



Made this 10<sup>th</sup> day of June, 2021

by and between

**Toki 1244 H St NE LLC t/a Toki Underground**

1244 H Street, NE  
Washington DC 20002

and

**Advisory Neighborhood Commission 6A**

### **Preamble**

Through this Agreement, both parties aim to create an environment whereby Toki 1244 H St NE LLC t/a Toki Underground, ABRA-118153, (“Applicant”) may operate as a viable contributing business in the ANC 6A community, while concurrently curtailing any adverse effects a business such as Applicant’s could have on the surrounding neighborhood.

Applicant is encouraged to work regularly with ANC 6A, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained in this Agreement are reasonable and must become wholly integrated into the day-to-day operation of the establishment.

### **Witnesseth**

Whereas, Applicant’s premises is within the boundaries of ANC 6A; and,

Whereas, the parties desire to enter into an agreement governing certain requirements and understandings regarding the issuance of a Class C Tavern License at the subject premises; and,

Whereas the parties wish to state their mutual intention and commitment to promote the success, peace, order, quiet, and equity of the community. Both parties recognize the importance of commercial districts (and limited commercial operations within residential districts) and their adjacent neighborhoods that are safe, clean, and “pedestrian friendly.”

### **The Parties Agree As Follows:**

1. **Public Space Cleanliness and Maintenance.** Applicant will maintain the public space (minimally the front sidewalk up to and including the gutter in front of the subject premises, and the alleyway behind the subject premises) adjacent to the establishment in a clean and litter-free condition by:
  - a. Picking up trash and recycling, including beverage bottles and cans, and all other trash a minimum of twice daily (once immediately before business hours and again between 5:00 p.m. and 8:00 p.m.).
  - b. Maintaining regular trash, garbage, and recycling removal service, regularly removing trash and

- c. recycling from the trash and dumpster area and seeing that the trash and dumpster area remain clean.
- c. Depositing trash, garbage, and recycling only in rodent-resistant containers, and seeing that container covers fit properly and remain fully closed except when trash, recycling, or garbage is being added or removed. Applicant shall construct a trash storage enclosure within its property to store trash and recycling until pick up by its trash removal service.
- d. Exercising due diligence to prevent and/or rid vermin infestation in and around the establishment, including following, minimally, available recommendations and guidelines of the Vector Control Division of the Department of Public Works.
- e. Assisting in maintenance of the curbs in front of the establishment to keep them free of trash and recycling, removing snow and ice from the sidewalk, and complying with all applicable D.C. laws and regulation in these respects.
- f. Generally tending to tree boxes directly in front of the subject premises, if any.
- g. Promptly removing or painting over any graffiti written on the exterior walls of the property. "Promptly" is defined as within two (2) weeks of the graffiti's appearance.
- h. Requiring the owner and employees not to park on public space between the building and the curb.
- i. Not locating trash bins, chairs, tables, or other equipment on public space without a valid space permit.
- j. Applicant is encouraged to participate in community efforts to mitigate trash and vermin issues in the rear alley, including reducing the use of single-use plastic materials and pursuing a trash compactor with adjacent or nearby businesses through the DC Commercial Waste Compactor Demonstration Grant Program.

## 2. Business Operations and Practices.

- a. Applicant will not, directly or indirectly, sell or deliver alcohol to any intoxicated person or to any person who appears to be intoxicated.
- b. Applicant agrees to take all necessary and reasonable steps to prevent patron rowdiness, including refusing admission/service to rowdy and/or unruly persons.
- c. Applicant agrees to ensure that no patron shall bring an open container of an alcoholic beverage into the establishment from outside sources and shall exit the establishment with an open container of an alcoholic beverage, with the exception of resealed, unfinished bottles of wine ordered at the premises.
- d. Applicant will not provide or sell alcoholic beverages "to go" except as authorized by DC law or regulations.
- e. Applicant agrees not to promote or participate in bar or pub "crawls" or any other event of this nature unless the event has been reviewed and approved by the ABC Board.
- f. The licensed establishment will be managed in person by Applicant or a board-licensed manager.
- g. Applicant and all employees that are designated to serve alcoholic beverages shall attend and complete an alcoholic beverage server training course/seminar within 60 days of the start of operations, and, after that period, new hires designated to serve alcoholic beverages shall complete training within 30 days of their commencement of employment.
- h. Applicant shall post a notice kept in good repair and visible from point of entry a sign that states:
  - i. Proper ID is required to be served and that the establishment will check IDs at all times prior to serving alcoholic beverages to patrons;
  - ii. It is illegal to sell alcohol to anyone under age 21;
  - iii. Patrons are requested not to litter, loiter, or make excessive noise in the neighborhood as they arrive or depart;
  - iv. Warning: Drinking alcoholic beverages during pregnancy can cause birth defects; and
  - v. The establishment requests that customers do not contribute to panhandlers.
- i. Applicant shall make every effort to prohibit and prevent criminal activity on or in front of the establishment premises, to include:
  - i. Calling appropriate emergency services if illegal activity is observed;
  - ii. Keeping a written record of dates and times (a "call log") when emergency services are

- called for assistance; and
- iii. Applicant will maintain a detailed incident log of when emergency services are called to the establishment for assistance. Each log entry will contain the date, time, and location of each incident with a concise summary. Applicant will make reasonable efforts to identify and list guests and staff involved in or who were witnesses to the incident.
- j. Upon request of the Board, Applicant's incident log shall be provided to the Board during meetings or hearings involving future renewals or contested proceedings involving Applicant's license.
- k. Applicant will utilize and maintain high-intensity floodlights on the exterior of its premises so as to fully light any abutting alleyway from dusk until dawn, consistent with District of Columbia light pollution regulations, 12-K DCMR § 409.
- l. If offering valet service, Applicant shall provide valet parking services only with valet parking companies as defined, licensed, and in compliance with D.C. Municipal Regulations Title 24 Chapter 16. Applicant will not engage in valet parking that results in vehicles parked in residential parking spaces.

### 3. **Music / Dancing / Entertainment.**

- a. Applicant agrees to ensure that sounds originating from within the establishment are mitigated by installing adequate soundproofing.
- b. No sound, noise, music, or voices emanating from the licensed establishment shall be of such intensity that it may be heard in any premises other than the licensed establishment. This restriction does not apply to: (1) sound, noise, music, or voices heard in any premises which are located within a C-1, C-2, C-3, C-4, C-M, or M zone, as defined in the zoning regulations for the District, and (2) sound, noise, music, or voices occasioned by the normal opening of entrance and exit doors for the purpose of ingress and egress.
- c. In order to mitigate noise on a sidewalk café or summer garden the following steps will be taken:
  - i. A fence or other barrier will enclose the entire perimeter;
  - ii. Any speakers installed on the exterior will not be directed toward the rear alley.
  - iii. No fewer than two signs will be clearly posted to remind guests to keep their voices at normal speaking volume;
  - iv. Staff will monitor the outdoor area to make sure guests do not raise their voices above normal speaking tones; and
  - v. Potted plants, trees, fountains, covering a wall with greenery or fabric, awnings, or other types of noise mitigation techniques will be incorporated into the decor.
- d. The hours of operation for a sidewalk café and/or summer garden shall be limited as follows:
  - i. On Sunday nights through Thursday nights, excluding the eve of Federal holidays, all areas of the summer garden, including the rear deck and front patio as reflected in the photographs attached hereto as Exhibit A, and incorporated herein, shall be closed by 12:00 A.M. The sale and consumption of alcoholic beverages must end at that time and the patio must be cleared of all patrons.
  - ii. On Friday and Saturday nights, and on the eve of Federal holidays all areas of the summer garden, including the rear deck and front patio, shall close and be cleared of all patrons by 2:00 A.M. The sale and consumption of alcoholic beverages must end at that time and the patio must be cleared of all patrons.
  - iii. Entertainment in the form of live bands and/or DJs shall not be permitted in the front patio after 8:00 P.M.
  - iv. Entertainment in the form of live bands and/or DJs shall not be permitted on the rear deck at any time.
- e. Applicant may offer facilities for dancing for patrons only with an entertainment endorsement and may have recorded and background music without an entertainment endorsement. "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The term "entertainment" shall not include the

operation of a jukebox, a television, a radio, or other prerecorded music.

4. **Cooperation with ANC 6A.** Applicant is encouraged to work with ANC 6A, the Single Member District (SMD) ANC Commissioner within whose boundaries the establishment is located, the Chair of the ABL Committee, and other Commissioners whose SMDs are adjacent to the location of the establishment to address concerns arising from violations of this agreement.
5. **Modifications.** This Agreement may be modified and such modification implemented by Applicant only by mutual agreement of the parties in writing and the subsequent approval of the modification by the ABC Board pursuant to DC Official Code § 25-446 or as required by District law.
6. **Miscellaneous.**
  - a. Applicant shall retain a copy of this Settlement Agreement in the establishment and have it available for review upon request.
  - b. Applicant will operate in compliance with all applicable DC laws and regulations. Any reference to specific laws and regulations in this Settlement Agreement is meant for informational purposes only. ANC 6A does not intend for a violation of any DC law or regulation to also be considered a violation of this Settlement Agreement.
  - c. Applicant is encouraged to participate in a Business Improvement District if one exists.
  - d. If any provision of this agreement, or any portion thereof, is held to be invalid or unenforceable, the remainder of the agreement shall nevertheless remain in full force and effect.
7. **Enforcement.**
  - a. If any party hereto believes in good faith that Applicant is in violation of this agreement, written notice specifying the alleged violation (“Notice to Cure”) shall be delivered to Applicant. Applicant shall have ten (10) days after receipt of such written notice to come into compliance with this agreement or respond to said alleged notice of default. In cases where the defaulting Party reasonably requires more than ten (10) days to come into compliance, the defaulting Party shall, within ten (10) days, make substantial efforts toward compliance and pursue those efforts until the default is corrected.
  - b. Applicant and the ANC 6A Commission agree to enter into this agreement. If Applicant should breach the conditions of this agreement and fail to come into compliance or make substantial efforts toward compliance as provided by Section 7(a) of this agreement, it is understood by all parties that the ANC 6A and/or its committees, or others may immediately petition the Alcohol Beverage Regulatory Administration (ABRA) to investigate violations of this agreement and take appropriate actions per 23 D.C.M.R.
  - c. This Settlement Agreement is binding on Applicant and its successors and will continue in force for any and all subsequent license holders at this location.

*[signatures on following page]*

**In Witness Whereof**

Settlement Agreement between Toki Underground and ANC6A

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The parties have affixed hereto their hands and seals.

**Applicant: Toki 1244 H Street NE LLC t/a Toki Underground**

By: Toki Management LLC, Manager

By: Praveen Goyal, Manager

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

Signature: \_\_\_\_\_

**Advisory Neighborhood Commission 6A Representative:**

By: Amber Gove, Chair ANC6A Date: 6/16/21

Signature: *Amber K. Gove*