

# KYROUS REALTY GROUP, INC.

263 West 38<sup>th</sup> Street ♦ Suite 15E ♦ New York, NY 10018

Phone: 212.302.1500 ♦ Fax: 212.302.3855

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## 74 Fifth Avenue Owners Corp.—Alteration Policy

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The following documents must be submitted to the office of the managing agent; Kyrour Realty Group, Inc., 263 West 38 Street, Suite 15E, New York, NY 10018.

1. Completed & Signed Alteration Agreement. A fully executed Agreement will be returned to you upon Board approval.
2. Five full sets of architectural plans plus PDF drawings on a flash drive.
3. Processing Fee: \$300.00 – Please make check payable to Kyrour Realty Group, Inc. (non-refundable)
4. Alteration Deposit: The deposit must be equal to 3% of the construction cost with a minimum of \$5,000.00. Please make check payable to 74 Fifth Avenue Owners Corp. The deposit is 90% refundable provided no damage is caused in the building.

Upon approval and prior to commencement of work, the following documents must be submitted.

1. Contractor's Certificate of Insurance: See Alteration Agreement—Exhibit A for insurance requirements.
2. Completed Indemnification Agreement signed by contractor(s).
3. Copy of contractor(s) license.

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### Additional Terms and Conditions

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Alterations must be completed within 120 days. Requests for additional time for completion must be submitted with your application and requires Board approval. There is a \$500.00 per week penalty for late completion.

Contractors are required to install protective floor covering in the vestibule and lobby area at the beginning of each work day and to protect all lobby wall surfaces while transporting materials in and out of the building (Masonite will be provided by the superintendent). Protection must be removed and all common areas must be cleaned at

the end of each work day. Please note that the shareholder performing alterations will be responsible for any clean up costs incurred by the building if the contractor fails to adhere to the building's construction clean-up rules.

All work must end by 4:00 pm in order to allow sufficient time for your contractors to clear out any and all debris from the apartment and clean common areas. If contractors are not done by 4:30 p.m. the shareholder will be billed back for the superintendent's overtime.

All minor alterations, including routine painting, cabinetry, and floor sanding and refinishing require Board approval.

**BUILDING KEYS ARE NOT TO BE GIVEN TO CONTRACTORS.** All contractors are required to arrange for access into the building each day through the building's superintendent.

ALTERATION AGREEMENT

This Agreement, made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
between 74 Fifth Avenue Owners Corp. (the "Corporation") with an address c/o Kyrour  
Realty Group, 263 West 38 Street, Suite 15E, New York, NY 10018 ("Managing Agent") and  
\_\_\_\_\_ (the "Shareholder") having a mailing  
address of \_\_\_\_\_.

W I T N E S S E T H:

WHEREAS, the Shareholder hereby requests permission to make/install the equipment and/or make the alterations in the apartment (the "Apartment") (Apt. # \_\_\_\_\_) at (74 Fifth Avenue New York, NY 10011) as described in the accompanying plans and specifications (the "Work");

WHEREAS, in order to obtain the Corporation's consent to the Work as required under the proprietary lease (the "Lease") between the Shareholder and the Corporation, the Shareholder agrees to comply with the terms of the Lease and the obligations and policies of the Corporation, including but not limited to, applicable House Rules.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Shareholder's Submissions. Shareholder herewith delivers to the Corporation:
  - a. detailed plans, specifications and drawings of the Work, including a room-by-room list of all alterations to be undertaken, and if required by the Corporation, detailed plans and specifications (the "Plans") prepared by a licensed architect or engineer (if the nature of the alteration so requires), which shall not be modified by the Shareholder after they are approved by the Corporation's architect or engineer (the "Corporation's Designated Engineer") without the Corporation's Designated Engineer's subsequent approval.
  - b. a check with respect to the security payable in connection with this Agreement in the sum of: 3% of construction cost with a minimum of \$5,000.00 payable to the Corporation in accordance with paragraph 13 of this Agreement, if applicable.
  - c. a check in the sum of \$300.00 payable to Kyrour Realty Group, managing agent for the Building (the "Managing Agent") as a processing fee in connection with this request and the Work, if applicable.

2. Corporation's Review of Work as Proposed. Shareholder acknowledges that the Corporation's designated engineer, may at Shareholder's expense, (a) review the Plans for the Work and (b) from time to time observe the Work to ensure that the Work conforms to the approved Plans and is otherwise in conformity with the requirements of this Agreement. Shareholder shall provide access to the Apartment, from time to time, to permit the Corporation's Designated Engineer, the Managing Agent, the superintendent of the Building, or any other person the Corporation may authorize, to observe and inspect the Work. Shareholder shall make all corrections specified by the Corporation as a result of such inspections, necessary to bring the Work into conformity with the Plans. The Corporation's failure to inspect shall not be considered a waiver of the Shareholder's obligation to comply with this Agreement and the approved Plans. The Corporation shall notify the Shareholder as to when inspections will be required.

Shareholder shall promptly correct all parts of the Work (whether or not such work is fabricated, installed or completed) rejected by the Corporation because of its failure to conform to the Plans and specifications previously approved by the Corporation or with the requirements of this Agreement or the laws, rules, orders or regulations of any governmental authority having jurisdiction over the Building or which violates any policy of insurance maintained by the Corporation. Shareholder shall bear all costs of correcting such rejected parts of the Work, including the compensation for additional services to the Corporation of any architect or engineer made necessary thereby.

3. Pre-Conditions to Commencement of Work by Shareholder. Shareholder agrees:

- a. Prior to beginning the Work, to provide the Corporation with complete and conformed copies of every agreement made with contractors, subcontractors and suppliers;
- b. If required by laws, rules, orders or governmental regulations or the Corporation's Designated Engineer, to file plans, forms or applications (including without limitation any asbestos-related forms filed in support of any applications) with, and procure the approval, permits, licenses, consents of all governmental agencies
- c. At the completion of the Work, the Shareholder will deliver to the Corporation an amended certificate of occupancy and a certificate of the Board of Fire Underwriters, if either be required, and such other proof as may be necessary to indicate that all Work has been done in accordance with all applicable laws, ordinances and government regulations, together with a statement from the architect or engineer who signed the Shareholder's Plans that the Work has been executed in accordance with those Plans. If an amended certificate of occupancy or certificate of the Board of Fire Underwriters is not required, the Shareholder's Designated Engineer must submit a statement to that effect. The determination of the Corporation's Designated Engineer as to the need for an amended Certificate of Occupancy shall be conclusive.

- d. To procure from Shareholder's contractor or contractors the insurance policies described on Exhibit "A" attached hereto, which policies shall name the Corporation, the Corporation's officers, directors, shareholders, Designated Engineer, the Managing Agent, and Shareholder, as parties insured. Such policies shall provide that they may not be terminated until at least thirty (30) days after written notice to the Corporation. All such policies or certificates evidencing the issuance of the same shall be i) with companies that are reasonably acceptable to the Corporation, and ii) delivered to the Corporation before the Work commences.

4. Shareholder to Give Notice of Actual Commencement of Work. Prior to commencing the Work, Shareholder shall give at least five (5) days' written notice to the Corporation's Designated Engineer, the superintendent of the Building and the Managing Agent of the date the Work shall commence and the estimated duration of the Work.

5. Work Done at Shareholder's Risk. Any damage to the Apartment or other areas of the Building, including, but not limited to the common structure, infrastructure, mechanical systems equipment, elevators, doors and finishes of the Building, caused by or resulting from the Work, shall be covered by the insurance coverage required of Shareholder, or Shareholder's contractor(s) or subcontractor(s), as the case may be.

However, the existence of such insurance shall not relieve Shareholder of any liability. If the Managing Agent advises Shareholder of any damage, which in the Managing Agent's opinion, was caused by the Work, Shareholder shall promptly submit such claim to Shareholder's insurance carrier and to Shareholder's contractor(s) or subcontractor(s) for submission to their insurance carrier, as appropriate. Shareholder agrees to use all reasonable efforts, and to cause the contractor(s) and subcontractor(s) likewise to use all reasonable efforts, to cause any insurance carrier insuring Shareholder or Shareholder's contractors or subcontractors to expeditiously review and settle damage claims for which they are responsible.

6. Indemnification by Shareholder. Shareholder hereby indemnifies and holds harmless the Corporation, the Corporation's Designated Engineer and employees, the Managing Agent, and other shareholders and residents of the Building against any damages suffered to persons or property as a result of the Work. Shareholder shall reimburse the Corporation, the Corporation's Designated Engineer, Managing Agent, and other shareholders and residents of the Building for any losses, costs, fines, fees and expenses (including, without limitation, reasonable attorney's fees and disbursements) incurred as a result of the Work and/or the Shareholder's or any contractor's or consultant's failure to conform with this Agreement or any law or ordinance and which may be incurred by the Corporation in the defense of any suit, action, claim or violation in connection with the Work or the abatement thereof.

7. All Costs Associated with Work Done at Shareholder's Expense. Shareholder accepts sole responsibility for the Work and for all costs in connection with the Work. If the Corporation obtains legal, engineering or architectural advice either prior or subsequent to granting permission for the Work, Shareholder agrees to reimburse the Corporation, on demand, for any reasonable fees (including attorney's fees) incurred. Shareholder understands and agrees that all costs of labor, equipment and materials

incurred by the Corporation, shall be charged to Shareholder as additional rent under the Lease.

8. Shareholder's Contractor to Cooperate with Building Labor. All of Shareholder's contractors and subcontractors shall employ only such laborers as shall not conflict with any of the trade unions employed in the Building or otherwise cause disharmony with any Building service union. The Contractor shall acknowledge this Agreement and agrees to, and shall cause all subcontractors to abide by all of the rules and regulations of the Corporation.

9. Shareholder's Responsibility for Consequences of Work. Shareholder and any successor-in-interest assume(s) all risks of damage to the Building and its mechanical or electrical systems, and to persons and property in the Building which may result from or be attributable to the performance or existence of the Work and the maintenance and repair of any alterations and installations in the Apartment after completion. This responsibility covers all aspects of the Work, whether or not structural, including without limitation, weather-tightness of windows, exterior walls or roofs, waterproofing of every part of the Building directly or indirectly affected by the Work, and maintenance of all heating, plumbing, air-conditioning and other equipment installed or altered pursuant hereto. If the operation of the Building, or any of its equipment, is adversely affected by the Work, Shareholder, when so advised, shall promptly remove or correct the cause of the problem as determined by the Corporation. Shareholder agrees that any air conditioning units, terrace plantings and/or structures, wherever located in the Building, may be removed by the Corporation for the purpose of repairs, upkeep or maintenance of the Building, at the sole expense of the Shareholder. If the Shareholder does not promptly remove or correct the problem, the Corporation may have the problem corrected and the Shareholder shall be liable for all costs and expenses incurred therein.

10. Prohibited Construction Methods. Shareholder recognizes that there will be no change in the operation of the Building's heating system, ventilation system or air-conditioning system, if any, to facilitate the functioning of any heating or air-conditioning units Shareholder may be installing. Shareholder will not interfere or permit interference with the Building's intercom system, gas, electric, plumbing or any other service. Shareholder agrees that exterior masonry walls shall not be penetrated.

11. Completion of Work. The Shareholder shall use the Shareholder's best efforts to ensure that the Work is completed expeditiously, but in any event all Work shall be completed within \_\_\_\_\_ days from the date of commencement of the Work, or such other period as the Corporation, in writing, designates (the "Completion Date"). The Corporation expresses no opinion regarding the feasibility of completion of the Work within this time period. If the Work shall not have been completed by the Completion Date, the Corporation shall be entitled to apply, from the security funds provided pursuant to paragraph 1(b) of this Alteration Agreement, the sum of \$500.00 per week for each week the Work remains incomplete. These amounts are acknowledged to be liquidated damages, and not a penalty, to compensate the Corporation and the Corporation's shareholders for the costs and inconvenience of the continuation of the Work, it being understood that the damages caused by continuation of the Work would be difficult to determine. The Corporation's application of the security funds provided pursuant to paragraph 1(b) of this Agreement as aforesaid shall be without

prejudice and in addition to all other remedies the Corporation may have. If the security funds provided pursuant to paragraph 1(b) are fully applied, the Shareholder agrees to pay all amounts due under this paragraph to the Corporation in weekly installments. The determination of whether the Work is completed shall be made by the Corporation, and the Corporation's determination shall be conclusive. The Shareholder agrees that any consent by the Corporation to perform Work after the Completion Date may be revoked by the Corporation immediately if the Shareholder fails to comply with any requirement of this Agreement or extension of the Completion Date.

12. Work Hours and Noise. The Work shall be performed, only between the hours of 9:00 a.m. and 4:00 p.m. The Work shall not be performed on Saturdays, Sundays and holidays. The Corporation shall be the sole arbiter should there be any doubt as to noise levels which may be disturbing.

13. Shareholder's Security Deposit. As security for the faithful performance and observation by Shareholder of the terms and conditions of this Agreement, Shareholder has deposited the sum indicated in paragraph 1(b) with the Corporation. In the event that Shareholder or persons engaged by Shareholder to perform the Work cause loss, cost or expense to the Corporation, including without limitation any loss, cost or expense arising from or relating to (a) the fees of the Corporation's Designated Engineer to review the plans and specifications or to review from time to time the progress of the Work; (b) the fees of the Corporation's attorneys engaged in the event of Shareholder's breach or alleged breach of the provisions of this Agreement, or otherwise in connection with the Work; (c) damage to the carpeting or wallpaper in the Building's hallways or to any common area (including without limitation, the cost of cleaning, shampooing, painting or repairing the same if soiled or otherwise damaged); (d) delays in completion of the Work, as more specifically referred to in Paragraph 11 of this Agreement, or (e) any other expenses incurred by the Corporation in connection with any complaints or breach of this Agreement. Shareholder agrees that the Corporation may use, apply or retain the whole or any part of the security so deposited and the interest earned thereon, if any, to the extent required for the payment thereof. If the deposit is diminished by one-half of the original amount, Shareholder shall replenish it to the full amount within (3) days after written demand. Shareholder's failure to so replenish the security deposit shall be a material breach of this Agreement and shall entitle the Corporation to stop the Work, and/or exercise any remedies it has hereunder. If Shareholder shall comply with all of the terms and conditions of this Agreement, the security deposit and interest or remaining balance thereof, if any, shall be returned to Shareholder.

14. Accessibility. Shareholder agrees that all water, steam, and gas valves will be reasonably accessible. If any portion of the Work should enclose such valves, contrary to the provisions of this Agreement, if requested by the Corporation's Designated Engineer, such portion shall be uncovered at Shareholder's expense for observation. Such enclosure shall be opened and replaced at Shareholder's expense.

15. Use of Public and Common Areas During Work. Shareholder will not allow the halls, sidewalks, courtyards and other public areas to be used for the storage of building materials or debris and agrees that the floor of the back halls to be used in connection with the Work will be covered with construction paper during the Work. If

the Work mars or damages the back hall, stairs, or elevators, the Corporation may repair them at Shareholder's expense upon the completion of the Work. Shareholder will take or cause their contractors to take all precautions necessary to prevent damage to the carpeting and wallpaper in the Building's hallways, elevators (including the doors and appurtenances) and to other common areas during the progress of the Work. If Shareholder shall fail to promptly perform any repair, Shareholder shall promptly pay all reasonable bills for such repairs.

16. Shareholder to Maintain Certain Safety Precautions. Shareholder agrees that functioning fire extinguishers and smoke alarms will be maintained in the Apartment during the Work. Shareholder agrees that the Work shall not block access to any fire exits in the Building. Shareholder shall have smoke detectors installed within 15 feet of every sleeping area on the ceiling or wall pursuant to Local Law 62 of 1981 of the City of New York, and Shareholder shall install window guards if a child or children 10 years old or under lives or resides in the Apartment pursuant to Section 131.15 of the New York City Health Code.

17. Shareholder to Control Refuse, Dirt, Dust, Lead Based Paint, etc.

- a. All precautions will be taken by Shareholder to prevent dirt and dust from permeating other parts of the Building during the progress of the Work. Materials and rubbish will be placed in barrels or bags before being taken out of the Apartment. All such barrels or bags, rubbish, rubble, discarded equipment, empty packing cartons and other materials will be taken out of the Building and removed from the Apartment at Shareholder's expense. Shareholder recognizes that only the service elevator may be used for such removal and only at such times as the superintendent of the Building may direct. Shareholder shall not permit any dumpster or garbage container to be left overnight in front of the Building and shall not permit any dumpster or garbage container to be left for more than five (5) consecutive days at the sides of the Building. Notwithstanding the foregoing, the placement of any dumpsters must comply with all governmental regulations, including without limitation, obtaining any necessary permits.
- b. The Federal Task Force on Lead-Based Paint Hazard Reduction has recommended certain maintenance practices, including (1) limiting access to the work area to only workers, (2) isolating the work area with polyethylene plastic or equivalent, (3) protecting the workers, (4) protecting the Shareholder's belongings by covering or removing them from the work area, (5) wetting the painted surfaces before disturbing the paint and (6) wetting the debris before sweeping. The Task Force has indicated that certain removal practices are unsafe, including (1) open flame burning, (2) power sanding or sandblasting (unless a special vacuum attachment is used to contain dust), and (3) dry scraping more than a de minimis surface area (de minimis means an area of less than one square foot per room). The Shareholder shall cause the Shareholder's contractors and/or workers to perform their work consistently with the recommendations of the Task Force and shall upon completion of the work perform specialized cleaning of the work area using methods designed to safely remove dust and debris which may contain lead.



- c. No more than sixty (60) days prior to beginning renovation activities in the Apartment, the contractor shall provide the Shareholder with the Environmental Protection Agency (the "EPA") pamphlet entitled, Protecting Your Family from Lead in the Home, (the "Pamphlet"). If the Apartment is occupied by other than the Shareholder, the contractor shall provide the occupant with the Pamphlet. The contractor shall be responsible for obtaining the Shareholder's or the occupant's written acknowledgment of receipt of the Pamphlet or a certificate of mailing evidencing same. The Shareholder hereby acknowledges that the Corporation has no liability or obligation in connection with this notification requirement of the EPA.

18. Shareholder to Comply with Laws, etc. Shareholder shall not do or permit any act or thing to be done contrary to law, or which will invalidate or be in conflict with any provision of any liability, multi-peril casualty or other insurance policies carried by Shareholder or for Shareholder's benefit. Shareholder shall comply with all federal, state and local laws, rules and regulations pertaining to asbestos and other hazardous material, as the same have been or may be promulgated, supplemented or amended from time to time prior to and during the abatement-work.

19. Acceptance of Responsibility by Shareholder and Shareholder's Successor in Interest.

- a. The Shareholder releases the Corporation, the Managing Agent, the Corporation's agents and employees from any liability for damage to the portions of the Apartment affected by the Work which may occur in the performance of building maintenance repairs. Notwithstanding anything to the contrary contained in the Lease, the Shareholder accepts sole responsibility for the Work and costs in connection with the maintenance, repair, restoration or replacement of any portions of the Apartment affected by the Work, and acknowledges that such responsibility shall pass to the Shareholder's successor-in-interest in the Apartment.
- b. Shareholder or Shareholder's successor-in-interest (i) shall advise each subsequent purchaser of Shareholder's interest in the Corporation's shares appurtenant to the Apartment (a "Purchaser") of the Work undertaken by the Shareholder and the Purchaser's obligations under this Agreement; (ii) shall provide copies of the Plans and this Agreement to the Purchaser; (iii) shall waive any claim or cause of action against the Corporation, the Board of Directors or the Managing Agent, for advising a potential Purchaser of the obligations of the owner of the Apartment under this Agreement, (iv) have the Assumption of Alteration Agreement executed by any successor-in-interest.

20. Work is of Shareholder's Sole Design. Shareholder recognizes that by granting consent to the Work, the Corporation does not express any opinion as to the design, feasibility or efficiency of the Work.

21. Miscellaneous. This Agreement may not be changed orally. This Agreement shall be binding on legal representatives, successors and authorized assigns. Captions are

for the purposes of convenience of reference only and are not to be considered in interpreting this Agreement.

22. Shareholder's Breach and Corporation's Remedies. SHAREHOLDER'S FAILURE TO COMPLY WITH ANY OF THE PROVISIONS HEREOF SHALL BE DEEMED A BREACH OF THE PROVISIONS OF THE LEASE, PURSUANT TO WHICH THE CORPORATION'S CONSENT HAS BEEN GRANTED, IN ADDITION TO ALL OTHER RIGHTS, THE CORPORATION MAY ALSO SUSPEND THE WORK AND PREVENT WORKERS FROM ENTERING SHAREHOLDER'S APARTMENT FOR ANY PURPOSE OTHER THAN TO REMOVE THEIR EQUIPMENT. IN SUCH EVENT, THE CORPORATION MAY ALSO REVOKE PERMISSION FOR SHAREHOLDER TO UNDERTAKE THE WORK. ANY DEVIATION FROM THE WORK APPROVED IN THIS ALTERATION AGREEMENT SHALL VOID IN ITS ENTIRETY THE PERMISSION GRANTED HEREIN.

23. Permission. By executing this Agreement the Corporation is granting permission to the Shareholder to perform the Work pursuant to the Plans and this Agreement. This permission can be revoked at any time on written notice to the Shareholder as a result of Shareholder's or its agent's violation of the terms of this Agreement. The Corporation also agrees to perform its obligations under this Agreement.

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

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

Permission Granted by:  
74 Fifth Avenue Owners Corp.

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

## EXHIBIT A

Shareholder's Contractor shall provide insurance of the types and in not less than the limits set forth below with a company or companies satisfactory to the Corporation, licensed to do business in the State of New York, and all such policies shall name the Corporation, the Shareholder and the Corporation's managing agent (the "Managing Agent") as additional insured. No diminution of limits of insurance will be permitted.

- i. **Worker's Compensation** as required by all applicable Federal, State, or other laws including Employers Liability in accordance with the statutory requirements of the State of New York, together with Disability Benefits Insurance required by the State of New York. This coverage to be a minimum of \$5,000,000. Employer's liability coverage to be not less than \$500,000.
- ii. **Commercial General Liability** coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate including Contractor's Liability and Blanket Contractual Liability (oral or written), all on an occurrence basis with Personal Injury Coverage, which shall include mental anguish as well as standard conditions, and Broad Form Property Damage, without any exclusion relating to Explosion, Collapse and Underground Property Damage. Insurance shall also cover the following: premises and operations liability, products/completed operations, broad form property damage, broad form contractual liability, personal injury and independent contractor's liability.
- iii. **Commercial General Liability** coverage to extend for a period of one year following termination of the Work and Contractual Indemnity Coverage is also to extend for one year following termination of the Work. The policy is also to include (a) Owners Protective Liability Coverage, (b) Knowledge of Occurrence and Notice of Occurrence endorsements and (c) Unintentional Errors and Omissions clause. The policy shall also include coverage with respect to asbestos exposure if the Work involves any asbestos-containing material.
- iv. **Commercial General Liability** coverage - \$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit).
- v. **Comprehensive Automobile Liability**, including non-ownership and hired vehicle coverage, as well as owned vehicles: \$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit).
- vi. **Umbrella Liability** for BODILY INJURY, PERSONAL INJURY AND PROPERTY DAMAGE COMBINED. It will have a limit of \$3,000,000 per occurrence and a general aggregate of \$3,000,000.

If umbrellas are written in more than one company any layers above the first one shall follow the form of the primary umbrella.

Prior to the commencement of any work hereunder, detailed certificates of insurance shall be furnished to the Corporation showing that such insurance is in full force and the premiums due there under have been paid. Such certificates shall provide that the said insurance may not be canceled, terminated or modified without thirty (30) days written advance notice thereof to the Corporation. The Contractor shall promptly furnish the Corporation with copies of any endorsements subsequently issued amending insurance coverage or limits. In the event of the failure of the Contractor to furnish and maintain such insurance, the

Corporation shall have the right, at its option, at any time, to revoke permission to perform the work and to deny entry into the Building to all workers.

Amounts of insurance required may be higher for major renovations as designated by the Board of Directors.

The Contractor's insurance policy shall also contain in substance the following endorsement:

“This insurance shall not be invalidated should the insured waive, in writing, prior to a loss, any or all right of recovery against any party for the loss occurring to the property described herein.”

Nothing in this Exhibit “A” shall constitute a waiver of or limitation of any other rights or remedies the Corporation may have for consequential damages or otherwise.

## INDEMNIFICATION AGREEMENT

Whereas, \_\_\_\_\_ (“Contractor”) is and will be performing certain work for \_\_\_\_\_ (“Owner”) pursuant to an agreement for \_\_\_\_\_, the Contractor and Owner hereby agree:

To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold harmless Owner and/or Managing Agent from any and all claims, suits, damages, liabilities, professional fees, including attorney’s fees, costs, court costs, expenses and disbursements related to death, personal injuries or property damage (including loss of use thereof) arising out of or in connection with the performance of the work of the Contractor, its agents, servants, subcontractors or employees, or the use of the Contractor, its agents, servants, subcontractors or employees, of facilities owned by Owner. This agreement to indemnify specifically contemplates full indemnity in the event of liability imposed against the Owner and/ or Managing Agent without negligence and solely by reason of statute, operation of law or otherwise, and partial indemnity in the event of any actual negligence on the part of Owner and/or Managing Agent either causing or contributing to the underlying claim. In that event, indemnification will be limited to any liability imposed over and above that percentage attributable to actual, whether by statute, by operation of law or otherwise.

**INSURANCE PROCUREMENT**

Contractor shall obtain and maintain at all times during the term of this agreement, at its sole cost and expense, the following insurance:

- a) **Worker's Compensation** as required by all applicable Federal, State, or other laws including Employers Liability in accordance with the statutory requirements of the State of New York, together with Disability Benefits Insurance required by the State of New York. This coverage to be a minimum of \$5,000,000. Employer's liability coverage to be not less than \$500,000.
- b) **Commercial General Liability** coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate including Contractor's Liability and Blanket Contractual Liability (oral or written), all on an occurrence basis with Personal Injury Coverage, which shall include mental anguish as well as standard conditions, and Broad Form Property Damage, without any exclusion relating to Explosion, Collapse and Underground Property Damage. Insurance shall also cover the following: premises and operations liability, products/completed operations, broad form property damage, broad form contractual liability, personal injury and independent contractor's liability.
- c) **Commercial General Liability** coverage to extend for a period of one year following termination of the Work and Contractual Indemnity Coverage is also to extend for one year following termination of the Work. The policy is also to include (a) Owners Protective Liability Coverage, (b) Knowledge of Occurrence and Notice of Occurrence endorsements and (c) Unintentional Errors and Omissions clause. The policy shall also include coverage with respect to asbestos exposure if the Work involves any asbestos-containing material.
- d) **Commercial General Liability** coverage - \$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit).
- e) **Comprehensive Automobile Liability**, including non-ownership and hired vehicle coverage, as well as owned vehicles: \$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit).
- f) **Umbrella Liability** for BODILY INJURY, PERSONAL INJURY AND PROPERTY DAMAGE COMBINED. It will have a limit of \$3,000,000 per occurrence and a general aggregate of \$3,000,000. If umbrellas are written in more than one company any layers above the first one shall follow the form of the primary umbrella.

Contractor shall, by specific endorsements to its primary and umbrella/ excess liability policy, cause Owner and Managing Agent to be named as Additional Insured. Contractor shall, by specific endorsement to its primary liability policy, cause the coverage afforded to the additional insured there under to be primary to and not concurrent with other valid and collectible insurance available to Owner and Managing Agent. Contractor shall, by specific endorsement to its umbrella/ excess liability policy, cause the coverage afforded to Owner and Managing Agent there under to be first tier umbrella/ excess coverage above the primary coverage afforded to Owner and Managing Agent and not concurrent with or excess to other valid and collectible insurance available to Owner and Managing Agent.

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

Owner

Contractor

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

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



Architecture  
Restoration  
Conservation  
PC

12 West 23<sup>rd</sup> Street, 3<sup>rd</sup> Floor  
New York NY 10010  
Telephone 212 367 7472  
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January 1, 2017

## 1. ALTERATION REVIEW RATE SCHEDULE: CALENDAR YEAR 2017

Alteration reviews generally follow a chronological sequence starting with the review of plans and finalizing with the completion of the alteration. There are typically four review phases, as follows:

- **Design Review:** Includes review of plans, specifications and/or a description of the proposed scope of work.
- **Pre-Construction Phase:** Consists in the review of submittals required prior to construction such as permits, licenses and test reports.
- **Construction Phase:** Includes progress and final inspection of the work to ensure compliance with approved plans.
- **Post Completion Phase:** Consists of verification that the project has been properly signed-off and that there are no outstanding violations related to construction work undertaken.

### Design Review Fees:

Fees for alteration reviews fall under one of two criteria: the type of renovation undertaken (Renovation Level) and the size of the space being renovated (Space Size). **Design Reviews** will be billed on a lump sum basis where the review fee will be the lesser of the two criteria (Renovation Level vs Space Size). The total fee charged will be dependent on the number of design reviews required to satisfy requirements or clarifications requested after the initial submission of plans. The cost of each review is as follows:

Renovation Level	Space Size	Design Review Fees
Level 0	Minor Renovation	500.
Level 1	Studio or 1 Bedroom	750.
Level 2	2 Bedrooms or More	1,000.
Level 3	Apartment Combinations	1,500.
Level 4	Commercial Alterations	2,000.

### Renovation Levels:

- Level 0:** Work not involving major renovations to kitchens or bathrooms or any type of demolitions of partition walls (i.e. painting, installation of a/c units, and installation of new windows or other type of cosmetic work).
- Level 1:** Renovations of bathrooms, kitchens or a combination of the two, plus work on up to one bedroom.
- Level 2:** Work done at Level 1 plus additional bedrooms.
- Level 3:** Work involving combination of two or more apartments into a single unit.
- Level 4:** Work involving commercial retail spaces limited to a main space and a basement.

### Other Review Fees:

Fees for telephone consultations, Pre-Construction, Construction and Post Completion phases will be billed at a flat hourly rate of **\$285/hr**. There is a minimum 2-hour service charge for site visits.

### General Expenses:

Include all direct and indirect project expenses such as: printing and reproduction (excluding large format scanning services), postage and delivery expenses, travel fees, communication costs, administrative expenses, professional liability insurance, overhead and profit. General Expenses will be billed at the rate of **15%** of Professional Services rendered. No back-up data or copies of bills will be provided for General Expenses invoiced under this agreement.

### Additional Expenses:

Scanning services for drawings larger than 11x17 will be billed at **\$25** per sheet unless electronic document files of the drawings are provided in PDF format at the time of submission.



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## 2. General Terms and Conditions for Apartment Alteration Reviews

- 2.1 **Payments to the Architect:** Upon acceptance of this contract by the Owner, a payment as noted in the Acceptance section of this proposal will be required to initialize the project. Invoices are payable upon 30 days from date of invoice. Any objection which Owner may have to ARC's invoices shall be made in writing to ARC within 15 days from date of invoice. A 15% late payment fee will be applied to all invoices not paid within 60 days from date of invoice.
- 2.2 **Standard of Care:** ARC's services shall be performed, subject to causes outside of ARC's control (including, but not limited to, governmental approvals and the Owner's providing of requested information or approvals) within the limits described in the attached proposal/letter/work order in a manner consistent with that level of care and skill ordinarily exercised by other professional architects performing similar services on similar projects under similar circumstances at the time the services are performed (the "Standard of Care"). The Owner agrees that no other representation, expressed or implied, and no warranty or guarantee is provided by ARC or is to be presumed given by ARC under this proposal/letter/work order or in any report, opinion, or any other document prepared by ARC or otherwise.
- 2.3 **Termination or Suspension of Services:** ARC's services will be suspended in the event that any invoice remains unpaid after more than 60 days from the date of the invoice. In such case, services will only resume when all outstanding invoices and late payment penalties have been paid in full. ARC shall have no liability for any claims after the initial date of suspended services. ARC reserves the right not to perform any Additional Service at any point in time.
- 2.4 **Job Safety and Control of the Work:** ARC shall take reasonable precautions to safeguard its own employees. Except as otherwise expressly agreed to in writing by ARC, ARC shall have no responsibility for the safety program at the Project site or the safety of any contractor, subcontractor, consultant, subconsultant or other person. Neither the professional activities of ARC nor the presence of ARC's employees and subcontractors at the Project site shall be construed to confer upon ARC any responsibility for any activities performed by personnel other than ARC's employees. The Owner agrees that ARC shall have no control over the activities or any contractors, subcontractors, consultants, subconsultants or construction manager, their agents, servants or employees.
- 2.5 **Advisory Capacity:** Services rendered are solely for the benefit of the Client based entirely upon information provided by building management. ARC was not retained to provide architectural services for the proposed renovation which is solely the responsibility of the apartment owner and his/her agents.
- 2.6 **Consultants:** ARC shall not be responsible to the Owner or any third-parties for errors, omissions or other deficiencies or defaults of any other design professional, including design-build contractors, rendering design, architectural, engineering or related services for the benefit of the Owner or the project, whether retained by ARC or the Owner. ARC's sole liability in connection with the services of consultants shall be to coordinate the consultant's portion of the Instruments of Service consistent with the Standard of Care.
- 2.7 **Limitation of Liability:** ARC's liability for any damage on account of any claimed error, omission, wrongful conduct or negligence will be limited to an amount equal to ARC's fee under this Agreement. In no event shall ARC be liable for special, consequential, or exemplary damages, or damages due to delay in the work. No action, regardless of form, arising out of the service under this Agreement, may be brought by the Owner more than one (1) year after the act or omission giving rise to a cause of action has occurred.
- 2.8 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New York





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### **3. Acceptance**

If the terms of this proposal are acceptable, then please indicate your acceptance by signing and returning one copy of this proposal.

This proposal may be withdrawn by ARC if an executed copy of this proposal is not received by ARC within fifteen (15) days of the date of this proposal.

We appreciate the opportunity to partner with you.

Sincerely yours,

Joakim Aspegren, AIA  
President

**Accepted and Agreed to by:**

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Name and Title

Authorized Signature

Date