

Mitral Valve Repair Reference Center

Recognition Program Agreement

This Mitral Valve Repair Reference Center Recognition Program Agreement (this "Agreement") is effective upon signature by both parties (the "Effective Date") and is by and between _____ (the "Center"), located at _____, and Mitral Foundation (the "Mitral Foundation"), a New York foundation located at 1190 Fifth Avenue, PO Box 1028, New York, New York 10229.

WHEREAS, the Mitral Foundation has established a program to recognize hospitals in the United States which have demonstrated excellence in mitral valve repair for degenerative disease (the "Recognition Program");

WHEREAS, the Mitral Foundation has engaged the American Heart Association, Inc. ("AHA") to provide support to this Recognition Program, which will be managed and administered by the Mitral Foundation (collectively referred to as "Collaborating Organizations"); and

WHEREAS, the Center desires to participate in the Mitral Foundation's Recognition Program by allowing the Mitral Foundation to review the Center's processes, procedures and data to advance its own quality improvement initiatives and thereby improve the quality and safety of care provided to patients with mitral valve disease through surgical repair.

NOW THEREFORE, in consideration of the mutual promises in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereby agree to the following terms and conditions:

SECTION 1. Best Practices and Recognition; Scope of Services. The Mitral Foundation has developed and maintains the *Standards and Best Practices for Recognition as Mitral Valve Repair Reference Center* (the "Standards and Best Practices"), which serve as the basis for the criteria (the "Recognition Criteria") pursuant to which the Mitral Foundation and the AHA will jointly issue an award (the "Award") to publicly recognize those Centers which have demonstrated excellence in mitral valve repair for degenerative disease. In order to apply for the Award, the Center will submit a readiness assessment, application, metrics, data, and such other information and documentation that may be reasonably requested by the Mitral Foundation from time to time in order to evaluate the Center's eligibility to receive the Award. The Center will utilize and comply with the guidelines, policies, and procedures set forth in the Recognition Criteria throughout the Center's participation in the Recognition Program, subject to Center's own guidelines, policies, and procedures. The Mitral Foundation will periodically review, revise and update the Standards and Best Practices and the Recognition Criteria based on current relevant published clinical guidelines and in consultation with health care experts, providers, practitioners, researchers, and measurement experts. The Mitral Foundation will provide the Center with copies of the Standards and Best Practices and Recognition Criteria.

The Mitral Foundation will review and may, either internally or through a designated independent third party auditor, conduct audits or, if deemed necessary, on-site reviews, through an appropriate number and type of reviewers, in each case as determined by the Mitral Foundation in its sole discretion, determined based upon site and service data submitted by the Center. The reviews will be conducted as a validation of information and data submitted by the Center for Award recognition and compliance

with the Recognition Criteria. The determination of any additional review or audit is at the sole discretion of the Mitral Foundation. The dates and times of any onsite reviews will be as mutually agreed by the Mitral Foundation and Center. Any onsite reviews shall be subject to the Center's policies and procedures for third-party access to its premises (e.g., COVID restrictions, vaccination requirements (influenza, COVID, etc.)).

If the Mitral Foundation determines that the Center satisfies the Recognition Criteria, the Mitral Foundation and AHA will jointly provide the Center with the Mitral Valve Repair Reference Center Award to recognize the Center's Recognized status. The Mitral Foundation and AHA may recognize the Center's Award status on their respective websites and in program materials.

Award status for any Center does not constitute a warranty of compliance with the Recognition Criteria and Award status is not a substitute for self-monitoring and self-assessment or assessment by any governmental or regulatory body or organization of the services and the quality and safety of care provided by the Center.

SECTION 2. Adherence to Recognition Criteria. In order to remain qualified and maintain its Award status, the Center shall be required to comply with any applicable new or revised Recognition Criteria within a reasonable period of time following their release and understands that such failure to do so may result in the loss of the Center's Award status.

SECTION 3. Submission/Release of Information. The Center shall provide all information reasonably requested by the Mitral Foundation that is relevant to the review process. The Center shall participate in good faith in the review process, including any audit and shall not provide, through commission or omission, any false information, or fail to provide relevant information that may be used by the Mitral Foundation to substantiate compliance with the Recognition Criteria. The Center shall obtain any necessary authorizations in order to permit the Mitral Foundation's review of information necessary to determine Center's compliance with the Recognition Criteria as part of the review process. In the performance of all of their respective obligations contemplated by this Agreement, the Center and the Mitral Foundation shall each comply with all applicable federal, state and local laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996, as updated by the Health Information Technology for Economic and Clinical Health Act, and all rules and regulations promulgated thereunder (collectively, "HIPAA"). In the event of an on-site recognition review or if the Center's data and participation warrant further validation, and the scope of activities involves use and disclosure of protected health information ("PHI") (as defined 45 C.F.R. § 160.103), as the same may be amended from time to time), prior to coming onsite at the Center, the Mitral Foundation, or its designated third-party reviewer, and the Center shall execute a Data Use Agreement and/or Business Associate Agreement, as applicable each in a form mutually acceptable to the Mitral Foundation and the Center.

SECTION 4. Acceptance of a Review. The Mitral Foundation shall schedule reviews based on information provided in the Center's application to the Recognition Program. Using the information provided, the Mitral Foundation shall determine the Center's services, programs, and related entities that are included in the scope of the review, the number of days required for a review and the composition of the review team. Inaccurate or incomplete information in the application to the Recognition Program may necessitate an additional review, which may delay any Mitral Foundation reports and recognition decisions. The Center's refusal to permit a review is grounds for denial of recognition.

SECTION 5. Confidential Information. Information required by the Mitral Foundation to determine the Center's compliance with the Recognition Criteria as part of the review process will include the Center's Confidential Information (as defined in the Confidentiality and Non-Disclosure Agreement, as defined below). In addition, as part of the Recognition Program, the Center will be given access to the information concerning certain confidential and proprietary information of the Mitral Foundation and/or AHA. Consequently, concurrently with each party's execution and delivery of this Agreement, each party shall enter into and deliver a confidentiality and non-disclosure agreement in the form annexed hereto as Exhibit A (the "Confidentiality and Non-Disclosure Agreement").

SECTION 6. Recognition Certificate Display and Use. The Mitral Foundation on behalf of itself and AHA will provide the Center with one copy of the Mitral Valve Repair Reference Center certificate. Additional copies will be provided upon request. The Mitral Valve Repair Reference Center certificate and all copies remain property of the Mitral Foundation and AHA, and shall be destroyed if the Center is issued a new certificate reflecting a name change, or if the Center's Award status is changed, withdrawn, denied, or terminated for any reason. The Center acknowledges that the Mitral Foundation and AHA are and shall remain the owner of all right, title and interest in and to any and all of the Mitral Foundation's and AHA's trademarks, service marks, trade names, copyrights, and related trade dress, designs, symbols, artwork, logos, and designs (collectively, the "Collaborating Organizations Intellectual Property"). The Center's right to use any Collaborating Organizations Intellectual Property is subject and limited to the purposes set forth in this Agreement. The Center has no rights in the Collaborating Organizations Intellectual Property, and the Center irrevocably waives and releases any claim to title and ownership rights (including, without limitation, copyright and trademark ownership) in the Collaborating Organizations Intellectual Property. After expiration or termination of this Agreement, the Center shall have no right to use the Collaborating Organizations Intellectual Property.

The Center shall cease any use of and return any and all of Collaborating Organizations Collaborating Organizations Intellectual Property to the Mitral Foundation and/or AHA and destroy any and all copies of the same and provide certification of such destruction upon the earlier of (a) the termination of this Agreement for any reason, (b) the denial, revocation, or termination of Award status, or (c) the written request of the Mitral Foundation and/or AHA.

Without limiting the generality of the foregoing, Collaborating Organizations' Intellectual Property may not be copied, distributed, or otherwise re-used and may not be furnished by the Center in whole or in part to any other person or entity other than as is expressly authorized in writing by either the Mitral Foundation or AHA, at its sole discretion, with respect to its Collaborating Organizations Intellectual Property or as is otherwise mandated by law.

The Mitral Foundation and AHA acknowledge that the Center is and shall remain the owner of all right, title and interest in and to any and all of the Center's trademarks, service marks, trade names, copyrights, and related trade dress, designs, symbols, artwork, logos, and designs (collectively, the "Center's Intellectual Property"). The Mitral Foundation's and AHA's right to use any of the Center's Intellectual Property is subject and limited to the purposes set forth in this Agreement. The Mitral Foundation and AHA have no rights in the Center's Intellectual Property, and the Mitral Foundation and AHA irrevocably waive and release any claim to title and ownership rights (including, without limitation, copyright and trademark ownership) in the Center's Intellectual Property. Mitral Foundation and AHA

shall use or make reference to the Center's name, logo or marks (or those of any affiliate, employee or agent of the Center) in accordance with the Permission Form annexed hereto as Exhibit B.

After expiration or termination of this Agreement, the Mitral Foundation and AHA shall have no right to use the Center's Intellectual Property.

The Mitral Foundation and AHA shall cease any use of and return any and all of Center's Intellectual Property to the Center and destroy any and all copies of the same and provide certification of such destruction upon the earlier of (a) the termination of this Agreement for any reason, or (b) the written request of the Center.

Without limiting the generality of the foregoing, the Center's Intellectual Property may not be copied, distributed, or otherwise re-used and may not be furnished by the Mitral Foundation and AHA in whole or in part to any other person or entity other than as is expressly authorized in writing by the Center, at its sole discretion.

The Center shall not represent that it has Award status unless such representation is accurate and in accordance with the terms of this Agreement, and, if it is recognized, it shall not intentionally misrepresent the nature of its Award status. A single award applies to all of the services and programs of the Center at a specific designated hospital. The certificate shall be primarily displayed in the same location that the Center displays its other awards and recognitions. The certificate shall be displayed with the language that will be set forth in the marketing kit and instructions that will be provided to the Center following the grant of the Award.

Except as expressly stated in this Agreement, the Center receives and retains no license or other rights, contractual or otherwise, in or with respect to the materials, tools, processes, and procedures received from the Mitral Foundation or AHA in the Recognition Program under this Agreement.

Notwithstanding any contemplated or actual disclosure of the Collaborating Organizations Intellectual Property or the Center's Intellectual Property as described herein, the Center, the Mitral Foundation and AHA acknowledge and agree that it is their intention that any privilege applicable to such Collaborating Organizations Intellectual Property or the Center's Intellectual Property not be waived by such disclosure or other circumstance.

SECTION 7. Review and Appeal Procedures. In the event the Mitral Foundation does not grant the Center Award status, the Center has the right to a review and appeal of that decision before it becomes the final decision of the Mitral Foundation, pursuant to the process set forth in the Recognition Criteria, which will be provided to the Center as part of the application process.

SECTION 8. Insurance. The Center shall have and maintain either (i) commercially reasonable types and levels of insurance coverage, including but not limited to, medical professional liability coverage for healthcare facilities or (ii) its own self-insurance program, and will provide the Mitral Foundation with a certificate of insurance or appropriate program documents upon request. The Center shall notify the Mitral Foundation immediately upon cancellation of its insurance coverage or the cancellation of or any material change to its self-insurance program, as the case may be. If coming onsite at the Center, the Mitral Foundation shall maintain commercially reasonable types and levels of insurance coverage, including commercial general liability and workmen's compensation and employer's liability insurance for itself or will cause its third-party reviewers to maintain such coverages.

SECTION 9. Indemnification. The Center shall indemnify and hold harmless the Mitral Foundation and/or AHA, its directors, officers, agents, subcontractors, employees, and affiliated organizations from any and all damages, claims, judgments, losses, costs, and expenses, including reasonable attorneys' fees and expert witness fees, which may arise from or relate to: (a) third-party claims against the Mitral Foundation and/or AHA as a result of the Center's participation in the Recognition Program and/or the Center's Award status or denial of Award status, (b) the Center's breach of this Agreement or violation of any applicable federal, state or local law, ordinance, regulation or rule and any amendments or additions thereto, including without limitation, HIPAA or disclosure of PHI, and/or (c) the Center's negligence, recklessness, or intentional misconduct.

SECTION 10. Limitation of Liability. Without limiting the generality of the provisions of Section 9, neither the Mitral Foundation nor AHA shall be liable for indirect, incidental, special or consequential damages arising out of participation in the Recognition Program.

SECTION 11. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) on the first day after the date sent by a nationally recognized overnight courier; (c) on the date sent by facsimile, email, or other electronic delivery if sent during normal business hours of the recipient, and on the next business day if sent in such manner after normal business hours of the recipient; or (d) on the third day after the date mailed. Such communications must be sent to the respective parties at the addresses set out in this Agreement (or to such other address that may be designated by a party from time to time in accordance with this Section 11). Together with any notice, request, consent, claim, demand, waiver, or other communication sent to the Mitral Foundation, the Center shall provide copies to (which shall not constitute notice):

Charles Y. Thomason, III
President and CEO, Medical Management Associates, Inc.
3330 Cumberland Boulevard, Suite 200
Atlanta, GA 30339; and

Warshaw Burstein, LLP
575 Lexington Avenue
New York, NY 10022
Attention: Frederick R. Cummings, Jr., Esq.;

and, together with any notice, request, consent, claim, demand, waiver, or other communication sent to the Center, the Mitral Foundation shall provide copies to (which shall not constitute notice):

SECTION 12. Governing Laws; Jurisdiction. This Agreement and all adversarial proceedings arising out of this Agreement shall be governed by the substantive laws of the State of New York, without regard to its conflict of laws principles. However, if the Center is a governmental entity or state institution, this Agreement shall be interpreted and construed under the substantive laws of the state in which the entity or institution is located without regard to conflict of laws principles of such state. Any legal suit, action, or proceeding arising out of or related to this Agreement or the matters contemplated hereunder shall be instituted in the federal courts of the United States or the courts of the State of New York, in each case located in the City of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding and waives any objection based on improper venue or *forum non conveniens*. Service of process, summons, notice, or other document by mail to such party's address set out herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

SECTION 13. Entire Agreement; Consultation with Counsel. This Agreement (including the exhibits hereto) and the Confidentiality and Non-Disclosure Agreement contain the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements and undertakings, both written and oral, among the parties with respect to the subject matter hereof and thereof. This Agreement shall not create any partnership, joint venture or affiliation of any nature between the parties. The Center acknowledges that it has had the opportunity to review this Agreement with its own legal counsel, tax advisors and other advisors and that it is relying solely on its own counsel and advisors and not on any statements or representations of the Mitral Foundation or its representatives, legal counsel, tax advisors, or other agents for legal or other advice with respect to this Agreement or the Recognition Program.

SECTION 14. Term and Termination. The initial term of this Agreement shall begin on the Effective Date and shall expire on the date on which the Award status granted to the Center is terminated or expires. If not earlier terminated as provided below and the Center's Award status has been renewed, this Agreement shall automatically renew for an additional term corresponding to the renewal term of the Award. Notwithstanding anything set forth above, in the event that the Award status of the Center has expired either during the initial term or any subsequent renewal term, but the Center's Award status remains subject to review for renewal, this Agreement shall remain in effect until the end of such review. The Mitral Foundation shall have the right to immediately terminate this Agreement by giving notice to the Center upon either (i) denial or non-renewal of the Center's Award status or (ii) the Center's failure to meet or comply with the Recognition Criteria. In addition, either party may terminate this Agreement, with thirty (30) days' notice to the other party: (1) without cause, or (2) if either party determines that the other party has breached a material term of this Agreement.

SECTION 15. No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties any rights, remedies, obligations or liabilities whatsoever.

SECTION 16. Public Disclosure Laws. In the event that the Center is required to comply with any laws or legal process concerning disclosures by public bodies in the state where the Center is located (collectively, "Public Disclosure Laws"), nothing in this Agreement shall in any way limit the ability of the

Center to comply with any Public Disclosure Law. The parties acknowledge that any responses, materials, correspondence or documents provided to the Center may be subject to Public Disclosure Laws and may be required to be disclosed to third parties in compliance with such Public Disclosure Laws and any such disclosure will not constitute a breach or threatened breach of this Agreement. In the event the Center makes any disclosure pursuant to and in compliance with any Public Disclosure Law, it shall provide prompt notice to the Mitral Foundation following any such disclosure.

SECTION 17. Titles and Headings. The titles and headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 18. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 19. Waivers. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

SECTION 20. Survival. The following Sections shall survive the termination of this Agreement: Section 5 (including Exhibit A), Section 6, Section 9, Section 10, Section 11, Section 12, and this Section 20.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement, as of the date set forth below their respective signatures.

MITRAL FOUNDATION

(CENTER)

Signature: _____

Signature: _____

Print Name: David H. Adams, M.D.

Print Name: _____

Title: President

Title: _____

Date: _____

Date: _____

EXHIBIT A

FORM OF CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Mutual Confidentiality and Non-Disclosure Agreement (the "Agreement") is effective upon signature by both parties (the "Effective Date") and is by and between _____ (the "Center"), located at _____, and Mitral Foundation (the "Mitral Foundation"), a New York foundation located at 1190 Fifth Avenue, PO Box 1028, New York, New York 10229.

WHEREAS, the Mitral Foundation has established a program to recognize hospitals in the United States which have demonstrated excellence in mitral valve repair for degenerative disease (the "Recognition Program");

WHEREAS, concurrently with the execution of this Agreement, the Center and the Mitral Foundation are entering into the Mitral Valve Repair Reference Center Recognition Program Agreement (the "Recognition Agreement") and the Parties have engaged in and expect to continue to engage in discussions concerning a potential relationship;

WHEREAS, pursuant to the Recognition Agreement, the Center may disclose, furnish or provide the Mitral Foundation with confidential and/or proprietary information, including, without limitation, submission directly to the Mitral Foundation, or through participation in various registries, certain aggregated or de-identified data;

WHEREAS, pursuant to the Recognition Agreement, the Mitral Foundation may disclose, furnish or provide the Center with confidential and/or proprietary information, including, without limitation, providing the Center with access to certain of the Mitral Foundation's tools, manuals, processes, and procedures;

WHEREAS, each Party wishes to protect and preserve the confidentiality of its confidential information; and

WHEREAS, in order to receive such information, each Party hereby agrees to treat such information in accordance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** For purposes of this Agreement, the following terms have the following meanings:

(a) "**Confidential Information**" shall include any and all documents, materials, and information furnished, orally or in writing (either in hard copy or electronic form), by the Disclosing Party to the Recipient concerning the Disclosing Party's business and operations, including, without limitation, data, documents, contracts, contacts, financial information, correspondence, inventions or products, research and development, finances, customers, marketing, production, tools, manuals, processes, procedures, and business plans. Confidential Information also shall include all notes, analyses, compilations, studies, interpretations and/or other documents prepared by the Recipient or any of its Representatives (defined below) that contain, reflect or are based upon, in whole or in part, the information furnished to the Recipient or any of its Representatives pursuant hereto. The term "Confidential Information" does not include information that (i) is or becomes available to the public generally (other than as a result of a disclosure by the Recipient or any of its Representatives in breach of this Agreement), (ii) was within the Recipient's possession prior to the date hereof, as evidenced by written documentation, or (iii) becomes available to the Recipient from a source other than the Disclosing Party or one of its Representatives that is not based on a breach of this Agreement.

(b) "**Disclosing Party**" means the Party making a particular disclosure hereunder.

(c) "**Person**" means any individual, corporation, limited or general partnership, limited liability company, limited liability partnership, trust, association, joint venture, governmental entity, or other entity.

(d) "**Recipient**" means the Party receiving a particular disclosure hereunder.

(e) "**Representative**" means, as to any Person, such Person's subsidiaries and affiliates, and its and their respective directors, officers, employees, managing members, general partners, agents, and consultants (including attorneys, financial advisors, and accountants).

Other terms not specifically defined in this Section 1 shall have the meanings given them elsewhere in this Agreement.

2. **Use and Confidentiality.**

(a) The Recipient and its Representatives (i) will use the Confidential Information solely for the purpose of the Recognition Agreement, (ii) will keep the Confidential Information confidential, and (iii) will not disclose, exploit, reverse engineer or otherwise use any of the Confidential Information in any manner whatsoever; provided, however, that the Recipient may disclose the Confidential Information (i) to such of its Representatives who need such information for the sole purpose of the Recognition Agreement, and (ii) to the extent that the Disclosing Party gives its prior written consent to such disclosure, which consent may be withheld at the sole and absolute discretion of the Disclosing Party. The Recipient shall inform any Representative who is provided Confidential Information of the confidential nature of the Confidential Information and shall direct such Representative to keep such information confidential. In any event, the Recipient shall be responsible for any breach of this Agreement by any of its Representatives. In addition, the Recipient shall refrain from disclosing to any other person the fact that the Confidential Information has been made available to it and/or that discussions or negotiations are taking place concerning the Recognition Agreement.

(b) If the Recipient or any of its Representatives is required, in the written opinion of the Recipient's counsel, to disclose any Confidential Information, by law, regulation, or legal or regulatory process, the Recipient shall: (i) take all reasonable steps to preserve the privileged nature and confidentiality of the Confidential Information, including requesting that the Confidential Information not be disclosed to non-parties or the public; (ii) give the Disclosing Party prompt prior written notice of such request or requirement so that the Disclosing Party may seek, at its sole cost and expense, an appropriate protective order or other remedy; and (iii) cooperate with the Disclosing Party, at the Disclosing Party's sole cost and expense, to obtain such protective order. In the event that such protective order or other remedy is not obtained, the Recipient (or such other Persons to whom such request is directed) will furnish only that portion of the Confidential Information which, on the advice of the Recipient's counsel, is legally required to be disclosed and, upon the Disclosing Party's request, use its best efforts to obtain assurances that confidential treatment will be accorded to such information. In the event that the Center is required to comply with any laws or legal process concerning disclosures by public bodies in the state where the Center is located (collectively, "Public Disclosure Laws"), nothing in this Agreement shall in any way limit the ability of the Center to comply with any Public Disclosure Law. The parties acknowledge that any responses, materials, correspondence or documents provided to the Center may be subject to Public Disclosure Laws and may be required to be disclosed to third parties in compliance with such Public Disclosure Laws and any such disclosure will not constitute a breach or threatened breach of this Agreement. In the event the Center makes any disclosure pursuant to and in compliance with any Public Disclosure Law, it shall provide prompt notice to the Mitral Foundation following any such disclosure.

3. **Return/Destruction of Confidential Information.** Upon the written request of the Disclosing Party for any reason, the Recipient will promptly deliver to the Disclosing Party or destroy all Confidential Information (and all copies thereof, including, without limitation, print and electronic media copies) furnished to the Recipient or any of its Representatives by or on behalf of the Disclosing Party pursuant hereto. Any such delivery or destruction shall be certified in writing to the Disclosing Party by the Recipient's counsel or by an authorized Representative. Notwithstanding the return or destruction of the Confidential Information, the Recipient and its Representatives will continue to be bound by their obligations of confidentiality and other obligations hereunder. Notwithstanding the foregoing, the Recipient and its Representatives may retain copies of any Confidential Information that are retained pursuant to a customary automatic data back-up system or other document retention policy related to regulatory compliance requirements provided, however, that Mitral Foundation shall be entitled to retain any of the Center's Confidential Information, subject to its continuing obligation to maintain such information confidential in accordance with this Agreement, as part of the Mitral Foundation's award recognition program and protocols.

4. **Remedies.** The Recipient acknowledges that money damages may not be a sufficient remedy for any breach or potential breach of this Agreement by the Recipient or any of its Representatives and that the Disclosing Party shall therefore be entitled to seek equitable relief, including injunction and specific performance, as a remedy for any such breach without proof of damages and without the necessity of posting any bond or other security as a remedy for any such breach or potential breach. Such remedies shall not be deemed to be the exclusive remedies for a breach by the Recipient or any of its Representatives of this Agreement, but shall be in addition to all other remedies available at law or equity to the Disclosing Party.

5. **No Waiver of Privilege.** To the extent that any Confidential Information includes materials or other information protected from disclosure by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine concerning pending or threatened legal proceedings or governmental investigations, the parties understand and

acknowledge that they have a commonality of interest with respect to such matters and it is their desire, intention, and mutual understanding that the sharing of such material or other information is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or information or its continued protection under the attorney-client privilege, work product doctrine, or other applicable privilege or doctrine as a result of disclosing any Confidential Information (including Confidential Information related to pending or threatened litigation) to the Recipient or any of its Representatives.

6. **Choice of Law; Jurisdiction.** This Agreement and all adversarial proceedings arising out of this Agreement shall be governed by the substantive laws of the State of New York, without regard to its conflict of laws principles. However, if the Center is a governmental entity or state institution, this Agreement shall be interpreted and construed under the substantive laws of the state in which the entity or institution is located without regard to conflict of laws principles of such state. Any legal suit, action, or proceeding arising out of or related to this Agreement or the matters contemplated hereunder shall be instituted in the federal courts of the United States or the courts of the State of New York, in each case located in the City of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding and waives any objection based on improper venue or forum non conveniens. Service of process, summons, notice, or other document by mail to such party's address set out herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

7. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

8. **Entire Agreement; Amendments.** This Agreement, together with the Recognition Agreement, sets forth the entire agreement regarding the Confidential Information, and supersedes all prior negotiations, understandings, and agreements. No provision of this Agreement may be modified, amended, or changed except by a writing signed by the parties hereto.

9. **Waivers.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

10. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) on the first day after the date sent by a nationally recognized overnight courier; (c) on the date sent by facsimile, email, or other electronic delivery if sent during normal business hours of the recipient, and on the next business day if sent in such manner after normal business hours of the recipient; or (d) on the third day after the date mailed. Such communications must be sent to the respective parties at the addresses set out in this Agreement (or to such other address that may be designated by a party from time to time in accordance with this Section 10). Together with any notice, request, consent, claim, demand, waiver, or other communication sent to the Mitral Foundation, the Center shall provide copies to (which shall not constitute notice):

Charles Y. Thomason, III
President and CEO, Medical Management Associates, Inc.
3330 Cumberland Boulevard, Suite 200
Atlanta, GA 30339; and

Warshaw Burstein, LLP
575 Lexington Avenue
New York, NY 10022
Attention: Frederick R. Cummings, Jr., Esq.

Together with any notice, request, consent, claim, demand, waiver, or other communication sent to the Center, the Mitral Foundation shall provide copies to (which shall not constitute notice):

11. **Assignment.** Neither this Agreement nor any of the rights or obligations hereunder may be assigned by any party without the prior written consent of the other party. Any purported assignment without such consent shall be void and unenforceable.

12. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission (including by means of email transmission or in .pdf or similar format, in each case, complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com)) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement, as of the date set forth below their respective signatures.

MITRAL FOUNDATION

(CENTER)

Signature: _____

Signature: _____

Print Name: David H. Adams, M.D.

Print Name: _____

Title: President

Title: _____

Date: _____

Date: _____

Exhibit B

MITRAL VALVE REPAIR REFERENCE CENTER RECOGNITION PROGRAM PERMISSION FORM

[see attached]