MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF CONSUMER
AND REGULATORY AFFAIRS
AND
THE ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

I. PARTIES

This Memorandum of Agreement ("MOA") is entered into between the Department of Consumer and Regulatory Affairs ("DCRA") and the Alcoholic Beverage Regulation Administration ("ABRA"), and shall be effective as of January 1, 2010.

II. BACKGROUND AND PURPOSE

ABRA licenses businesses in the District of Columbia to sell, serve, and deliver alcoholic beverages. ABRA also investigates licensed establishments for compliance with the ABC laws and regulations. ABC licensed restaurants and hotels are required to be in compliance with one of the two statutory food requirements, one of which is based on a percentage, the other on a dollar per seat basis. This MOA is only relevant as it relates to the "dollar per seat" calculation. This calculation is based upon the number of seats in an establishment and requires that a Class "CR" restaurant or Class "CH" hotel sell at least $2,000 in food sales per seat and that a Class "DR" restaurant or Class "DH" hotel have at least $1,500 in food sales per seat. The number of seats is based upon an establishment's certificate of occupancy on file with ABRA. DCRA is responsible for issuing certificates of occupancy to businesses.

This MOA is entered into in an effort by the parties to bring clarity and consistency to the certificate of occupancy process. ABRA has received concerns from the public about ensuring that issued certificates of occupancy distinguish between an establishment's permitted number of seats and its total occupancy load number. Having two numbers on an establishment's certificate of occupancy will assist the ABC Board in determining whether a restaurant or hotel is in compliance with the statutory food requirements based upon the "dollar per seat" calculation. Currently, a significant number of certificates of occupancy for restaurants and hotels only list one "official" number that ABRA can utilize in determining the "dollar per seat" calculation.

Under this MOA, DCRA is agreeing to state on its certificate of occupancy a section or description containing the maximum number of seats that an on-premises establishment may provide, as a subset of the total occupant load

number. This additional "seats" number is to be utilized by ABRA in determining whether a restaurant or hotel is in compliance with the "dollar per seat" statutory food requirement. The additional number shall also be used by ABRA in determining the maximum number of seats that a licensed establishment may have either inside of the establishment and/or on the summer garden. The total occupancy number shall be utilized to determine the maximum number of patrons that can safely be inside of the establishment.

III. APPLICABLE D.C. CODE AND REGULATION CITES

1. D.C. Official Code § 25-101(43)(B)(vi),
2. D.C. Official Code § 25-113(b)(3)(B)
3. 23 DCMR § 2101, *et seq.*
4. 11 DCMR § 3203, *et seq.*
5. 12A DCMR 110A

IV. FUNCTIONS TO BE PERFORMED BY DCRA

1. DCRA agrees to add a section or description to the Certificate of Occupancy (C of O) that is issued to a business operating as an ABC restaurant, hotel, or tavern containing the number of seats, in addition to the existing section that indicates the total occupancy load. This seat number will be a part of the total occupancy load, not an additional number. For example, if an establishment has an occupancy load of 100 and a seat number of 50, the total occupancy load is still 100 and not 150. DCRA agrees to revise its existing Certificate of Occupancy form to accommodate this additional section.

2. DCRA agrees to identify on the issued Certificates of Occupancies these two numbers for purposes of verifying and reporting back to ABRA that a dual-numbered Certificate of Occupancy has been issued for a given establishment. Such tracking will include:

    a. Name of the establishment
    b. Date the Certificate of Occupancy was issued
    c. Occupancy Load number
    d. Number of seats approved

3. DCRA will make available to ABRA a database that will identify all issued Certificates of Occupancies for review and research.

4. DCRA agrees to provide a new Certificate of Occupancy to establishments requesting a revision to the existing Certificate of Occupancy, which includes

the dual-number system for purposes of the establishment's compliance with the ABRA regulations.

5. DCRA agrees to provide a dual-numbered Certificate of Occupancy to on-premises establishments licensed by ABRA as either restaurants, hotels, or taverns. ABC licensed nightclubs/public halls shall not be required to have a dual-numbered Certificate of Occupancy.

6. DCRA agrees to require applicants to submit a floor plan drawn to scale, which clearly identifies the number of seats, the net square feet allocated for standing room, and the area designated for chairs only or tables and chairs, either inside the establishment or on an outdoor summer garden, or both. DCRA agrees to provide applicants with a date-stamped copy of the floor plan approved by DCRA for submission to ABRA.

7. The total or maximum allowable occupant load shall be computed in accordance with the International Building Code (IBC) 2006 Table 1004.1. This code section clearly states assembly uses with standing room only shall require 5 square feet per person, chairs only 7 square feet per person, and tables and chairs 15 square feet per person. Seats may also be calculated by a manual count of the seats as shown on the submitted plans.

V. SUPPORT TO BE PROVIDED BY ABRA

1. ABRA agrees to provide DCRA with any licensing information regarding a particular establishment that is within the custody of ABRA's Records Division to assist DCRA in accomplishing the function of the dual-numbered system, such as previously submitted floor plans, certificates of occupancy, and other written material that has been previously used to justify an occupancy number.

2. ABRA agrees to receive and respond to correspondence and questions from licensed establishments regarding this procedure and keep DCRA informed of any problems that may arise.

3. ABRA agrees to abide by the procedures established by DCRA to accomplish this dual-number system on the Certificates of Occupancy issued by DCRA to on-premises establishments that ABRA licenses as restaurants, hotels and taverns.

VI. AGREEMENT PERIOD

This MOA is effective as of January 1, 2010, and shall remain in effect until the Parties affirmatively cancel, modify, or amend the MOA.

VII. AMENDMENTS

Any amendments to this MOA must be in writing and signed by the Director of DCRA and the Director of ABRA.

VIII. AUTHORITY

The Parties hereto certify that they maintain the authority to enter into and execute this MOA.

IX. ATTACHMENTS

Attached and incorporated into this MOA is a sample Certificate of Occupancy prepared by DCRA and agreed to by the Parties as a representative sample of the Certificates of Occupancy to be issued forthcoming for the purpose of this MOA.

X. EFFECTIVE DATE

This MOU shall take effect on the date prescribed in Paragraph VI.

Each party affirms that they have read, understand, and agree to be bound by the terms and conditions of this MOA.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives on the respective dates.

For the Department of Consumer and Regulatory Affairs:

Linda K. Argo
Director

11/12/09
Date

For the Alcoholic Beverage Regulation Administration:

Fred Moosally
Director

11/13/09
Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ABRA APPLICATION

OFFICIAL USE ONLY

License Number:	Date Accepted:	Accepted by:	Hearing Date:

Fees Paid: $	From	To	Issue Date:	From	To

Date Approved by Board / /	Initial: →						
Date Denied by Board / /	Initial: →						

Ward/ANC:	☐New	☐Transfer (new location)	☐Transfer With Sale	☐Transfer without Sale	☐Stock Transfer	☐Storage	☐Premise

TO BE COMPLETED BY APPLICANT

1. CATEGORY	2. CLASS	3. TYPE		4. ENTERTAINMENT ENDORSEMENT	5. ENDORSEMENT	6. OTHER TYPES
☐ Manufacturer ☐ Wholesaler ☐ Retailer	☐ A ☐ B ☐ C ☐ D	☐ Restaurant ☐ Tavern ☐ Nightclub ☐ Hotel	☐ Club ☐ Multi-Purpose Facility ☐ Common Carrier	☐ Entertainment ☐ Dancing ☐ Cover Charge	☐ Sidewalk Cafe ☐ Summer Garden ☐ Tasting ☐ Brew Pub	☐Safekeeping ☐ 404.2 ☐ 405.1 ☐ No Substantial Change ☐ Substantial Change

7. Maximum Number of Seats:	7a. Total Occupancy Load:	8. Number of Hotel Rooms:

9. Applicant (Last Name, First Name, Middle Initial) or Entity	10. Trade Name
11. Business Address	12. Mailing Address if different from business

13. Business Telephone: ( )	14. Fax Number: ( )	15. Email Address:

16. Type of Applicant ☐ Sole Proprietor ☐ Corporation ☐ Partnership ☐ LLC ☐ Other (LLP or LP)

17. List the name of Sole Proprietors and All Partners below.

18. List all Corporate Officers, LLC Managing Members, General Partners by name and title who have an ownership interest.		Number of Shares	Percent of Interest

19. List the total number of stocks and shares distributed by the Corporation: Authorized _____ Issued _____

20. Has there been any administrative action taken against the applicant or any person listed above regarding ABC violations in the District of Columbia or any state?
☐ Yes ☐ No If yes, please explain what administrative actions were taken, location of action, and the disposition.

21. If applicant is a Sole Proprietor, the individual must sign, if Partnership, each partner must sign, if Corporation, President or Vice President must sign, if LLC, managing member must sign the below certification. Certification: I hereby certify under penalty of perjury that the information in this application is true and correct. I also certify that the above applicant is the true and actual owner of the business.

Printed name:_____

_____ Signature — Subscribed and sworn to before me on this ____ day of_____, 20___. _____ Notary Public — My commission expires on _____

Printed name:_____

_____ Signature — Subscribed and sworn to before me on this ____ day of_____, 20___. _____ Notary Public — My commission expires on _____

Printed name:_____

_____ Signature — Subscribed and sworn to before me on this ____ day of_____, 20___. _____ Notary Public — My commission expires on _____

22. In what language do you need vital documents translated?

SPECIAL NOTICE

The District of Columbia will provide the appropriate services and auxiliary aids, including sign language interpreters, whenever necessary to ensure effective communication with members of the public who are deaf, hearing impaired or who have other disabilities affecting communications. Requests for services and auxiliary aids should be made at least ten (10) days prior to any scheduled hearing. Please notify the ADA Coordinator at (202) 442-4423.