

## VOLUNTARY AGREEMENT

Made this 8<sup>th</sup> day of October 2003 by and between THE KITCH GROUP, INC. T/A NEISHA THAI CUISINE (the Applicant) and Advisory Neighborhood Commission 3F, North Cleveland Park, Forest Hills, and Tenleytown (the ANC).

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board, is the Applicant's application for a Retailer's Class "C" (Restaurant) liquor license for its premises at 4445 Wisconsin Avenue, N.W., Application # 50256; and

WHEREAS, both Applicant and the ANC ("the parties") desire to enter into an agreement commemorating certain understandings regarding Applicant's operating plans;

NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and promises set forth below, the parties agree as follows:

1. Applicant shall operate a *bona fide* restaurant on its premises.
2. The restaurant shall have a maximum of 152 seats inside for the exclusive use of dining patrons. This agreement does not cover service of alcoholic beverages at a sidewalk café in public space adjacent to the building until a certificate of use for a sidewalk café has been issued by the Public Space Committee and after notice to the ANC.
3. The bar will have a maximum of 12 seats primarily for the use of patrons waiting for dining service, but patrons may be given the option of dining at the bar if they wish.
4. Applicant's hours of operation will be 11:00 a.m. to 11:00 p.m., Sunday through Saturday.
5. Alcoholic beverages will be served primarily in conjunction with full meal service. Applicant shall offer food service to its patrons at all times it is open. At no time shall a patron be able to purchase an alcoholic beverage from the Applicant and not be able to purchase food from the Applicant.
6. Applicant plans to offer take-out food and delivery service, but will not provide alcoholic beverages on a take-out or delivery basis.
7. Applicant shall present only soft background music for dining, either by live musicians or recordings. There shall be no other form of live entertainment. Music shall be soft enough that it is inaudible from the sidewalk when the doors to the exterior of the restaurant are opened. Applicant shall permit no form of dancing.
8. Applicant shall not install or utilize any equipment for the showing of videos or video games or juke boxes.

9. Applicant will post no signs advertising liquor sales, happy hours, or the like.
10. Applicant will care for the public spaces that border the restaurant on Wisconsin Avenue and Albemarle Street.
11. Applicant shall comply with all aspects of the Civil Infractions Act and the Litter Control Administration Act. Applicant shall ensure that its trash is removed in a timely manner. Applicant shall ensure that trash receptacles remain closed and free of vermin at all times. Applicant will limit noise after closing when disposing of trash and bottles in the receptacles.
12. Applicant shall maintain its ventilating system in proper working order at all times and shall immediately address any neighborhood concerns regarding odors.
13. Applicant shall comply with Section 5(d)(3) of the D.C. Noise Control Act as it pertains to businesses and ensure that noise from all mechanical equipment (air-conditioning, refrigerator, heat pump, fan, or other mechanical equipment regardless of location) shall be prohibited in excess of sixty (60) dB (A) when measured at the property line or as close to the property line as practical if there is an obstruction.
14. An ABC licensed manager, conversant with all aspects of this agreement, shall be on site at Applicant's premises during all hours of operation.
15. Any and all contemplated changes to Applicant's operation, as set forth herein or otherwise, will be brought to the attention of the ANC prior to implementation and will be implemented only after ANC approval, and when required by rules and regulations, ABC Board approval.
16. In consideration of and in reliance upon the commitments reflected in paragraphs 1-15 above, the ANC will advise the ABC Board that it does not oppose Applicant's pending Application # 50256 for a Retailer's Class "C" license.
17. The parties further agree that any failure of Applicant to adhere to the foregoing commitments would constitute grounds for the ANC to petition the ABC Board for issuance of an order to show cause to gain the Applicant's compliance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the year and day first above written

By: , for Applicant

By: Catherine J. Wigg, Chair, ANC 3F