

## VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT (The “Agreement”) made this \_\_ day of October, 2007, by and between the 41<sup>st</sup> Street Lounge (“Applicant”) and Advisory Neighborhood Commission (“ANC”) 3E.

### RECITALS

WHEREAS, Applicant has applied for a Retailer Class C Restaurant license for premises located at 4611 41<sup>st</sup> Street, NW, Washington, D.C. (the “Premises”) for the operation of a restaurant and bar;

WHEREAS, ANC 3E filed a protest to the issuance of the requested license;

WHEREAS the parties have discussed the concerns of ANC 3E and have reached an understanding related to the operation of the establishment;

WHEREAS the parties have agreed to enter into this Voluntary Agreement and request the District of Columbia Alcoholic Beverage Control Board (the “Board”) to approve the issuance of the license, conditioned upon Applicant’s compliance with the terms and conditions of this written agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. Restaurant Name. The restaurant—currently referred to as the 41<sup>st</sup> Street Lounge—will be renamed. The new name will not contain the words bar, lounge or club.
3. Advertising. Applicant agrees that it will not advertise the restaurant as a nightclub.

4. Exterior Maintenance and Neighborhood Peace.

Applicant will make sure that the area surrounding the exterior of the restaurant is clean, that the trash is properly disposed of and that the general appearance is in good order.

Applicant will make reasonable efforts to maintain the peace and quiet of the nearby residential neighborhood.

If patrons loiter in nearby parks, open areas or the nearby residential neighborhood, then Applicant will take reasonable steps to stop such activity.

Applicant shall employ a security guard or bouncer as reasonably necessary to ensure the safety of its patrons and the peace and order of the nearby residential neighborhood.

There will be no outdoor music after 11:00pm on Sunday, Monday, Tuesday, Wednesday or Thursday and none after 12 midnight on Friday or Saturday.

5. Kitchen Hours. The kitchen will remain open up until one hour prior to closing.

6. Limited Hours on Sunday through Thursday. The bar on the first floor of the restaurant will close at 1:00am on Sunday, Monday, Tuesday, Wednesday and Thursday. The upstairs bar, however, shall remain open until 2:00am. The early closing shall not apply to holidays. This restriction shall expire upon Applicant's first request to renew its liquor license, which request will not be made for at least 2 years from the date of the issuance of the license.

7. Community Meetings. Applicant agrees to meet regularly with representatives of a committee to be appointed by ANC 3E at times and locations to be agreed upon by the parties; such meetings will take place once every other month, unless the parties mutually agree that no such meeting is necessary.

If, after the regularly scheduled meetings, excessive noise and loitering persist, then Applicant will hire employees to patrol the neighborhood in a reasonable effort to abate any such problems.

8. Notices. In the event of a violation of the provisions of this Voluntary Agreement, Applicant shall be notified in writing of such violation. Any notices required to be given under this Agreement shall be in writing and mailed by certified mail or hand delivered to the other parties to this Agreement. Notice is deemed to be received upon mailing. Notice is to be given as follows:

If to Applicant:

Lieven Degeyndt  
6504 80<sup>th</sup> Street  
Cabin John, MD 20818

With a copy to:

Dimitri Mallios  
Mallios & O'Brien  
2600 Virginia Avenue, NW  
Suite 1112  
Washington, D.C. 20037

If to Protestant:

ANC 3E  
c/o Lisner Home, Suite #219  
Washington, DC 20016

Either party may change the notice addresses listed above by written notice to the other party at the addresses listed above. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the Alcoholic Beverage Control Board.

9. Withdrawal of Protest. In consideration of Applicant's agreement to the provisions of this Voluntary Agreement, ANC 3E hereby withdraws its protest to the issuance of the License.

10. Acceptance of Agreement by Board. If the Board shall not accept this Agreement in its entirety, ANC 3E's consent to the issuance of the license shall be deemed withdrawn and the protest shall be deemed reinstated.

11. Entire Agreement. This Agreement sets forth the entire understanding of the parties hereto with respect to the subject matter herein and shall not be changed or terminated orally. There are no other warranties or representations made or relied upon by any of the parties to this matter other than those expressly set forth in said Agreement. This Agreement shall be construed in accordance with the laws of the District of Columbia

12. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13. Successors and Partial Invalidity. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. In the event any part of this Agreement should be determined by a court of competent jurisdiction or the Alcoholic Beverage Control Board to be invalid or unenforceable, the validity of the rest of the Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part held to be invalid or unenforceable.

14. Good Faith Renegotiation. At the time Applicant's license is up for renewal, the parties agree that they will confer and renegotiate in good faith the terms of this Agreement, including the need to continue certain provisions or whether it is necessary for the Applicant to take greater action to ensure the peace and order of the nearby residential neighborhood. In addition, the parties will consider the need to continue the early closings provided for in paragraph six of this Agreement, which provision will have expired at that time as long as the renewal request is made at least 2 years after the license is issued.

15. Authority. Each party who signs the agreement warrants that he or she is authorized to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated below:

APPLICANT:

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

PROTESTANT:

ANC 3E

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_