APPENDIX A





Southwark Licensing Team

Community Safety EHTS, 3rd Floor Hub 2 160 Tooley Street PO Box 64529 London SE1 5LX

E-mail: licensing@southwak.gov.uk

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 - Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

RAILWAY ALCH C, CRUCIFIX LANE

LONDON SEI 3JW

Post town

Post code (if known)

SEI 3JW

Name of premises licence holder or club holding club premises certificate (if known)

UNDERDOK ALT COMPANY LTD

Number of premises licence or club premises certificate (if known)

845 813

Part 2 - Applicant details

Iam

Please tick √ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)



2) a responsible authority (please complete (C) below)								
3) a member of the club to which this application relates (please complete (A) below)								
(A) DETA	AILS OF	INDIVI	DUAL A	PPLIC	ANT (fill	in as appli	cable)	
Please tick	√ yes							
Mr 🗌	Mrs		Miss		Ms		Other title (for example, Rev)	
Surname					Fi	rst names		
I am 18 ye	ears old o	or over					Please tick ✓ yes	
Current p address if different f premises address								
Post town								
Daytime c	ontact te	lephone	number					
E-mail ad (optional)			7					
(B) DETAILS OF OTHER APPLICANT								
Name and	address							
Telephone number (if any)								
E-mail add	E-mail address (optional)							
			THE RESERVE AND ADDRESS.					

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address	
Telephone number (if any)	
E-mail address (optional)	Y V
(-1)	
This application to review relates to the following licensi	ing objective(s)
	Please tick one or more boxes ✓
1) the prevention of crime and disorder	
2) public safety3) the prevention of public nuisance	X
4) the protection of children from harm	

Please state the gro	und(s) for review (pl	ease read guidance note 2)	
SEE	ATTALLEY	SHEET	
			,
	j		
		² a	
	Ÿ.		:
		* * * * * * * * * * * * * * * * * * *	e e e
	*		i

	Please provide as much information as possible to support the application (please read guidance note 3)					
		SEE	ATTACHED	GROUNDS AND	u SB	
		FLAS	H DRIVE			
The second second second						

Have you made an application for review relating to the premises before	Please tick ✓ yes
If yes please state the date of that application	Day Month Year
If you have made representations before relating to the and when you made them	premises please state what they were
N.A.	
e e	
*	
	+equit ^{(A} − T
	a

Notes for Guidance

(optional)

Telephone number (if any)

 A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.

If you would prefer us to correspond with you using an e-mail address your e-mail address

- 2. The ground(s) for review must be based on one of the licensing objectives.
- Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
- 4. The application form must be signed.
- 5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
- 6. This is the address which we shall use to correspond with you about this application.

LICENCE HOLDER:

UNDERDOG ART COMPANY LIMITED Railway Arch 6 Crucifix Lane SE1 3JW

DESIGNATED PREMISES SUPERVISOR NAME:

Sammy James Forway

GROUNDS FOR REVIEW OF LICENCE

As a resident of Crucifix Lane I hereby apply for the review of the Premises Licence granted to Underdog Art Company Limited trading as The Underdog ('Underdog') situated at Arch 6 Crucifix Lane, SE1 3JW.

The section of Crucifix Lane in question is a narrow road approximately 10 meters wide and includes pavements on both sides. It is bordered to the north by railway arches and to the south by residential dwellings, save a pub and an office block further along to the east. The furthest residential dwelling from the Underdog is approximately 45 metres away as the crow flies. Underdog occupies arch number 6, neighbouring arches 7-11 are vacant and small offices and businesses occupy the remainder.

I live in a third floor flat, situated 15 m as the crow flies from the Underdog entrance, therefore 60 degrees down the road with respect to the normal of Underdog's facade. One of our bedrooms and the living room look out to the Underdog's entrance.

Underdog has been granted a licence to remain open from 09:00 till 23:30 from Monday to Thursday, till 01:00 on Friday and Saturday and till 23:00 on Sunday. The licence permits the performance of live music and the playing of recorded music indoors which is supposed to end half an hour before closing time.

Late club nights are routinely held at Underdog mainly but not only at the weekends. The Underdog also hosts club nights till 04:00 or 05:00 in the morning, outside its permissible licensed hours, sometimes on consecutive nights.

We have long been experiencing persistent nuisance as a result of the noise from both live and recorded music played at the Underdog. Crowds of revellers shouting and jeering in the venue compound this disturbance.

Underdog is usually hired out to third party organisers who charge fees for entry to the event. It is a venue that is favoured by heavy metal, psychedelic and stoner rock bands that rely heavily on loud percussion. The inordinate use of base drums and cymbals and generally being loud are an especially disturbing pre-requisite to the sorts of performances that are hosted at venue.

The the flyer of the 'Retribution Alive' night held at the Underdog on the 19th May 2018 (attached) boasts: 'The Retribution club night keeps the neighbours awake until 1AM!' It is a promise delivered.

In addition to the nuisance caused from within the venue there is also the sound of loud talking, laughing and shouting from people, often 15 or more, loitering and smoking outside the premises all through the evening that causes further disturbance. Closing time subjects us to the sound of noisy boisterous people leaving the club, which can take anything up to 45 minutes. This is often followed by band members and groupies noisily and drunkenly packing their vehicles with their instruments. This involves triggering car alarms and slamming doors and also often occurs far later than the advertised end of the gig, since they hang around in the venue for some time once the general public have left.

Additionally, the Underdog strives to assume a distinctly aggressive attitude towards residents. The anti-establishment values that it seeks to uphold instead has resulted in a hostile environment and the enactment of anti-social behaviour from the organisers and staff.

On one occasion when Mr attempted to take a photograph of the premises from the pavement as an event was going on he was threatened and chased into our building where he had to take refuge against an aggressive bouncer threatening to delete footage. Other residents have similarly experienced antagonistic behaviour when they have approached staff and management at Underdog. They have been warned off and refused access to Mr. Forway when they have sought to complain about the noise disturbance.

The Underdog frequently and fragrantly acts outside the terms and conditions of the licence:

In hosting music/ cub nights at the Underdog it is operating as a night club.

This is demonstrated by the facts:

- 1. there is door security,
- 2. there are scheduled nights with a line-up of bands and DJs,
- 3. dancing occurs,
- 4. there is a door charge,
- 5. there is an age limit
- 6. the premises are hired out to third parties.

The above are criteria used by Southwark Planners in previous cases to determine whether activities of an establishment are that of a bar or a nightclub. Furthermore club nights held at the Underdog are often listed on the Resident Advisor website which is the foremost directory of club events in the country. Under Condition 844 of the Licence Underdog is expressly barred from operating as a night club. These activities should be immediately stopped and enforcement proceedings taken.

- An event took place on the 27th January 2018 night with blaring music till 05:00 on 28th morning. A crowd of some 25-30 stood around on the pavement till 05:40 talking loudly, smoking and waiting for taxis as they dispersed. On checking the register I saw that a TEN that was not served.
- Another late night event was held on the 11th/12th May 2018 until at least 05:00 wherein loud music and shouting was heard all night. Checking the register I find that no notice for a TEN was served. Several residents have confirmed this noise but Mr. Forway denies that any event took place at all. A short clip (IMG_0404.mov, attached) taken from our 3rd floor bedroom window at 05.01 on Saturday 12th May records the loud music and cheering and shouting emanating from Underdog and confirms that it did. An online programme for 'RA:kabuki. All nighter at Arch Gallery' listed on the Resident Adviser website is further attached as evidence.

I list below other occasions in May 2018 when we have been disturbed and robbed of the right to enjoy our lives and sleep uninterrupted by raucous music and loud people on the street:

- i) Saturday 12th May 2018 Nosepicker Peace Off Album Launch. An extract from Nosepicker's Facebook page 'A huge CHEEEERRSS to everyone who made it through the rains to our album launch last night. You were the few, but you were the LOUD which kinda sounds familiar!!' Loud music and cheers accompanied by loud talking and clamour outside the venue during the event and after till 12:00.
- ii) Saturday 19th May 2018. Retribution Alive Event described as 'a celebration of everything doom, sludge, stoner, groove'. A copy of the online event leaflet is attached. Blaring music continued till after 12:00. Groups of up to 10 people outside the premises talking loudly and smoking intermittently till 12:50.
- iii) Saturday 26th May 2018. Lacertilia, Derelics & Green Lung In it's own words: 'fully stacked bar, loud live music, 3 nutty bands', 'Lacertilia are a throbbing psychosonic groove rock colossus'. A copy of the online event leaflet is attached. Recordings and photographs taken from out 3rd floor bedroom window are sent with this application.

IMG.0288.JPG/ IMG.0286.JPG photo taken at 21:53 – some 20 people congregated outside Underdog

IMG.0581.mov film taken at 21:53 – at least 15 people standing talking loudly outside Underdog

IMG.0582.mov film taken at 21:56- loud talking and loitering continues

IMG.0583.mov film taken at 22:09 - blaring music and large congregation outside laughing and chatting.

IMG.0573.mov film taken at 22:37 - music, loud drums and cymbals blaring as well as at least five people talking loudly outside the venue.

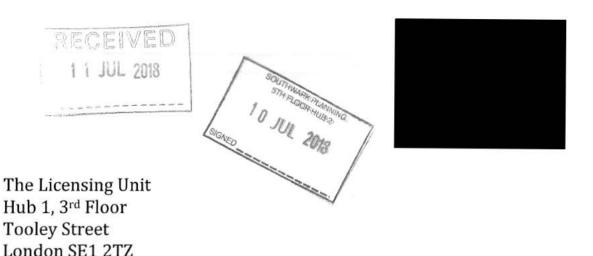
IMG.0433 is a photo taken at 23:46 showing at least 10 people standing around and talking at the Underdog doors can be heard.

Mr Forway has long been aware of the noise complaints by the residents against the Underdog, this he acknowledges. He has chosen to ignore them. As late as December 2016 he assured Mr Orton, Southwark Council Licensing Officer, of his plans to install double doors at the entrance. This was not done. On 18th May when once again confronted with further complaints by a member of the Licensing Team, a sound reduction curtain was proposed; of which we assume either nothing has been effected or is grossly ineffective.

My complaints gain specificity with respect to events held on the 19th and 26th May. These were both subsequent to the last visit by the Licensing Officer, following which no attempt has been made by the proprietor to keep the music or disturbance down and is evidenced by the film and photographs provided.

The music events at Underdog result in an unacceptable noise nuisance to the local residents and negatively impact our ability to sleep and to enjoy our daily life in our homes. In granting the licence to Underdog to play live and recorded music the Council fails to protect its residents and fulfil its 'prevention of public nuisance objective'.

I call for the exclusion of live and recorded music, by way of an additional condition to the licence if necessary, as an activity that the Underdog is authorised to undertake. Further, the licensed opening hours should be restricted to 09:00 to 23:00 on all days of the week.



10 July 2018

LICENCE HOLDER: Underdog Gallery, Railway Arch 6, Crucifix Lane, London, SE1 3JW

Review Application Reference: 863705

Dear Sirs,

I refer to my application for review of licence granted in respect of the above premises.

Additional evidence in support of my representations that I would like to be considered by the Licencing Sub-Committee and the Responsible Authorities is sent with this letter.

The evidence is in respect of two events held at Underdog.

1 Breaking Convention 2017 – Official After Party held on Sunday 2 July 2017.

The evening was uncontrolled chaos from the outset. The description given below is not of an isolated incident but the state of affairs that prevailed without break all evening till at least 01:00. Photographs and short film clips taken at random points during the evening are sent with this letter, files are chronologically numbered and annotated with the time they were taken.

Large crowds, at their height 100-125 strong, were milling around outside Underdog all evening, sitting on the pavement, drinking, loudly

talking and laughing and generally spilling out on the road, across the street by the houses and flats and on Shand Street under the arches.

Crucifix Lane and Shand Street were both blocked to by 40-50 people standing in the middle of the road unmindful of the traffic. Vehicles had to honk and slowly push their way through sometimes having to reverse out. This created an extremely unsafe environment with a high risk of an accident and injury.

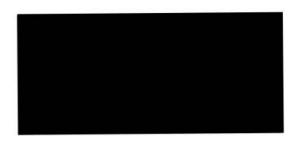
The licensed hours for music at the Underdog on Sunday are till 22:30. The event and music continued long after this. An hour later at 23:32 (17 BC 2017 23.32) and at 00:29 (18 BC 2017 00.29) 2 hours later 40-50 people can be seen partying and crowding the pavement and road. There were more people under the arch on Shand Street that are not in the photograph.

An extract of the Facebook comments on The Breaking Convention After Party 2017 page (attached) are revealing. They support the above account of events and expose the willingness of Underdog management to be 'flexible' and serve to demonstrate a pattern of behaviour wherein it flouts its license without compunction.

2 Event held on Sunday 1 July 2018

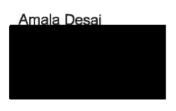
The photographs and film clips are taken after the event had ended, from 23:00 to 23:26 .To begin with you can see at least 40 people lingering outside Underdog talking very loudly, shouting and laughing. Some 25 minutes after closing 12-14 people remain, mainly the organisers of the event, who continue to shout and talk loudly and one of who blasts music from his convertible car as they load up their gear.

Yours faithfully,



C.C.	
1	Underdog Art Company Limited
2	Southwark Safeguarding Children Board
3	Southwark Police Licensing Office
4	Fire Safety Regulation: South East Area 3 London Fire Brigade
5	Planning Development Control Strategic Services
6	Environmental Protection Team
7	Trading Standards Team
8	Health & Safety Team
9	Dr. Richard Pinder Lambeth and Southwark Public Health
10	Home Office Alcohol Licensing Team





30 July 2018



Winston Brown (LLB Hons) - Principal Solicitor

Please reply by email to

Our Ref:

SF/2460/WB

Your Ref:

Dear I

Re: Application for review of premises license of The Underdog, Railway Arch, 6 Crucifix Lane, London, SE1 3JW

I represent Mr Sammy Forway who is the proprietor of the above named premises. Further to your application for a review of the premises license dated 15th June 2018. I have read your grounds for the application for a review and taken full instructions from Mr Forway and wish to write to you to address your concerns and if possible avoid the need for the matter to proceed to the hearing which I understand is listed for 1st August 2018.

In reading your representations, I wish to make clear that Mr Forway and his staff take very seriously your concerns and do not wish to antagonise their neighbours or make your lives uncomfortable as appears to be the case. I wish to respond to the main points set out in your representation and confirm the steps which Mr Forway has indicated he has already taken or is in the process of taking to address your concerns.

Trading Outside of Licensable Hours

I can confirm that Mr Forway has already attended an interview under caution with the Council along with legal representation. Mr Forway has at no time sanctioned the premises trading outside of its license hours and certainly deplores any such occurrence. I can confirm that Mr Forway has taken action to summarily dismiss a previous Designated Premises Supervisor (DPS) who was responsible for previous occasions where the premises traded outside of its licensed hours.

Noisy Bands

In your representation, you indicate that the venue is favoured by 'heavy metal, psychedelic and stoner rock bands that rely heavily on loud percussion'. I am instructed that The Underdog attracts a broad cross section of artists and indeed, this is part of its ethos in the community.

Winston Brown LLB (Hons) - Principal Joseph Golstein (LLB Hons) Consultant Clerk/Retired Solicitor Ian Sandy LLB (Hons)- Consultant Solicitor Nevertheless, Mr Forway is conscious that certain types of bands produce music which may be particularly loud. To this end, Mr Forway has implemented the following measures.

- Mr Forway has advised all their promotors of the times of opening of the premises and that noise levels must be kept to an acceptable level.
- ii. Mr Forway notes the reference to a flyer entitled 'Retribution Alive' held at the premises on 19th May 2018 and that it boasted that 'The Retribution Club keeps the neighbours awake until 1am'. Mr Forway has no control over the literature which promoters use to promote the events which they are involved in. However, Mr Forway will now be writing to all promoters to confirm the issues which the premises have had with noise nuisance and to ensure that the bands keep the noise levels to an acceptable level. I attach with this letter a copy of the communication now sent out as a matter of course to all promoters of events at the venue.

Noise from Patrons Standing Outside

Mr Forway takes issue with the suggestion that up to fifteen or more people loiter outside of his premises making a loud noise. The Underdog is one of a number of licensed premises on Crucifix Lane and there is, as you know, a pub directly opposite the premises called the Suchard and it is quite reasonable to suppose that a number of the persons seen congregating on Crucifix Lane (which as you say, is a narrow road) could actually be patrons of the pub as opposed to The Underdog. In addition there are several public houses and bars in close proximity to neighbouring buildings who emit as much noise and have a large number of people drinking and smoking outside their venues. In order to further address this matter however, Mr Forway proposes to cordon off an area just outside of his premises where up to five persons as a maximum will be allowed to stand and smoke as permitted under his premises license. As such, Mr Forway is taking active measures to reduce persons standing outside of the premises, so this should not be a problem going forward. My client will also introduce a more strict dispersal procedure and will remind patrons to leave the venue quietly.

Aggressive Attitude Towards Residents

Mr Forway does not accept that The Underdog is seeking a 'distinctively aggressive attitude' towards residents. Mr Forway realises that the only way that his business can survive is if he has a healthy relationship with residents such as yourselves and is concerned that this is the impression that appears to be had of him.

Mr Forway cannot comment on the assertion in your representation that a bouncer chased Mr
who was attempting to take a photograph of the premises. My client instructs me
that Mr. approached his door staff shouting and swearing and being extremely rude
towards them. Mr. Forway confirms that he has witnessed Mr. being aggressive towards
his own staff in the past and also attempted to speak to Mr. Forway in a similar manner. Mr.
Forway told Mr. in no uncertain terms that he would not be spoken to in such an
unacceptable manner and believes that Mr. has been resentful of him ever since. While
I do not expect you to 'take sides' or to know the truth of the specific allegations or counter
allegations it is worth noting that there are two sides to every story and in this instance an
entirely different interpretation of Mr. involvement.

The Underdog Operating as a Nightclub

Mr Forway does not accept that the premises are operating as a nightclub. Mr Forway readily accepts that he runs a 'lively' venue and some of the bands will be louder than others. This, however, does not confirm that his premises are operating as a nightclub. I am further instructed to confirm that while there is security in place in accordance with the premises license. Mr Forway does not have the decision on whether there will be a charge made at the door. This will come down to the promoter of the event.

In relation to the points you make about how the Underdog is operating please note the following:

- My client is required to have security as a condition of their premises license
- My client holds a lot of their own art driven events. They also hold music cabaret and
 live entertainment events. Most of these events are free. On occasion they also hold
 private hire corporate, birthday and wedding parties and events run by external
 promoters. These private events are sometimes charged for entry on the door but the
 money goes to the promoter to help them recoup their costs.
- My client is required to have an age limit in accordance with their premises license

Specific Events

I note the specific events referred to in your representations, namely the events occurring on 27th January 2018, 11th to 12th May 2018, 19th May 2018 and 26th May 2018.

As said already, Mr Forway has taken decisive action to prevent any recurrence of the premises trading outside of the hours on its license. In relation to the levels of noise nuisance which I regard as your main concern, Mr Forway has taken the following measure to address the noise issue:

- Mr Forway has installed a porch between the main door and the auditorium which will provide a buffer for noise.
- 2. New sound limiters namely Formula Sound AVC 2 has been installed on the equipment. The music will cut out when the noise reaches a certain level.
- 3. All sound technical staff are aware of the acceptable levels and bands and promoters are now aware of Underdog's strict noise restrictions and house rules. My client is also installing a second sound limiter (Formula Sound 073 Sentry System) which automatically cuts all power to the stage over a certain noise level.

Mr. Forway also invites you and any other resident with concerns about noise levels at the Underdog to participate with Mr. Forway to set the level of the noise limiter to a level which you would find acceptable.

Noise Complaints

Mr. Forway denies ignoring complaints about noise nuisance. He instructs me that has not received any formal noise complaints and that he has always welcomed local residents into the gallery and maintains that he values their feedback. Mr. Forway I surprised that he has not had the opportunity to address the issues together with yourself and he is concerned that this may be a vexatious application for a review of his premises license and he was only aware of these complaints when he had a conversation with Andrew Heron of the council's licensing department.

Proposed Exclusion of Live and Recorded Music

Mr Forway does not agree to the exclusion of live and recorded music from the premises license as he is confident that the rigorous measures already in place will be sufficient to curtail any noise disturbance.

I understand that Mr Forway has already invited you and other residents to attend a meeting to discuss your concerns, but this has been declined. I would again reiterate this invitation. I would also confirm that you are invited to attend the premises at any time to inspect for yourself the measures which have been put in place to combat noise escaping from the premises. I would be grateful if you could carefully consider my comments in this letter and indicate to the Council within seven days from the date of this letter if you will be prepared to withdraw your application for a review.

To reiterate Mr. Forway hereby extends the following invitations to you and any other objectors:

- Attend his premises to participate in setting the level of permitted noise for the new noise limiter
- 2. Attend a meeting with him and/or his manager to discuss your concerns and a way forward

If (as is your right) you prefer to carry on with your review application, then of course, this letter would be tabled before the members of the Licensing Committee. The council has set a review hearing for 24 August 2018 at 10am. If you are satisfied by the responses and undertakings made in this letter on behalf of my client I would invite you to withdraw your application by close of business on 6 August 2018. If you have any queries in response to this letter please do not hesitate to email me your queries. I will be on leave from 1 August 2018 – 17 Aust 2014 but will access emails intermittently thanks. I have also sent a copy of this letter to the council's licensing team.

Yours faithfully

Brown and Co. Solicitors



UNDERDOGGALLERY LONDON Arch 6 Crucifix lane London SE1 3JW

LIVE MUSIC SOUND SPECIFICATION AND NOISE LIMITING RULES FOR EXTERNAL PROMOTERS AND VENUE HIRERS

- 1. ALL PROMOTERS MUST ADHERE TO THE UNDERDOG RULES OF HOUSE AT ALL TIMES.
- 2. ALL MUSIC EQUIPMENT MUST BE USED IN ACCORDENCE AND WIRED THROUGH OUR HOUSE SOUND LIMITERS AND CUT OUT LIMITER.
- ANY EQUIPMENT LOAD IN AND OUT MUST BE DONE QUICKLY AND QUIETLY, NO FULL LOAD OUT AFTER 10PM. IF A LATE GIG/EVENT THEN FULL LOAD OUT MUST TAKE PLACE THE NEXT DAY AFTER 9AM.
- NO CONGREGATING OUTSIDE AND OF VEHICLES AFTER 10PM, ALL PEOPLE CREW BAND MEMBERS AND PROMOTERS MUST BE INSIDE UNLESS SMOKING IN OUR DESIGNATED AREA, OR LEAVING.
- 5. LEAVING THE VENUE MUST BE DONE SWIFTLY AND QUIETLY FOR MINIMAL DISTURBANCE.
- 6. IF AT ANY TIME PROMOTERS BAND MEMBERS OR DJ'S DO NOT ADHERE TO OUR HOUSE RULES WE HAVE THE RIGHT TO IMMEDIATELY STOP AND CLOSE THE EVENT DOWN WITH NO REFUND GIVEN IF PAYMENT HAS BEEN MADE.
- 7. PLEASE RESPECT OUR MANAGEMENT STAFF AND SECURITY AT ALL TIMES. WE ARE HERE TO HELP AND TO KEEP OUR GUESTS AND COLLEAGES SAFE AND HAPPY. WE ARE HERE TO MAKE SURE EVERYONE HAS A GOOD EVENT AND THAT INCLUDES OUR NEIGHBOURS SO PLEASE BE MINDFULL THAT THIS IS A RESIDENTIAL AREA.
- WE HAVE THE RIGHT TO REFUSE ENTRY OR RE-ENTRY TO ANYONE WHO IS DISRECTFUL TO OUR HOUSE RULES AND STAFF, THIS INCLUDES PROMOTERS, ARTISTS, PERFORMERS, MUSICIANS AND DJ'S.

	I AGREE TO	ALL THE	POINTS	RAISED	AROVE
--	------------	---------	--------	--------	--------------

JOB TITLE

EVENT NAME AND DATE

PRINT NAME

SIGN