

SOUTHERN UTAH  
Ear, Nose and Throat

## ARBITRATION AGREEMENT:

### Article 1 Dispute Resolution

By signing this Agreement, we are agreeing to resolve any Claim for medical malpractice by dispute resolution process described in this Agreement. Under this Agreement, you can pursue your Claim and seek damages but are waiving your right to have it decided by a Judge or Jury.

### Article 2 Definitions

- A. The term “we” parties or “us” means you, the patient and the provider.
- B. The term “Claim” means one or more Malpractice Actions defined in the Utah Health Care Malpractice Act (Utah code 78-14-3 15). Each party may use any legal process to resolve non-medical malpractice claims.
- C. The term ‘Provider’ means the physician, group or clinic and their employees, partners, associates, agents, successors and estates.
- D. The term ‘Patient’ or ‘you’ means:
  - (1) You and any person who makes a Claim for care given to YOU, such as your heirs, your spouse, your children, parents or legal representatives, AND your unborn child for care provided during the 12 months immediately following the date you sign this Agreement, or any person who makes a Claim for care given to that unborn or newborn child.

### Article 3 Dispute Resolution Options

- A. Methods Available for Dispute Resolution. We agree to resolve any Claim by:
  - (1) Working directly with each other to try and find a solution that resolves the Claim, OR
  - (2) Using non-binding mediation (each of us will bear one half of the costs); OR
  - (3) Using binding arbitration as described in this Agreement

You may choose to use any or all of these methods to resolve your Claim.

### Article 4 How to Arbitrate a Claim

- A. Notice. To make a Claim under this Agreement, mail a written notice to the Provider by certified mail that briefly describes the nature of your Claim (the Notice) If the Notice is sent to the Provider by certified mail, it will suspend (toll) the application statute of limitations during the dispute resolution process described in this Agreement.
- B. Arbitrators. Within 30 days of receiving the Notice, the Provider will contact you. If you and the Provider cannot resolve the Claim by working together or through mediation, we will start the process of choosing arbitrators. There will be three arbitrators, unless we agree that a single arbitrator may resolve the Claim.
  - (1) Appointed Arbitrators. You will appoint an arbitrator of your choosing and all Providers will jointly appoint an arbitrator of their choosing.
  - (2) Jointly-Selected Arbitrator. You and the Provider(s) will then jointly appoint an arbitrator (the “Jointly-Selected Arbitrator”). If you and the Provider(s) cannot agree upon a Jointly-Selected Arbitrator, the arbitrators appointed by each of the parties will choose the Jointly-Selected Arbitrator from a list of individuals approved as arbitrators by the state or federal courts of Utah. If the arbitrators cannot agree on a Jointly-Selected Arbitrator, either or both of us may request that a Utah court select an individual from the lists described above. Each party will pay their own fees and costs in such an action. The Jointly-Selected Arbitrator will preside over the Arbitration hearing and have all other powers of an arbitration as set forth in the Utah Uniform Arbitration Act.
- C. Arbitration Expenses. You will pay the fees and costs of the arbitrator you appoint and the Provider(s) will pay the fees and the costs of the arbitrator and the Provider(s) appoints. Each of us will also pay one half of the fees and expenses of the Jointly-Selected Arbitrator and any other expenses of the arbitration panel.

### Southern Utah Ear, Nose, Throat, Allergy, and Facial Plastics

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- D. Final and Binding Decision. A majority of the three arbitrators will make a final decision on the Claim. The decision shall be consistent with the Utah Uniform Arbitration Act.
- E. All Claims May be Joined. Any person or entity that could be appropriately named in a court proceeding (“Joined party”) is entitled to participate in this arbitration as long as that person or entity agrees to be bound by the arbitration decision (“Joinder”). Joinder may also include Claims against persons or entities that provided care prior to the signing date of this Agreement.

**Article 5 Liability and Damages May Be Arbitrated Separately**

At the request of either party the issues of liability of damage will be arbitrated separately. If the arbitration panel finds liability, the parties may agree to either continue to arbitrate damages with the initial panel, or either party may cause that a second panel be selected for considering damages. However, if a second panel is selected, the “Jointly-Selected Arbitrator” will remain the same and will continue to preside over the Arbitration unless the parties agree otherwise.

**Article 6 Venue/Governing Law**

The arbitration hearings will be held in a place agreed by the parties. If the parties cannot agree, the hearings will be held in Salt Lake City, Utah. Arbitration proceedings are private and shall be kept confidential. The provisions of the Utah Uniform Arbitration Act, and the Federal Arbitration Act governed this Agreement. We hereby waive the pre-litigation panel review requirements. The arbitrators will apportion fault to all persons or entities that contributed to the injury claimed by the Patient, whether or not those persons or entities are parties to the arbitration.

**Article 7 Term/Rescission/Termination**

- A. Term. This Agreement is binding on both of us for one year from the date you sign it unless you rescind it. If it is not rescinded, it will automatically renew every year unless either party notifies the other in writing of a decision to terminate it.
- B. Rescission. You may rescind this Agreement within 10 days of signing it by sending written notice by registered or certified mail to the Provider. The effective date of the rescission notice will be the date the rescission is postmarked. If not rescinded, this Agreement will govern all medical services received by the Patient from Provider after the date of signing, except in the case of a Joined Party that provided care prior to the signing of this agreement. (See Article 4E)
- C. Termination. If the Agreement has not been rescinded, either party may still terminate it at any time, but termination will not take effect until the next anniversary of the signing of the Agreement. To terminate this Agreement, send written notice by registered or certified mail to the Provider. This Agreement applies to any Claim that arises while it is in effect, even if you file a Claim or request arbitration after the Agreement has been terminated.

**Article 8 Severability**

If any part of this agreement is held to be invalid or un-enforceable, the remaining provisions will remain in full force and will not be affected by the invalidity of any other provisions.

**Article 9 Acknowledgement of Arbitration**

I have been verbally encouraged to read this Agreement. I know I have the right for a printed copy of this Agreement. I have had the right to ask questions regarding this Agreement and have had all my questions answered. I understand that any Claim I might have must be resolved through the dispute resolution process in this Agreement instead of having them heard by a Judge or Jury. I understand the role of the Arbitrators and the manner in which they are selected. I understand the responsibility for Arbitration related costs. I understand that this Agreement renews each year, unless cancelled before the renewal date. I understand that I can decline to enter into an Agreement and still receive health care. I understand that I can rescind this Agreement within 10 days of signing it.

**Article 10 I know I can ask for a print out of this Agreement.**

Thank you,

Southern Utah Ear, Nose and Throat Offices and Providers.

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Patient Signature

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Date