

ALTERATION AGREEMENT (2000)

This form was prepared by the Committee on Cooperative and Condominium Law of the Association of the Bar of the City of New York. To view a commentary on this form, visit the Real Estate Law page at [www.abcnyc.org](http://www.abcnyc.org).

**ALTERATION AGREEMENT**

This Agreement, made as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between (Apartment Corp.) (the "**Corporation**") with an address c/o (Managing Agent) and (Shareholder) (the "**Shareholder**") having a mailing address of \_\_\_\_\_.

**WITNESSETH:**

WHEREAS, the Shareholder desires to install equipment and/or make alterations in apartment (\_\_\_\_\_) (the "**Apartment**") at (Building Address);

WHEREAS, the proprietary lease (the "**Lease**") between the Shareholder and the Corporation provides that no equipment shall be installed and no alterations shall be made in the Apartment without the consent of the Corporation; and

WHEREAS, the Shareholder desires to obtain such consent;

NOW, THEREFORE, the parties agree as follows:

1. **Shareholder's Submissions.** Together with this Agreement, Shareholder is delivering to the Corporation:
  - a. detailed plans, drawings and specifications for the equipment proposed to be installed and/or the alterations proposed to be made which, if so required by the Corporation, have been prepared by a licensed architect or engineer. Such plans, drawings and specifications include a room by room list of the equipment to be installed and the alterations to be made.
  - b. a check in the sum of \$\_\_\_\_\_ payable to the Corporation for the security deposit required to be posted by the Shareholder as provided for in Section 13 of this Agreement, if required by the Corporation.
  - c. a check in the sum of \$\_\_\_\_\_ payable to \_\_\_\_\_, managing agent for the Building (the "**Managing Agent**"), as a processing fee in connection with this Agreement, if required by the Corporation.
2. **Review of Plans, Drawings and Specification.** The plans, drawings and specifications submitted by the Shareholder shall be subject to review and approval by the Corporation and its architect or engineer (the "**Corporation's Designated Engineer**"), and the Shareholder shall make such changes in and to such plans, drawings and specifications as the Corporation or the Corporation's Designated Engineer shall require in order to obtain such approval. The term "**Plans**" as used in this Agreement shall refer to the plans, drawings and specifications as approved in writing by the Corporation and the Corporation's Designated Engineer and the term "**Work**" shall refer to the work called for by the Plans or any other work performed by or on behalf of the Shareholder. After approval by the Corporation and the Corporation's Designated Engineer, the Plans shall not be modified without the approval of the Corporation and the Corporation's Designated Engineer. Notwithstanding any approval of the Plans by the Corporation or the Corporation's Designated Engineer, the Shareholder shall be solely responsible for the Plans, for insuring

compatibility with the systems and facilities of the Building and for compliance with applicable laws and codes.

The Corporation's execution of this Agreement does not constitute consent to the work called for by the plans, drawings and specifications submitted by the Shareholder, and the Corporation retains all of its rights under the Lease to withhold consent. Only written approval of such plans, drawings and specifications as provided for above shall constitute the Corporation's consent to the Work called for by the Plans, and any such consent shall be subject to the terms of this Agreement.

3. **Pre-Conditions to Commencement of Work by Shareholder.** The Shareholder shall not commence the Work unless and until all of the following has occurred:
  - a. The Corporation and the Corporation's Designated Engineer shall have approved in writing the plans, drawings and specifications submitted by the Shareholder, and the Shareholder shall have received a copy of such approvals.
  - b. The Shareholder shall have submitted to the Corporation (i) a list of all contractors, subcontractors and suppliers who will perform or provide materials for the Work and (ii) complete copies of all agreements entered into with such contractors, subcontractors and suppliers pertaining to the Work.
  - c. The Shareholder shall have made all required filings with, and received all required permits, approvals, licenses and consents from, all governmental agencies having jurisdiction over the Work including, but not limited to, the New York City Buildings Department, the New York City Fire Department and the Landmarks Preservation Commission, and the Shareholder shall have furnished copies of all such filings, permits, approvals, licenses and consents to the Corporation. The determination of the Corporation's Designated Engineer as to the need for any such filing, permit, approval, license or consent shall be conclusive.
  - d. The Shareholder shall have caused each of its contractors to furnish to the Corporation the insurance policies described on Exhibit A attached hereto or certificates thereof. Such policies (i) shall name the Corporation, the Corporation's officers, directors and shareholders, the Corporation's Designated Engineer, the Managing Agent and the Shareholder, as parties insured, (ii) shall be issued by companies reasonably acceptable to the Corporation and (iii) shall provide that they may not be cancelled or terminated without at least ten (10) days prior written notice to the Corporation. The Shareholder shall cause all such insurance policies to be kept in full force and effect until the completion of the Work.
4. **Shareholder to Give Notice Prior to Commencement of Work.** Prior to commencing the Work, the Shareholder shall give at least five (5) days' prior written notice to the Corporation's Designated Engineer, the superintendent of the Building and the Managing Agent of the date on which the Work will commence and the estimated duration of the Work.
5. **Performance of the Work.**
  - a. **In General.** The Shareholder shall perform the Work strictly in accordance with the Plans and shall not perform any Work not called for by the Plans. In performing the Work, the Shareholder shall comply with (i) all applicable laws and codes, (ii) the

requirements of all insurance policies covering the Work, the Apartment or the Building, (iii) this Agreement, (iv) the Lease, (v) the House Rules, (vi) the requirements of the Corporation and (vii) any directions given by the Managing Agent, the Corporation's Designated Engineer or the superintendent of the Building.

- b. **Work Hours and Noise**. The Shareholder shall perform the Work diligently and in a manner so as not to disturb other residents of the Building. The Work shall be performed only on Mondays through Fridays (excluding holidays) between the hours of \_\_\_\_ a.m. and \_\_\_\_ p.m.; provided however, that any noisy work which may disturb other residents shall not be performed before \_\_\_\_ a.m. The Work shall not be performed on weekends or holidays. The Corporation shall be the sole arbiter should there be any doubt as to noise levels which may be disturbing.
  - c. **Labor Harmony**. The Shareholder shall cause its contractors and subcontractors to 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.
  - d. **Required Completion Date**. The Shareholder shall cause the Work (other than decorative work such as painting, wallpapering and carpeting) to be completed on or before the date (the "**Required Completion Date**") which is \_\_\_\_ days (excluding weekends and holidays) after the commencement of the Work. If the Work (other than decorative work as aforesaid) shall not be completed on or before the Required Completion Date, the Shareholder shall pay to the Corporation, as liquidated damages on account of late completion, the sum of \$\_\_\_\_ per day (excluding weekends and holidays) until the Work is completed. The determination of whether the Work is completed shall be made by the Corporation, and the Corporation's determination shall be conclusive.
  - e. **Evidence of Completion**. Upon completion of the Work, the Shareholder shall obtain and deliver to the Corporation (i) a certificate from the architect or engineer who prepared the Plans certifying that the Work has been completed in accordance with all applicable laws and codes and the Plans, and (ii) all required final governmental signoffs and approvals, including if the Corporation shall require, an amended certificate of occupancy and a certificate from the Board of Fire Underwriters. The determination of the Corporation as to the need for an amended certificate of occupancy shall be conclusive.
6. **Inspection and Correction of the Work**. The Corporation shall have the right from time to time to inspect or observe the Work, and for this purpose the Shareholder shall provide access to the Apartment to Corporation's Designated Engineer, the Managing Agent, the superintendent of the Building, or any other person the Corporation may authorize. The Shareholder shall promptly make all corrections required by the Corporation in order to conform to the Plans and the other requirements of this Agreement. If the Corporation so requires, such corrections shall include the removal and replacement of non-conforming work. The Corporation's failure to inspect shall not be considered a waiver of the Shareholder's obligation to comply with this Agreement.
7. **Damage or Adverse Effect Caused by the Work**. The Shareholder shall be responsible for any damage to or any other adverse effect upon the Apartment or the Building (including the structure, shell, systems, equipment, fixtures and finishes of the Building) caused by or resulting from the Work, regardless of when such damage or adverse effect becomes

apparent. If any such damage or adverse effect shall occur or arise, the Corporation may (a) require the Shareholder, at its expense, promptly to repair the damage or remedy the condition giving rise to such adverse effect and/or (b) repair such damage or remedy such condition at the Shareholder's expense.

Without limiting the generality of the foregoing, the Shareholder specifically acknowledges that this Section 7 shall be applicable to any damage to the carpeting, wallcoverings or other finishes in the Building's hallways, elevators and other common areas (including without limitation, the cost of cleaning, shampooing, painting or repairing the same if soiled or otherwise damaged).

If the Managing Agent advises the Shareholder of any damage which, in the Managing Agent's opinion, was caused by the Work, the Shareholder shall promptly submit a claim to the Shareholder's insurance carrier and to Shareholder's contractor for submission to its insurance carrier, and the Shareholder agrees to use all reasonable efforts, and to cause its the contractor to use all reasonable efforts, to cause such insurance carriers to expeditiously review and settle all such claims for which they are responsible. The provisions of this paragraph shall not limit the Shareholder's liability under this Section 7.

8. **Indemnification by Shareholder.** The Shareholder shall indemnify and hold harmless the Corporation, the Corporation's officers, directors and shareholders, the Corporation's Designated Engineer, the Managing Agent and the other residents of the Building (the "**Indemnified Persons**") against any loss, cost, claim, damage (including damage to persons or property) or expense arising out of or related to the Work or any act or omission of the Shareholder or any of its contractors, subcontractors, architects, engineers or consultants, including reasonable attorneys fees and disbursements incurred by any of the Indemnified Persons in the defense of any such claim or any suit, action or proceeding based thereon.
9. **Shareholder to Bear All Costs Associated with Work.** The Shareholder shall be responsible for all costs incurred by the Shareholder or the Corporation in connection with the Work or this Agreement, including the fees and disbursements of any attorney, architect, engineer or consultant retained by the Corporation in connection with the Work or this Agreement. Without limiting the generality of the foregoing, the Shareholder specifically agrees to reimburse the Corporation for all charges of the Corporation's Designated Engineer for the review of the plans, drawings and specifications submitted by the Shareholder, for inspection of the Work or otherwise related to the Work or this Agreement.
10. **Additional Requirements.**
  - a. **No Change in Building Heating or Air-Conditioning.** The Shareholder recognizes that there will be no change in the operation of the Building's heating system or air-conditioning system to facilitate the functioning of any heating or air-conditioning units which the Shareholder may be installing.
  - b. **Prohibited Construction Methods.** The Shareholder shall not interfere with the Building's intercom, gas, electric, heating, air-conditioning or plumbing system or any other Building system or service. The Shareholder shall not penetrate any exterior Building wall.

- c. **Accessibility of Valves.** The Shareholder shall insure that all water, steam, gas and other valves remain accessible during the performance of and after the completion of the Work. If any valve is enclosed in violation of this Agreement, then the Corporation may (i) require the Shareholder, at its expense, promptly to remove such enclosure and/or (ii) remove such enclosure at the Shareholder's expense.
- d. **Use of Public and Common Areas During Work.** The Shareholder shall not allow the halls, sidewalks, courtyards and other public areas to be used for the storage of building materials or debris. The Shareholder shall cause its contractor to cover with construction paper the floor of any back hall to be used in connection with the Work and shall also cause its contractor to take all precautions necessary to prevent damage to the carpeting, wallcoverings or other finishes in the Building's hallways, elevators and other common areas.
- e. **Shareholder to Maintain Certain Safety Precautions.** Shareholder shall maintain functioning fire extinguishers and smoke alarms in the Apartment throughout the prosecution of the Work. Shareholder shall insure that the Work does not block access to any fire exits in the Building. Shareholder shall install smoke detectors 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 if a child 10 years old or under lives in the Apartment Shareholder shall install window guards pursuant to Section 131.15 of the New York City Health Code.
- f. **Shareholder to Control Refuse, Dirt, Dust.** Shareholder shall take all precautions to prevent dirt and dust from permeating other parts of the Building during the progress of the Work, and shall place all materials and rubbish in barrels or bags before removing the same from the Apartment. All such barrels and bags and all rubbish, rubble, discarded equipment, empty packing cartons and other materials shall be removed from the Apartment and taken out of the Building 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 side of the Building. Notwithstanding the foregoing, the placement of any dumpsters shall comply with all governmental regulations, including without limitation, obtaining any necessary permits.
- g. **Lead-Based Paint.** The Federal Task Force on Lead-Based Paint Hazard Reduction has recommended and Local Law 38 of 1999 of the City of New York requires in all buildings erected prior to January 1, 1960 certain maintenance practices, including (i) limiting access to the work area to only workers, (ii) isolating the work area with polyethylene plastic or equivalent, (iii) protecting the workers, (iv) protecting the Shareholder's belongings by covering or removing them from the work area, (v) wetting the painted surfaces before disturbing the paint and (vi) wetting the debris before sweeping. The Task Force has indicated that certain removal practices are unsafe, including (i) open flame burning, (ii) power sanding or sandblasting (unless a special vacuum attachment is used to contain dust), and (iii) 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 the 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. No more than sixty (60) days prior to beginning renovation activities in the Apartment, the Shareholder shall cause its contractor to provide to the Shareholder and any other occupant of the Apartment with the Environmental Protection Agency (the "EPA") pamphlet entitled, Protecting Your Family from Lead in the Home, (the "**Pamphlet**"), and the Shareholder shall furnish the Contractor with a written acknowledgement of receipt. The Shareholder hereby acknowledges that the Corporation has no liability or obligation in connection with this notification requirement of the EPA.

- h. **Installations by Shareholder**. 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.
11. **Shareholder to Comply with Laws, etc.** The 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, casualty or other insurance policies carried by Shareholder or for Shareholder's benefit. The Shareholder shall comply with all federal, state and local laws, rules and regulations pertaining to the Work, including any such laws, rules and regulations pertaining to lead-based paint, asbestos and other hazardous material.
12. **Maintenance and Repair of the Work**. Notwithstanding anything to the contrary contained in the Lease, the Shareholder shall be responsible for the maintenance, repair and replacement of the Work and any portions of the Apartment affected by the Work, and for all costs incurred by the Corporation or the Shareholder in connection therewith. Furthermore, the Shareholder releases the Corporation, the Managing Agent, the Corporation's agents and employees from any liability for damage to the Work or any portion of the Apartment affected by the Work however arising.
13. **Shareholder's Security Deposit; Additional Rent Under Lease**. As security for the faithful performance and observance by Shareholder of the terms and conditions of this Agreement, the Shareholder has deposited the sum indicated in Section 1(b) with the Corporation. The 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 of any sums due to the Corporation under this Agreement. If the deposit is diminished by one-half of the original amount, the Shareholder shall replenish it to the full amount within (3) days after written demand. The 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 the 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 the Shareholder after completion of the Work. The Corporation's release of the security deposit shall not constitute acceptance of the Work by the Corporation or a waiver of any of the Corporation's rights under this Agreement. Any sums due to the Corporation under this Agreement and not recovered by application of the security deposit shall be chargeable as additional rent under the Lease.
14. **Assumption by Purchaser**. The Shareholder (a) shall advise the person or persons to whom it transfers the Apartment ("**Purchaser**") of the Work undertaken by the Shareholder

pursuant to this Agreement; (b) shall provide copies of the Plans and this Agreement to the Purchaser; and (c) shall cause the Purchaser to execute and deliver to the Corporation an agreement substantially in the form of Exhibit B hereto pursuant to which the Purchaser shall assume all of the obligations of Shareholder under this Agreement, including the obligation under this Section 14 with respect to any transfer of the Apartment by the Purchaser.

The Shareholder hereby waives any claim against the Corporation on account of (a) the Corporation advising a potential Purchaser of the provisions of this Agreement, including this Section 14, and/or (b) refusing to consent to or register the transfer of the Apartment to such potential Purchaser unless and until such potential Purchaser shall execute and deliver to the Corporation an agreement in the form of Exhibit B hereto.

15. **Miscellaneous.** This Agreement and the Lease represent the only agreements between the Corporation and the Shareholder relative to the subject matter hereto. 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. THE CORPORATION AND SHAREHOLDER WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER THIS AGREEMENT.
  
16. **Shareholder's Breach and Corporation's Remedies.** Any breach by the Shareholder of any of the provisions of this Agreement shall constitute a breach of the Lease and shall entitle the Corporation to exercise all of the rights and remedies therein provided. In addition, the Corporation shall also have the right (a) to suspend the Work and prevent workers from entering the Apartment for any purpose other than to remove their tools, and/or (b) to revoke its consent to the Work, and/or (c) to exercise any of the rights and remedies provided for herein. The remedies provided for herein and in the Lease shall not be exclusive and the Corporation shall also be entitled to exercise any of the remedies provided by applicable law.

IN WITNESS WHEREOF, Shareholder and the Corporation have executed this Agreement.

\_\_\_\_\_ APARTMENT CORP.

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

\_\_\_\_\_  
Shareholder

\_\_\_\_\_  
Shareholder

## Exhibit A

Each of Shareholder's contractors 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 Corporation's officers, directors and shareholders, the Corporation's Designated Engineer and the Managing Agent as additional named insureds. No diminution of limits of insurance will be permitted.

(i) **WORKER'S COMPENSATION** as required by law together with Employer's Liability Insurance and Disability Benefits Insurance as required by the State of New York.

(ii) **COMMERCIAL GENERAL LIABILITY** 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.

The policy will contain the "Broad Form Comprehensive General Liability" endorsement in Section 1 in such form; the exclusion pertaining to liability assumed by the Contractor under any contract or agreement (Section II Section B(1)) is to be deleted. The Completed Operations Coverage is 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, and shall not include a sunset clause without the Corporation's consent.

\$1,000,000 BODILY INJURY & PROPERTY DAMAGE\*  
(combined single limit)

(iii) **COMPREHENSIVE AUTOMOBILE LIABILITY**, including non-ownership and hired car coverage, as well as owned vehicles:

\$1,000,000 BODILY INJURY & PROPERTY DAMAGE  
(combined single limit)

(iv) **UMBRELLA LIABILITY, BODILY INJURY, PERSONAL INJURY AND PROPERTY DAMAGE** If umbrellas are written in more than one company any layers above the first one shall follow the form of the primary umbrella.

\$3,000,000 COMBINED\*  
(combined single limit)

---

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

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 thereunder have been paid. Such certificates shall provide that the said insurance may not be canceled, terminated or modified without ten (10) 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:

(a) to revoke permission to perform the work and to deny entry into the Building of all workers, except that if such workers are escorted by a member of the Building's staff, they shall be permitted to remove their tools and supplies, or

(b) to take out and maintain the said insurance for and in the name of the Corporation, the Contractor or the Shareholder and, in such a case, the Shareholder agrees to pay the cost thereof and to furnish all information and consents necessary to permit the Corporation to take out and maintain such insurance for and in the name of the Corporation, the Contractor or the Shareholder.

Compliance with the foregoing requirements to carry insurance and furnish certificates shall not relieve the Shareholder from liability assumed under any provisions of this Agreement.

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.

**EXHIBIT B  
ASSUMPTION OF ALTERATION AGREEMENT\***

WHEREAS, simultaneously with its execution and delivery of this Assumption of Alteration Agreement the undersigned is becoming the owner of the shares in the \_\_\_\_\_ (the "**Lessor Corporation**") and the proprietary lease appurtenant to Apartment \_\_\_\_\_ (the "**Apartment**") in the building known as \_\_\_\_\_; and

WHEREAS, a prior owner of the Apartment and the Lessor Corporation entered into an Alteration Agreement dated \_\_\_\_\_ (the "**Alteration Agreement**"), a copy of which is attached hereto,

WHEREAS, the Alteration Agreement (1) provides that any person acquiring the Apartment shall assume the obligations of the Shareholder under the Agreement and (2) authorizes the Corporation not to consent to or register the transfer of the Apartment to any person unless and until such person assumes the obligations of the Shareholder under the Agreement

NOW, THEREFORE, in order to induce the Corporation to consent and register the transfer of the Apartment to the undersigned, the undersigned hereby ASSUMES AND AGREES TO PERFORM AND OBSERVE all the terms, covenants and conditions of the Alteration Agreement to be performed or observed by the Shareholder thereunder (including the provisions of Section 14 thereof pertain to future transfers).

Henceforth, the term "Shareholder" as used in the Alterations Agreement shall include the undersigned. Any breach of this Assumption of Alterations Agreement or of the Alterations Agreement shall constitute a breach of the lease appurtenant to the Apartment. This Assumption of Alteration Agreement shall be binding on the undersigned and [her][his] estate, heirs, executors, administrators, personal representatives, successors and assigns.

New York, N.Y.

Date: \_\_\_\_\_.

\_\_\_\_\_,  
\_\_\_\_\_

State of New York            }  
  } ss.:  
County of New York         }

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the individual described in and who executed the foregoing instrument, and duly acknowledged to me that [she][he] executed the same.

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

\_\_\_\_\_

\* To be executed by a purchaser where the apartment being acquired is the subject of an Alteration Agreement in the managing agent's files.