

## **Residential Sound Insulation Program Homeowner Participation Agreement**

This Agreement, effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Tucson Airport Authority ("TAA") and \_\_\_\_\_ ("Homeowner"), owner(s) of record of the residence at \_\_\_\_\_, Arizona ("Property"), (collectively the "Parties").

WHEREAS, the Property is owned by Homeowner and is more particularly described in Exhibit B attached hereto;

WHEREAS, the Property meets certain interior noise level criteria established by the Federal Aviation Administration ("FAA"), which qualifies it for certain sound insulation treatments to be performed at the TAA's expense;

WHEREAS, the TAA is administering the Residential Sound Insulation Program (RSIP);

WHEREAS, such sound insulation treatments, which typically include replacement of windows and doors as well as potential installation or upgrades to the mechanical and electrical systems and additional attic insulation;

WHEREAS, the Parties have agreed on terms regarding the construction including (i) access to the Property; (ii) performance of any preliminary work necessary to prepare the Property for sound insulation treatments; and (iii) restrictions on work outside the scope of this Agreement; and

WHEREAS, the Parties acknowledge that this Agreement includes certain provisions required under the FAA grant agreement with the TAA.

NOW THEREFORE, the Parties hereto agree as follows:

### **I. SOUND INSULATION TREATMENTS TO THE PROPERTY**

1. The TAA will contract with a qualified building contractor ("Contractor") to perform the sound insulation treatments ("Treatments" or "Contracted Work"), as described in Exhibit A (Sound Insulation Treatments Scope of Work) of this Agreement, at the TAA's expense.
2. The Homeowner acknowledges that they have been shown and given a choice of Treatments and has agreed to the Treatments set forth in Exhibit A. The design of these treatments ("Design Specifications") has been developed by the TAA's consultant, The Jones Payne Group, Inc. ("Consultant"), to reduce interior noise to a level established by the FAA for the Tucson International Airport (TUS) RSIP in accordance with the Airport Improvement Program (AIP) Handbook, FAA Advisory Circular 5100.38d. These program requirements are located on the FAA website at the following address:  
[http://www.faa.gov/airports/aip/aip\\_handbook/](http://www.faa.gov/airports/aip/aip_handbook/)

3. The Homeowner has reviewed and agreed to the Design Specifications. The TAA's Consultant will provide supervision and inspection of the Contracted Work to ensure the quality of the work and compliance with the Design Specifications. The Homeowner agrees to cooperate with the Contractor in obtaining any necessary permits for the Contracted Work, the cost of which will be incurred by the Contractor. The Homeowner will be provided with a copy of the Building Permit secured for the Contracted Work prior to any work being done in accordance with the Permit and this Agreement.
4. The Homeowner agrees that all paneled wall treatments, window/door casings, moldings, trim, and other fixtures shall be finished as described in the Design Specifications. The Contractor will paint new trim and wallboard to match existing and, where work is being done on part of a wall, the full wall will be repainted to match the existing paint color.
5. The Contractor will be required to accept responsibility for carrying out the Contracted Work according to the Design Specifications. As required under Arizona law, the Contractor will be required to post bonds and carry insurance, including liability coverage for personal injury and property damage in amounts no less than \$1,000,000 per occurrence.
6. The Homeowner shall hold the Contractor solely responsible for any damage during the course of the Contracted Work. Any problems, deficiencies, or damage in connection with the Treatments must be brought to the attention of the Contractor and the TAA's Consultant as soon as possible in writing. The Homeowner must provide documentation of such problems, deficiencies, or damage in writing. The Contractor and the TAA's Consultant will respond to all reported problems and exercise all reasonable measures to resolve problems in a timely and satisfactory manner. Problems that cannot be resolved by the Contractor and the TAA's Consultant will be referred to the TAA under the provisions of Paragraph 23 hereof.
7. When all the Contracted Work is complete in accordance with the Design Specifications; all permits have been closed; Contractor certifies the "punch list" items have been completed; Homeowner has been instructed on the operation, adjustment, and maintenance of the projects, equipment, and systems; Contractor submits all warranties and operation and maintenance manuals and construction photographs; the TAA's Consultant will give final approval ("Final Approval") to the Contractor. The Contractor and the TAA's Consultant will address any incomplete work to ensure compliance with the Design Specifications. In the event the Homeowner feels that the work does not comply with the Design Specifications, the TAA's Consultant will refer the issue to the TAA under the provisions of Paragraph 23 hereof.

## **II. ADDITIONAL WORK OUTSIDE THE SCOPE OF THE CONTRACTED WORK**

8. The Homeowner agrees not to hire the Contractor, or any other contractor, to perform any supplementary work on the Property until Final Approval of the Contracted Work.
9. Routine maintenance activities or emergency repair needed to maintain habitability within the home shall not be restricted, but the Homeowner must give reasonably advanced, written notification to the TAA, the TAA's Consultant, and the Contractor of any such work.
10. The Homeowner agrees that any work performed by any contractor or by the Homeowner subsequent to the completion of the Contracted Work that intentionally or unintentionally

affects the sound insulation of the Property shall invalidate any warranties, which may be provided by the Contractor.

11. Wallpapering and window treatments shall be the Homeowner's responsibility.
12. If existing casings, moldings, trim, or paneling are damaged, they will be replaced by matching replacements if commercially available, or the closest matching substitute that is available. Woodwork, trim, and paneling beyond that required for effective sound insulation treatment will not be included in the Contracted Work.
13. The Homeowner agrees not to conduct any finish work, such as painting or wall papering or any other interior modifications until the Contracted Work has received Final Approval.

### **III. ACCESS TO THE HOME**

14. The Homeowner agrees to provide reasonable access to the Property to the TAA's Consultant, the Contractor, and TAA representatives. Access may be required to evaluate existing conditions and to take noise measurements before and after the construction. Access may also be required 1) for measuring by contract bidders during the pre-Construction phase, 2) for Construction-related activities by the Contractor, TAA's Consultant, and TAA representatives and 3) for post-construction quality assessment by the Contractor, TAA's Consultant, and TAA representatives during Construction.
15. All access to the Property will be at reasonable times and only by appointment with the Homeowner. The Contractor will only enter the Property with the Homeowner's express consent. The Homeowner agrees that the Homeowner or another responsible adult will be present at all times when the TAA's Consultant or Contractors are in the Property. Homeowner, Contractor, and TAA's Consultant will follow COVID-19 safety protocols as designated by the local, state, or federal agencies.
16. The Contractor will provide the Homeowner with a schedule for Construction. The Homeowner agrees to be available for ten (10) consecutive business days from 8:00 a.m. to 5:00 p.m. for the Contracted Work to occur. In addition, the Homeowner will provide access to the Contractor, as needed, to correct and finish any punch list items in the ten (10) business days following Construction.

### **IV. PREPARATION AND PROTECTION OF PROPERTY**

17. The Homeowner agrees to correct existing Building Code violations, if any, identified on Exhibit A before the start of the Contracted Work. The cost of correcting these violations shall be solely the Homeowner's responsibility. The TAA's Consultant will verify the correction of code violations before any Contracted Work begins.
18. The Homeowner agrees to perform any and all preliminary work necessary to prepare the home for Construction, such as removing all draperies, blinds or shades, and associated hardware, fittings, and dressings, and moving furniture, as directed by the TAA's Consultant.
19. The TAA's Consultant and Contractor shall take reasonable precautions to safeguard the home against damage resulting from their work. The Homeowner agrees to cover all furniture, appliances, and electronic equipment such as televisions, entertainment systems, or computers, to protect them from dust and debris and to remove and store all

valuables in a safe, secure location. The Homeowner agrees to maintain homeowner's insurance coverage for personal injury and property damage for the duration of Construction on the Property.

20. If lead paint or asbestos is observed within the Property in a location such that the Contractor will come in contact with the hazard in the performance of the Contracted Work, the Contractor will be responsible for removing all lead paint and asbestos required for Contracted Work to continue and said removal shall be included in the Contracted Work. The cost of the abatement shall be the responsibility of the TAA. All abatement, sealing, removal, containment, and disposal shall be done by a contractor licensed by the State of Arizona, and in accordance with U.S. Environmental Protection Agency, State of Arizona, and local government rules, regulations, and laws, as amended.

## **V. AIR COOLING/VENTILATION SYSTEM**

21. The Homeowner understands that the approved Design Specifications may include changes or additions to the existing heating, air-cooling, and/or ventilation system. The Homeowner understands that implementation of these changes or additions may alter (increase or decrease) the home's operating costs, and that any such operating expenses shall be solely the Homeowner's responsibility. The Homeowner also understands that there may be maintenance costs associated with the proper functioning of any installed system. The Homeowner hereby assumes full responsibility for the maintenance, operation, and utility cost of all cooling or ventilation system components installed, purchased, or constructed as part of this Agreement. Neither the FAA nor the TAA bears any responsibility for the maintenance, operation, or utility cost of these systems.
22. The Homeowner hereby acknowledges that the Contracted Work performed under this Agreement may increase the tax-assessed value of the home. The Homeowner agrees that the Homeowner is solely responsible for any such increase in tax-assessed value and will not hold the FAA or the TAA responsible for any increased property tax or assessment.

## **VI. NON-RECOURSE AND INDEMNITY PROVISIONS**

23. In the event of a dispute between the Homeowner and the Contractor as to the Contracted Work or the Treatments, including, but not limited to, the extent, quality, and/or completion of the work, the TAA's Consultant shall refer the issue in writing to the TAA for resolution. TAA representatives may meet with the Homeowner, the TAA's Consultant, and the Contractor, separately or together, to negotiate a resolution in the best interest of the Parties. The TAA may, 1) subject to availability of funding, authorize additional work, 2) confirm Final Approval of the Treatments without additional work, or 3) at its sole discretion, take such other steps deemed to be necessary and appropriate. The decision of the TAA as to the remedy to be provided and the date of Final Approval shall be final. The provisions of this Section shall survive termination of this Agreement.
24. The Contractor will be required to provide a warranty covering its work for a period of one (1) year from Final Approval. The Homeowner will be provided with any manufacturer warranties for installed products at the time of Final Approval. If the Homeowner detects a fault in the Contracted Work within the warranty period, it shall be the Homeowner's responsibility to inform the Contractor at once in writing, with notice given to the TAA. The Homeowner shall deal directly with the Contractor with respect to warranty claims.
25. The TAA's responsibility is limited to implementing an FAA grant for a RSIP within certain residences in the vicinity of TUS. To implement said RSIP, the TAA has hired the

Consultant to manage, design and supervise Contracted Work. The Homeowner agrees and acknowledges that the extent of the recourse they have against the TAA is limited to claims arising from the fault or negligence of the TAA itself and not that of either the Contractor or Consultant. Any TAA liability with respect to the RSIP is limited to one (1) year after Final Approval of the Contracted Work at the Property.

26. The Homeowner hereby agrees to reimburse the TAA for any costs, expenses, or damages affiliated with Contracted Work arising from the Homeowner's fault or negligence. Such costs, expenses, or damages include, but are not limited to, claims arising out of failure to provide access to the Property, delaying Contracted Work, and damaging any materials or equipment during Contracted Work.

27. The TAA and the TAA's Consultant have confidence in the ability of the RSIP to improve the quality of life in your home. However, no representation is made, and the Homeowner understands that the sound insulation improvements will achieve any specific noise level reduction or will meet any recommended FAA noise standard.

## **VII. COMPLIANCE WITH THE FAA GRANT AGREEMENT**

28. Funds for the Contracted Work are provided under a grant from the FAA. This Agreement between the TAA and the Homeowner is subject to the terms and provisions of the FAA Grant Agreement including:

- (1) The Homeowner must inspect the work during and after completion, as the FAA or the TAA may reasonably request, and inform the TAA's Consultant in writing of any work that does not comply with the Design Specifications.
- (2) The Homeowner is responsible for maintenance and operation of the items installed, purchased, or constructed under this Agreement. Neither the FAA nor the TAA bears any responsibility for the maintenance, operation, or replacement of these items.
- (3) If federal funds for the Contracted Work are transferred by the TAA to the Homeowner or the owner's agent, the Homeowner shall agree to maintain and make available to the FAA or the TAA, upon reasonable request, records disclosing the amount of funds received and the disposition of those funds. *(NOTE: Funds will not be transferred directly to the Homeowner by the TAA on this project, but this clause is required under the FAA Grant Agreement.)*
- (4) Any right to sue or otherwise make a claim against the TAA for adverse noise impact will be abrogated if the Homeowner or his family members, agents, invitees, heirs, or successors in interest deliberately or willfully reduce the effectiveness of the Treatments during the useful life of such Treatments. This obligation shall remain in effect through the useful life of the Treatments, but not to exceed 20 years from the date of the TAA's acceptance of the FAA grant for the project.

## **VIII. MISCELLANEOUS**

29. This Agreement contains the entire agreement between the Parties and supersedes any prior or inconsistent agreements, negotiations, representations, and promises, written or oral.

30. This Agreement and the rights and obligations of the Parties hereto shall be governed in accordance with the laws of the State of Arizona.
31. The Parties hereto hereby waive trial by jury as to any and all claims, disputes, and causes of action arising out of this Agreement.
32. If any term of this Agreement is held by any court or other judicial tribunal with competent jurisdiction to be illegal, invalid, or otherwise unenforceable, it shall be severed from the remaining terms which shall remain in full force and effect.
33. All the covenants, stipulations, agreements, and obligations set forth in this Agreement shall extend to and be binding upon the legal representatives, heirs, successors, and assigns of the respective Parties hereto.
34. This Agreement may be executed in several counterparts and so executed shall constitute one Agreement binding on all the Parties hereto, even though all the Parties may not be signatory to the original or the same counterpart. Facsimile, electronically scanned, and digital signatures shall be deemed to be as valid as original signatures for purposes of execution of the Agreement.

#### **IX. EXHIBITS**

- A. Exhibit A: Sound Insulation Treatments Scope of Work
- B. Exhibit B: Legal Description

In Witness Whereof, the parties have executed this Agreement as of the date first above written.

HOMEOWNER(S)

_____	_____
Signature	

_____	_____
Name	

_____	_____
Signature	

_____	_____
Name	

TUCSON AIRPORT AUTHORITY

\_\_\_\_\_

[INSERT NAME]  
[INSERT TITLE]