

FIRST AMENDMENT TO AGENT AGREEMENT

THIS FIRST AMENDMENT TO AGENT AGREEMENT, dated as of the 1st day of May, 2012, is by and between the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York with offices at 143 Genesee Street, Buffalo, New York 14203 (the "Agency") and FISHER-PRICE, INC., a corporation duly organized and validly existing under the laws of the State of Delaware with offices at 636 Girard Avenue, East Aurora, New York 14052 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 293 of the Laws of 1970 of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project") consisting of: the acquisition and installation of improvements in and around the property located at 636 Girard Avenue, East Aurora, Erie County, to include construction and/or renovation, expansion, upgrading and equipping (collectively, the "Improvements"), and the acquisition and installation in and around the Improvements by the Company of certain items of machinery, equipment and other tangible personal property (the "Equipment," and collectively with the Improvements, the "Facility"); and

WHEREAS, by Resolution dated May 11, 2009 (the "Resolution"), the Agency authorized the Company to act as its Agent for the purposes of acquiring, constructing and equipping the Facility subject to the Company entering into an Agent Agreement.

WHEREAS, the Agency and the Company entered into that certain Agent Agreement, dated as of July 31, 2011, as amended from time to time, (collectively, the "Agent Agreement"), whereby the Agency authorized the Company to act as its Agent for the purposes of acquiring, constructing and/or equipping the Facility (as defined in the Agent Agreement); and

WHEREAS, the Company and the Agency desire to amend the Agent Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

The Agent Agreement is amended as follows:

1. Any reference to "July 31, 2012" in the Agent Agreement is hereby changed to "July 31, 2013".

2. Paragraph 4 of the Agent Agreement is hereby amended and replaced in its entirety by the following paragraph:

Insurance Required. During the term of an Agent Agreement and/or Lease Agreement entered into with the Agency, Certificate(s) of Insurance shall be provided *by the Company* evidencing that the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing the Agency as Certificate Holder.

Acceptable Certificates of Insurance shall indicate the following minimal coverage, limits of insurance, policy numbers and policy effective and expiration dates.

(a) **Commercial General Liability:**

i) **Accepted Form: ACORD 25 (2009/09 or later revisions)**

ii) The Company shall provide evidence of insurance for the named insured's premises and operations, products-completed operations, blanket contractual liability on an occurrence basis and when applicable to multiple locations, have attached Designated Location(s) General Aggregate Limit CG 25 04 endorsement. **Limits expressed shall be no less than:**

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Per Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Liability	\$ 100,000
Medical Payments (per person)	\$ 5,000

Agency shall be named as Additional Insured per ISO Form CG 20 26-Additional Insured Designated Person or Organization or such Additional Insured endorsement specifically designed for the Named Insured's operations. Such coverage should apply on a Primary & Non Contributory Basis. All insurance required of the Company shall waive any right of subrogation of the insurers against any person insured under such policy, and waive any right of the insurers to any off-set or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

(b) **Umbrella/Excess Liability:**

i) **Accepted Form: ACORD 25 (2009/09 or later revisions)**

ii) The Company shall provide evidence of Commercial Umbrella or Excess Liability insurance for a limit of at least \$5,000,000 per occurrence with a \$5,000,000 Aggregate. Agency shall be named as an Additional Insured either by the attachment of an Additional Insured endorsement or carrier specific endorsement allowing for following form Additional Insured status.

(c) **Property Insurance/Builders' Risk Insurance:**

i) **Accepted Forms: ACORD 27 (2009/12 or later revisions) or ACORD 28 (2009/12 or later revisions)**

ii) The Company owner shall provide evidence of insurance against all direct physical loss, including mechanical breakdown.

(d) **Workers Compensation/Disability Insurance:**

i) The Company and/or Project owner shall provide evidence of insurance and maintain Workers Compensation/Disability insurance as required by statute.

ii) **Accepted Forms:**

Workers Compensation Forms		DBL (Disability Benefits Law) Forms	
CE-200	Exemption	CE-200	Exemption
C-105.2	Commercial Insurer	DB-120.1	Insurers
SI-12	Self Insurer	DB-155	Self Insured
GSI-105.2	Group Self Insured		
U-26.3	New York State Insurance Fund		

If the Company has no employees, the Company shall provide a completed and signed Form CE-200 or later revisions, which is found on the New York State Workers Compensation Board website: www.wcb.ny.gov/ This form is to be completed on-line, printed, and signed.

Agency Address:

All evidence of insurance shall be sent to:

Erie County Industrial Development Agency
143 Genesee Street
Buffalo, NY 14203

3. Paragraph 5 of the Agent Agreement is hereby amended and replaced in its entirety as follows:

Additional Provisions Respecting Insurance. (a) Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for payment of the losses of the Company and the Agency as their respective interests may appear.

(b) All such certificates of insurance of the insurers indicating that such insurance is in force and effect, and all policies (if applicable), shall be deposited with the

Agency on the date hereof. At least thirty (30) days prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

4. Paragraph 9 of the Agent Agreement is hereby amended and replaced in its entirety as follows:

“The Company agrees not to take title to any real property as agent for the Agency. Upon completion of the acquisition and installation of the Equipment acquired by the Company as agent for the Agency, the Agency shall transfer title to the Equipment to the Company by a bill of sale (the "Bill of Sale") in the form attached hereto as Exhibit A. In addition, at any time prior to completion of the acquisition and installation of the Equipment, the Company can demand that the Agency transfer title to the Company with respect to the Equipment.”

5. The Agent Agreement is hereby amended by deleting Exhibit A thereto and inserting Exhibit A attached hereto as Exhibit A thereto.

Unless otherwise amended pursuant to the terms contained herein, the terms of the Agent Agreement shall remain unchanged.

[The Balance of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company and the Agency have caused this First Amendment to Agent Agreement to be executed in their respective names, all as of the date first above written.

FISHER-PRICE, INC.

By: Sarah J. Craig
Name: Sarah J. Craig
Title: Vice President
Human Resources and Administration

ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: Karen M. Fiala
Name: Karen M. Fiala
Title: Assistant Treasurer

Exhibit A

FORM OF BILL OF SALE

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York with offices at 143 Genesee Street, Buffalo, New York 14203 (the "Grantor"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from FISHER-PRICE, INC., a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware with offices at 636 Girard Avenue, East Aurora, New York 14052 (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee and its successors and assigns, all those materials, machinery, equipment, fixtures or furnishings (collectively, the "Equipment"), which were acquired by the Grantee as agent for the Grantor pursuant to the Agent Agreement dated as of July 31, 2011, as amended from time to time, whether now owned or hereafter acquired, which Equipment is located or intended to be located at the Grantee's Facility located at 636 Girard Avenue, East Aurora, Erie County, New York.

TO HAVE AND TO HOLD the same unto the Grantee and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT "AS IS," WITHOUT RECOURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. IN THE EVENT OF ANY DEFECT OF DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the ____ day of _____, 20__.

**ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

Form Only - Do Not Sign

By: _____

Name: Karen M. Fiala

Title: Assistant Treasurer