



Date: August 9, 2007

Customer name: John Homeowner

Property address: 123 Anysreet, Anytown, KY 40222

This Mitigation Agreement (hereinafter "Agreement") is effective on the date stated above, by and between Protect LLC (hereinafter "Protect"), and the customer(s) named above (hereinafter "Customer"). Customer represents they are the only customer, or if Customer is more than one person, they have full right, power and authority to bind all of the customers when accepting this Agreement, and indemnifies Protect against any claims of any customer that they are not bound by the signature and initials herein. Customer desires to have radon mitigation (hereinafter "Mitigation") conducted by Protect on the home located at the above property address (hereinafter "Property") of this Agreement. For good and valuable consideration, the parties hereby agree as follows:

1.0 Scope of Proposed Mitigation.

Property has been determined to have an average indoor radon level above 4.0 picocuries per liter (hereinafter "pCi/L"). The US Environmental Protection Agency (hereinafter "EPA") recommends taking action to reduce radon levels through mitigation techniques in homes with readings above 4.0 pCi/L (hereinafter "Compliance Level"). The goal of the Mitigation is to reduce radon gas concentrations within the Property such that an annual average of radon gas levels is less than the Compliance Level.

The Mitigation will be conducted in accordance with the protocols set forth in the American Society for Testing and Materials (ASTM) document E2121-03, which is available to Customer upon request and is incorporated herein by reference. The specific scope of the work to be provided is set forth in the Job Specifications document, which is attached hereto as Attachment A and incorporated herein by reference.

2.0 Exclusions and Disclaimers.

In the event any of the following conditions exist, additional work and material may be required to reduce radon gas levels within the Property below the Compliance Level:

1. Elevated water table – Customer hereby acknowledges that an elevated water table may prevent the reduction of radon gas levels and agrees that in the event an elevated water table is found to be preventing radon gas reduction, Customer shall: (i) be responsible for lowering the water table; or, (ii) bear the cost of installing an additional suction point(s) or larger fan to correct the issue.
2. Separated footing – Customer hereby acknowledges that a footing that separates the slab into non-continuous units may prevent the reduction of radon gas levels and agrees that in the event a separated footing is found to be preventing radon gas reduction, Customer shall bear the cost of installing an additional suction point(s) to correct the issue.
3. Inadequate aggregate – Customer hereby acknowledges that lack of a minimum of 4" of clean, dry pea-sized (or larger) gravel under the slab may prevent the reduction of radon gas levels and agrees that in the event inadequate aggregate is found to be preventing radon gas reduction, Customer shall bear the cost of installing an additional suction point(s) or larger fan to correct the issue.
4. Buried HVAC ductwork – Customer hereby acknowledges that HVAC ducts buried in or beneath the slab may prevent the reduction of radon gas levels and agrees that in the event buried HVAC ductwork is found to be preventing radon gas reduction, Customer shall be responsible for replacing the ductwork and installing new ductwork above the slab in order to correct the issue.

The Mitigation described herein is for reducing radon levels within the Property such that an annual average of radon gas levels is less than the Compliance Level from concentrations in the Property that are specifically derived from the entry of radon from the soil beneath it. This Agreement does not guarantee reduction of radon concentrations that may arise due to the entry of radon from building materials and/or water supplies to the Property or the presence of rock specimens that may be brought into the Property. Protect will attempt to identify these rare entry points to Customer before commencement of Mitigation and will disclose these sources and recommend additional diagnostic work prior to commencement of Mitigation.

Back-draft testing of combustion devices shall be conducted by Protect. In the event a back-draft issue is identified, Customer acknowledges responsibility for correcting any such issues before mitigation system is installed or continuously operated.

Customer acknowledges responsibility for notifying Protect of any buried electrical, plumbing and/or HVAC system in the concrete floor. Every precaution is taken by Protect to avoid hitting buried components; however, Protect is not responsible in the event a buried system is compromised when drilling.

3.0 Mitigation Fee(s).

Customer agrees to pay the fee(s) stated herein for the Mitigation conducted by Protect. The total fee payable to Protect is \$ _____, payable in two installments: (i) fifty percent (50%) upon acceptance of this Agreement; and, (ii) the remaining balance upon completion of the Mitigation. Should Customer fail to pay the agreed upon fee(s) in accordance with this section of this Agreement, Customer shall be responsible for paying any and all collection fees, including but not limited to administration costs, reasonable attorney's fees and costs of litigation.

_____/_____/_____ By initialing here, Customer acknowledges having read, understood and received this page.

4.0 Operational Costs.

The operating cost of each fan is expected to be equal to the cost of operating a 60 watt light bulb. This does not preclude minor operating costs in the heating system of the Property, which can be reduced with additional caulking and sealing that may be indicated as an option to this Agreement.

5.0 Guarantee.

Protect shall conduct a short-term radon measurement test upon completion of the Mitigation. Should the results of the post-mitigation diagnostic test be less than the Compliance Level, no further work shall be performed. Customer has the right to conduct additional short-term testing at Customer's expense using a National Environmental Health Association (NEHA) certified radon measurement company to determine compliance.

Should the results of the post-mitigation diagnostic test be greater than the Compliance Level, and providing that all work specified herein has been completed, Protect shall make any necessary repairs, at no cost to Customer, to reduce the radon gas levels within Property.

6.0 Warranty / Service Agreement.

Protect warrants the fan and components against defects for a period of five (5) years from date of installation. This component warranty does not cover any component that has been damaged or whose performance has been compromised by natural hazards or any modifications, alterations, additions or mistreatment. Customer is responsible for the cost of diagnosing and repairing cracks or other faults that did not exist or were not observable at time of Mitigation.

So long as the fan and components are operating as designed, Protect warrants that an annual average of radon gas levels from soil gas, based on measurement from a one (1) year long-term testing device provided by Protect each year as part of this warranty, which is deployed in accordance with the Environmental Protection Agency (EPA) document *A Citizen's Guide to Radon* (EPA 402-K02-006), which is available to Customer upon request and is incorporated herein by reference, shall be below the Compliance Level. Should the result of any year-long measurement be in excess of the Compliance Level, Protect will perform necessary repairs to the system with warranty re-compliance determined by use of short-term measurements by the methods contained in Section 5.0 of this Agreement. This performance warranty does not cover any system that has been damaged or whose performance has been compromised by natural hazards or any modification, alterations, additions or mistreatment. Customer is responsible for the cost of diagnosing and repairing cracks or other faults that did not exist or were not observable at time of Mitigation.

These warranties are made specifically to the Customer; however, these warranties are transferable to subsequent homeowners of the Property. Transfer of these warranties may be executed by notifying Protect, in writing, of the new name of homeowner within twenty (20) days of transfer of ownership and payment of a \$25 processing fee; however, Customer may transfer these warranties for a period of ninety (90) days from date of installation at no cost.

The fee payable by Customer to Protect to conduct each annual long-term radon test and service call in order to maintain the limited performance warranty is \$95. In the event Customer does not elect to maintain the limited performance warranty, this warranty shall become null and void one (1) year from the date of installation or one (1) year from the date the last annual long-term radon test and service call was conducted in order to maintain the limited performance warranty.

7.0 Dispute Resolution.

Customer acknowledges and agrees that any claim or complaint arising out of, or related to, any alleged act or omission of Protect in connection with the Mitigation shall be reported to Protect, in writing, within ten (10) business days of discovery. Unless an emergency condition exists, Customer agrees to allow Protect a reasonable period of time to investigate and, in its sole discretion, correct the cause of the complaint. Customer acknowledges and agrees that any failure to provide timely notification to Protect and allow Protect adequate time to investigate in accordance with this section shall release Protect from any and all claims Customer may have against Protect related to the alleged act or omission.

Customer acknowledges and agrees that any dispute regarding the interpretation of this Agreement, or arising from the Mitigation, unless based on payment of fee, shall be resolved exclusively by binding arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, except that the parties shall mutually agree upon an arbitrator who is familiar with the radon mitigation industry.

8.0 Limitation of Liability and Limitation Period.

Due to the nature of the Mitigation, it is difficult to foresee or determine potential damages in the event of negligence or breach of this Agreement by Protect. Thus, in the event Protect fails to perform the Mitigation as provided herein, or is careless or negligent in the performance of the Mitigation, Protect's liability for any and all claims related thereto is limited to the fee paid for the Mitigation provided, and Customer releases Protect from any and all additional liability, including but not limited to health problems which may have been aggravated or caused by exposure to radon gas. No provision is made for recovery of consequential damages.

Any legal action arising from this Agreement or from the Measurement or written report, including but not limited to the arbitration proceeding described herein, must be commenced within one (1) year from the date of this Agreement. Failure to bring such an action within this time period shall constitute a full and complete waiver of any and all rights or claims by Customer. This time limitation may be shorter than provided by state law.

9.0 Hold Harmless Agreement.

Customer agrees to hold harmless any and all real estate agents, home inspectors, mortgage loan officers or third party vendors involved in the purchase of the Property, if applicable, to be mitigated and to keep them exonerated from all loss, damage, liability or expense occasioned or claimed by reasons of acts or neglects of Protect, its employees, visitors or independent contractors engaged or paid by Protect for the purpose of mitigating the Property.

 / **By initialing here, Customer acknowledges having read, understood and received this page.**

10.0 Severability and Entire Agreement.

The parties agree that should an arbitrator or court determine that any provision of this Agreement is void, voidable or unenforceable, the remaining portions shall remain in full force and effect. This Agreement contains the entire agreement between the parties. No additional representations, warranties or commitments, except as specifically stated herein, have been made by the parties. This Agreement supersedes any and all representations, whether written or oral, among the parties related to this Agreement. This Agreement may be modified, altered or amended only if agreed to in writing and signed by both parties. This Agreement shall be governed by the laws of the state of Kentucky and shall be enforced in Kentucky courts.

Customer hereby acknowledges and agrees to the terms of this Agreement and requests Protect to conduct the Mitigation in accordance with the terms and conditions contained herein.

Customer / Date

Authorized Protect Representative / Date



Date: **August 9, 2007**

Customer name: **John Homeowner**

Property address: **123 Anystreet, Anytown, KY 40222**

Job Specifications

Additional Specifications

1. All work will be conducted in accordance with applicable EPA protocols and state and local building codes.

Total Job Cost: \$