

Contract \_\_\_\_\_

P.P.N.  
Homeowner(s):

### **AVIGATION EASEMENT (Sample)**

1. This easement is conveyed from the undersigned (hereinafter “Grantor) to the City of Cleveland (hereinafter “City”), a municipal corporation in the State of Ohio, acting by and through its Department of Port Control, division of Cleveland Hopkins International Airport (hereinafter “Grantee”).
2. Grantor is the owner in fee of the land and improvements thereto located at \_\_\_\_\_ Street in the City/Township of \_\_\_\_\_, County of Cuyahoga, State of Ohio and described as follows:  
  
Legal Description of Property Here....
3. The City is the proprietor of the Cleveland Hopkins International Airport.
4. Grantor, Grantor’s heirs, executors, administrators, successors, and assigns, in consideration of the City’s agreement to assist with certain modifications and installations on the Premises for noise-impact reduction purposes, conveys and warrants to the City, its successors and assigns, a permanent, non-exclusive and perpetual easement for the free and unobstructed use, passage, operations and effects thereof 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 Cleveland Hopkins International Airport (“Airport”), including any additions thereto wherever located, hereafter made by the City or its successors and assigns and for the benefit of the City, its successors, assigns, guests and invitees, including any and all persons, firms or corporation operating aircraft to or from Airport. As further provided in Paragraph 5 below, said easement and burden, together with the Easement level for day/night average sound level at the parcel (as defined in Paragraph 5 below) 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 day/night average sound level as that term is used in Paragraph 4 shall be determined by reference to the City’s current Federal Aviation Administration (hereinafter “FAA”) accepted noise contour map showing noise

contours at intervals of five decibels day/night average sound level (DNL), between 65 DNL and 75 DNL, with each five decibel increase constituting a new range. The base range for this parcel has been determined from the contour to be 65 DNL to 75 DNL. The Easement Level shall not be deemed to be exceeded unless Grantor, their assigns or successors, so claiming, establishes that the DNL as defined herein has increased by a DNL which causes a higher DNL range for the property. The provisions of this Easement shall not apply during any period of time in which the Easement Level exceeds 75 DNL. Any change in the DNL, as reported on a contour map, which reflects a change in DNL 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 FAA) shall not be used to compute the DNL imposed on Grantor's property for the purposes of Paragraph 4, above.

6. Grantor releases and forever discharges all claims, suits and actions against the City regarding aircraft noise and vibrations which interfere with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from the Airport upon Grantor's property.
7. 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 or vehicles now in existence or hereafter developed for the purpose of transporting persons or property through the air.
8. Grantor covenants that Grantor is the owner in fee simple of the Premises, and that at the time of signing this Avigation 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 City, its successors, and assigns, to warrant and forever defend against all and every persons claiming any right or title adverse to the easement herein granted.
9. 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.
10. In the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained.

**IN WITNESS WHEREOF**, we have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Signed and acknowledged  
In the presence of:

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

\_\_\_\_\_  
Homeowner

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

\_\_\_\_\_  
Homeowner

STATE OF OHIO                    )  
  ) SS  
COUNTY OF CUYAHOGA )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned Notary Public, in and for said County and State personally appeared \_\_\_\_\_ known to me to be the person or persons whose names are subscribed to the foregoing instrument, and acknowledged that the same was executed and delivered as their free and voluntary act for the purposes herein set forth. Who being duly sworn, did say that he/she/they is the owner of the premises described in this instrument and the individual(s) acknowledged to me that he/she/they has read the Avigation Easement and fully understand its content.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written in this certificate above.

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

My commission expires