



## SOUND HEALTH & WELLNESS TRUST SUBROGATION REIMBURSEMENT AGREEMENT

Participant: \_\_\_\_\_ SSN: \_\_\_\_\_

Patient: \_\_\_\_\_ SSN: \_\_\_\_\_

Date of Accident: \_\_\_\_\_

This Agreement is between the Board of Trustees of the Sound Health & Wellness Trust Plan (“**Plan**”), the undersigned participant, and the undersigned patient, if different than the participant (hereafter, collectively referred to as the “**Covered Person**”).

- Statement of Purpose.** The Plan excludes medical and prescription drug benefits for any Injury or Sickness caused by the act or omission of another person, (known as the “third party”) and where an opportunity for recovery exists from the third party and/or an automobile, commercial premises, renters, medical malpractice, or other insurance coverage or liability policy. If a Covered Person has a potential right of recovery for which a third party or insurer may have legal responsibility, the Plan, as a convenience to the Covered Person, will advance benefits pending the resolution of the claim, subject to the terms of this Agreement.
- Reimbursement of Benefits.** By accepting or claiming benefits, the Covered Person agrees that the Plan is entitled to reimbursement from any judgment, settlement, disputed claim settlement, or other recovery, up to the full amount of all benefits provided by the Plan, but not to exceed the amount of the recovery. The Plan is entitled to reimbursement of the full amount of all benefits provided, regardless of whether the Covered Person is made whole by the recovery, and regardless of the characterization of the recovery, provided that if the Covered Person complies with the terms of the Plan and this Agreement, the Plan will deduct reasonable attorney fees and a pro rata share of the costs from the reimbursement amount as provided below.
- Cooperation with Plan.** The Covered Person agrees to execute and deliver instruments and papers, disclose the circumstances resulting from the Injury or Sickness, and do whatever else is necessary to secure the Plan’s right to reimbursement. The Covered Person will do nothing to prejudice the Plan’s right to reimbursement.
- Attorney Fees and Costs.** If reasonable attorney fees are incurred by the Covered Person in recovering from the third party or insurer, the Plan agrees to pay a percentage of attorney fees on the amount reimbursed to the Plan, not to exceed the percentage actually charged by the attorney to the Covered Person. If reasonable costs are incurred by the Covered Person in recovering from the third party or insurer, the Plan agrees to pay a pro rata share of the costs, based upon the Plan’s share of the gross recovery to the total gross recovery. Costs incurred solely for the benefit of the Covered Person shall be the responsibility of the Covered Person.
- Right to Cease Advancing Benefits.** The Plan may cease advancing benefits, if there is reasonable basis to determine that the Covered Person will not honor the terms of the Plan or the Agreement to reimburse, or there is a reasonable basis to determine that this Agreement is not enforceable.
- Preservation of Funds Following Recovery.** When any recovery is obtained from a third party or insurer, whether by direct payment, settlement, judgment, or any other way, the Covered Person, in conjunction with his attorney or representative, if applicable, will maintain, preserve and protect funds that are sufficient to satisfy the Plan’s reimbursement amount by holding such funds in an escrow or trust account until the Plan’s claim is resolved by mutual agreement, arbitration or court order. If the funds necessary to satisfy the Plan’s reimbursement amount are not placed in an escrow or trust account, the Covered Person will be personally liable for any loss the Trust suffers as a result.
- Breach.** It will constitute an immediate breach of this Agreement, if within 60 days following recovery from the third party or insurer, the Covered Person does not agree to reimburse the Plan pursuant to this Agreement, and pay the reimbursement amount. If the Covered Person breaches this Agreement, the amount of benefits advanced by the Plan which are related to the Injury or Sickness will become immediately due and payable together with interest, and all costs of collection, including reasonable attorney fees and court costs. Interest will be calculated at the prime interest rate then prevailing at the Bank of America in Seattle, Washington, or its successor, on the date of the breach, plus five (5) percentage points, but not to exceed the amount permitted by law. All amounts due and payable will be owed to the Plan.

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8. **Enforcement/Plan's Right to Attorney Fees and Costs.** After recovery by the Covered Person, and pending reimbursement to the Plan, the Plan may elect to recoup the reimbursement amount from benefit payments, including benefit payments for the covered Person's family members, by denying such payments until the amount of benefits provided has been recovered. The Plan may also seek to recoup the reimbursement amount from the source to which benefits were paid.

Upon breach of this agreement, the Plan may bring a legal action against the Covered Person for breach of this Agreement, or to seek a constructive trust, or in the alternative to enforce the terms of the Plan. If the Plan is forced to bring a legal action for breach of this Agreement, it shall be entitled to its reasonable attorney fees, costs of collection and court costs.

9. **Waiver.** The amount due under this Agreement may only be waived by written agreement of the Plan.
10. **Service/Venue.** The Covered Person hereby agrees and covenants to accept personal service by the mailing of a copy of the Complaint brought pursuant to this Agreement to the current address provided below, or as changed by written notice to the Plan by the Covered Person. The Covered Person agrees to promptly notify the Plan of any change in address. Venue in any legal action may be laid in King County, Washington at the option of the Plan.
11. **Governing Law.** Construction, interpretation and enforcement of this Agreement shall be governed by the laws of Washington State, without regard to its conflict of laws provisions, except as otherwise preempted by ERISA.
12. **Consultation With Attorney.** The Covered Person hereby acknowledges the right to consult an attorney regarding this Agreement prior to its execution.

\_\_\_\_\_  
Participant's Signature \_\_\_\_\_  
Date

\_\_\_\_\_  
Participant's Address (\_\_\_\_)  
City State Zip Telephone

\_\_\_\_\_  
Signature of Patient (or legal guardian) if different than Participant  
(Necessary only if injured party and over 18 years of age) \_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Name

\_\_\_\_\_  
Attorney's Signature \_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Address (\_\_\_\_)  
City State Zip Telephone

**RETURN THIS FORM TO THE ADDRESS SHOWN ABOVE. PLEASE KEEP A COPY FOR YOUR RECORDS.**

SOUND HEALTH & WELLNESS TRUST  
Zenith Administrators, Inc.  
Administrative Agent