



PHOENIX SKY HARBOR  
INTERNATIONAL AIRPORT

# Appendix F NOISE AND AVIGATION EASEMENTS



## **Appendix F**

# **NOISE AND AVIGATION EASEMENTS**

*F.A.R. Part 150*

*Noise Compatibility Study Update*

*Phoenix Sky Harbor International Airport*

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This appendix includes copies of noise and avigation easements or releases used by twelve airports around the country in their residential acoustical treatment programs. The airports are:

- Baltimore/Washington International Airport
- Burbank-Glendale-Pasadena Airport
- Cleveland Hopkins International Airport
- General Mitchell International Airport (Milwaukee)
- James M. Cox-Dayton International Airport
- John Wayne Airport
- Los Angeles International Airport
- Minneapolis/St. Paul International Airport

- Phoenix Sky Harbor International Airport
- San Diego International Airport-Lindbergh Field
- San Francisco International Airport
- Seattle-Tacoma International Airport

While the details of the easements differ, their general thrust is similar. In exchange for acoustical treatment, the homeowner waives his or her right to sue the airport operator for damages alleged to be caused by aircraft lawfully using the airport. This includes nuisances caused by aircraft noise. All but one of the easements is perpetual. (The San Francisco easement expires after 20 years.)

Four of the easements, including those at Burbank-Glendale-Pasadena, Cleveland Hopkins, General Mitchell International, and James M. Cox-Dayton International, are written to remain in force regardless of the future noise exposure to which the property is exposed. Six others set limits on the amount of noise to which the property can be exposed before becoming inapplicable, although two of these limits are great enough to have little practical effect. These are at San Diego and Baltimore/Washington where the limits are set at 80 CNEL and 75 DNL, respectively. The maximum CNEL level for any property in the John Wayne Airport area is based on the noise contours presented in the Master Plan Environmental Impact Report, Number 508. San Francisco and Los Angeles limit the applicable CNEL noise level to two to three decibels above the CNEL levels in the official Part 150 Noise Exposure Maps.

The approaches of Minneapolis-St. Paul and Seatac are different than the other airports. Both have limited versions of maximum noise limits. At Seatac, the easement remains valid and applicable perpetually for all noise up to the prescribed "easement level." This is up to 1.5 DNL higher than the DNL level shown in the office Part 150 Noise Exposure Map. The effects caused by any increment of noise above the "easement level," however, are not covered by the easement.

At Minneapolis, the "avigation release" is valid for noise up to 2.0 DNL above the "base case Ldn noise level." If noise increases by more than 2.0 DNL, the property owner may cancel the release with respect to increased noise levels but must take the initiative to do so.

**Easement Used by State of Maryland  
and the Maryland Department of Transportation  
for Residential Sound Insulation Program  
at Baltimore/Washington International Airport**

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**DEED OF EASEMENT**

THIS DEED OF EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_, of Anne Arundel County, hereinafter referred to as Grantors, and the STATE OF MARYLAND to the use of the MARYLAND DEPARTMENT OF TRANSPORTATION, MARYLAND AVIATION ADMINISTRATION, hereinafter referred to as Grantee.

WITNESSETH:

WHEREAS, Grantee is charged with the operation, administration, improvement, regulation and protection of state-owned airports; and

WHEREAS, the Baltimore/Washington International Airport is a state-owned airport located in Anne Arundel County; and

WHEREAS, certain real property owned by Grantors, as more particularly described hereafter, is located within the Baltimore/Washington International Airport Noise Zone as established by Grantee pursuant to authority vested in it by Code (1977), Transportation, Section 5-806; and

WHEREAS, Grantee is empowered to acquire interests in land for noise compatibility purposes in any Noise Zone surrounding a state-owned airport pursuant to the Annotated Code of Maryland, Transportation Article, Section 5-823, and the parties are desirous of entering into this Deed of Easement for their mutual benefit, protection, welfare, and necessity; and

WHEREAS, the General Assembly of Maryland in Chapters 579 and 580 of the Laws of 1987 directed Grantee to undertake an ongoing program to grant certain relief regarding aviation noise to property owners residing near Baltimore/Washington International Airport in return for which the property owners must convey to Grantee an avigation easement; and

WHEREAS, Grantors have elected to participate in the aforementioned program, and Grantee has agreed to provide Grantors noise insulation assistance or assistance in selling the within described property.

NOW, THEREFORE, for and in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, receipt of which are hereby acknowledged, Grantors hereby grant and convey unto Grantee, its successors and assigns, for the use and benefit of the public, an easement on, over and upon a parcel of real property located in Anne Arundel County, Maryland, and more particularly described as follows: Lot No. \_\_\_\_\_, Block \_\_\_\_\_, as shown on the Plat of Glen Burnie Park, Section \_\_\_\_\_ which Plat is recorded among the Land Records of Anne Arundel County in Plat Book No. \_\_\_\_\_, folio \_\_\_\_\_. Improvements thereon being known and designated as \_\_\_\_\_.

BEING the same lot of ground which by Deed dated \_\_\_\_\_ and recorded among the Land Records of Anne Arundel County in Liber \_\_\_\_\_, folio \_\_\_\_\_, was granted and conveyed by, \_\_\_\_\_ unto the Grantors herein.

THE EASEMENT herein granted on, over and upon the above described real property encompasses the air space above the surface of Grantors' property having the same boundaries as the above described property and extending from the surface upwards to the limits of the atmosphere of the earth.

TO HAVE AND TO HOLD said easement unto the said Grantee, and its successors and assigns, until said Airport shall be abandoned and shall cease to be used for public airport purposes.

THIS EASEMENT shall run with the land and be appurtenant to and for the benefit of all of the real property comprising and known as the Baltimore/Washington International (Airport) and such other additional property or interest therein as shall be subsequently acquired or designated from time to time by Grantee or its successors as constituting a part of the Airport, and the easement shall be in gross for the benefit of Grantee and all other persons and entities who directly or indirectly use the easement as a result of any type of use of the property and facilities constituting the Airport, including aviation ground and flight operations.

THIS EASEMENT grants the privilege of passage of all lawful flight operations and all noise resulting directly or indirectly therefrom within the described air space, and the right to cause all noise that may enter the described air space which result directly or indirectly from the operations of the Airport, now and in the future, including but not limited to, ground and flight operations of aircraft at, over, on or in the vicinity of the Airport, and regardless of whether arriving, departing or enroute, while recognizing that the quantity of such operations may increase in the future. Except as provided herein, this easement shall neither enlarge nor diminish any rights of either party existing prior to the date of this easement and as now or may hereafter be provided by law.

The privilege to allow noise from flight operations of aircraft upon the within described property hereby granted extends only to noise up to and including, but not higher than 75 Ldn, as the term "Ldn" is defined in the Code of Maryland Regulations (COMAR) 11.03.03 (as amended through February 2, 1977), and which Ldn shall be calculated annually by the Maryland Aviation Administration. To the degree that aircraft noise now or at any time hereafter does not exceed 75 Ldn in any period of twelve consecutive months, this easement shall remain in full force and effect. For the purpose of computing the Ldn affecting the subject property, noise levels resulting from temporary increased use of certain runways because of construction or repair of others, or for other causes beyond the control of Grantee (e.g. unusual weather or wind conditions), shall not be included in the data used to compute the Ldn for purposes of this provision of this Deed of Easement.

Further, Grantors and their successors in interest with regard to the within described property shall be ineligible to receive any remuneration or other compensation or benefit under any governmental program of the State of Maryland designed to allay, abate, or compensate for, the effects of aircraft noise and emissions in connection with the operation of Baltimore/Washington International Airport.

All of the uses provided for in this easement shall be without any liability of Grantee or of any other person or entity entitled to the benefits of this easement for damage to property or physical or emotional injury to persons, discomfort or interference with television, radio or other types or kinds of electrical reception, transmissions or activities in the easement. This grant expressly does not exclude claims by the Grantors or those claiming under them for physical or personal injury caused by any air traffic utilizing the easement which does actual physical damage to the property or persons located therein by crashing into or otherwise coming into direct physical contact with the property or persons located therein.

In addition, this grant expressly does not exclude claims by the Grantors or those claiming under them for physical or personal injury caused by any substance, vapor, element, article or other thing, the damage or injury from which could not have been ascertained or readily ascertainable by accepted and current testing methods as of the date of the execution of this Easement. The parties acknowledge that it is their intention that this paragraph be interpreted so that damages or injuries which result from causes known or ascertainable by accepted scientific methods as of the date of the execution of this Easement shall be excluded from liability, and that Grantors do not hereby waive any right to pursue relief against Grantee for those damages or injuries which result from causal connections that may only be determined by future advances in science, medicine or other technologies.

The Grantors for their heirs, successors, and assigns, do hereby covenant that they are lawfully seized of an indefeasible estate in the herein described property; and they have the right to grant and convey the estate, interest and easement herein conveyed; and that they will specially warrant and defend unto the Grantee and its assigns, forever, the quiet and peaceable use and enjoyment of the herein granted easement.

IN WITNESS WHEREOF, the said Grantors do hereunto set their hands and seals the day and year first above written.

WITNESS:

GRANTORS:

\_\_\_\_\_

\_\_\_\_\_

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

STATE OF MARYLAND, \_\_\_\_\_ COUNTY, to wit;

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, the subscriber a Notary Public of the State and County aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and who acknowledged the foregoing easement to be \_\_\_\_\_ his/her act, for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF I hereunto set my hand and official seal

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_

Notary Public

(SEAL)

STATE OF MARYLAND, \_\_\_\_\_ COUNTY, to wit;

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, the subscriber a Notary Public of the State and County aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and who acknowledged the foregoing easement to be \_\_\_\_\_ his/her act, for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF I hereunto set my hand and official seal

My Commission Expires:

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Notary Public

(SEAL)

THIS IS TO CERTIFY, that the within instrument was prepared by the undersigned attorney, duly admitted to practice before the Court of Appeals of Maryland, or by an employee of such attorney.

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Assistant Attorney General

Mail to: Maryland Aviation Administration  
Real Estate Division  
P.O. Box 8766  
BWI Airport, MD 21240-0766



**Easement Used by Burbank-Glendale-Pasadena Airport Authority  
for Acoustical Treatment Program  
at Burbank-Glendale-Pasadena Airport**

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Recording Requested By And  
When Recorded Return To:

Burbank-Glendale-Pasadena Airport Authority  
2627 Hollywood Way  
Burbank, CA 91505  
Attn: Director, Engineering and Planning

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Public Agency - Official Business  
Document Entitled to Free Recording  
Government Code Section 6103

**EASEMENT DEED AND AGREEMENT  
(Aviation Rights)**

This EASEMENT DEED AND AGREEMENT ("Avigation Easement Agreement") is executed and delivered as of this \_\_\_\_ day of \_\_\_\_\_, 199\_\_,  
by \_\_\_\_\_ **and**  
\_\_\_\_\_ (collectively, "Grantor") and  
the **BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY**, a public entity  
formed under a joint exercise of powers agreement among the cities of Burbank,  
Glendale and Pasadena, California, pursuant to the California Joint Exercise of Powers  
Act ("Grantee"), with reference to the following facts:

**RECITALS**

A. Grantor is the owner in fee simple of that certain real property (the "Property"), legally described in Exhibit A attached hereto, the street address of which is \_\_\_\_\_, California.

B. Grantee is the owner and operator of the Burbank-Glendale-Pasadena Airport (the Burbank-Glendale-Pasadena Airport, together with any future configuration or modification thereof being hereinafter referred to as the "Airport"), which as presently configured is more particularly described in Exhibit B attached hereto. The locations of the Property and the Airport are shown and depicted on the area map attached as Exhibit C.

C. Grantor is a voluntary participant in a publicly funded program for the acoustical treatment and insulation of residences. Under this program, Grantee will contract and pay for the installation of improvements and modifications to Grantor's Property in order to reduce interior noise levels generated by aircraft landing and taking off from the Airport.

It is an express condition of participation in this program that Grantor execute and deliver this Easement Deed and Agreement, which is intended to benefit Grantee and all users of the Airport and which is also intended to be binding on Grantor and all future owners or occupants of the Property.

## 1. GRANT OF AVIGATION EASEMENT

Grantor, individually and for the heirs, successors and assigns of Grantor, hereby grants to Grantee, its successors and assigns, for the use and benefit of Grantee, the tenants, invitees and licensees of Grantee, and all users of the Airport, the permanent non-exclusive easements, rights and servitudes (the "Avigation Easement") described in Sections 1.1 and 1.2.

1.1. Passage of Aircraft. The Avigation Easement shall include the free and unobstructed rights of use and passage by Aircraft in and through the airspace above and within the vicinity of the Property, with such rights of use and passage by Aircraft to be unlimited as to frequency, type of Aircraft and proximity to the surface of the Property, so long as the exercise of such rights is not in violation of then applicable federal laws governing flight operations (the "Passage of Aircraft"). The Avigation Easement shall not include or authorize Aircraft landing, explosion, crash, falling objects or other occurrences causing direct physical injury to persons or direct physical damage to property.

1.2. Noise and Other Effects of Aircraft Operation. The Avigation Easement shall include the right to cause within, and to enter or penetrate into or transmit through, any improved or unimproved portion of the Property, or any air space above the ground surface of the Property, such noise, sounds, vibrations, air currents, electronic interference and aircraft engine exhaust and emissions that may result from or be related to the taking-off, landing or flight of Aircraft to, from or over the Airport or the flight of Aircraft over the Property (the "Noise and Other Effects of Aircraft Operation").

1.3. Definition of Aircraft. As used herein, the term "Aircraft" shall mean any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

1.4. Preservation of Existing Rights; Intended Application. It is expressly intended by Grantor and Grantee that ( I) the Avigation Easement shall not supersede or impair any existing prescriptive or other easements, rights or interests

of Grantee in or applicable to the Property, all of which easements, rights and any remedies related thereto Grantee expressly reserves; (ii) the Avigation Easement shall apply to the Passage of Aircraft and to Noise and Other Effects of Aircraft Operation that would otherwise be objectionable or would otherwise constitute a trespass, a permanent or continuing nuisance, personal injury or taking or damage to the Property; and (iii) as to Grantee and its tenants, the Avigation Easement shall be appurtenant to the Airport and, as to all others, the Avigation Easement shall be in gross.

## 2. COVENANTS

2.1. Waiver and Covenant Not to Sue. Grantor, for itself and its successors and assigns, does hereby fully waive and release, and covenants not to assert or bring any right or cause of action which it might now have, or which it may have in the future, against Grantee, its successors and assigns, or against the tenants, licensees or users of the Airport, caused by or relating to the use of the Avigation Easement or the exercise of rights under this Avigation Easement Agreement. Nothing in this Avigation Easement Agreement shall preclude Grantor or its successors and assigns from seeking mitigation for any Noise or Other Effects of Aircraft Operation in, at, on, above or about any other property owned by Grantor; however, nothing herein shall be construed as creating any right in Grantor or any obligations or duty in Grantee to provide any such mitigation.

2.2. Interference With Air Navigation. In furtherance of the easements and rights herein granted, Grantor hereby covenants, for itself and its successors and assigns, at all times hereafter, that it will not take any action, cause or allow any electronic emissions, or construct any obstruction on the Property which would conflict or interfere with or infringe Grantee's rights hereunder.

2.3. Changes. The rights, easements, benefits, waivers, covenants and agreements granted hereunder, including the Avigation Easement, shall continue notwithstanding any increase or other change in the boundaries, volume of operations, noise, or pattern of air traffic at the Airport. The Avigation Easement and this Avigation Easement Agreement may not be modified, amended, terminated or abandoned except by execution and delivery of an instrument executed and acknowledged by Grantee, and Grantor agrees that, in the absence of such an instrument, no conduct by Grantee or increase, diminution or change in use of the Avigation Easement shall constitute either an overburdening of the Avigation Easement or a termination or abandonment of the Avigation Easement.

2.4. Homeowner Participation Agreement. Grantor and the successors and assigns of Grantor shall perform fully the covenants and obligations of Grantor under that certain "Residential Acoustical Treatment Program Homeowners Participation Agreement" between Grantor and Grantee of even date herewith, all of the provisions of which are hereby incorporated hereby by reference as if set forth in

full, it being the intent of the parties that the covenants and obligations of the Grantor under said Agreement shall be enforceable covenants running with the land in accordance with Section 2.5 hereof.

2.5. Covenants Binding On and Benefitting Successive Owners and Assigns. The parties intend that all waivers, restrictions, covenants and agreements set forth herein relate to the use, repair, maintenance or improvement of the Property or the Airport, or some part thereof, and shall run with the land of Grantor and Grantee, and any grantee, successor or assign of Grantor who acquires any estate or interest in or right to use the Property shall be bound hereby for the benefit of the Airport and for the benefit of any grantee, successor or assign of Grantee, including, without limitation, the tenants and licensees of Grantee, and all users of the Airport.

2.6. Attorneys' Fees. Should Grantor or Grantee or any of their respective successors or assigns retain counsel to enforce any of the provisions herein or protect their interests in any matter arising under this Avigation Easement Agreement, or to recover damages by reason of any alleged breach of any provision of this Avigation Easement Agreement, the losing party in any action pursued in a court of competent jurisdiction shall pay to the prevailing party all costs, damages, and expenses incurred by the prevailing party, including, but not limited to, attorneys' fees and costs incurred in connection therewith.

IN WITNESS WHEREOF, the parties have executed and delivered this Avigation Easement Agreement as of the date first set forth above.

“GRANTOR”

\_\_\_\_\_

“GRANTEE”

**BURBANK-GLENDALE-PASADENA  
AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Its: President

**Easement Used by City of Cleveland  
for Residential Sound Insulation Program  
at Cleveland Hopkins International Airport**

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**AVIGATION EASEMENT AND COVENANTS  
RUNNING WITH THE LAND**

WHEREAS, [Homeowner] herein called the "Grantor", without regard for number, being the owner in fee of a certain parcel of real property more particularly described as follows:

[INSERT LEGAL DESCRIPTION]

NOW, THEREFORE, the Grantor, for Grantor, Grantor's heirs, administrators, executors, successors and assigns, does hereby grant, bargain, sell and convey unto the City of Cleveland, acting by and through its Department of Port Control, division of Cleveland Hopkins International Airport, hereinafter called the "Grantee" for Grantee and Grantee's successors and assigns, and for the use and benefit of the public, a perpetual and assignable right-of-way and easement, for the free and unobstructed passage of all aircraft, notwithstanding the owner or operator of such, in, through and across all of the air space above Grantor's property subject to such rights, terms, and conditions as contained herein.

Said air space being 156 ft. above Grantor's property. "Aircraft" is defined for the purpose of this instrument as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air or space regardless of the form of propulsion which powers said aircraft in flight. It is understood and agreed that the following covenants and agreements shall run with the land.

- The Grantor, its successors in interest and assigns, shall:
  - (a) waive, remise and release any right or cause of action which Grantor may now have or may have in the future against the Grantee, on account of or arising out of noise, vibrations, fumes, dust, fuel, particles and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on Cleveland Hopkins International Airport or in or near the air space above Grantor's real property;
  - (b) not allow any structure, object, tree, or other vegetation to remain on Grantor's property which encroaches upon or extends into the prohibited air spaces and right-of-way;
  - (c) use, permit or suffer the use of, Grantor's property in such a manner as to create electrical interferences with radio communication to or from any aircraft or between any airport installation and any aircraft, or as to make it difficult for aircraft pilots to distinguish between airport lights or as to impair visibility in the vicinity of any airport, or to otherwise endanger the landing, take off, or maneuvering of aircraft;

(d) not permit the construction of any facility or improvement which attracts or results in the concentration of birds which would interfere with the safe operation of aircraft in;

(e) not cause or permit any change in the current land use that will reduce the compatibility of the noise compatibility program measures upon which federal funds have been expended.

II. The Grantee shall have:

(a) the continuing right to cause or allow in all of the air space above the surface of the Grantor's property such noise, fumes, vibrations, dust, fuel particles and all other effects that may be caused by or result from the operation of aircraft, whether or not said aircraft overfly or intrude into the easement area above described, and

(b) the right of entry, ingress and egress on Grantor's property for the purpose of:

(i) keeping Grantor's property clear of any and all obstructions which encroach upon or extend into the easement area and right-of-way and which is not adequately alleviated by Grantor upon notification;

(ii) removing, cutting or lowering bushes, trees or other vegetation, demolishing buildings or other structures or eliminating any obstruction whatsoever which extends into the easement area and right-of-way and which obstruction is not adequately eliminated by Grantor upon notification;

(iii) removing any facility or improvement on Grantor's property which attracts or results in the concentration of birds and which obstruction is not adequately eliminated by Grantor upon notification; and

(iv) eliminating electrical interferences on Grantor's property which are not adequately alleviated by Grantor upon notification.

RESERVING unto the Grantor, its successors in interest and assigns, the right to use and occupy Grantor's property for all purposes which do not interfere with or abridge the rights hereby granted thereto unto the Grantee, its successors and assigns until said Cleveland Hopkins International Airport shall be abandoned and shall cease to be used for public airport purposes.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_.

Signed and acknowledged  
in the presence of:

**WITNESSES**

**GRANTOR**

\_\_\_\_\_  
Witness 1

By: \_\_\_\_\_

\_\_\_\_\_  
Witness 2

\_\_\_\_\_  
Witness 1

By: \_\_\_\_\_

\_\_\_\_\_  
Witness 2

**Easement Used by County of Milwaukee  
for Residential Sound Insulation Program  
at General Mitchell International Airport**

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\*\* SAMPLE DOCUMENT - MAY BE MODIFIED IN FUTURE \*\*

AVIGATION EASEMENT  
General Mitchell International Airport  
Parcel No. \_\_\_\_\_

THIS AVIGATION EASEMENT (this "Agreement") is made and effective this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by and between MILWAUKEE COUNTY, a municipal corporation organized and existing under the laws of the State of Wisconsin (hereinafter referred to as the "County"), and \_\_\_\_\_ and \_\_\_\_\_, husband and wife (hereinafter referred to as the "Homeowner").

W I T N E S S E T H :

WHEREAS, the Homeowner is the sole record owner in fee simple of certain real property located in the City of \_\_\_\_\_, County of Milwaukee, State of Wisconsin, and more particularly described on Exhibit A, which is attached hereto and hereby incorporated herein (the "Property"); and

WHEREAS, the County is the owner and operator of the General Mitchell International Airport (the "Airport"), situated in the County of Milwaukee, State of Wisconsin, and in close proximity to the Property; and

WHEREAS, the County desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

WHEREAS, the Homeowner has heretofore agreed, and desires hereby, to grant to the County an avigation easement over, across and through the Property for such free and unobstructed flight of aircraft landing upon, taking off from, or maneuvering about the Airport.

NOW, THEREFORE, in consideration of the terms, covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Homeowner agrees as follows:

1. Airspace. The airspace through which the easement and right-of-way are herein granted shall be that airspace located directly over and across the Property which lies at or above one hundred (100) feet above ground level (the "Airspace").



2. Grant of Easement for Passage of Aircraft. The Homeowner does hereby grant, bargain, sell, alien, convey, confirm, transfer and set over unto the County, its representatives, agents, licensees and employees for the use and benefit of the public, an easement and right-of-way for the free and unobstructed passage of aircraft in and through the Airspace, together with the right to cause in the Airspace such noise, vibrations, dust and fumes as may be inherent in the operation of such aircraft, now known or hereinafter used, for navigation of or flight in the Airspace and for use of the Airspace for landing on, taking off from, or maneuvering about the Airport.

3. Restrictions on Structures. The Homeowner does hereby expressly agree to restrict the height of structures, objects of natural growth and other obstructions of any kind or nature whatsoever on the Property to a height of not more than one hundred (100) feet above ground level. The Homeowner does hereby grant and convey to the County a continuing right and easement to take such action necessary to prevent the erection or growth of any structure, tree or other object into the Airspace, and to remove from the Airspace any and all structures, trees or other objects that may extend into the Airspace, together with the right of ingress to, egress from, and passage over the Property for such purposes. In addition to, and in no way limiting the generality of the foregoing, if any trees on the Property extend into the Airspace, the Homeowner does hereby grant unto the County the permission to reduce the height of such trees by cutting the tops of the trees.

4. Restrictions on Use. The Homeowner shall not hereafter use or permit or suffer the use of the Property in such a manner as to (i) interfere with the operation, development or maintenance of the Airport, (ii) create electrical interference with radio communication between the Airport and aircraft, or otherwise interfere with the operation of air navigation and communication facilities serving the Airport, (iii) make it difficult for pilots to distinguish between airport lights and other lights, (iv) result in glare in the eyes of pilots using the Airport, (v) impair the visibility in the vicinity of the Airport, or (vi) otherwise endanger the landing, taking off or maneuvering of aircraft.

5. Release. The Homeowner hereby releases the County from any and all claims, liability or causes of action against the County that the Homeowner has now or may have in the future on account of noise emanating upon the Property which may now or hereafter be incident to the non-negligent operation of aircraft landing on, taking off from, or maneuvering about the Airport.

6. Taxes and Assessments. The County shall not, by reason of this Agreement, be obligated to pay any real estate taxes or special assessments levied against the Property.

7. Successors and Assigns. This Agreement, including the easement and right-of-way granted hereby and each and every term, covenant and condition hereof, shall be binding upon the Homeowner and its heirs, personal representatives,

successors and assigns, including without limitation each and every record owner from time to time of the Property or any other person having an interest therein, shall run with the land and shall inure to the benefit of the County and its successors and assigns.

8. Waiver. No waiver of, acquiescence in, or consent to any breach of any term, covenant or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further or succeeding breach of the same or any other term, covenant or condition hereof.

9. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

10. Amendment. This Agreement shall not be modified or amended, except by a writing executed and delivered by the Homeowner and the County or their respective heirs, personal representatives, successors and assigns.

11. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the Homeowner has executed this Agreement as of the day and year first above written.

HOMEOWNER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF WISCONSIN            )  
  ) SS.  
COUNTY OF MILWAUKEE )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 1998, \_\_\_\_\_

and \_\_\_\_\_, to me  
known to be the persons who executed the foregoing instrument and acknowledged the  
same.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
County of Milwaukee  
My Commission: \_\_\_\_\_

This instrument was drafted by Kelly B. Reilly of Foley & Lardner, 777 East Wisconsin  
Avenue, Milwaukee, Wisconsin 53202-5367.

**Easement Used by City of Dayton, Ohio  
for Residential Sound Insulation Program  
at James M. Cox-Dayton International Airport**

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**DEED OF EASEMENT**

THIS DEED OF EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ of \_\_\_\_\_, Ohio, hereinafter referred to as the "Grantors", and the City of Dayton, State of Ohio, acting through its Division of Airports, hereinafter referred to as the "Grantee."

WITNESSETH:

WHEREAS, "Grantee" is charged with the operation, administration, improvement, regulation, and protection of City-owned airports; and

WHEREAS, James M. Cox-Dayton International Airport is a City-owned airport located in Vandalia, Ohio, hereinafter referred to as the "Airport"; and

WHEREAS, certain real estate is owned by "Grantors", in fee simple, more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof, and referred to hereinafter as the "Property"; last recorded deed on \_\_\_\_\_ in Volume \_\_\_\_\_ page \_\_\_\_\_ in \_\_\_\_\_ County, Ohio; and

WHEREAS, "Grantee" is undertaking a residential noise mitigation program to grant certain relief regarding aviation noise to property owners residing near the "Airport" and whose property lies within certain noise zones more commonly referred to as those areas between DNL 70 dB and DNL 75 as shown upon the official 1987 noise contour map of the airport, in return for which the "Grantors" must convey to "Grantee" an aviation and noise easement; and

WHEREAS, "Grantee" has agreed to provide "Grantor" noise insulation, more particularly described in Exhibit "B", attached hereto and by this reference made a part hereof, and "Grantor" has elected to participate in this program, and the parties are desirous of entering into this Deed of Easement for their mutual benefit, protection, welfare, and necessity.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged by the parties signatures below, "Grantors" hereby grant and convey unto "Grantee", its successors and assigns, for the use and benefit of the public, an easement on, over, and upon the "Property", more particularly described as follows:

1) THE EASEMENT herein granted on, over, and upon the above-described real property encompasses the air space above the surface of "Grantors" property having

the same boundaries as the above-described property and extending from the surface upwards to the limits of the atmosphere of the earth.

2) TO HAVE AND TO HOLD said easement unto the said "Grantee", and its successors and assigns, until said Airport shall be abandoned and shall cease to be used for public airport purposes.

3) THIS EASEMENT shall run with the land and be appurtenant to and for the benefit of all of the real property comprising and known as the James M. Cox-Dayton International Airport and such other additional property or interest therein as shall be subsequently acquired or designated from time to time by "Grantee" or its successors as constituting a part of the "Airport", and the easement shall be in gross for the benefit of "Grantee" and all other persons and entities who directly or indirectly use the easement as a result of any type of use of the property and facilities constituting the Airport, including aviation ground and flight operations.

4) THE EASEMENT grants the privilege of passage of all lawful flight operations and all noise resulting directly or indirectly therefrom within the prescribed air space, and the right to cause all noise that may enter the described air space which result directly or indirectly from the operations of the Airport, now and in the future, including but not limited to, ground and flight operations of aircraft at, over, on, or in the vicinity of the Airport, and regardless of whether arriving, departing, or enroute, while recognizing that the quantity of such operations may increase in the future. Except as provided herein, this easement shall neither enlarge nor diminish any rights of either party existing prior to the date of this easement and as now or may hereafter be provided by law.

5) All of the uses provided for in this easement shall be without the liability of "Grantee" or of any other person or entity entitled to the benefits of this easement for damage to property or physical or emotional injury to persons, animals, or any other living thing, the diminution in value of any personal or real property, and discomfort or interference with the audio portion of television and/or radio by, from, or arising from, the normal operation of aircraft. This grant expressly does not exclude claims by the "Grantor" or those claiming under it for physical or personal injury caused by any air traffic utilizing the easement which does actual physical damage to the property or persons located therein by crashing into or otherwise coming into direct physical contact with the property or persons located therein.

This hereinbefore mentioned exclusion includes any damage caused by the detachment of any physical thing from an aircraft which may impact upon the "Property" or persons upon that "Property."

6) The "Grantors" for their heirs, successors, and assigns, do hereby covenant that they are lawfully seized of an indefeasible estate in the herein described property; and they have the right to grant and convey the estate, interest, and easement herein conveyed; and that they will specially warrant and defend unto the "Grantee" and its

assigns, forever, the quiet and peaceable use and enjoyment of the herein granted easement.

IN WITNESS WHEREOF, the "Grantors" have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_. Signed, sealed, and delivered in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner

STATE OF OHIO  
COUNTY OF \_\_\_\_\_

In \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ before me personally appeared \_\_\_\_\_ to me known and known by me to be the parties executing the foregoing instrument, and they acknowledged said instrument, by them executed, to be their free act and deed.

\_\_\_\_\_  
Notary Public

**Easement Used by County of Orange, State of California,  
for Residential Sound Insulation Program  
at John Wayne Airport**

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Recorded at request of, and return to:  
County of Orange/John Wayne Airport  
Attn: Janet L. Howard  
3160 Airway Avenue  
Costa Mesa, CA 92626

This is to certify that this document is presented for record by John Wayne Airport under Government Code, Section 6103 and is also exempt from payment of documentary transfer tax.

\_\_\_ Incorporated, City of \_\_\_\_\_  
\_\_\_ Unincorporated

BY: \_\_\_\_\_

Project/Parcel No.: GA 1121-4-  
Project: JWA/Acoustical Insulation  
Program

**GRANT OF AVIGATION EASEMENT**

For valuable consideration, receipt of which is acknowledged by execution of this grant of an avigation easement:

\_\_\_\_\_, hereinafter referred to as "GRANTOR", does hereby grant perpetual easement and right of way, as herein described.

**1.0 RECITALS**

This easement is granted in satisfaction of the agreement between GRANTOR and GRANTEE herein, as referenced in that certain Memorandum of Contract recorded on \_\_\_\_\_, 19\_\_\_, as Instrument No. \_\_\_\_\_, in the Office of the County Recorder of said Orange County.

## 1.1 DESCRIPTION OF SERVIENT TENEMENT

\_\_\_\_\_ (is) (are) the owner(s) of the fee simple estate in and to that certain real property situated in the County of Orange, State of California, commonly described as \_\_\_\_\_, and more particularly described as follows (“the subject property”):

(See Exhibit A for Legal Description attached hereto and by reference made a part hereof)

The subject property is located within the vicinity of John Wayne Airport, Orange County.

## 1.2 DESCRIPTION OF DOMINANT TENEMENT

The County of Orange (“the County”), a political subdivision of the State of California possessing lawful political authority under the laws and Constitution of the State of California, including the power of eminent domain, is the owner and proprietor of that certain real property located in the County of Orange, California, commonly known as John Wayne Airport, Orange County (“JWA”).

JWA is a federally certified commercial air carrier Airport regularly serving commercial aviation and general aviation operators utilizing the federal airways and airspace in their operations to and from JWA.

## 1.3 INTENT OF GRANTOR

It is the intent of GRANTOR to grant to the County a perpetual air and flight easement on, upon, over, across, above and to all the airspace which overlies the subject property (“the easement area”) for the operation of aircraft to and from JWA in a manner consistent with applicable operation and safety regulations of the Federal Aviation Administration as they now exist, and as they may hereinafter be amended, thereby relinquishing certain rights GRANTOR possesses in the easement area, as described more particularly below. It is not the intent of GRANTOR by this grant of avigation easement to authorize the County, or any other person, to cause or permit the impact or deposit upon the subject property of physical objects which are a part of, or carried in, aircraft operating to or from JWA.



#### 1.4 INTENT OF GRANTEE

It is the intent of GRANTEE in accepting this grant of avigation easement, to acquire from GRANTOR certain rights in respect of the subject property which will permit and facilitate the safe and efficient operation of aircraft to and from JWA, including disturbances which may be caused to the subject property and persons occupying, or otherwise present upon it, within the limits of the easement as defined in this grant.

#### 2.0 GRANT OF AVIGATION EASEMENT

GRANTOR hereby grants to the County of Orange, its successors and assigns, a perpetual air and flight easement ("the easement"), commonly referred to as an avigation easement, on, upon, over, across, above and to all the airspace which overlies the subject property as described below.

#### 2.1 DESCRIPTION OF AVIGATION EASEMENT

The easement conveys to the GRANTEE, its licensees, permittees, successors and assigns, and all other persons lawfully operating aircraft at, to and from JWA, the use of such airspace above the surface of the subject property to permit the imposition upon the subject property, from its surface upward, of all noise, vibration, discomfort, inconvenience, interference with the use and enjoyment of the subject property, and any consequent or related reduction of market value of the subject property due to the lawful operation of aircraft, including any future change or increase in the boundaries, volume or pattern of aircraft traffic, by all existing and future types of aircraft, up to and including a full calendar year annual Community Noise Equivalent Level ("CNEL") of \_\_\_\_ dB CNEL. For purposes of this easement, CNEL is defined by that certain methodology contained in regulations of the California Department of Transportation, Title 21 of the California Code of Regulations, Section 5000, et seq (commonly known as "the California Noise Standards"), as those regulations existed on the date upon which GRANTOR executed this grant of avigation easement.

Nothing herein authorizes the GRANTEE, or any other person, to cause or permit the impact or deposit upon the subject property of physical objects which are a part of, or carried in, aircraft operating to or from JWA.

2.2 DURATION OF EASEMENT

This easement constitutes a perpetual and enforceable restriction, and is binding upon GRANTOR, their successors, assigns and all persons authorized by them to occupy or enter upon the subject property. This easement is appurtenant to, for the benefit of, and runs with the land in respect of that certain property commonly known as JWA.

Dated \_\_\_\_\_

\_\_\_\_\_

Signed in the presence of:

\_\_\_\_\_

\_\_\_\_\_  
Subscribing Witness

\_\_\_\_\_



## APPROVALS

Approved as to form County Counsel  By _____ Date _____	
Description Compared to JWA Approved Description  By _____ Date _____	

**Easement Used by City and County of Los Angeles  
for Residential Sound Insulation Program  
at Los Angeles International Airport**

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RECORDING REQUESTED BY:  
CITY OF LOS ANGELES

WHEN RECORDED, MAIL TO:  
ELAINE E. STANIEC, SECRETARY  
BOARD OF AIRPORT COMMISSIONERS  
P.O. BOX 92216  
LOS ANGELES, CA 90009-2216

---

AVIGATION EASEMENT  
(ADDRESS)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

\_\_\_\_\_  
(Grantor[s])

hereby GRANT(S) to the

CITY OF LOS ANGELES, a municipal corporation located in the State of California,

the following described Avigation Easement in the City of \_\_\_\_\_,  
County of Los Angeles, State of California:

Avigation Easement Provisions

1. The provisions of this Avigation Easement are in, over, through and adjacent to the real property described as follows:

(Legal Description)

The above-described property is hereinafter referred to as the "Property".

2. This Avigation Easement shall be for air navigation purposes, including landing at, taking off from, or operating at, or on, Los Angeles International Airport, so that the Community Noise Equivalent Level (CNEL) experienced at the Property does not exceed the level set forth in Section 5 hereof.

3. Grantor(s) hereby release(s) the Grantee, CITY OF LOS ANGELES, from any and all claims said Grantor(s) have had, have now, or may hereafter have, with respect to alleged property damage at the above-described property, and any personal injuries and/or emotional distress, which claims arise out of the use of the Avigation Easement described herein by said Grantee or any other person or entity entitled to the benefits of this Avigation Easement, notwithstanding the provisions of Civil Code Section 1542.

4. In determining the nature and extent of the Aviation Easement to be granted to the Grantee, CITY OF LOS ANGELES, it is necessary that the description of such Avigation Easement be made in quantitative engineering terms setting forth specific levels of noise exposure that will be permitted within the scope of the Avigation Easement. The criterion or quantitative measure of noise exposure used for the purpose of describing and establishing the Avigation Easement granted herein shall be the annual CNEL methodology as authorized by Article 3, Chapter 4, Part 1, Division 9, Public Utilities Code of the State of California and as contained in the California Administrative Code, Title 4, Subchapter 6, Noise Standards, or equivalent standard, should the provision cited above be rescinded or amended.

5. Grantor(s) hereby grant(s) to Grantee, CITY OF LOS ANGELES, an Avigation Easement based upon the highest annual CNEL level produced by flight operations at Los Angeles International Airport during the Fourth Quarter of 1992 based on the CNEL contour maps filed with the California Department of Transportation, Division of Aeronautics, in accordance with Section 5050 of Title 21 of the California Administrative Code, which Avigation Easement shall also include any other adverse impacts arising from said CNEL level, including, but not limited to, noise, vibrations, smoke, fumes and soot, and other effects which are inherent in the operation of aircraft. 2 dB shall be the minimum CNEL deviation necessary to be exceeded for a period of four (4) consecutive calendar quarters before an alleged burdening of the above-described Avigation Easement can be claimed.

6. Nothing herein contained shall constitute a waiver by the Grantee, CITY OF LOS ANGELES, of any prescriptive rights which said Grantee may have previously acquired.

7. This Avigation Easement and all rights pertaining thereto is hereby vested in the CITY OF LOS ANGELES, its successors and assigns, forever with the understanding that these covenants and agreements shall be binding upon the successors and assigns of Grantor(s), and that these covenants and agreements shall run with the land.

\_\_\_\_\_  
Grantor[s]

Dated: \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

ATTEST:

\_\_\_\_\_  
(Print Name)

By \_\_\_\_\_  
Secretary (Signature)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

[SEAL]





THIS IS TO CERTIFY that the interest in real property conveyed by the within instrument to the CITY OF LOS ANGELES, a municipal corporation, is hereby accepted by order of the Board of Airport Commissioners, and the Grantee consents to the recordation therefore by its duly authorized officer.

DATED: \_\_\_\_\_, 19\_\_ CITY OF LOS ANGELES

By \_\_\_\_\_  
Executive Director  
Department of Airports

ATTEST:

By \_\_\_\_\_  
Secretary (Signature)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**Agreement and Avigation Release  
Used by Metropolitan Airports Commission  
for Sound Insulation Program  
at Minneapolis/St. Paul International Airport**

---

**MAC PART 150 SOUND INSULATION PROGRAM  
WORK AGREEMENT**

The parties to this agreement are the undersigned as listed below ("Property Owner") and the Metropolitan Airports Commission ("MAC"). Property Owner has legal title to real property and Modifications located at \_\_\_\_\_ ("Premises"). MAC is the operator of the Minneapolis/St. Paul International Airport and administers the Part 150 Sound Insulation Program.

WHEREAS, MAC desires to attempt to alleviate aircraft-generated noise levels in residences in the immediate airport vicinity; and

WHEREAS, Property Owner desires to reduce aircraft-generated noise levels within the Premises; and

WHEREAS, Property Owner fully understands the Part 150 Sound Insulation Program, has received information about the program and been given the opportunity to obtain all additional information he or she desires, has carefully reviewed and considered this information and this Work Agreement, including the Avigation Release set forth in Paragraph 28.0, and wishes to participate in the Program by executing this Work Agreement.

NOW, THEREFORE, in consideration of the promises made herein, the parties agree as follows: . . .

**28.0 AVIGATION RELEASE**

Property Owner hereby releases and forever discharges all claims, suits and actions against MAC regarding aircraft noise and vibrations, except as provided below. Property Owner understands that this is a full and complete release and waiver of any and all claims and causes of action that Property Owner may have in the future against MAC and its agents because of aircraft noise and vibrations unless Property Owner effectively cancels this Release as it relates to increased noise levels as set out below.

Property Owner understands that the Part 150 Sound Insulation Program eligibility is currently based on the certified (5-year) 1996 LDN Noise Contour (yearly day/night average) generated by MAC pursuant to the Federal Aviation Administration's

eligibility requirements and guidelines. MAC assigns each Property Owner a "Base Case LDN Noise Level", based on the location of the Premises to the individual LDN zones (Ldn 75, 74, 73, 72, 71, 70, 69, 68, 67, 66, 65) of the certified 1996 LDN Noise Contour. Property Owner understands and agrees that the "Base Case LDN Noise Level" at the Premises is LDN \_\_\_\_\_.

Property Owner further understands that this Release may be canceled as it relates to increased noise levels if the LDN noise level at the Premises increases two (2) units or more above the "Base Case LDN Noise Level", based upon MSP 5-year LDN contours to be updated by MAC in accordance with FAA LDN noise contour guidelines.

To cancel this Release as it relates to increased LDN noise levels, Property Owner agrees to notify MAC in writing, in care of the MAC Part 150 department. If Property Owner does so, Property Owner may pursue any claims for increased noise at or above the "Base Case LDN Noise Level" plus two (2) units. Property Owner understands, however, that in signing this document he or she forever releases any claims against MAC for airport noise and vibration for noise levels below the "Base Case LDN Noise Level" plus two (2) units.

Property Owner agrees that the value of sound insulation of the Premises is valuable consideration in exchange for a release of all aircraft noise and vibration claims. Finally, Property Owner understands that it is the Property Owner's sole responsibility to notify the first lienholder in regard to the Modifications.

#### **29.0 ENTIRE AGREEMENT**

This Agreement and the Avigation Release executed by Property Owner are the entire agreement between MAC and the Property Owner and shall not be changed or modified without a written agreement.

**30.0 SIGNATURES**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

**METROPOLITAN AIRPORTS COMMISSION**

BY \_\_\_\_\_  
\_\_\_\_\_

**PROPERTY OWNER**

_____	_____
	Date
_____	_____
	Date
_____	_____
	Date

**RESIDENTIAL SOUND ASSISTANCE PROGRAM**

**HOMEOWNER PARTICIPATION AGREEMENT**

**between**

**THE CITY OF PHOENIX, a municipal corporation**

**and**

**Homeowner(s)  
Address**

**City of Phoenix Aviation Department  
Sky Harbor International Airport  
3400 Sky Harbor Boulevard  
Phoenix, AZ 85034-4420  
(602) 273-4300**

THIS HOMEOWNER PARTICIPATION AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, between the CITY OF PHOENIX, a municipal corporation ("City"), and \_\_\_\_\_ ("Homeowner(s)").

WHEREAS, City has undertaken a Residential Sound Assistance Program to alleviate aircraft-generated noise levels penetrating residences in the vicinity of Phoenix Sky Harbor International Airport ("Airport"); and

WHEREAS, Homeowner is selected to participate in the Program as the owner of a residence to be sound-insulated by City;

NOW, THEREFORE, in consideration of the mutual promises made herein, the sufficiency of which are acknowledged by the parties, City and Homeowner agree as follows:

1. **PURPOSE**

The purpose of City's Residential Sound Assistance Program ("Program"), is to mitigate excessive aircraft noise levels for eligible residential properties. This Agreement sets forth the understanding between City and Homeowner regarding work to be done, access to the property by the Airport's Program Staff, its consultants, project managers and contractors, and the duties and responsibilities of City and Homeowner.

2. **PREMISES**

Homeowner holds legal or equitable title to the real property and improvements thereon located at {address} , and more particularly described in Exhibit "A" annexed hereto [hereinafter the "Premises"]. **If the Premises serves as security for money loaned, Homeowner shall obtain from the lender written permission to have the work performed by the City, and to grant to the City the avigation easement that Homeowner shall be obligated to convey to the City as consideration for said work. Homeowner acknowledges that it is Homeowner's responsibility to contact his/her lender with regard to the requirements of their contract, and that failure to do so could result in Homeowner being declared to be in breach of such contract.** The City reserves the right to not undertake the work until the Aviation Director is satisfied that Homeowner can grant and convey a valid and enforceable avigation easement.

[Check below if applicable]

I am informed by City's staff that public records disclose that my house serves as security for a mortgage/Deed of Trust. I have been advised to obtain the consent of my lender before executing the Avigation

Easement as part of this transaction. I am advised and understand that my granting of the Avigation Easement without obtaining the Lender's consent could cause the Lender to take legal action to recover the entire amount of the loan then outstanding. I am further advised that my failure to obtain the Lender's consent before \_\_\_\_\_ may cause City to delay acoustical treatments to my house until the Lender's consent is obtained. \_\_\_\_\_

3. **SCOPE OF WORK**

Homeowner has carefully reviewed the Scope of Work (annexed hereto as Exhibit "B") concerning the specific sound insulation work to be completed at the Premises. Homeowner agrees to accept the work as described and agrees to abide by the Program policies as set forth herein:

a. All work will be performed by qualified licensed general contractor(s) and subcontractor(s) under contract to the City, and selected pursuant to a public bidding process.

b. All work will conform to standard industry practices and quality of workmanship, and the Airport's Program Staff shall be responsible for overseeing the work of the Contractor(s), except that the Airport's consultant shall be responsible for all inspections and quality of work.

c. All sound insulation materials shall become the property of Homeowner upon completion of the work and final inspection and acceptance by Homeowner and the Airport's Program Staff.

d. Upon acceptance, Homeowner is thereafter responsible for general maintenance of sound insulation improvements and replacement of improvements after expiration of manufacturers' warranties.

4. **ACCESS TO THE PREMISES**

a. Homeowner agrees to allow Airport's Program Staff, its consultants and project managers to enter the Premises for the purpose of conducting existing conditions surveys and acoustical tests, to determine appropriate sound insulation methods for the Premises, and to conduct a post-construction acoustical test and conditions survey.

b. City shall keep Homeowner informed of the overall project schedule so that disruptions to Homeowner's routines will be kept to a minimum, and shall contact Homeowner in advance of visits to arrange an appointment.

c. Homeowner agrees to be present at all times when the consultants, project managers, or contractors visit the Premises, except that another adult with authority to act for Homeowner may substitute, provided that when Homeowner designates an agent to be present at a home visit, inspection, or during construction, Homeowner must file a signed release form naming the designee(s) with the Airport's Program Staff twenty-four (24) hours prior to the scheduled date of the event to be attended by the substitute.

d. City will notify Homeowner in advance of the date of commencement of construction work in the home, and every effort will be made to accommodate Homeowner's schedules within the estimated construction period. City will require contractors to confine work schedules within the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

e. During the construction period, Homeowner agrees to be responsible for moving and/or removing household effects such as furniture, items in storage in attic or basement areas, curtains, draperies or furnishings, etc.

f. Homeowner further agrees to cooperate fully with the Airport's Program Staff and the contractors to provide access to the home throughout the construction period, final checkout and acoustical testing. Failure to provide such access may result in exclusion from the Program.

#### 5. NON-RECOURSE AND INDEMNITY PROVISIONS

a. Homeowner agrees that if he chooses to withdraw from the Program prior to completion of the work, except for reasons beyond his control, then Homeowner will reimburse City for direct project expenditures to the Contractor made on behalf of Homeowner. In such event, City shall have no obligation to advance the work after the date that written notice of withdrawal is received, nor shall City be obligated to restore the Premises to its pre-construction condition.

b. Upon completion of the work and final inspection by Homeowner and the Airport's Program Staff, any subsequent repairs or adjustments to the installed components, materials, or workmanship of the contractors or subcontractors shall be under warranty for a period of one (1) year from the date of acceptance of the work, after which time any necessary repairs or adjustments shall become the responsibility of Homeowner. Homeowner acknowledges that if a fault is detected within any applicable warranty period, it is Homeowner's responsibility to inform Airport's Program Staff, in writing at once. City will provide all manufacturer's warranties and guarantees to Homeowner.

c. Homeowner agrees that any claims arising from the manner in which the work was performed under the contract between City and the general contractor causing injury or damages to persons or property shall be made against the general



contractor and not City, and Homeowner agrees to hold City harmless from such claims.

d. Homeowner acknowledges that participation in the Program is in the form of a grant of public money from City. In consideration thereof, Homeowner agrees to hold harmless City for all liability from all matters relating to sound insulation design and construction, and Homeowner agrees to assert no claim, nor bring any action, against City pertaining to matters arising from the contract between City and the general contractor. Nothing in this Agreement shall be construed to preclude Homeowner from pursuing claims and remedies related to the work against appropriate parties other than City.

e. Homeowner releases and holds harmless City from all liability for any actions taken in connection with the Program relating to the identification or abatement of hazardous materials, asbestos or other substances, the rendering of financial assistance in connection with such identification or abatement, or from any occurrence relating to relocation during abatement of hazardous materials, asbestos or other substances.

f. Homeowner agrees to further indemnify, hold harmless and defend the City, its officials, officers, employees, agents, consultants, boards and commissions, contractors, subcontractors and suppliers from and against all claims, demands, actions, causes of action, losses, damages, liabilities, costs and expenses including, but not limited to, reasonable attorneys' fees, for or in connection with personal injury [including death] and property damage which arises out of or is in any way connected with any negligent act, error or omission of Homeowner, including, but not limited to, dangerous condition(s) of the Premises.

## 6. NON-REMOVAL OF SOUND INSULATION MATERIALS

Homeowner understands that the purpose of the Program is to sound-insulate residential properties to mitigate aircraft overflight noise levels. Accordingly, Homeowner shall not intentionally remove any of the sound insulation materials and equipment installed as part of the Program for so long as the Premises is used as a residence. Homeowner acknowledges that modifications by Homeowner to work completed under the Program may result in degradation of the noise resistance of the house.

## 7. SEPARATE AGREEMENTS PROHIBITED

Homeowner agrees to not enter into any agreements with the City's general contractor or subcontractors regarding changes to the Scope of Work or for additional work without the express written consent of City.

8. **TERM**

This Agreement shall commence as of the date first written above, and shall continue in full force and effect until completion of the Work, unless terminated by City or Homeowner, subject to any restrictions or conditions imposed by this Agreement.

9. **AVIGATION EASEMENT**

As and for consideration for the foregoing Work to be performed on Homeowner's residence, Homeowner agrees to grant and convey to City a Limited Avigation Easement in the form attached hereto as Sample Limited Avigation Easement. Said easement shall be executed concurrently with this Agreement.

10. **ENTIRE AGREEMENT**

This Agreement and its attachments constitute the entire agreement between City and Homeowner, and shall not be changed or modified except in writing duly executed by authorized representatives of the parties.

11. **COVENANTS RUNNING WITH THE LAND**

In consideration of the funding with public monies of the improvements to the Premises, Homeowner specifically agrees that the obligations of Homeowner hereunder are made and entered into for the benefit of Phoenix Sky Harbor International Airport, as the same is now or may hereafter be legally described in the public records of the City of Phoenix and Maricopa County, Arizona, and shall be covenants running with the land and shall be binding upon Homeowner's heirs, assigns and successors in interest of any description. Homeowner further agrees that this Agreement may be recorded by the City in the Office of the County Recorder of Maricopa County, Arizona.

IN WITNESS WHEREOF, this Agreement is duly executed on the day and year first above written, by the parties hereto or their authorized representatives, intending themselves to be legally bound hereby.

ATTEST:

CITY OF PHOENIX, a municipal  
corporation

\_\_\_\_\_  
City Clerk

FRANK FAIRBANKS, City Manager

APPROVED AS TO FORM:

By \_\_\_\_\_  
Aviation Director

\_\_\_\_\_  
City Attorney

HOMEOWNER(S)

\_\_\_\_\_  
\_\_\_\_\_

After recording,  
return to:

Attn: Real Estate Administrator  
City of Phoenix  
251 W. Washington, 8th Flr.  
Phoenix, AZ 85003

## **LIMITED AVIGATION EASEMENT**

FOR VALUABLE CONSIDERATION in the form of substantial aircraft noise abatement measures applied to the undersigned Owner[s] house, the adequacy and receipt of which is acknowledged from the City of Phoenix, the undersigned Owner[s] of the premises described below do hereby GRANT AND CONVEY to the CITY OF PHOENIX, a municipal corporation, a perpetual easement of overflight right-of-way over the below-described real property situate in Maricopa County, Arizona, including the rights, effects and impacts to and upon said premises as are more particularly set forth below.

### **1.0 RECITALS**

1.1. Owner[s] represent and warrant that Owner[s] own and have fee simple title to that certain parcel of real estate located in the City of (Phoenix/Tempe), County of Maricopa, State of Arizona, more particularly described in Exhibit "A" annexed hereto and made a part hereof (the "Premises").

1.2. It is the intent of Owner[s] to grant to the City of Phoenix, a municipal corporation, its successors and assigns [Grantee] an avigation easement over the Premises through which aircraft arriving at or departing from Phoenix Sky Harbor International Airport ("Airport") may broadcast a noise level as described in Paragraph 2 and to permit the imposition upon the surface and airspace of said Premises of such other negative impacts of aircraft overflight as are specified in the grant of the avigation easement below.

1.3. Owner(s) acknowledge that the Premises is currently located in the area identified as the \_\_Ldn noise contour [based on the 1992 Part 150 Noise Contours] for the Airport as of the execution date of this easement.

### **2.0 AVIGATION EASEMENT**

2.1 Except as provided in 2.2, Owner[s] hereby grant and convey to the City of Phoenix, a municipal corporation, its successors and assigns, a perpetual air and flight airspace easement (commonly referred to as an avigation easement), from the surface upward without limitation, over the Premises, to be used for the limited purposes described below.

2.2 This avigation easement is appurtenant to the Airport and allows the imposition upon the Owner[s] Premises, from its surface upward, of all noise, vibration, discomfort, inconvenience, interference with the use and enjoyment of the Premises, and any causal reduction of the fair market value of the Premises, arising from the lawful operation of aircraft of any type, including any future change or

increase in the boundaries, volume or pattern of aircraft traffic, by all existing and future types of aircraft arriving at or departing from the Airport. This avigation easement shall cease and be of no further force and effect if, and only if, the Airport noise contours are officially reclassified in accordance with established Federal Aviation Administration procedures to identify the Premises as being within an airport noise contour of \_\_Ldn or higher, or if the Airport permanently discontinues operating as a public or private airport.

2.3 Nothing herein authorizes the City, or any other person, to cause or permit the impact or deposit upon the Premises of physical objects of any type that are a part of, or are carried in or upon, aircraft operating to and from the Airport.

2.4 This easement is appurtenant to, and for the benefit of, the Airport as it now exists or as it may hereafter be constituted and is, except as provided in 2.2, a perpetual and enforceable grant of property rights running with the land, and is binding upon Owner[s], their heirs, successors, assigns and all persons authorized by Owner[s] to occupy or enter upon the described Premises, in favor of the City of Phoenix, a municipal corporation, its successors and assigns, for so long as the Airport is used as a public airport.

2.5 The City shall not, by the acts of accepting this Avigation Easement and recording same, become obligated to pay any portion of any real estate tax or special assessment levied against the Premises for as long as this Avigation Easement is in effect.

2.6 Owner[s], their heirs, administrators, executors, successors and assigns do hereby fully waive, remise and release any right or cause of action which they may now have, whether known or unknown, contingent or liquidated, against the City, its successors and assigns, due to the noise of aircraft overflight associated with Phoenix Sky Harbor International Airport. In connection with this Covenant Not To Sue, Owner[s] acknowledges that he/she is aware that it may hereafter discover facts in addition to or different from those which they know or believe to be true with respect to the subject matter of this release, but it is Owner[s]' intention to hereby fully, finally and forever release all matters known or unknown, suspected or unsuspected, which may now exist between the parties.



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF  
HOMEOWNER[S]' PREMISES**

**EXHIBIT "B"**  
**SCOPE OF WORK**



**LENDER'S CONSENT  
TO  
IMPROVEMENTS TO RESIDENCE  
AND  
GRANT OF AVIGATION EASEMENT**

Whereas, that certain real property and improvements thereon located at 504 East Mohave Street, Phoenix, AZ is encumbered as security for a loan to [homeowner], as evidenced by that [mortgage] [deed of trust] recorded [as document number ] [in docket no.\_\_\_\_ at page no. ], records of the Maricopa County Recorder; and

Whereas, [homeowner] and the City of Phoenix desire to enter into an agreement whereby the City will pay for and install certain improvements to the betterment of [homeowner's] property; and

Whereas, [lender] will also benefit from the improvements to its security interest; and

Whereas, the City requires as consideration for said improvements that [homeowner] grant and convey to the City an avigation easement in favor of Phoenix Sky Harbor International Airport; and

Whereas, [lender] has reviewed the Homeowner's Agreement, including the Scope of Work, and the proposed Limited Avigation Easement, and has no objection thereto;

NOW, THEREFORE, [lender], for ONE DOLLAR (\$1.00) and other valuable consideration duly acknowledged and received, consents to the execution by [homeowner] of the Homeowner's Agreement and the grant and conveyance of the Limited Avigation Easement as such are more fully set forth in separate documents presented to and reviewed by the undersigned on behalf of [lender].

DATED this \_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
[Lender]

State of Arizona            )  
  ) ss  
County of Maricopa        )

The foregoing LENDER'S CONSENT was acknowledged before me this \_\_\_\_ day of \_\_\_\_, 19\_\_, by [name], [title], of [lender], a corporation, on behalf of the corporation.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

**Easement Used by San Diego Unified Port District  
at San Diego International Airport -  
Lindbergh Field**

---

Recording requested by: )  
)  
SAN DIEGO UNIFIED PORT )  
DISTRICT )  
)  
and when recorded, mail to: )  
)  
Christine M. Stein, District Clerk )  
San Diego Unified Port District )      Space above this line for  
P.O. Box 488 )      Recorder's use  
San Diego, CA 92112 )

---

ASSESSOR PARCEL # \_\_\_\_\_

**GRANT OF AVIGATION EASEMENT  
RECITALS**

WHEREAS:

1. \_\_\_\_\_  
(Provide complete legal name of all owners of record of subject property)

\_\_\_\_\_  
(state identity of property owner - e.g., single man/woman, husband and wife, a corporation)

("Grantor(s)", is (are) the owner(s), as \_\_\_\_\_  
(designate how title to property is held - e.g., joint tenants,  
community

\_\_\_\_\_, of the fee simple estate in and to that certain  
(property)

real property situated in the County of San Diego, State of California, commonly  
described as \_\_\_\_\_  
(Provide street address and zip code of subject property)

and more particularly described as follows:

\_\_\_\_\_

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\_\_\_\_\_ (the Subject Property);  
(Provide complete legal description and assessor parcel number of subject property)

2. It is the desire of Grantor(s) to grant to the San Diego Unified Port District ("the District"), a governmental entity organized under the laws of the State of California and possessing political authority, an air and aviation easement, also known as a perpetual air, flight or noise easement, on, upon, over, across, above the Subject Property, and to all of the airspace above the Subject Property, whereby Grantor(s) relinquishes certain rights relative to the Subject Property, as described in this grant of easement;

3. The purpose of this grant of easement, and its acceptance by the District, includes granting the District an aviation easement permitting the unencumbered and unrestricted flight of aircraft to or from San Diego International Airport - Lindbergh Field ("Lindbergh Field"), owned and operated by the District without liability to the District, to the aircraft operator, or to any other person lawfully operating aircraft to or from Lindbergh Field in the navigable airspace of the United States (as defined at 49 U.S.C. §1301(26), and as that section of the United States Code (and the referenced regulations) existed on the effective date of this grant of easement, and in accordance with relevant regulations of the United States of America and the State of California, pursuant to the authority granted to the District by the people and the State of California; and

4. Pursuant to the Comprehensive Land Use Plan for Lindbergh Field ("the CLUP"), the City of San Diego requires, as a condition to taking certain discretionary actions in respect of the development or improvement of the Subject Property for, or related to residential or other noise sensitive uses, that Grantor(s) cause an aviation easement to be recorded with the County Recorder, a copy of which is to be filed with the District;

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged:

### **WARRANTIES AND COVENANTS**

Grantor(s) warrant(s) and covenant(s) to the District that as of the date hereof:

1. Grantor(s) hold(s) the entire fee simple interested in the Subject Property;

2. Grantor(s) shall not convey (his/her/their/its) interest in the property, or execute, deliver, comply or permit recordation of any interest in the property, or any lien or encumbrance against the property (or any interest therein) until the earlier of the following events: (I) this grant of avigation easement has been properly executed by Grantor(s), accepted by the District, and recorded by the San Diego County Recorder; or (ii) thirty (30) days have elapsed after Grantor(s) have delivered this grant of avigation easement to the District, properly and fully executed and notarized, a complete and accurate application form, and true and correct copies of all associated documents identified in the instructions provided to Grantor(s) with this form of easement.

3. If the person executing this grant of avigation easement is other than the grantor, the person, or his or her attorney, has represented, in documentation separate from this grant, to the District that the person is authorized by Grantor to relinquish certain rights relative to the Subject Property, as described in this grant.

### **GRANT OF AVIGATION EASEMENT**

Grantor(s) grant(s) to the District, its successors and assigns, a perpetual air, flight or noise easement, commonly referred to as an avigation easement, on, upon, over, across, above the Subject Property, and to all the airspace which overlies the Subject Property.

This easement conveys to the District the use of such airspace above the surface of the Subject Property to permit the operation of aircraft above, or in the air space of the Subject Property, and the imposition upon the Subject Property, and its use by any person for any and all purposes, of all noise, vibration, discomfort, inconvenience, interference with the use and enjoyment and any consequent reduction of market value of the Subject Property, due directly or indirectly to the operation of aircraft to and from Lindbergh Field. This grant of easement is for the use of such airspace by any aircraft, present or future, in whatever form or type, during operations at, on, to or from Lindbergh Field, including any future change or increase in the boundaries, volume or pattern of aircraft traffic or aircraft noise, by all existing or future types of aircraft, up to and including a full calendar year annual Community Noise Equivalent Level (CNEL) value of 80 dB CNEL [as defined in Section 5000 et. seq. of Title 21 of the California Code of Regulations, and as that methodology is defined by such regulations on the date this easement is executed by the Grantor(s)] at the Subject Property.

This easement constitutes an enforceable restriction pursuant to the provisions of California law, including, but not limited to, Section 21652 of the California Public Utilities Code, and shall bind Grantor(s), Grantor(s) successors and assigns, and each and all of them, and shall be appurtenant to, and for the benefit of the real property commonly known as Lindbergh Field, which is more particularly described in Exhibit "A", attached hereto:

Dated: \_\_\_\_\_

GRANTOR(S):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

(Grantor Acknowledgment)

STATE OF CALIFORNIA)

ss.

COUNTY OF SAN DIEGO)

On \_\_\_\_\_ (date) \_\_\_\_\_, before me, \_\_\_\_\_ (name of notary public) \_\_\_\_\_, personally appeared \_\_\_\_\_ (name of grantor) \_\_\_\_\_, personally known to me (or proved to

me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Notary Public

**CERTIFICATE OF ACCEPTANCE**

In accordance with Section 27281 of the California Government Code, this is to certify that the interest in real property conveyed by this Grant of Avigation Easement, dated \_\_\_\_\_, 199\_\_, from \_\_\_\_\_ (name of grantor) \_\_\_\_\_

\_\_\_\_\_ to the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, is hereby accepted by the undersigned officer on behalf of the Board of Port Commissioners of the San Diego United Port District pursuant to authority conferred by Resolution No. 83-43 of said Board adopted February 8, 1983, and the Grantee consents to recordation thereof by its duly authorized officer.

DATED: \_\_\_\_\_, 199\_\_ SAN DIEGO UNIFIED PORT DISTRICT

By \_\_\_\_\_  
Executive Director

**Easement Used by City and County of San Francisco  
for Residential Sound Insulation Program  
at San Francisco International Airport**

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RECORDING REQUESTED BY  
City and County of San Francisco

WHEN RECORDED, MAIL TO:  
City and County of San Francisco  
Real Estate Department  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

Attn: Robert E. Haslam

**GRANT OF EASEMENT**

(Civil Code Section 1468, Public Utilities Code Section 21652)

This indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ between \_\_\_\_\_ (hereinafter "GRANTORS") and the City and County of San Francisco, a political subdivision of the State of California (hereinafter "CITY").

WHEREAS, GRANTORS are the owners of that certain real property located at \_\_\_\_\_, San Mateo County, CA, \_\_\_\_\_, and more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein as though set forth verbatim (hereinafter "Grantors' Property"); and

WHEREAS, GRANTORS have been offered the opportunity to participate in a publicly funded program (hereinafter the "Noise Insulation Program") which will cause changes to be made to Grantors' Property which may result in the reduction of aircraft noise currently being imposed on the interior of the structure or structures located on Grantors' Property; and

WHEREAS, the funding source for said Noise Insulation Program will include funding from the CITY, acting in its capacity as the owner and operator of the San Francisco International Airport ("SFO"), and may include funding from the United States Government pursuant to the Aviation Safety and Noise Abatement Act of 1979 (commencing at 49 U.S.C. Section 2101); and



WHEREAS, CITY requires as a condition precedent to its participation in said Noise Insulation Program that GRANTORS provide the CITY with an easement upon Grantors' Property to permit imposition upon such property of vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from SFO; and

WHEREAS, Section 21652 of the Public Utilities Code of the State of California authorizes CITY to obtain such easement;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO THAT:

1. GRANTORS do hereby grant, convey and assign to the CITY, and its successors, an easement for the purpose of permitting the imposition of vibration, discomfort, inconveniences, interference with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from SFO upon Grantors' Property.

2. The easement granted herein shall become effective upon execution of this Document by the GRANTORS and the CITY and payment to GRANTORS, or on their behalf, by the CITY of the sum agreed upon as the cost of the Noise Insulation Program with respect to Grantors' Property and shall terminate twenty years thereafter, unless sooner terminated by action of law or as otherwise set forth herein.

3. The Annual Community Noise Equivalent Level map and boundaries for the year ending December 31, 1993 ("1993 CNEL map") filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, shall be the basis for determining the baseline level for the Grantor's property.

4. This Grant of Easement shall not be in effect:

(a) For property located outside the 65 CNEL boundary on the 1993 CNEL map, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on Grantor's property exceeds 65 CNEL, and shall remain not in effect until two (2) consecutive subsequent quarterly noise report maps show the level of noise not to have exceeded 65 CNEL.

(b) For property located within the 65 CNEL boundary on the 1993 CNEL map, if three (3) of any four (4) quarterly noise maps, as reported to the State of California, for any calendar year show that the noise level imposed on Grantor's property exceeds the baseline CNEL level as stated in paragraph three (3) by more than 3 db CNEL, and shall remain not in effect until two (2) consecutive subsequent quarterly noise report maps show the level of noise to have been no more than 3 db CNEL greater than the baseline.

5. Any change in the noise level, as reported on a quarterly noise report map submitted to the State of California, which reflects a change in noise level which results from the temporary increased use of certain runways, due to construction or repair of other runways, or due to any other cause or causes beyond the control of the City (e.g. weather or wind conditions, but not flight pattern shifts authorized by the Federal Aviation Administration) shall not be used to compute the noise level imposed on Grantor's property for the purposes of paragraph four (4).

6. The covenants contained in this Grant of Easement are for the mutual benefit of CITY and SFO, and the benefits and burdens created by this instrument shall inure to and be binding upon the successors, heirs, and assigns of GRANTORS and shall inure to and be binding upon the successors, heirs, and assigns of CITY as owner and/or operator of SFO.

7. CITY shall cause this conditional Grant of Easement to be recorded in the Office of the Recorder of the County of San Mateo within thirty (30) days of the date of its acceptance by CITY.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

GRANTORS

\_\_\_\_\_  
\_\_\_\_\_

(STATE OF CALIFORNIA)  
(COUNTY OF SAN MATEO)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared

\_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged to me that he/she/they executed it.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

ATTEST:

GRANTEE:  
CITY AND COUNTY OF  
SAN FRANCISCO

\_\_\_\_\_

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:  
LOUISE H. RENNE, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

This is to certify that the interest in  
real property conveyed by this deed dated  
\_\_\_\_\_ from the first part  
\_\_\_\_\_ to the City and County  
of San Francisco, a California municipal  
corporation, is hereby accepted by order of  
its Board of Supervisors' Resolution No. 18110,  
Series of 1939, approved August 7, 1957,  
and the grantee consents to recordation  
thereof by its duly authorized officer.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Director of Property



## GRANT OF AIRCRAFT LIMITED NOISE EASEMENT

Grantor, in consideration of participation in the Acoustical Treatment Program, does hereby grant to City, its successors and assigns, a perpetual and assignable aircraft overflight and noise Easement (the "Easement") for the use and benefit of the City, the Airport, the general public, and owners and operators of aircraft using the Airport, for the purposes and subject to the limitations described below:

A. **Purpose of Easement.** This Easement conveys to the City, and all parties which now or in the future operate aircraft to, from, or on the Airport in a manner consistent with then applicable laws, the use of airspace above Grantor's Property for overflight of any type of aircraft and permits aircraft-related noise, vibration, or air currents or other similar inconvenience to be imposed on Grantor's Property.

B. **Limitations and Restrictions on Easement.**

1. The level of aircraft noise which may be imposed on Grantor's Property pursuant to this Easement shall not exceed the annual Community Noise Equivalent Level ("CNEL") of 75 decibels. For purposes of this Easement, CNEL is defined by regulations of the California Department of Transportation in Sections 5000 and following of Title 21 of the California Administrative Code, as those regulations exist on the date upon which Grantor executed this Easement.
2. The level of aircraft-related vibration, air currents, or other inconvenience which may be imposed on Grantor's Property is also limited to that level which occurs at or below the authorized CNEL level.
3. In the event that the authorized annual CNEL level is shown by Grantor to have been exceeded on Grantor's Property for any calendar year period, this Easement shall continue and remain valid and effective as to the authorized annual CNEL level, but any CNEL level in excess of that authorized shall be outside the scope of this Easement. This Easement shall not preclude Grantor from exercising any legal rights it may have in the event the authorized annual CNEL level is shown to have been exceeded as provided in this Easement.
4. Nothing in this Easement is intended to deprive Grantor of any rights it may have against an aircraft owner or operator for negligence or unlawful operation of aircraft.

The covenants and agreements in this Easement run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor and Grantee. The Easement granted herein shall be deemed both appurtenant to

the Airport and the benefit of the City and its real property constituting the Airport, and shall also be deemed in gross, for the benefit of the Grantee, the general public, and owners and operators of aircraft who use the Airport from time to time.

This Easement is executed by the Grantor as of the dates set opposite Grantor's name(s) below.

"GRANTOR"

DATED: \_\_\_\_\_, 199\_\_\_. BY: [Exhibit Only - Do Not Sign]  
[Name]

DATED: \_\_\_\_\_, 199\_\_\_. BY: [Exhibit Only - Do Not Sign]  
[Name]

**CALIFORNIA NOTARY ACKNOWLEDGMENT**

State of California        )  
County of Santa Clara    )

On \_\_\_\_\_, 199\_\_\_\_, before me,

\_\_\_\_\_, personally appeared \_\_\_\_\_ [Name] \_\_\_\_\_,  
personally known to me (OR proved to me on the basis of satisfactory evidence) to  
be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),  
or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_

**CALIFORNIA NOTARY ACKNOWLEDGMENT**

State of California        )  
County of Santa Clara    )

On \_\_\_\_\_, 199\_\_\_\_, before me,

\_\_\_\_\_, personally appeared \_\_\_\_\_ [Name] \_\_\_\_\_,  
personally known to me (OR proved to me on the basis of satisfactory evidence) to  
be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),  
or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_

**Easement Used by City and County of King, Port of Seattle, Washington  
for Residential Sound Insulation Program  
at Seattle-Tacoma International Airport**

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**AVIGATION EASEMENT**

1. This easement is conveyed from the undersigned (hereinafter "Grantor") to the Port of Seattle, a Washington State municipal corporation (hereafter "the Port").

2. Grantor is the owner of land and improvements thereto located at \_\_\_\_\_  
\_\_\_\_\_ in the City of \_\_\_\_\_,  
County of King, State of Washington, and described as follows:

**(Legal description with map attached, if possible)**

(hereafter "Premises")

3. The Port is the proprietor of the Seattle-Tacoma International Airport.

4. Grantor, Grantor's heirs, executors, administrators, successors, and assigns, in consideration of the Port's agreement to assist with certain modifications and installations on the Premises for noise-impact reduction purposes, and as required under R.C.W. 53.54.030(3), conveys and warrants to the Port, its successors and assigns, a permanent and non-exclusive easement for the free and unobstructed use and passage of all types of aircraft (as hereinafter defined) through the airspace over or in the vicinity of the Premises, with such use and passage to be unlimited as to frequency, type of aircraft, and proximity. Said easement shall be appurtenant to and for the benefit of the real property now commonly known as Seattle-Tacoma International Airport ("Airport"), including any additions thereto wherever located, hereafter made by the Port or its successors and assigns and for the benefit of the Port, its successors, assigns, guests, and invitees, including any and all persons, firms, or corporations operating aircraft to or from the Airport. As further provided in Paragraph 5, said easement and burden, together with the Easement level for average yearly noise exposure at the parcel (as defined in Paragraph 5) and noise associated conditions, which may be alleged to be incident to or to result from flights of aircraft over or in the vicinity of the Premises or in landing at or taking off from the Airport, shall constitute permanent burdens on the Premises. The burdens and conditions described within this easement shall run with the land and be binding upon and enforceable against all successors in right, title, or interest to said real property. Grantor furthermore waives all damages and claims for damages caused or alleged to be caused by or incidental to such activities.



5. The Easement Level for average yearly noise exposure as that term is used in Paragraph 4 shall be determined by reference to the Port's 1991 FAA accepted noise contour map showing noise contours at intervals of one decibel day/night level (DNL). The base level for this parcel is the yearly average noise exposure at the more severe of the two contour lines that lie on either side of the property and is \_\_\_ DNL. The Easement Level shall not be deemed to be exceeded unless anyone so claiming establishes that the yearly average noise exposure as defined herein has increased by more than 1.5 DNL above the base level. Absent such a showing, the easement shall continue in full force and effect as to all noise and noise associated conditions reaching or affecting the parcel. If the Easement Level is exceeded, the easement shall nonetheless remain in full force and effect as to all noise and noise associated conditions falling within the Easement Level.

6. As used herein, the term "aircraft" shall mean any and all types of aircraft, whether now in existence or hereafter manufactured and developed, and shall include, but is not limited to, jet aircraft, propeller-driven aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters and all other types of aircraft or vehicles now in existence or hereafter developed for the purpose of transporting persons or property through the air.

7. Grantor covenants that Grantor is the owner in fee simple of the Premises, and that at the time of signing this aviation easement, Grantor has full ownership rights and powers to convey this easement free and clear from all other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature, and Grantor covenants with the Port, its successors, and assigns, to warrant and forever defend against all and every person or persons claiming any right or title adverse to the easement herein granted.

8. Except as provided in this easement, this easement shall neither enlarge nor diminish any rights of either party existing prior to the date of this easement as provided by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

GRANTOR(S):

\_\_\_\_\_  
\_\_\_\_\_

STATE OF WASHINGTON            )  
  )        ss.  
COUNTY OF KING                )

I hereby certify that I know or have satisfactory evidence that

\_\_\_\_\_ is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_  
My appointment expires on \_\_\_\_\_.