



kids around the world

PLAYGROUND EQUIPMENT DONATION AGREEMENT

This agreement is entered this date between Kids Around The World, Inc., 2424 Charles St., Rockford, IL 61125 (hereinafter referred to as "KIDS") and Whitaker Park District (hereafter referred to as "Park District").

KIDS, an Illinois not-for-profit corporation, registered in Illinois at the above address performing charitable programs including building playgrounds for children in underprivileged locations, desires to acquire as a donation, the below identified used playground equipment from the Park District (hereafter referred to as the "Equipment").

In consideration for the donation of the Equipment from the Park District, KIDS agrees to the following:

DISCLAIMER: KIDS acknowledges and agrees that the Park District is neither a manufacturer nor a vendor of the Equipment, that KIDS takes the Equipment and each part thereof "as-is" and that the Park District has not made, and does not hereby make, any representation, warranty, or covenant, express or implied, with respect to compliance with any and all applicable guidelines or regulations, including, but not limited to ASTM and CPSC, the merchantability, condition, quality, durability, design, operation, fitness for use, or suitability of the Equipment in any respect whatsoever or in connection with or for the purposes and uses of KIDS, or as to the absence of latent or other defects whether or not discoverable, or as to the absence of any infringement of any patent, trademark or copyright, or as to any obligation based on strict liability in tort or any other representation, warranty, or covenant of any kind or character, express or implied, with respect thereto, it being agreed that all risks incident thereto are to be borne by KIDS and the Park District shall not be obligated or liable for actual, incidental, consequential, or other damages of or to buyer or other person or entity arising out of or in connection with the use or performance of the Equipment and the maintenance thereof. KIDS acknowledges that KIDS has selected the Equipment KIDS is acquiring from the Park District based on KIDS' own judgment and the Park District hereby affirmatively disclaims reliance on any oral representation concerning the Equipment made to KIDS.

INDEMNIFICATION AND HOLD HARMLESS: KIDS shall indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to reasonable legal fees (attorney's and paralegals' fees and court costs), arising from or in any way connected with (i) the use of Park District premises or of any business or activity thereon, or any work or thing whatsoever done, or condition created in or about the premises during the use; (ii) any act, omission, wrongful act or negligence of KIDS or any of KIDS' contractors or subcontractors, or the partners, directors, officers, agents, volunteers, or employees; (iii) any accident, injury or damage whatsoever occurring in or Park District premises regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. KIDS shall similarly protect, indemnify and hold and save harmless the Park District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of KIDS' breach of any of its obligations under, or KIDS' default of, any provision of the Contract.

WAIVER & RELEASE OF ALL CLAIMS AND ASSUMPTION OF RISK: KIDS fully understands and agrees that that in consideration for the donation of the Equipment, KIDS is expressly assuming the risk and legal liability and waiving and releasing all claims for injuries, damages or loss which KIDS might sustain arising out or in any way connected with the removal, acquiring, or use of the Equipment against the Park District, once KIDS has commenced physical removal of the donated equipment, and from that point forward. This waiver and release does not apply to any and all claims arising at the location of the equipment removal, from an occurrence before KIDS has begun removing the donated and accepted equipment and after KIDS has completed removal of the donated and accepted equipment.

INSURANCE REQUIREMENTS: KIDS shall maintain insurance of the types and in the amounts listed below.

A. Commercial General and Umbrella Liability Insurance

KIDS shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Park District shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 26 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Park District. Any insurance or self-insurance maintained by the Park District shall be excess of KIDS' insurance and shall not contribute with it.

B. Business Auto and Umbrella Liability Insurance

If applicable, KIDS shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

C. General Insurance Provisions

1. Evidence of Insurance

Prior to removal of the Equipment, KIDS shall furnish the Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

Failure of the Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Park District to identify a deficiency from evidence that is provided shall not be construed as a waiver of KIDS' obligation to maintain such insurance.

The Park District shall have the right, but not the obligation, of prohibiting KIDS from removing the Equipment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Park District.

The donated equipment included in this agreement includes: LANDSCAPE STRUCTURE
play grounds equipment at RATH TE PARK

[Signature]
Representative of KIDS AROUND THE WORLD, INC.

April 29th, 2013
DATE

[Signature]
Representative of the DONATING ORGANIZATION

4/8/13
DATE