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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

January 10, 2011

SafeStitch Medical, Inc.

(Exact name of registrant as specified in its charter)

Delaware

0-19437

11-2962080

(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

(I.R.S. Employer  
Identification No.)

4400 Biscayne Blvd., Suite 670, Miami, Florida

33137

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

305-575-4600

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

(b) Effective January 10, 2011, Adam S. Jackson, resigned his position as Chief Financial Officer of SafeStitch Medical, Inc. and its subsidiaries (the "Company"). On January 14, 2011, the Company entered into a Confidential General Release of All Claims (the "General Release") and a Consulting Agreement (the "Consulting Agreement") with Mr. Jackson. Under the terms of the General Release, the Company agreed to pay Mr. Jackson \$29,000, and Mr. Jackson released the Company from all claims, demands or liabilities relating to the date of the General Release. The General Release also includes certain restrictive covenants, including a one-year non-solicitation of employees, to which Mr. Jackson has agreed to be bound.

Pursuant to the terms of the Consulting Agreement, Mr. Jackson will provide certain consulting services to the Company through March 31, 2011 up to 12 hours per week. The Company will pay Mr. Jackson \$15,000 to render the consulting services through March 31, 2011.

The foregoing information is a summary of the General Release and the Consulting Agreement, is not complete, and is qualified in its entirety by reference to the full text of those agreements, each of which is attached as an exhibit to this Current Report on Form 8-K. Readers should review those agreements for a complete understanding of their respective terms and conditions.

(c) Following Mr. Jackson's resignation, James J. Martin was appointed as Acting Chief Financial Officer. Since January 10, 2011, Mr. Martin has also served as Acting Chief Financial Officer of Non-Invasive Monitoring Systems, Inc. ("NIMS"), a publicly-held medical device company and Vice President of Finance of Aero Pharmaceuticals, Inc. ("Aero"), a privately held pharmaceutical distributor. From July 2010 until January 10, 2011, Mr. Martin had served as the Controller of the Company, NIMS and Aero. From 2008-2010, Mr. Martin served as the Controller of AAR Aircraft Services, Inc., an aerospace and defense company, and from 2005-2008, Mr. Martin served as the Controller of Avborne Heavy Maintenance, Inc., an aviation maintenance repair and overhaul company. The Company receives reimbursement of a portion of Mr. Martin's compensation pursuant to a Board and Audit Committee-approved cost sharing arrangement whereby the total salaries of the accounting staffs of the Company, NIMS and Aero are shared.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

10.1 Confidential General Release of All Claims dated January 14, 2011

10.2 Consulting Agreement effective January 10, 2011

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SafeStitch Medical, Inc.

*January 14, 2011*

By: *Jeffrey G. Spragens*

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*Name: Jeffrey G. Spragens  
Title: Chief Executive Officer*

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Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
10.1	Confidential General Release of All Claims dated January 14, 2011
10.2	Consulting Agreement effective January 10, 2011

## CONFIDENTIAL GENERAL RELEASE OF ALL CLAIMS

This CONFIDENTIAL GENERAL RELEASE OF ALL CLAIMS (the "Release") is entered into this—14th day of January 2011 (the "Effective Date"), by and among SafeStitch Medical, Inc., and its agents, servants, parent companies, officers, directors, predecessors, subsidiaries, divisions and successors, along with its and their current and former employees, attorneys, officers, directors and agents, both individually and in their business capacities (hereinafter collectively referred to as "Employer") and **Adam S. Jackson**, his heirs, successors and assigns (hereinafter referred to as "Employee").

WHEREAS, Employee desires to compromise, finally settle, and fully release any and all actual or potential claims, including, without limitation, those related to Employee's employment and separation of employment, that Employee in any capacity may have or claim to have against Employer.

WHEREAS, Employee acknowledges that Employee is waiving his or her rights or claims only in exchange for consideration in addition to anything of value to which he or she already is entitled.

WHEREAS, Employee voluntarily and irrevocably resigned from employment with Employer effective **January 10, 2011**, and Employer accepts Employee's resignation of employment. Employee's resignation is attached hereto as **Exhibit A**.

NOW, THEREFORE, in consideration of the foregoing and the payments specified below in paragraph 2, Employee and Employer agree as follows:

1. The recitals above are true and correct and are incorporated herein as material terms of this Release.

2. In consideration for Employee's execution of this Release and compliance with its terms, Employer agrees to pay Employee the total, gross amount of **Twenty-Nine Thousand and 00/100 Dollars** (\$29,000.00), less applicable taxes, withholdings, and authorized deductions. This amount, less applicable taxes, withholdings, and authorized deductions, will be paid to Employee upon Employer's receipt of this original Release executed by Employee within ten (10) business days following expiration of the revocation period set forth in paragraph 14.

3. (a) In consideration for the promises set forth in this Release, Employee releases and forever discharges Employer (as defined above) from any and all claims, demands or liabilities, whether known or unknown, that Employee ever had or may now have against Employer from the beginning of time to the date of this Release. This Release shall not affect any rights of Employee as a consultant pursuant to that Consulting Agreement executed by and between Employer and Employee (or Employee's affiliated entity) of even date.

(b) The general release of claims set forth in paragraph 3(a) above includes, without limitation, any and all claims, demands or liabilities relating to or arising out of Employee's employment with and separation of employment from Employer, including, without limitation, any claims, demands or liabilities for wrongful termination, constructive discharge, assault, battery, defamation, invasion of privacy, all claims based on negligent and/or intentional conduct, unpaid wages and commissions, severance or separation payments, termination benefits, payments for accrued but unused vacation or time-off, bonus or incentive payments, reimbursements, benefits or the value thereof, breach of any express or implied contract, breach of any covenant of good faith and fair dealing, or pursuant to any federal, state, or local employment laws, rules, regulations, ordinances, or executive orders prohibiting retaliation, coercion, intimidation, interference, harassment, or, inter alia, age, race, color, religion, sex, pregnancy, ancestry, gender, national origin, handicap, disability, marital status, familial status, sexual orientation, or genetic information discrimination, including, without limitation, claims arising under:

- the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act ("OWBPA"), 29 U.S.C. § 621, *et. seq.*
- Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* ("Title VII")
- the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601, *et. seq.* ("FMLA")
- the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et. seq.* ("ADA")
- the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701, *et. seq.*
- the Occupational Safety and Health Act, 29 U.S.C. § 651, *et. seq.*, and Florida laws governing workplace health and safety
- the Equal Pay Act, 29 U.S.C. § 206, *et. seq.*
- the Civil Rights Acts of 1866 and 1871, 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 1986
- the Consolidated Omnibus Budget Reconciliation Act ("COBRA")
- the Employee Polygraph Protection Act, 29 U.S.C. § 2001, *et. seq.*
- the Genetic Information Non-Discrimination Act of 2008, 42 U.S.C. § 2000ff, *et. seq.*
- the Employee Retirement Income Security Act of 1974 (excluding any vested benefits under a plan governed by ERISA), as

amended, 29 U.S.C. § 1001, *et. seq.*

- the Sarbanes-Oxley Act
- the Immigration Reform and Control Act
- the Fair Credit Reporting Act
- the Health Insurance Portability and Accountability Act Of 1996 (“HIPAA”)
- the Worker Adjustment and Retraining Notification Act (“WARN”)
- the Florida Private Sector Whistleblower Act, § 448.101, *et. seq.*, Fla. Stat.
- the Florida Civil Rights Act of 1992, § 760.01, *et. seq.*, Fla. Stat.
- Florida’s workers’ compensation retaliation statute, § 440.205, Fla. Stat.
- the Florida Minimum Wage Act, § 448.110, Fla. Stat.
- Florida’s wage payment and wage discrimination laws, including, without limitation,
- §§ 448.07 and 448.08, Fla. Stat.
- Florida’s AIDS discrimination laws, including, without limitation, § 760.50, Fla. Stat.
- all local and county ordinances governing the employment relationship
- the Federal and State of Florida Constitutions
- any other applicable federal, state, or local law, common or statutory, or tort or common law cause of action, including, but not limited to, any cause of action for costs, fees, expenses, attorneys’ fees, penalties, damages, and liquidated and consequential damages incurred in these matters, which Employee ever had, now has, or shall have as of the date of this Release.

Employee does not waive or release claims that arise after the date Employee executes this Release, nor does Employee waive or release claims for unemployment compensation benefits or workers’ compensation benefits.

4. Employee affirms that Employee has reported all hours worked as of the date Employee signs this Release and has been paid and/or received all compensation, wages, bonuses, commissions, and/or benefits to which Employee may be entitled. Employee also affirms that Employee has been granted any leave to which Employee was entitled under the Family and Medical Leave Act, the Americans With Disabilities Act, or related state or local leave or disability accommodation laws. Employee further affirms that Employee has no known workplace injuries or occupational diseases.

5. Employee represents that no person other than the parties who sign this Release had or has any interest in this Release. Employee also represents that he or she has the sole right and exclusive authority to execute this Release.

6. (a) Employee agrees that any and all Confidential Information (as that term is defined below) that he or she received, or to which he or she was exposed, or that he or she created during his or her employment with Employer is and shall remain confidential and shall at all times remain the property of Employer. Employee represents and warrants that that he or she has not taken and does not possess any documents or information, in any form or format, electronic, hard-copy, or otherwise, that contain, in whole or in part, Confidential Information of Employer. Employee further represents and warrants that he or she will keep all Confidential Information of Employer strictly confidential and shall not, at any time or in any manner, share, disclose, or disseminate such Confidential Information with or to any individual or entity, provided that the foregoing restrictions on use and disclosure shall not apply to any Confidential Information which: (i) at the time of disclosure can be demonstrated to be already known to Employee prior to his employment with the Company as evidenced by written documents in the Employee’s possession, unless such Confidential Information is the subject of another confidentiality agreement with or other obligation of secrecy to the Company or another Person for which the Employee is also bound; (ii) at the time of disclosure is generally available to the public other than by an act or omission on the part of Employee; (iii) is acquired from or made available by a third Person that is not bound by a confidentiality agreement with or other obligation of secrecy to the Company or another Person; or (iv) is required to be disclosed pursuant to an order of a court or governmental authority, provided that the Employee gives the Company prompt written notice of any such requirement so that the Company may seek a protective order or other appropriate remedy and Employee cooperates with the Company in obtaining such an order or other appropriate remedy. In addition, Employee may disclose any Confidential Information to his or her attorneys following a subpoena by a party to a lawsuit or upon receipt of an order of court.

(b) For purposes of this Release, the term “Confidential Information” includes, but is not limited to, all correspondence, communications, studies, plans, reports, surveys, analyses, sketches, drawings, specifications, notes, records, memoranda, computer-generated data or documents, and all other non-public information relating to the business activities of Employer and any third parties, including, without limitation, all methods, processes, formulas, techniques, equipment, research data, experiments, marketing and sales information, personnel data, customer lists, employee lists, supplier lists, e-mails, proposals, price lists, inventory information, marketing plans, databases, financial data, trade secrets, any other information that is not generally known

to the public, which Employer takes reasonable methods to protect, and which derives independent economic value from not being readily known or accessible by individuals or entities other than Employer.

7. Employee agrees that all matters relating to this Release are strictly confidential and that Employee and his or her attorney shall not disclose or disseminate any information concerning any term(s) hereof to any third person(s) except under the following conditions: a) Employee may advise his or her tax attorney, consultant, or the Internal Revenue Service that he or she received income as a result of a settlement agreement relating to his or her employment; or b) if subpoenaed by a party to a lawsuit or ordered by court, Employee may testify regarding the Release or may produce the Release provided that Employee has given Employer sufficient notice to assert any objections prior to his or her appearance at a deposition, the return of a subpoena, or the entry of a court order. Employee agrees to waive any objection to Employer's request that the document production or testimony be done in camera and under seal. Any disclosure or dissemination by Employee other than as described above will be regarded as a breach of this Release and a cause of action shall immediately accrue for damages, including, but not limited to, all or some of the amount paid to Employee under this Release. Further, nothing in this paragraph shall be interpreted to prevent Employee from disclosing this Release in connection with bringing a legal challenge to the validity or enforceability of the Release under the Age Discrimination in Employment Act.

8. Employee acknowledges that Employer will pay no consideration other than as provided for by this Release.

9. Employee agrees that Employee will not communicate to any person or persons any information or opinion which could be construed as a negative comment about Employer, or which may have the effect of placing said party in a negative or unflattering light. Employee also agrees not to criticize or make any disparaging or defamatory remarks about Employer. Employer agrees that it will respond to all inquiries about Employee, to the extent that such inquiry is properly directed to Employer's human resources department, in accordance with its policy of providing only the dates of Employee's employment and the position held by Employee.

10. Employee fully understands that if any fact with respect to which this Release is executed is found hereafter to be different from the facts Employee now believes to be true, he or she expressly accepts and assumes the risk of such possible difference in fact and agrees that this Release shall be effective notwithstanding such difference in fact.

11. Employee further warrants that in the event he or she is contacted by representatives of any state or federal governmental, regulatory, investigatory or law enforcement authority regarding any matters involving the business affairs or activities of Employer, that, to the extent permitted by law, he or she will decline to submit to an informal interview or similar until he or she has had an opportunity to notify Employer, which he or she will do immediately. Nothing herein is intended to require Employee to waive any rights guaranteed to him or her by law or the Constitutions of the United States or Florida.

12. Employee agrees that for a one year period following Employee's separation from Employer, Employee shall not, directly or indirectly, solicit, recruit, employ or otherwise engage as an employee, independent contractor or advisor, or attempt to solicit, recruit, employ or otherwise engage as an employee, independent contractor or advisor, any person who is or was an employee or independent contractor of Employer at any time during Employee's employment with Employer, or in any manner induce or attempt to induce any person who is or was an employee or independent contractor of Employer during Employee's last twenty-four (24) months of employment with Employer to terminate his or her relationship with Employer.

13. Employee agrees, as a condition precedent to receipt of any money pursuant to this Release, that he or she will deliver to Employer any and all books, notebooks, financial statements, passwords, codes, manuals, cellular telephones, computers, palm pilots, software, hardware, floppy disks, corporate credit cards, keys, electronic beeper or other electronic device, data and other documents and materials in his or her possession or control relating to any of Employer's confidential information or trade secrets, or which is otherwise the property of Employer. Employee also agrees that he or she shall not access, or attempt to access, by any means, any of Employer's computer systems.

**14. Pursuant to the provisions of the Older Workers Benefit Protection Act (OWBPA), which applies to Employee's waiver of rights under the Age Discrimination in Employment Act, Employee has a period of at least twenty-one (21) days within which to consider whether to execute this Release. Also pursuant to the OWBPA, Employee may revoke the Release within seven (7) days of its execution, by sending written notification to SafeStitch Medical, Inc. (Attn: Joshua Weingard, Chief Legal Officer). It is specifically understood that this Release shall not become effective or enforceable until the seven-day revocation period has expired. Consideration for this Release will not be paid until the end of the seven-day revocation period. Employee agrees that any modifications, material or otherwise, made to this Release, do not restart or affect in any manner the original up to twenty-one (21) calendar day consideration period.**

**15. Employee is advised to consult with an attorney before executing this Release.**

16. Employee and Employer acknowledge that the cash payments provided under this Release are taxable compensation and will be reported on Employee's Form W-2 for the year of payment. In addition, Employee and Employer acknowledge that all other payments and benefits provided under this Release that are required pursuant to the Internal Revenue Code to be treated as taxable compensation also will be reported on Employee's Form W-2 for the year the payment or benefit is provided.

17. This Release does not constitute an admission of a violation of any law, order, regulation, or enactment, or of wrongdoing of any kind by Employer and is entered into by the parties solely to end any controversy between them.

18. This Release shall be governed by and construed and enforced in accordance with the laws of the State of Florida, both substantive and remedial. The sole and exclusive venue for any legal action arising out of this Release shall be in Miami-Dade County, Florida. The failure of any provision of this Release shall in no manner affect the right to enforce the same, and the waiver by any party of any breach of any provision of this Release shall not be construed to be a waiver of such party of any succeeding breach of such provision or a waiver by such party of any breach of any other provision.

19. In the event that any provision or portion of this Release shall be determined to be invalid or unenforceable for any reason, the remaining provisions of this Release shall be unaffected thereby and shall remain in full force and effect.

20. This Release represents the entire understanding and agreement between the parties with respect to the subject matter hereof and there are no promises, agreements, conditions, undertakings, warranties, or representations, whether written or oral, express or implied, between the parties other than as set forth herein and as set forth in that certain Consulting Agreement effective January 10, 2011. This Release cannot be amended, supplemented, or modified except by an instrument in writing signed by the parties against whom enforcement of such amendment, supplement or modification is sought. Notwithstanding the above, Employee understands and agrees that any and all confidentiality agreements, non-disclosure agreements, and agreements protecting or pertaining to Employer's intellectual property and/or trade secrets that Employee may have signed or received in connection with his or her employment with Employer shall remain in full force and effect.

21. This Release may be executed and delivered (including by facsimile transmission or e-mail) in one or more counterparts, and by Employer and Employee in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same Release.

22. This Release is final and binding upon Employee and shall inure to the benefit of his or her heirs, legal representatives, successors and assigns.

23. EMPLOYEE FURTHER STATES THAT HE OR SHE HAS CAREFULLY READ THIS RELEASE, IT HAS BEEN FULLY EXPLAINED TO HIM OR HER, THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE IT REVIEWED BY AN ATTORNEY, AND THAT HE OR SHE FULLY UNDERSTANDS ITS FINAL AND BINDING EFFECT, AND THAT THE ONLY PROMISES MADE TO HIM OR HER TO SIGN THE RELEASE ARE THOSE STATED IN THE RELEASE, AND THAT EMPLOYEE IS SIGNING THIS RELEASE VOLUNTARILY WITH THE FULL INTENT OF RELEASING EMPLOYER OF ALL CLAIMS.

Signed this 14th day of January, 2011.

Adam S. Jackson:

/s/ Adam S. Jackson  
Employee's signature

Print Name: Adam S. Jackson

STATE OF FLORIDA)

COUNTY OF )

) SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of January, 2011, by Adam S. Jackson, who is personally known to me or who has produced a driver's license as identification and who did (did not) take an oath.

James J. Martin

Print or Stamp Name:

Notary Public, State of Florida

Commission No.:

My Commission Expires:

SAFESTITCH MEDICAL, INC:

By:/s/ Jeffrey G. Spragens

Jeffrey G. Spragens, Chief Executive Officer

SafeStitch Medical, Inc.

STATE OF FLORIDA

COUNTY OF )

)  
) SS:



The foregoing instrument was acknowledged before me this 14th day of January 2011, by Jeffrey G. Spragens, who is personally known to me or who has produced a driver's license as identification and who did (did not) take an oath.

James J. Martin

Print or Stamp Name:

Notary Public, State of Florida at Large

Commission No.:

My Commission Expires:

Exhibit A

Resignation Letter

## CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into effective as of **January 10, 2011** between **SafeStitch Medical, Inc. a Delaware corporation** (the "Company") and Adam S. Jackson (the "Consultant").

### Recitals

A. Company is a medical device company focused on the development of medical devices that manipulate tissues for endoscopic and minimally invasive surgery for the treatment of obesity, GERD, hernial defects, esophageal obstructions, Barrett's Esophagus, upper gastrointestinal bleeding and other intraperitoneal abnormalities. Company's products and product candidates include, but are not limited to, the AMID Stapler®, SMART Dilator™, bite blocks (standard and airway), Intraluminal Gastroplasty Device for Obesity and GERD, Barrett's Excision and Ablation Device for Treatment and Diagnosis (Barrett's Devices), T Fasteners for Upper GI Bleeding (T Fastener Gun), Novel Devices for Natural Orifice Transluminal Endoscopic Surgery (NOTES), the sale of mesh, as well as certain products under development which have not been publicly disclosed;

B. The Consultant possesses specific knowledge regarding the financial and business operations of the company; and

C. The Company desires to engage the Consultant and the Consultant desires to provide consulting services to the Company, in accordance with the terms and conditions of this Agreement.

### Agreement

In consideration of the Recitals and the mutual covenants contained in this Agreement the Company and the Consultant agree as set forth below.

**1. Definitions.** In addition to terms defined elsewhere in this Agreement, when used in this Agreement the terms set forth below shall have the meanings indicated.

"**Affiliate**" means any Person which controls, is controlled by or is under common control with the Company, and for such purpose "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise.

"**Person**" means any natural person, corporation, unincorporated organization, partnership, association, joint stock company, joint venture, trust or government, or any agency or political subdivision of any government, or any other entity.

"**Products**" means the products and devices of the Company or its Affiliates.

"**Term**" means the period during which this Agreement is in effect.

**2. Engagement.** The Company engages the Consultant to provide consulting services to the Company, and the Consultant accepts such engagement, upon the terms and subject to the conditions set forth in this Agreement.

**3. Term.** The term of the Consultant's engagement pursuant to this Agreement shall commence on the date hereof and continue until March 31, 2011 unless earlier terminated in accordance with the provisions of Section 13. During the Term, the Consultant's activities shall constitute "Continuous Service" to the Company, as that term is defined in the SafeStitch Medical, Inc. 2007 Incentive Compensation Plan, and the Consultant's stock options listed on **Exhibit A** will continue to vest pursuant to the terms of the underlying option agreements.

**4. Duties.** During the term of this Agreement, the Consultant shall consult with representatives of the Company and its Affiliates concerning (a) preparation of the Company's SEC filings; (b) general consultation on business, financial and Company matters; (c) transition processes and responsibilities; (d) preparation of the SEC filings for Non-Invasive Monitoring Systems, Inc. ("NIMS"); (e) general consultation and transitional assistance for NIMS and Aero Pharmaceuticals, Inc. and (f) such other matters as the Company shall from time to time reasonably request consistent with the provisions hereof relating to the Company, NIMS or Aero Pharmaceuticals.

The Consultant shall devote such time as is required to perform his or her duties under this Agreement for up to 12 hours per week (the "Retainer Hours"), and shall, upon request, perform his or her duties at the Company's offices at 4400 Biscayne Blvd. The Consultant shall not work more than the Retainer Hours during any weekly period during the Term without the prior written approval of the Company. The Consultant's contact at the Company shall be the Company's Chief Executive Officer and such persons as the Chief Executive Officer may designate from time to time. In providing services to the Company, the Consultant shall use his or her best efforts, skills and abilities to promote the interests of the Company and to diligently and competently perform his or her duties under this Agreement.

**5. Compensation.** During the term of this Agreement, as compensation for the performance of services under this Agreement and the Consultant's observance and performance of all of the provisions of this Agreement, the Company shall pay to the Consultant, and the Consultant shall accept from the Company a total of Fifteen Thousand Dollars and 00/xx (\$15,000) payable \$2,500 on January 31, 2011, \$5,000 on February 28, 2011 and \$7,500 on March 31, 2011. All pre-approved time over and above the Retainer Hours shall be compensated at the rate of \$150.00 per hour, billed in 1/2-hour increments. The Consultant shall present the Company with an invoice for such additional hours no later than the 5<sup>th</sup> of each month, accompanied by an accounting of all

hours worked during the prior calendar month. The Company shall remit payment to the Consultant no later than ten days following receipt of each invoice.

**6. Reimbursement of Expenses.** Upon submission of proper supporting documentation and in specific accordance with such guidelines as may be established from time to time by the Company, the Consultant shall be reimbursed by the Company for all reasonable expenses actually and necessarily incurred by Consultant on behalf of the Company in connection with the performance of services under this Agreement, provided that the incurrence of such expenses is either requested or authorized in advance by the Company.

**7. Representation of Consultant.** The Consultant represents and warrants that: Consultant is not a party to, or bound by, any agreement or commitment, or subject to any restriction, including but not limited to agreements related to existing or previous employment containing confidentiality or noncompete covenants, which in the now or in the future could interfere with the performance by the Consultant of his or her services under this Agreement or may have a possibility of adversely affecting the business of the Company.

## **8. Confidentiality.**

**(a) Confidential Information.** The Consultant acknowledges that (1) as a result of (i) Consultant's engagement under this Agreement and (ii) Consultant's previous employment as an officer of the Company, the Consultant has and will obtain knowledge of, and access to, proprietary and confidential information of the Company, its Affiliates and third parties in which information was received by Consultant through a confidentiality agreement between the Company and such third party, including, without limitation, inventions, discoveries, trade secrets, know-how, technical information, systems, processes, methods, designs, manufacturing practices, specifications, models, formulae, prototypes, samples, laboratory and clinical testing results, financial and marketing information, business plans, the identity of customers and suppliers, and the identity of products under development, (collectively, the "Confidential Information"), (2) such information, even though it may be contributed, developed or acquired by the Consultant, constitutes valuable, special and unique assets of the Company developed at significant expense which are the exclusive property of the Company, (3) the restrictions on disclosure and use of Confidential Information set forth below are reasonable and necessary to protect the Company and its Affiliates and is not unreasonably restrictive of any personal rights, and (4) the Company would not enter into this Agreement without the assurance that all Confidential Information will be used for the exclusive benefit of the Company. Accordingly, the Consultant shall not, at any time, either during or subsequent to the Term (A) use the Confidential Information, except in the performance of services under this Agreement, and (B) disclose to any Person, any of the Confidential Information without the prior written consent of the Company, except to responsible officers and employees of the Company and its Affiliates and other responsible persons who are in a contractual or fiduciary relationship with the Company and who have a need for such information for purposes in the best interests of the Company; provided that the foregoing restrictions on use and disclosure shall not apply to any Confidential Information which: (i) at the time of disclosure can be demonstrated to be already known to Consultant prior to Consultant's previous employment with the Company or subsequent to his separation from the Company (unless such information was obtained by the Consultant in his duties as a Company consultant) as evidenced by written documents in the Consultant's possession, unless such Confidential Information is the subject of another confidentiality agreement or provision with or other obligation of secrecy to the Company or another Person for which the Consultant or the Company is also bound; (ii) at the time of disclosure or subsequent thereto is generally available to the public other than by an act or omission on the part of Consultant; (iii) is acquired from or made available by a third Person that is not bound by a confidentiality agreement with or other obligation of secrecy to the Company or another Person; or (iv) is required to be disclosed pursuant to an order of a court or governmental authority, provided that the Consultant gives the Company prompt written notice of any such requirement so that the Company may seek a protective order or other appropriate remedy and Consultant cooperates with the Company in obtaining such an order or other appropriate remedy.

**(b) Return of Confidential Information.** Upon the termination of Consultant's engagement by the Company, the Consultant shall promptly deliver to the Company all drawings, manuals, letters, notes, notebooks, reports and copies thereof and all other materials relating to the Company's business, including without limitation any materials incorporating Confidential Information, which are in the Consultant's possession or control.

## **9. Intentionally Omitted**

**10. New Discoveries.** Any and all inventions, discoveries and technical data (whether patentable or not), or the use or preparation thereof (i) resulting from or arising in connection with Consultant's services for the Company hereunder, and (ii) conceived, reduced to practice, or advanced by Consultant during the term of this Agreement, and which relate to Products upon which Consultant has rendered services to the Company or its Affiliates hereunder or under any research or other agreement, whether performed by or on behalf of Consultant or the Company, shall be the sole and exclusive property of the Company. Consultant shall promptly disclose to the Company any and all of such inventions, discoveries and technical data becoming known to Consultant as a result of or related to the performance of his or her duties hereunder and shall furnish to the Company in writing all relevant information with respect thereto. At the request of the Company, Consultant shall (i) execute, without charge to the Company, irrevocable assignments to the Company or its nominees, of Consultant's entire right, title and interest in and to such inventions, discoveries and technical data throughout the world, including, without limitation, all patent applications and patents relating thereto and all right to file, obtain and maintain such applications and patents, (ii) execute, without charge to the Company, any and all other documents necessary or desirable to permit the Company to file and maintain such patent applications and patents, and (iii) assist the Company in securing, defending and enforcing such rights. Consultant hereby binds not only himself or herself but also his or her heirs, executors, administrators and legal representatives to execute all such documents and instruments and to do all acts which may be necessary or required by the Company, in order to carry into full force and effect the provisions of this

section of the Agreement and to perfect title to said inventions, discoveries and patents in the Company, its successors and assigns. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

**11. Remedies.** The restrictions set forth in Sections 8 and 10 are considered by the parties to be reasonable for the purposes of protecting the value of the business of the Company. The Consultant acknowledges that compliance by Consultant with the restrictions set forth in Sections 8 and 10 will not prevent Consultant from earning a livelihood. The Consultant acknowledges that the Company would be irreparably harmed and that monetary damages would not provide an adequate remedy in the event of a breach of the provisions of Sections 8 or 10. Accordingly, the Consultant agrees that, in addition to any other remedies available to the Company, the Company shall be entitled to injunctive and other equitable relief to secure the enforcement of these provisions, and shall be entitled to receive reimbursement from the Consultant for all attorneys' fees and expenses incurred by the Company in enforcing these provisions, should the Company prevail. It is the desire and intent of the parties that the provisions of Sections 8 and 10 be enforced to the fullest extent permissible under the laws and public policies of each jurisdiction in which enforcement is sought. If any provisions of Sections 8 or 10 are adjudicated to be invalid or unenforceable, the invalid or unenforceable provisions shall be deemed amended (with respect only to the jurisdiction in which such adjudication is made) in such manner as to render them enforceable and to effectuate as nearly as possible the original intentions and agreement of the parties.

**12. Conflicts of Interest.** The Consultant covenants and agrees that during the term of this Agreement, he or she will not have any relationship with any Person which could create a conflict of interest between the Consultant on the one hand and the Company or any of its Affiliates on the other.

**13. Termination.** This Agreement may be terminated upon the occurrence of any of the events set forth in, and subject to the terms of, this Section 13.

**(a) Upon Notice.** This Agreement may be terminated by the Company upon 30 days notice to the other party. In the event that the Company terminates the Agreement, (i) all stock options that would have vested during the Term of this Agreement shall be accelerated and vested prior to the termination date, subject to approval by the Company's Compensation Committee, and (ii) Consultant is entitled to the full compensation under Section 5 hereunder.

**(b) Cause.** This Agreement may be terminated at the Company's option, immediately upon notice to the Consultant, upon: (i) breach by the Consultant of any material provision of this Agreement; (ii) breach by the Consultant of Sections 5, 6, 7, 9, 11, 12 and 13 of the Confidential General Release of All Claims entered into by the Consultant and the Company dated January 14, 2011; (iii) negligence or willful misconduct of the Consultant in connection with the performance of his or her duties under this Agreement; (iv) fraud, criminal conduct (as evidenced by the filing of any criminal action against the Consultant) or embezzlement by the Consultant; or (v) Consultant's misappropriation for personal use of assets or business opportunities of the Company.

**(d) Effect of Termination.** In the event of any termination under this Section 13, the Company shall have no further obligation under this Agreement, other than as described in Section 13(a), to make any payments to, or bestow any benefits on, the Consultant from and after the date of the termination, other than payments or benefits accrued and due and payable to him or her prior to the date of the termination.

#### **14. Miscellaneous.**

**(a) Survival.** The provisions of Sections 8, 10, 11, 12, 13 and 14 shall survive the termination of this Agreement.

**(b) Entire Agreement.** This Agreement sets forth the entire understanding of the parties and merges and supersedes any prior or contemporaneous agreements between the parties pertaining to the subject matter hereof.

**(c) Modification.** This Agreement may not be modified or terminated orally, and no modification, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

**(d) Waiver.** Failure of a party to enforce one or more of the provisions of this Agreement or to require at any time performance of any of the obligations hereof shall not be construed to be a waiver of such provisions by such party nor to in any way affect the validity of this Agreement or such party's right thereafter to enforce any provision of this Agreement, nor to preclude such party from taking any other action at any time which it would legally be entitled to take.

**(e) Successors and Assigns.** Neither party shall have the right to assign this personal Agreement, or any rights or obligations hereunder, without the consent of the other party; provided, however, that upon the sale of all or substantially all of the assets, business and goodwill of the Company to another company, or upon the merger or consolidation of the Company with another company, this Agreement shall inure to the benefit of, and be binding upon, both Consultant and the company purchasing such assets, business and goodwill, or surviving such merger or consolidation, as the case may be, in the same manner and to the same extent as though such other company were the Company. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their legal representatives, heirs, successors and assigns.

**(f) Additional Acts.** The Consultant and the Company each agrees to execute, acknowledge and deliver and file, or cause to be executed, acknowledged and delivered and filed, any and all further instruments, agreements or documents as may be necessary or expedient in order to consummate the transactions provided for in this Agreement and do any and all further acts and things as may be necessary or expedient in order to carry out the purpose and intent of this Agreement.

**(g) Communications.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been given at the time personally delivered or when mailed in any United States post office enclosed in a registered or certified postage prepaid envelope and addressed to the addresses set forth below, or to such other address as any party may specify by notice to the other party; provided, however, that any notice of change of address shall be effective only upon receipt.

To the Company:

SafeStitch Medical, Inc.  
4400 Biscayne Blvd  
Miami, Florida 33137  
Attn: Jeffrey Spragens  
Facsimile: (305) 575-4130

With a copy to:

Joshua Weingard  
4400 Biscayne Blvd  
Miami, Florida 33137  
Facsimile: (305) 575-4130  
Adam S. Jackson

To the Consultant:

768 West 51<sup>st</sup> Street  
Miami Beach, FL 33140  
Facsimile: (305) 868-0361

**(h) Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity and enforceability of the other provisions of this Agreement and the provision held to be invalid or unenforceable shall be enforced as nearly as possible according to its original terms and intent to eliminate such invalidity or unenforceability.

**(i) Governing Law.** This Agreement shall be governed by the laws of the State of Florida, without regard to the conflicts of law principles thereof.

**(j) Jurisdiction; Venue.** This Agreement shall be subject to the exclusive jurisdiction of the courts of Miami-Dade County, Florida. Any breach of any provision of this Agreement shall be deemed to be a breach occurring in the State of Florida by virtue of a failure to perform an act required to be performed in the State of Florida, and the parties irrevocably and expressly agree to submit to the jurisdiction of the courts of Miami-Dade County, Florida for the purpose of resolving any disputes among them relating to this Agreement or the transactions contemplated by this Agreement. The parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, or any judgment entered by any court in respect hereof brought in Miami-Dade County, Florida, and further irrevocably waive any claim that any suit, action or proceeding brought in Miami-Dade County, Florida has been brought in an inconvenient forum.

**(k) Independent Contractor.** The parties intend that the relationship of the Consultant to the Company be that of an independent contractor. Accordingly, except as otherwise required by law, payments to the Consultant shall be made free of withholding for federal, state and local taxes, including without limitation social security taxes, income taxes and unemployment compensation taxes. The Consultant shall be responsible for all federal, state and local taxes relating to amounts received by him under this Agreement. Consultant shall have no right or authorization, express or implied, to assume or create any obligation on behalf of the Company.

**(l) Publication.** Consultant agrees that he or she will not publish any manuscript or other written document based upon information or data resulting from his or her performance of services hereunder for the Company, without the prior written consent of the Company.

**(m) Indemnification.** Consultant hereby agrees to indemnify and hold harmless Company and its directors, officers, employees and agents from, against and in respect of, the full amount established in a final judgment issued by a court of competent jurisdiction (and which is not the subject of a pending appeal) of all liabilities, damages, claims, deficiencies, fines, assessments, losses, taxes, penalties, interest, costs and expenses, including, without limitation, reasonable fees and disbursements of counsel, arising from, in connection with, or incident to any breach or violation of any of the representations, warranties, covenants or agreements of Consultant contained in this Agreement; and (ii) any and all actions, suits, proceedings, demands, assessments or judgments, costs and expenses incidental to any of the foregoing.

**(n) Acknowledgement and Attorney Review.** CONSULTANT FURTHER STATES THAT HE OR SHE HAS CAREFULLY READ THIS AGREEMENT, IT HAS BEEN FULLY EXPLAINED TO HIM, THAT HE OR SHE HAS HAD THE OPPORTUNITY TO, HAS BEEN URGED BY THE COMPANY TO, AND HAS HAD THE AGREEMENT REVIEWED BY AN ATTORNEY, THAT HE OR SHE FULLY UNDERSTANDS ITS FINAL AND BINDING EFFECT, THAT THE ONLY PROMISES MADE TO HIM TO SIGN THE AGREEMENT ARE THOSE STATED IN THE AGREEMENT, AND THAT HE OR SHE IS SIGNING THIS AGREEMENT VOLUNTARILY.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement as of the date set forth above.

**SAFESTITCH MEDICAL, INC.**

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By: /s/ Jeffrey G. Spragens

Its: Chief Executive Officer

**ADAM S. JACKSON**

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/s/ Adam S. Jackson

Exhibit A