



**AGREEMENT GOVERNING THE WAIVER OF CLAIMS, COVENANT NOT TO SUE,
AND INDEMNIFICATION**

This agreement for waiver of claims, covenant not to sue, and indemnification is freely made between ^(parent) [redacted] in their individual capacity, and as applicable as a legal representative for his/her child ^(child) [redacted] (herein collectively “**Participant**”) and **FairPlay**, a legally formed non-profit organization in the State of Tennessee. The parties hereby attest they are of sound mind, are of contracting age, and have both legal and mental capacity to enter into a legally binding contract under the laws of the State of Tennessee.

WHEREAS, FairPlay is a nonprofit corporation dedicated to building library systems that allow children with physical disabilities to enjoy the benefits of playing with a broad selection of adapted toys; and

WHEREAS, FairPlay may, from time to time, adapt toys and distribute them directly to the Participant (as defined below) for use; and

WHEREAS, ^(child) [redacted] (the “Participant”) desires to participate in Adapted Toy Use or Play, and/or use Adapted Toys from the FairPlay Library (collectively, the “Program”); and

THEREFORE, the undersigned for himself/herself and for his/her child, ^(child) [redacted] (collectively, the “**Participant**”) in consideration of the right to participate in Adapted Toy Use or Play from the FairPlay Library (collectively, the “Program”) acknowledging the receipt and sufficiency of the consideration and intending to be bound, acknowledges, covenants, and agrees as follows:

1. Regardless of whether Participant is acquiring the modified toy for a family member, friend, client or any others, Participant assumes responsibility for informing the intended user of the risk and conditions of the modified toy’s use.
2. Waiver of Claims. Participant hereby expressly waives and renounces any claims against the FairPlay team and its members, managers, officers, employees, and agents (collectively, “**FairPlay**”) for any and all damages, actions, causes of action, liabilities, claims and demands whatsoever, including without limitation, any claims or damages resulting from injury to property or person, including death, which Participant may ever have, arising out of Participant’s participation in the Program or use of facilities.
3. Covenant Not to Sue. Participant agrees that it shall never institute or cause to be instituted, any suit, charge, demand, claim, complaint, or cause of action, in law, in equity, or otherwise, in any court, or in any arbitration system or procedure, against



FairPlay arising out of Participant's participation in the Program or use of FairPlay's facilities.

4. Indemnification. Participant hereby agrees to indemnify, defend (with counsel reasonably acceptable to FairPlay), and hold harmless FairPlay from and against any and all claims, losses, damages, liabilities, and expenses (including settlement costs and any reasonable legal or other expenses for investigating or defending any actions or threatened actions) FairPlay may incur in connection with any action, claim or dispute arising out of Participant's participation in the Program.

5. Acknowledgements. Because certain activities in connection with the Program are inherently dangerous and involve the risk of serious injury, including but not limited to injury from sharp edges, chokable coin cell batteries and switch cables, or death or property damage, the Participant expressly agrees that the foregoing waiver of claims, covenant not to sue, and indemnification (collectively, this "Waiver") is intended to be as broad and inclusive as is permitted by the laws of the state where the Program occurs, and that if any portion hereof is deemed invalid or enforceable by a Court of competent jurisdiction, the invalid or unenforceable portion of this Waiver shall be deleted or deemed modified to the extent necessary to be deemed valid or enforceable and the balance of the Waiver shall continue in full force and effect.

6. Additional Provisions. As FairPlay are not medical professionals, Participant is responsible for ensuring that the requested item is appropriate for the needs for whom it is requested. FairPlay does not provide assessments, and any inadvertent suggestions made by FairPlay are not to be considered professional advice. Participant will not use modified toys or supplies suspected to be functioning improperly. Modified toys and supplies must be accepted on an "as-is" and "at your own risk" basis. Use of said modified toys and/or supplies is at the sole and discretionary risk of the recipient, and misuse, or use without supervision of a qualified therapist or medical professional could result in harm. The recipient (and/or caregiver or representative) has carefully read this agreement for waiver of claims, covenant not to sue, and indemnification, and fully understands their contents.

7. Miscellaneous. This Agreement: (a) shall bind and inure to the benefit of the Participant and his/her heirs, executors, administrators, legal representatives, successors and assigns; (b) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; and (c) may not be amended or modified, nor any provision hereof waived, except in a writing signed by all of the parties hereto.

ALTERNATE DISPUTE RESOLUTION AGREEMENT

A party shall send written notice to the other party of any Dispute ("Dispute Notice"). The parties shall first attempt in good faith to resolve any Dispute set forth in the Dispute Notice



by negotiation and consultation between themselves, including without limitation not fewer than three (3) negotiation sessions attended by Christina Grisanzio, Executive Director for FairPlay and Recipient. In the event that such Dispute is not resolved on an informal basis within sixty (60) Business Days after one party delivers the Dispute Notice to the other party, whether the negotiation sessions take place or not, either party may, by written notice to the other party (“Escalation to Executive Notice”), refer such Dispute to the executives of each party set out below (or to such other person of equivalent or superior position designated by such party in a written notice to the other party) (“Executive(s)”).

Executive of FairPlay

Christina Grisanzio, Executive Director

Email: cgrisanz@gmail.com

For purposes of clarification, the party sending the Dispute Notice and the Escalation to Executive Notice shall send such notices in compliance with this Agreement’s notice provisions (Section: Alternate Dispute Resolution Agreement) provided that the party sending an Escalation to Executive Notice shall also send a copy of such notice to the executives designated above. If the Executives cannot resolve any Dispute during the time period ending sixty (60) Business Days after the date of the Escalation to Executive Notice (the last day of such time period, the “Escalation to Mediation Date”), either party may initiate mediation under section “Mediation Agreement”.

MEDIATION AGREEMENT

Subject to Section “ALTERNATE DISPUTE RESOLUTION AGREEMENT”, the parties may, at any time after the Escalation to Mediation Date, submit the Dispute to any mutually agreed to mediation service for mediation by providing to the mediation service a joint, written request for mediation, setting forth the subject of the dispute and the relief requested. The parties shall cooperate with one another in selecting a mediation service and shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings. The parties covenant that they will use commercially reasonable efforts in participating in the mediation. The parties agree that the mediator’s fees and expenses and the costs incidental to the mediation will be shared equally between the parties.

The parties further agree that all offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts, and attorneys, and by the mediator and any employees of the mediation service, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation, arbitration, or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

ARBITRATION AGREEMENT



If the Parties cannot resolve any Dispute for any reason, including, but not limited to, the failure of either party to agree to enter into mediation or agree to any settlement proposed by the mediator, within sixty (60) Business Days after the Escalation to Mediation Date, either Party may commence binding arbitration. The Parties agree to arbitrate under Tennessee law and shall use Tennessee as the forum for the arbitration proceedings.

FINAL ATTESTMENT AND ACKNOWLEDGMENT

PARTICIPANT HEREBY EXPRESSLY AGREES AND ADOPTS THE FOLLOWING STATEMENT:

“I have fully read, understood, and therefore bind myself to all of the above provisions and hereby agree to these provisions as a condition of my use, enjoyment, participation, and involvement of **FairPlay**’s products, facilities, programs(s) and adapted toys. I further hereby agree and acknowledge that the provisions and conditions in this agreement are fair, reasonable, and mandatory and that I will fully comply with them at all times.”

**FAIRPLAY
(REPRESENTATIVE)**

PARTICIPANT

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____