

# 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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## Windows on 123 Condominium – Alteration Policy

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The following documents and as well as architectural drawings should be submitted via e-mail to [carine@kyrousrealtygroup.com](mailto:carine@kyrousrealtygroup.com).

1. **Completed & Signed Alteration Agreement.** A fully executed Agreement will be returned to you upon Board approval.
2. **Processing Fee: \$300.00** – Please make check payable to Kyrous Realty Group, Inc. (non-refundable)
3. **Alteration Deposit: \$2,500.00** – Please make check payable to 117 West 123<sup>rd</sup> Street. The board reserves the right to request additional deposit based on scope of work.

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.**
4. **Contractor Checklist** filled out.

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### Additional Terms and Conditions

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Contractors are required to install protective floor covering in the vestibule, lobby & hallway areas at the beginning of each workday and to protect all lobby wall surfaces while transporting materials in and out of the building. Protection **must** be removed, and all common areas must be cleaned at the end of each workday. Please note that the shareholder performing alterations will be responsible for any cleanup costs incurred by the building if the contractor fails to adhere to the building's construction clean-up rules.

ALTERATION AGREEMENT

This Agreement, made as of this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between Windows On 123 Condominium with an address c/o Kyrour Realty Group, 263 West 38 Street, Suite 15E, New York, NY 10018 ("Managing Agent") and \_\_\_\_\_ (the "Unit Owner") having a mailing address of \_\_\_\_\_.

W I T N E S S E T H:

WHEREAS, the Unit Owner hereby requests permission to make/install the equipment and/or make the alterations in the apartment (the "Apartment") (Unit. # \_\_\_\_\_) at 117 West 123<sup>rd</sup> Street, New York, NY 10027) as described in the accompanying plans and specifications (the "Work");

WHEREAS, in order to obtain the Condominium's consent to the Work as required under the By-Laws of the Condominium between the Unit Owner and the Condominium, the Unit Owner agrees to comply with the terms of the By-Laws and the obligations and policies of the Condominium, 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. Unit Owner's Submissions. Unit Owner herewith delivers to the Condominium:
  - 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 Condominium, 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 Unit Owner after they are approved by the Condominium's architect or engineer (the "Condominium's Designated Engineer") without the Condominium's Designated Engineer's subsequent approval.
  - b. a check with respect to the security payable in connection with this Agreement in the sum of \$2,500.00 payable to the Condominium 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. Condominium's Review of Work as Proposed. Unit Owner acknowledges that the Condominium's designated engineer, may at Unit Owner'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. Unit Owner shall provide access to the Apartment, from time to time, to permit the Condominium's Designated Engineer, the Managing Agent, the superintendent of the Building, or any other person the Condominium may authorize, to observe and inspect the Work. Unit Owner shall make all corrections specified by the Condominium as a result of such inspections, necessary to bring the Work into conformity with the Plans. The Condominium's failure to inspect shall not be considered a waiver of the Unit Owner's obligation to comply with this Agreement and the approved Plans. The Condominium shall notify the Unit Owner as to when inspections will be required.

Unit Owner shall promptly correct all parts of the Work (whether or not such work is fabricated, installed or completed) rejected by the Condominium because of its failure to conform to the Plans and specifications previously approved by the Condominium 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 Condominium. Unit Owner shall bear all costs of correcting such rejected parts of the Work, including the compensation for additional services to the Condominium of any architect or engineer made necessary thereby.

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

- a. Prior to beginning the Work, to provide the Condominium 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 Condominium'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 Unit Owner will deliver to the Condominium 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 Unit Owner'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 Unit Owner's Designated Engineer must submit a statement to that effect. The determination of the Condominium's Designated Engineer as to the need for an amended Certificate of Occupancy shall be conclusive.
- d. To procure from Unit Owner's contractor or contractors the insurance policies described on Exhibit "A" attached hereto, which policies shall name the Condominium, the Condominium's officers, directors, Unit Owners, Designated Engineer, the Managing Agent, and Unit Owner, as parties insured. Such policies shall provide that they may not be terminated until at

least thirty (30) days after written notice to the Condominium. All such policies or certificates evidencing the issuance of the same shall be i) with companies that are reasonably acceptable to the Condominium, and ii) delivered to the Condominium before the Work commences.

4. Unit Owner to Give Notice of Actual Commencement of Work. Prior to commencing the Work, Unit Owner shall give at least five (5) days' written notice to the Condominium'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 Unit Owner'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 Unit Owner, or Unit Owner's contractor(s) or subcontractor(s), as the case may be.

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

6. Indemnification by Unit Owner. Unit Owner hereby indemnifies and holds harmless the Condominium, the Condominium's Designated Engineer and employees, the Managing Agent, and other Unit Owners and residents of the Building against any damages suffered to persons or property as a result of the Work. Unit Owner shall reimburse the Condominium, the Condominium's Designated Engineer, Managing Agent, and other Unit Owners 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 Unit Owner'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 Condominium 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 Unit Owner's Expense. Unit Owner accepts sole responsibility for the Work and for all costs in connection with the Work. If the Condominium obtains legal, engineering or architectural advice either prior or subsequent to granting permission for the Work, Unit Owner agrees to reimburse the Condominium, on demand, for any reasonable fees (including attorney's fees) incurred. Unit Owner understands and agrees that all costs of labor, equipment and materials incurred by the Condominium, shall be charged to Unit Owner as additional rent under the Lease.

8. Unit Owner's Contractor to Cooperate with Building Labor. All of Unit Owner'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 Condominium.

9. Unit Owner's Responsibility for Consequences of Work. Unit Owner 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, Unit Owner, when so advised, shall promptly remove or correct the cause of the problem as determined by the Condominium. Unit Owner agrees that any air conditioning units, terrace plantings and/or structures, wherever located in the Building, may be removed by the Condominium for the purpose of repairs, upkeep or maintenance of the Building, at the sole expense of the Unit Owner. If the Unit Owner does not promptly remove or correct the problem, the Condominium may have the problem corrected and the Unit Owner shall be liable for all costs and expenses incurred therein.

10. Prohibited Construction Methods. Unit Owner 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 Unit Owner may be installing. Unit Owner will not interfere or permit interference with the Building's intercom system, gas, electric, plumbing or any other service. Unit Owner agrees that exterior masonry walls shall not be penetrated.

11. Completion of Work. The Unit Owner shall use the Unit Owner's best efforts to ensure that the Work is completed expeditiously, but in any event all Work shall be completed within 120 days from the date of commencement of the Work, or such other period as the Condominium, in writing, designates (the "Completion Date"). The Condominium 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 Condominium 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 Condominium and the Condominium's Unit Owners 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 Condominium'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 Condominium may have. If the security funds provided pursuant to paragraph 1(b) are fully applied, the Unit Owner agrees to pay all amounts due under this paragraph to the Condominium in weekly

installments. The determination of whether the Work is completed shall be made by the Condominium, and the Condominium's determination shall be conclusive. The Unit Owner agrees that any consent by the Condominium to perform Work after the Completion Date may be revoked by the Condominium immediately if the Unit Owner 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 4:30 p.m. The Work shall not be performed on Saturdays, Sundays and holidays. The Condominium shall be the sole arbiter should there be any doubt as to noise levels which may be disturbing.

13. Unit Owner's Security Deposit. As security for the faithful performance and observation by Unit Owner of the terms and conditions of this Agreement, Unit Owner has deposited the sum indicated in paragraph 1(b) with the Condominium. In the event that Unit Owner or persons engaged by Unit Owner to perform the Work cause loss, cost or expense to the Condominium, including without limitation any loss, cost or expense arising from or relating to (a) the fees of the Condominium'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 Condominium's attorneys engaged in the event of Unit Owner'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 Condominium in connection with any complaints or breach of this Agreement. Unit Owner agrees that the Condominium 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, Unit Owner shall replenish it to the full amount within (3) days after written demand. Unit Owner's failure to so replenish the security deposit shall be a material breach of this Agreement and shall entitle the Condominium to stop the Work, and/or exercise any remedies it has hereunder. If Unit Owner 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 Unit Owner.

14. Accessibility. Unit Owner 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 Condominium's Designated Engineer, such portion shall be uncovered at Unit Owner's expense for observation. Such enclosure shall be opened and replaced at Unit Owner's expense.

15. Use of Public and Common Areas During Work. Unit Owner 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 Condominium may repair them at Unit Owner's expense upon the completion of the Work. Unit Owner 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 Unit Owner shall fail to promptly perform any repair, Unit Owner shall promptly pay all reasonable bills for such repairs.

16. Unit Owner to Maintain Certain Safety Precautions. Unit Owner agrees that functioning fire extinguishers and smoke alarms will be maintained in the Apartment during the Work. Unit Owner agrees that the Work shall not block access to any fire exits in the Building. Unit Owner 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 Unit Owner 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. Unit Owner to Control Refuse, Dirt, Dust, Lead Based Paint, etc.

- a. All precautions will be taken by Unit Owner 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 Unit Owner's expense. Unit Owner 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. Unit Owner 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 Unit Owner'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 Unit Owner shall cause the Unit Owner'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 Unit Owner 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 Unit Owner, the contractor shall provide the occupant with the Pamphlet. The contractor shall be responsible for obtaining the Unit Owner's or the occupant's written acknowledgment of receipt of the Pamphlet or a certificate of mailing evidencing same. The Unit Owner hereby acknowledges that the Condominium has no liability or obligation in connection with this notification requirement of the EPA.

18. Unit Owner to Comply with Laws, etc. Unit Owner 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 Unit Owner or for Unit Owner's benefit. Unit Owner 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 Unit Owner and Unit Owner's Successor in Interest.

- a. The Unit Owner releases the Condominium, the Managing Agent, the Condominium'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. The Unit Owner 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 Unit Owner's successor-in-interest in the Apartment.
- b. Unit Owner or Unit Owner's successor-in-interest (i) shall advise each subsequent purchaser of Unit Owner's interest in the Condominium's shares appurtenant to the Apartment (a "Purchaser") of the Work undertaken by the Unit Owner 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 Condominium, the Board of Managers 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 Unit Owner's Sole Design. Unit Owner recognizes that by granting consent to the Work, the Condominium 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. Unit Owner's Breach and Condominium's Remedies. UNIT OWNER'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 CONDOMINIUM'S CONSENT HAS BEEN GRANTED, IN ADDITION TO ALL OTHER RIGHTS, THE CONDOMINIUM MAY ALSO SUSPEND THE WORK AND PREVENT WORKERS FROM ENTERING UNIT OWNER'S APARTMENT FOR ANY PURPOSE OTHER THAN TO REMOVE THEIR EQUIPMENT. IN SUCH EVENT, THE CONDOMINIUM MAY ALSO REVOKE PERMISSION FOR UNIT OWNER 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 Condominium is granting permission to the Unit Owner to perform the Work pursuant to the Plans and this Agreement. This permission can be revoked at any time on written notice to the Unit Owner as a result of Unit Owner's or its agent's violation of the terms of this Agreement. The Condominium also agrees to perform its obligations under this Agreement.

\_\_\_\_\_  
Unit Owner

\_\_\_\_\_  
Unit Owner

Permission Granted By:  
Windows on 123 Condominium

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

## **EXHIBIT A**

Unit Owner'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 Condominium, licensed to do business in the State of New York, and all such policies shall name the Condominium, the Unit Owner and the Condominium'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 Condominium 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 Condominium. The Contractor shall promptly furnish the

Condominium 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 Condominium 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 Condominium may have for consequential damages or otherwise.