



Dear Valued Patient,

The attached contract is an Arbitration Agreement. By signing this agreement we are agreeing that any dispute arising out of the orthodontic services you receive in this office is to be resolved in binding arbitration rather than a suit in court. The method of resolving disputes by arbitration is one of the fairest systems for both patients and practitioners. Arbitration Agreements between health care providers and their patients have long been recognized, approved and supported by the California Courts.

By signing this agreement, you are changing the venue where your claim will be presented but you are not giving up your right to initiate a claim for legally binding arbitration and restitution. You still call witnesses and present evidence in an arbitration hearing. Each party selects their own arbitrator (party arbitrators), who then select a third, neutral arbitrator. These three arbitrators hear the case. This agreement generally helps to limit the legal costs for all parties involved in the dispute. This is because the time it takes to conduct an arbitration hearing is less than for a jury trial.

Our goal is, of course, to provide high quality professional care and excellent customer service and avoid any such dispute in the first place. Most problems begin with miscommunication. Therefore, we are committed to spending the extra effort to answer any questions and address any of your concerns. From day one, we will always maintain an open ear to all patient suggestions, requests, or grievances and the willingness to discuss and resolve any issue before it becomes a dispute—please never hesitate to talk to us.

Sincerely,

Stephen E. Kineret, DDS, MS and staff

BINDING ARBITRATION AGREEMENT

Article 1: Agreement to Arbitrate

It is understood and agreed that any dispute as to fees and/or any claim that any orthodontic services rendered under this contract were unnecessary or unauthorized or were improperly, negligently, or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for Judicial Review of Arbitration proceedings. Both parties to this contract, by entering into it, are exchanging the right to dispute in a court of law before a jury for the right to Arbitration Judicial Review as mandated by Code of Civil Procedure Sections 340.5 and 667.7 and Civil Code Sections 3333.1 and 3333.2.

Article 2: Binding Arbitration

Any dispute shall be submitted to, and conclusively determined by, binding arbitration in accordance with this Agreement. The provisions of this Agreement **shall not preclude** any Party from making a claim for injunctive or other provisional or equitable relief or award within the context of legally binding Arbitration Judicial Review in order to preserve the status quo of the Parties pending resolution of the dispute. The filing of an action seeking injunctive or other provisional relief shall not be construed as a waiver of that Party's arbitration rights.

Article 3: Initiation of Arbitration

In the case of any dispute between the Parties that could not be resolved by mediation, either Party shall have the right to initiate the binding arbitration process provided for in this Agreement by serving upon the other Party a demand for arbitration within twelve months from the time the alleged dispute arose.

Article 4: Appointment of Arbitrator

The arbitrator shall be a neutral arbitrator selected by the Parties. Within thirty days of service of a demand for arbitration by either Party, the Parties shall endeavor in good faith to select an arbitrator. If they fail to do so within that time period, any Party may petition the court for appointment of an arbitrator pursuant to California Code of Civil Procedure section 1281.6

Article 5: Location of Arbitration

Any arbitration hearing shall be conducted in Sacramento or Placer Counties, California.

Article 6: Applicable Law

The law applicable to the arbitration of any dispute shall be the law of the State of California, Excluding its conflicts of law rules.

Article 7: Arbitration Procedures

Except as otherwise provided in this Agreement, the arbitration shall be governed by the California Arbitration Act (Code Civ. Proc., 1280 et seq., including the provision of California Code of Civil Procedure section 1283.05). The parties shall be entitled to conduct discovery sufficient to adequately arbitrate their disputes or defenses, including access to essential documents and witnesses, as determined by the arbitrator and subject to limited judicial review. In addition, either Party may choose, at that Party's discretion, to request that the arbitrator resolve any dispositive motions prior to the taking of evidence on the merits of the dispute. By way of example, such dispositive motions may include, but are not limited to those that would entitle a Party to summary judgment or summary adjudication of issues pursuant to Code of Civil Procedure section 437c or resolution of a special defense as provided for at Code of Civil Procedure section 597. In the event a Party requests that the arbitrator resolve a dispositive motion, the arbitrator shall receive and consider any written or oral arguments regarding the dispositive motion, and shall receive and consider any evidence specifically relating thereto, and shall render a decision thereon, before hearing any evidence on the merits of the dispute.

Article 8: Scope of Arbitrator's Award or Decision

The Parties agree that if the arbitrator finds any dispute to be meritorious, the arbitrator shall have the authority to order all forms of legal and/or equitable relief that would otherwise be available in Court and that is appropriate to the dispute. Any decision or award by the arbitrator shall be specific enough to permit limited judicial review if necessary.

Article 9: Costs of Arbitration, Attorneys' Fees

Subject to article 10, the Parties agree that each shall bear their own costs of the arbitration, and shall split the initial cost of any such arbitration, 50% to the patient and 50% to the orthodontist. The Party prevailing at arbitration shall be entitled to recover attorney's fees and costs, including without limitation, the initial costs advanced for the arbitration.

Article 10: Advice of Counsel

Each of the Parties has the right to advice of legal counsel and understands fully the contents hereof. Each of the Parties warrants and represents that the Party executing this Agreement on behalf is duly authorized and empowered to execute this Settlement Agreement.