

SELECTED SECTIONS OF THE SEVENTH AMENDMENT

I. DEFINITIONS:

B. *Additional Defined Terms.* For purposes of the Seventh Amendment, these capitalized terms shall have these meanings:

30. "High Matrix Level Qualifying Factors " is defined as the original requirements of section IV.B.2.c(3), (4) and (5) of the Settlement Agreement, except as modified and/or clarified as follows:

a. With respect to any claim for Matrix Level III, IV, or V benefits that is based, in whole or in part, on surgery to repair or replace the aortic and/or mitral valve(s), "High Matrix Level Qualifying Factors" means that the Diet Drug Recipient actually had surgery to repair or replace the valve or valves that were found to have FDA Positive regurgitation or Mild Mitral Regurgitation before the end of the Screening Period and that is/are the basis of the claim.

b. With respect to any claim for Matrix Level IV or V benefits that is based, in whole or in part, on ineligibility due to medical reasons for surgery to repair or replace the aortic and/or mitral valve(s), "High Matrix Level Qualifying Factors" means that the Diet Drug Recipient had ACC/AHA Class I indications for surgery as described in the Settlement Agreement, but was ineligible for surgery due to medical reasons (other than acute conditions that merely require a postponement of surgery), as documented contemporaneously in the Diet Drug Recipient's medical records by the attending Board-Certified Cardiothoracic Surgeon or Board-Certified Cardiologist and certified to under

penalty of perjury by an Examining Physician. The valve or valves that is/are the basis for the Matrix Level IV or V claim must have been found to have FDA Positive regurgitation or Mild Mitral Regurgitation before the end of the Screening Period.

c. "High Matrix Level Qualifying Factors" do not include the circumstances described in section IV.B.2.c(3)(b) of the Settlement Agreement except to the extent necessary to qualify for Matrix Compensation Benefits at Matrix Level IV or Matrix Level V, as limited by Section I.B.30.b.

d. For any claim for Matrix Level III, IV, or V benefits that is based on complications of left atrial enlargement with chronic atrial fibrillation, "High Matrix Level Qualifying Factors" means:

(1) Left atrial supero-inferior systolic dimension > 5.3 cm (apical four chamber view) or an abnormal left atrial antero-posterior systolic dimension > 4.0 cm (parasternal long axis view) measured by 2-D directed M-mode or 2-D echocardiography using sites of measurement recommended by the American Society of Echocardiography;

(2) Chronic atrial fibrillation; and

(3) A statement under penalty of perjury from an Examining Physician, along with contemporaneous medical records, that establish to a reasonable degree of medical certainty and to the reasonable satisfaction of a Trust Auditing Cardiologist, that the Diet Drug Recipient's left atrial enlargement

and chronic atrial fibrillation/flutter were a direct consequence of Moderate Mitral Regurgitation or Severe Mitral Regurgitation.

- e. For any claim on Matrix Level V(c) under section IV.B.2.c(5)(c) of the Settlement Agreement, "High Matrix Level Qualifying Factors" means, in addition to the requirements of section IV.B.2.c(5)(c), that the conditions of the Diet Drug Recipient would have qualified for Matrix Compensation Benefits under Matrix Level I or II as defined in the Settlement Agreement as it existed before the Execution Date, and/or under the requirements of Matrix Level III, IV, or V, as modified and/or clarified in this Section I.B.30.

- f. For any claim for Matrix Level III, IV, or V benefits, "High Matrix Level Qualifying Factors" means that the Echocardiogram Tape or Disk relied upon by the Class Member to qualify the claim complies with the criteria and requirements for Echocardiograms provided in the Settlement Agreement as it existed before the Execution Date, including the requirements that any copy of the Echocardiogram Tape or Disk:
 - (1) Must be of sufficient quality that a Cardiologist with Level 2 or 3 competency in echocardiography can reliably ascertain the presence or absence of each of the factors that is relevant to the claim; and
 - (2) With respect to any claim based on Mitral Regurgitation, the copy must comply with the requirements set forth in Section XV.B.2.b(2).

- g. If a copy of any Echocardiogram Tape or Disk that

supports a claim for Seventh Amendment Matrix Compensation Benefits complies with Section I.B.30.f, the existence of those "High Matrix Level Qualifying Factors" that depend on echocardiographic evidence shall be determined in Audit based on such Echocardiogram Tape(s) or Disk(s) without regard to: (i) whether the Echocardiogram Tape or Disk (or any copy thereof) was allegedly obtained without adequate physician supervision; (ii) the identity of the person or entity that performed the Echocardiogram; or (iii) the identity of the attorney(s) representing the claimant; provided, however, that nothing contained in this Section shall prevent the Trust from contesting the validity of any Echocardiogram Tape or Disk where there is substantial evidence that such Tape or Disk constitutes or contains a material misrepresentation of fact under section VI.E of the Settlement Agreement. Lack of adequate physician supervision with respect to an Echocardiogram Tape or Disk shall not constitute a material misrepresentation of fact for this purpose.

64. "Seventh Amendment Matrix Compensation Benefits" means those Matrix Compensation Benefits which may be paid or claimed for High Matrix Level Qualifying Factors to or by Category One Class Members or Category Two Class Members in accordance with the terms of the Seventh Amendment.

IX. BENEFITS FOR CATEGORY ONE CLASS MEMBERS AND CATEGORY TWO CLASS MEMBERS.

A. *Seventh Amendment Matrix Compensation Benefits.* Each Category One Class Member and each Category Two Class Member shall be entitled to receive from the Trust payment of Seventh

Amendment Matrix Compensation Benefits, if the Class Member qualifies as follows:

1. Seventh Amendment Matrix Compensation Benefits shall be payable to a Category One Class Member or a Category Two Class Member if, but only if, the Trust determines after Audit of the claim and in accordance with standards and procedures then in effect under the Settlement Agreement and all applicable Court orders that:

a. The Diet Drug Recipient whose condition forms the basis for the claim has or had High Matrix Level Qualifying Factors that were diagnosed and occurred by the earlier of: (i) December 31, 2011; or (ii) 15 years after the date of the Diet Drug Recipient's last ingestion of Diet Drugs (as established by the proof of Diet Drug use submitted to the Trust in accordance with section VI.C.2.d of the Settlement Agreement); and

b. The Class Member making the claim (i) has submitted a properly completed Green Form and other documentation and materials necessary to support a claim for Seventh Amendment Matrix Compensation Benefits; (ii) qualifies for the payment of benefits on Matrix Levels III, IV or V under the terms of the Settlement Agreement as it existed before the Execution Date; and (iii) qualifies as having the High Matrix Level Qualifying Factors on the same Matrix Level for which the Class Member qualifies for benefits under the Settlement Agreement as it existed before the Execution Date.

2. For each Category One Class Member or Category Two Class Member found to be eligible for Seventh Amendment Matrix Compensation Benefits, the Trust shall calculate as a Net Matrix Amount a sum equal to the gross amount payable to the Diet Drug Recipient or Representative Claimant and their associated Derivative Claimants, if any, on the applicable Matrix under section IV.B.2 of

the Settlement Agreement, less Individual Payment Amounts, Minimum Payment Amounts, Matrix Election Payments and/or Category Two Payments paid or payable to the Class Member under the Seventh Amendment. The Trust shall distribute the Net Matrix Amount in accordance with the provisions of section VI.C.4.g of the Settlement Agreement and Section XV.W.

3. No Category One Class Member or Category Two Class Member shall be eligible for or shall receive Seventh Amendment Matrix Compensation Benefits for any conditions that were diagnosed or occurred after the earlier of: (i) December 31, 2011; or (ii) 15 years after the date of the Diet Drug Recipient's last ingestion of Diet Drugs (as established by the proof of Diet Drug use submitted to the Trust in accordance with section VI.C.2.d of the Settlement Agreement).

4. Where the validity of a Class Member's Green Form (as distinguished from the underlying echocardiographic or medical evidence) is contested, the Class Member may submit a substitute Green Form attested to by a different Attesting Physician, under such reasonable conditions as the Trust shall prescribe, based on an Echocardiogram that otherwise complies with the requirements of the Settlement Agreement, as modified by the Seventh Amendment.