’s specialty was vascular surgery, and his medical practice, Bay City Vascular, was located in Bay City, Michigan. Godiali was an enrolled provider in Medicare and Medicaid, and as such was subject to the rules and regulations governing these programs.

Beginning in approximately 2009, Godiali knowingly defrauded Medicare and Medicaid by causing the submission of false claims for services associated with vascular stents and with arterial thrombectomies.

A vascular stent is a tube that is inserted into a blood vessel to improve blood flow when a vein or artery is too narrow. Stents are mesh and are significantly compressed when they are inserted into the vessel. A vascular stent is typically inserted into a vessel through a small sheath and placed in the narrowed section. Once in place, a cover is removed from the stent, and the stent is opened and expands to the size of the vessel.

During the relevant time period, Godiali caused his employees to bill Medicare and Medicaid for placing multiple stents into the same vessel for the same patient. To justify the placement of multiple stents into a single vessel, medical records prepared by Godiali would typically describe encountering a fractured stent inside the vessel and removing the stent through an introducer sheath with forceps. Those descriptions in the medical records were materially inaccurate. Godiali knowingly caused his employees to bill Medicare and Medicaid for the placement of numerous stents when in fact he did not place some of those stents. In doing so, Godiali acted with the intent to defraud.

As with the stents, Godiali's medical records also contained materially false statements relating to thrombectomies (removal of a blood clot) that were not performed. In medical records prepared by Godiali, he often described observing an occluded brachial artery (the major blood vessel of the upper arm), when Godiali knew the artery was not, in fact, occluded. Thus, Godiali did not perform a thrombectomy for the purpose of removing such occlusion in the brachial artery. Godiali knew that those procedures were submitted to Medicare and Medicaid for payment despite the fact that some of them had not been performed.

In addition to the conduct admitted in the Plea Agreement, the United States contends that Godiali improperly used Modifier 59 to “unbundle” services that should have been billed together in a single claim and that Godiali used Modifier 59 to increase his reimbursements from federal healthcare programs. The United States contends that Godiali knowingly defrauded federal healthcare programs by using Modifier 59 to unbundle claims that were not “separate and distinct.”

The conduct described in this Paragraph G shall hereinafter be referred to as the “Covered Conduct.”

H. 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.

In consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. Godiali shall pay to the United States up to \$43,419,000 (“Settlement Amount”), of which \$14,473,000 is restitution. Payment of the Settlement Amount will come from the following sources, and to the extent the total available funds are less than the Settlement Amount, the United States agrees that it will not otherwise seek to recover any remaining amount from Godiali.

a. In the Plea Agreement, Godiali agreed that restitution to the United States is \$14,473,000. Pursuant to the Criminal Judgment, Godiali was ordered to make restitution to the United States in the amount of \$14,473,000. Pursuant to the Forfeiture Order, Godiali agreed that \$19,500,000 of frozen assets would be forfeited to the United States (“Forfeited Funds”).

Godiali agrees that the United States shall receive up to \$14,473,000 in Forfeited Funds to satisfy Godiali’s criminal restitution obligation as determined by the Department of Justice’s Money

Laundering and Asset Recovery Section (“MLARS”) pursuant to 28 C.F.R. Part 9. To the extent that MLARS allocates any of the Forfeited Funds to the United States, the United States shall apply the Forfeited Funds as allocated to the United States by MLARS to the Settlement Amount.

b. Godiali agrees that the United States shall retain the Suspended Amount of \$9,202,780.78 forevermore. Godiali expressly relinquishes any and all rights of any kind that he may have with respect to those funds, including, but not limited to: any and all claims or rights to have an overpayment determined under 42 C.F.R. § 405.372(c), any and all rights to payment of those funds, and any and all rights to appeal, whether formally or informally and whether administratively or judicially, the right of the United States and/or CMS to retain those funds, and any other rights Godiali may have to challenge the withholding or the suspension in any respect. The United States shall apply the Available Suspended Amount to the Settlement Amount.

c. Godiali has released any remaining claim on the assets subject to the Civil Forfeiture Action pursuant to the Forfeiture Order. Godiali agrees that \$17,765,251.68 that was frozen as part of the Civil Forfeiture Action shall be released to the United States and applied to the Settlement Amount, pursuant to Paragraph 13 of the Forfeiture Order.

2. Conditioned upon the United States receiving at least \$17,367,600 of the Settlement Amount and as soon as feasible after receipt of at least \$17,367,600, the United States shall pay \$4,341,900 to Relator (“Relator’s Share”) by electronic funds transfer pursuant to written instructions provided by Relator. To the extent that the United States recovers less than \$17,367,600, the United States shall pay to Relator twenty-five percent of the amount recovered.

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon the United States’ receipt of the Settlement Amount, the United States releases Godiali

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.

4. Subject to the exceptions in Paragraph 5 below, and upon the United States' receipt of the Settlement Amount, Relator, for itself and for its members, heirs, successors, attorneys, agents, and assigns, releases Godiali 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.

5. Notwithstanding the releases given in Paragraph 3 of this Agreement or any other term of this Agreement, the following claims and rights 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 or enforcement right, including mandatory 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 obligations created by this Agreement;
- f. Any liability of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

- h. Any liability for failure to deliver goods or services due; or
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

6. Relator and its members, 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 Relator's Share, Relator and its members, 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.

7. Relator, for itself, and for its members, heirs, successors, attorneys, agents, and assigns, releases Godiali from any liability to Relator arising from the filing of the Civil Action, except nothing herein shall be deemed as a release by the Relator of Godiali concerning its claim for costs, fees and expenses pursuant to 31 U.S.C. § 3730(d). No agreement concerning reasonable expenses, attorneys' fees and costs has been reached to date. Godiali retains and is not releasing his right to contest on any basis Relator's claim to an award of expenses, attorneys' fees, and costs.

8. Godiali waives and shall not assert any defenses Godiali 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.

9. Godiali fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Godiali 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 or the United States' investigation or prosecution thereof.

10. Godiali fully and finally releases the Relator and Relator's counsel from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Godiali has asserted, could have asserted, or may assert in the future against the Relator and Relator's counsel, related to the Civil Action and the Relator and Relator's counsel's investigation and prosecution thereof.

11. 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 contractor (*e.g.*, Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Godiali agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

12. Godiali 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. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Godiali, his present or former officers, directors, employees, shareholders, and agents in connection with:



- (1) the matters covered by this Agreement and the Plea Agreement in *United States v. Vasso Godiali*, 1:19-cr-20431 (E.D. Mich.);
- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) Godiali's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and the Plea Agreement; and
- (5) any payment Godiali makes to the United States pursuant to this Agreement and any payments that Godiali may make to Relator, including costs and attorneys' fees

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").

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

c. Treatment of Unallowable Costs Previously Submitted for Payment: Godiali further agrees that within 90 days of the Effective Date of this Agreement he 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 Godiali or any of his 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. Godiali agrees that the United States, at a minimum, shall be entitled to recoup from Godiali 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 Godiali or any of his subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Godiali or any of his 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 Godiali's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

13. 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 14 (waiver for beneficiaries paragraph), below.

14. Godiali agrees that he 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.

15. Within ten days of the Effective Date of the Agreement, the United States and Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1).

16. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

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

18. 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 Eastern District of Michigan. 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.

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

20. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

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

22. This Agreement is binding on Godiali's successors, transferees, heirs, and assigns.

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

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

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

**THE UNITED STATES OF AMERICA**

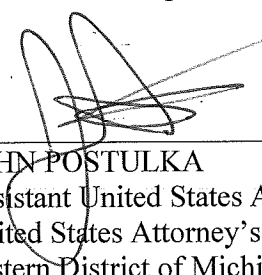
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BY:

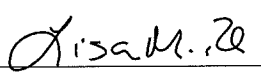
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SARAH M. ARNI  
Senior Trial Counsel  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 5/24/2023 BY:


  
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JOHN POSTULKA  
Assistant United States Attorney  
United States Attorney's Office for the  
Eastern District of Michigan

DATED: 5/12/2023 BY:

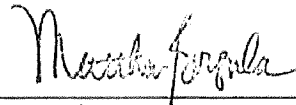
  
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LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

**VASSO GODIALI - DEFENDANT**

DATED: 5/24/23

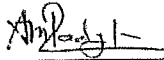
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Vasso Godiali

DATED: 5/24/23

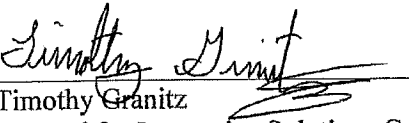
BY:   
Matthew Borgula  
Counsel for Vasso Godiali

**INNOVATIVE SOLUTIONS CONSULTING, LLC - RELATOR**

DATED: 5/15/23

BY:   
Abhay Padgaonkar  
Innovative Solutions Consulting, LLC

DATED: 5/15/23

BY:   
Timothy Granitz  
Counsel for Innovative Solutions Consulting, LLC