Attachment 1 – Conditions to be Removed and Proposed Replacement Conditions

Condition 1.
No sound amplified by mechanical, electronic or other means (“Sound”) emanating from the Premises shall be audible on Wards Island or Algonquin Island (the “Community”) at any time. “Audible” shall mean audible to the human ear of any person, unassisted by any mechanical, electronic or other means.

Proposed Replacement:

The Licensee shall ensure that any sound system used for the outdoor operation of the business is installed with a lockable and locked sound level limiter or lockable and locked speaker management system (the “Limiter”), the setting of which shall not permit a sound level greater than — A-weighted decibels (dBA) and — linear decibels (dB), due solely to the sound system, as measured with an ANSI Class 1 integrating sound level meter, on average (Leq) basis, within the venue when the venue is occupied. Only the managers and owner of the Applicant will be able to open the Limiter.

Condition 3.
Upon receipt of a Complaint, PPS shall:

a) Provide to the complainant a reference number with respect to the complaint.

b) If the Sound is emanating from the Premises, immediately reduce the volume thereof by every means possible (including, without limitation, reduction or elimination of amplification of any music, announcements or other Sound, closure of outdoor facilities, as may be appropriate).

c) If the Sound is emanating from that portion of the lands or premises now or formerly known as “The Docks By Cherry”, excluding the Premises (the “Adjoining Lands”), immediately terminate direct access to the Premises from the Adjoining Lands, and upon a Complaint being made in respect of a third occasion of such Sound, PPE shall permanently terminate such direct access by constructing a permanent physical barrier to prevent such access.

Proposed Replacement:

3. b) If the Sound is emanating from the patio of the Premises as set by the limiter, exceeds 85 cIBA, the cIBA level will be immediately reduced to — cIBA. In such circumstances the police, municipal licensing officers and or the AGCO personnel shall be entitled to be provided with access to the limiter for the purposes of obtaining the reading.

Condition 5
There shall be no amplified outdoor music, disc jockey, amplified voices or loud speaker at the outdoor facilities at the Premises between the hours of 11:00pm and 11:00am.

Proposed Replacement:
There shall be no amplified outdoor music, disc jockey, amplified voices or loud speaker that exceed cIBA on the patio of the subject Premises between the hours of 11:00pm and 11:00am.

**Condition 6.**

There shall be no outdoor musical events, including concerns, taking places at the outdoor facilities at the Premises.

There is no proposed replacement condition

**Condition 7.**

PPE shall comply with the Docks Noise Containment Proposal, dated July 25, 2006, attached as Schedule “A” and maintain a record of any alerts relating to excess noise under the proposal.”

There is no proposed replacement condition

**Condition 9.**

All operations on the Premises shall comply with the City of Toronto Municipal Code Section 59 1-4 and with Section 46 of Regulation 719 to the Liquor Licence Act.

This condition will be deleted, it is redundant.

There is no proposed replacement condition

**Condition 11.**

No caterer’s licence shall be used by PPE on any of the Adjoining Lands except in compliance with the terms of this Agreement as though its use was upon the Premises.

There is no proposed replacement condition

**Condition 13.**

PPE shall not request that paid-duty police officers be specifically assigned from 51 Division (being the Division required to respond to complaints regarding the Lands). TINC acknowledges that PPE requires paid-duty police officers to conduct its business and that PPE does not control the assignment of police officers for this purpose.

There is no proposed replacement condition