

AGREEMENT

This **AGREEMENT** (this "Agreement") is made and entered into by and between the **TOWN OF LITTLE ELM, TEXAS**, a Texas home-rule municipality ("hereinafter referred to as the "Town"); **380 SAVANA, LLC, PC REAL ESTATE, LLC, V&T REAL ESTATE, LLC**, a Texas limited liability company (hereinafter referred to as the "Owner"); and **KICKIN FIREWORKS, LLC**, a Texas limited liability company (hereinafter referred to as "Licensee"), for the purposes and considerations stated below:

WHEREAS, the Licensee has entered into a Texas Fireworks Lease Agreement with the Owner, a copy of which is attached hereto as **Exhibit A**, concerning a fireworks stand located on certain real property at 27052 East University Drive, 2.65 acres within the Town's extraterritorial jurisdiction, Denton County, Texas, and Denton County Property ID # 1022256 (hereinafter referred to as the "Property"); and

WHEREAS, on or about November 15, 2005, the Town approved Ordinance No. 740, providing for the Limited Purpose Annexation of a 44.204-acre tract of Land; and

WHEREAS, on or about November 15, 2005, the Town approved Ordinance No. 745 approving a Strategic Partnership Agreement between the Town of Little Elm, Texas, and Denton County Fresh Water Supply District No. 10 of Denton County, Texas; providing for among other things, the Limited Purpose Annexation by the Town of certain tracts of land designated for commercial use for the purpose of imposing a sales and use tax within such commercial tracts; and

WHEREAS, the Town, Owner, and Licensee now desire to extend the ability to sell fireworks from the Property for one winter season from **June 18, 2024 through July 4, 2024**.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town, Owner, and Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date and shall continue thereafter until midnight on **July 4, 2024**, with forty-eight (48) hours granted to vacate said property at the conclusion of the winter firework season, unless terminated sooner under the provisions of this Agreement.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Agreement.** The word “Agreement” means this Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- (b) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the Town, Owner, and Licensee.
- (c) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (d) **Licensee.** The word “Licensee” means Kickin Fireworks, LLC, a Texas limited liability company, whose address is 3634 Granada Avenue, Dallas, Texas 75205.
- (e) **Owner.** The word “Owner” means 380 Savana LLC; PC Real Estate, LLC; and V&T Real Estate, LLC, a Texas limited liability company, whose address for purposes of this Agreement is 6600 Paige Road, Suite 224, The Colony, Texas, 75056-4501.
- (f) **Property.** The word “Property” means the fireworks stand generally located at 26878 East University Drive, 2.191 acres within the Town’s extraterritorial jurisdiction, Denton County, Texas, and Denton County Property ID # 1022256.
- (g) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.
- (h) **Town.** The word “Town” means the Town of Little Elm, Texas, a Texas home-rule municipality, whose address is 100 W. Eldorado Parkway, Little Elm, Texas 75068.

SECTION 4. OBLIGATIONS OF OWNER AND LESSEE.

Owner and Lessee covenant and agree with the Town that, while this Agreement is in effect, it shall comply with the terms and conditions listed below:

- (a) **Sales of Fireworks from the Property.** Owner and Lessee agrees that the current fireworks stand located on the Property shall not exceed the boundaries of said property. Further, the Owner and Licensee agree that consistent with Section 2154.202 of the Texas Occupations Code that the Owner and Licensee may sell fireworks from the Property for the following firework seasons:
 - (1) beginning **June 18, 2024** and ending at midnight on **July 4, 2024**.
- (b) **Cease Sale of Fireworks.** Owner and Licensee agree that the Owner and Licensee shall cease the sale of fireworks from the Property, and shall not be authorized to sell fireworks from the Property following the conclusion of this Agreement.

- (c) **Compliance with State Rules and Regulations.** Owner and Licensee agree to comply with all state rules and regulations regarding the sale of fireworks including Title 28, Chapter 34, Rules 34.80 to 34.832 of the Texas Administrative Code, and Chapter 2154 of the Texas Occupations Code, as amended.
- (d) **Texas Sales and Use Tax Permit.** Licensee agrees to submit or cause to be submitted to the Texas State Comptroller's office all sales and use taxes collected from the fireworks stand located on the Property under Taxpayer number 3-20594-5312-9 or other Texas sales and use tax permit approved by the Town. This includes the State's sales tax at the rate of 6.25%, the Town of Little Elm's local sales and use tax at the rate of 1.00%, the Little Elm Type A economic development sales tax at the rate of 0.50%, and the Little Elm Type B economic development sales tax at the rate of 0.25%, and the Little Elm street maintenance sales and use tax at the rate of 0.25%, for a total sale and use rate of 8.25%.

SECTION 5. OBLIGATIONS OF TOWN.

The Town covenants and agrees with Owner and Lessee that, while this Agreement is in effect, it shall allow the Owner and Lessee to sell fireworks at the fireworks stand currently located on the Property during the Term of this Agreement, with proof of proper permit from Denton County.

SECTION 6. MUTUAL RELEASE.

In consideration of the premises, mutual promises and covenants contained herein, Town, Owner and Licensee and their predecessors, successors, assigns, affiliates, elected officials, employees, consultants, agents and legal representatives hereby release and forever discharge each other, jointly and severally, each and all of them, of and from any and all debts, liabilities, claims, controversies, causes of action and demands of every kind and character whatsoever that they may now have against each other civil or criminal, currently existing and arising out of any events or dealings between said parties prior to the execution of this Agreement relating to the issues, claims, counterclaims, defenses and allegations which were raised or could have been raised in connection with Property, or which could be raised in the future following the conclusion of this Agreement concerning the enforcement of the Town's ordinance prohibiting the sale of fireworks from the Property.

SECTION 7. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in

accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton County, Texas.

- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Owner warrants and represents that the individual or individuals executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. Licensee warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same. Town warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Town: Town of Little Elm, Texas
 100 W. Eldorado Parkway
 Little Elm, Texas 75068
 Attn: Matt Mueller, Town Manager
 214.975.0405

If to Owner: 380 Savana, LLC; PC Real Estate, LLC;
 V&T Real Estate, LLC
 6600 Paige Road, Ste 224
 The Colony, Texas 75056-4501
 Attn: Ajay Govada, President; Praveen Chintha, President;
 and Viswa Kandi, President
 Telephone: 520-982-8811

If to Licensee: Kickin Fireworks, LLC
 3634 Granada Avenue
 Dallas, Texas 75205

Attn: James Hairston Jr., Owner
214.707.8780

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

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THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

TOWN:

TOWN OF LITTLE ELM, TEXAS,
a Texas home-rule municipality,

By: _____
Curtis Cornelious, Mayor
Date: _____

ATTEST:

Caitlan Biggs, Town Secretary

APPROVED AS TO FORM:

Robert F. Brown, Town Attorney

STATE OF TEXAS

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COUNTY OF DENTON

This instrument was acknowledged before me on the ____ day of _____, 2023, by Curtis Cornelious, Mayor of the Town of Little Elm, Texas, a Texas home-rule municipality, on behalf of the Texas municipality.

Notary Public, State of Texas

OWNER:

**380 SAVANA LLC, PC REAL ESTATE, LLC,
V&T REAL ESTATE**

a Texas limited liability company,

By: _____

AJAY GOVADA, PRESIDENT

380 SAVANA LLC

Date Signed: _____

By: _____

PRAVEEN CHINTHA, PRESIDENT

PC REAL ESTATE LLC

Date Signed: _____

By: _____

VISWA KANDI, PRESIDENT

V&T REALT ESTATE LLC

Date Signed: _____

STATE OF TEXAS

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COUNTY OF DENTON

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This instrument was acknowledged before me on the ____ day of _____, 2023, by Ajay Govada, President of 380 Savana, LLC; Praveen Chintha, President of PC Real Estate, LLC, a; and Viswa Kandi, President of V&T Real Estate, LLC, a Texas liability company; on behalf said companies.

Notary Public, State of Texas

LICENSEE:

KICKIN FIREWORKS, LLC,
a Texas limited liability company

By: _____
James Hairston, Jr.
Owner
Date: _____

STATE OF TEXAS §
§
COUNTY OF DENTON §

This instrument was acknowledged before me on the ____ day of _____, 2023, by James Hairston, Jr., owner of Kickin Fireworks, LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas

Exhibit A

[License Agreement]

FIREWORKS LEASE

Date: February 21, 2024

Lessor: 380 SAVANA LLC &
V&T REAL ESTATE LLC &
PC REAL ESTATE LLC

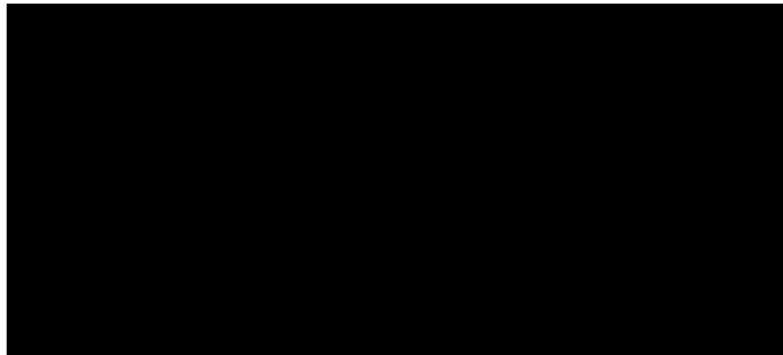
Lessors Address: 6600 Paige Road Ste. 224
The Colony, Texas 75056-4501
Phone: 520-982-8811

Lessee: **Simple Kicking Solutions, LLC**

Lessee Address: Simple Kicking Solutions, LLC
d/b/a Kicking Fireworks
3634 Granada Avenue
Dallas, Texas 75205
Phone: 214-707-8780

Premises: SURFACE ONLY of approximately 0.22 acres located on the south side of HWY 380, in Denton County, Texas, as more particularly shown in outline form on Exhibit "A" attached hereto.

Rent:



Term: The Term of this Lease shall commence on June 18, 2024 through July 4, 2024, only, however, Lessee shall be allowed to keep the fireworks stand on the Premises until Owner delivers to Lessee written notice to remove the fireworks stand and all of Lessee's belongings from the Premises in which event same must be removed within four (4) days after the date of such notice. Notwithstanding anything contained in this Lease Uses: to the contrary, as long as Lessee's fireworks stand remains on the Premises, all of Lessee's obligations hereunder, including but not limited to those set forth in Paragraphs 6 and 7 below, shall remain in full force and effect.

Uses: The Premises shall be used solely for displaying of and selling of fireworks.

1. Lessee accepts the Premises in its present condition "As Is", and Lessee agrees that the Premises are currently suitable for its intended use. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.
2. Lessee covenants to and agrees to obey all laws, ordinances, orders, rules and regulations applicable to the use, condition and occupancy of the Premises. Lessee agrees not to allow the consumption of alcoholic beverages on the Premises at any time. Lessee further agrees to adequately supervise any of its employees or independent contractors who it may engage to work on the Premises and to ensure that they have not consumed any alcoholic beverages within twelve hours prior to entering on the Premises. Lessee further agrees that during the hours of operation of its fireworks stand, not to allow any persons on the Premises who Lessee believes may be intoxicated.
3. Lessee agrees to pay to Lessor the Rent on or before June 18, 2024.
4. This Lease is nonexclusive and Lessee agrees to allow owner or its agents or invites to enter the Premises to inspect the Premises, to show the Premises to prospective purchasers or Lessees or for any reason whatsoever, other than the leasing of additional space for fireworks sales.
5. Lessee covenants and agrees to repair, replace and maintain any part of the Premises damaged by Lessee, its agents, employees, invitees, customers, licensees or visitors.

6. Lessee covenants and agrees to maintain general liability insurance for the Premises in an amount of not less than \$1,000,000 naming Owner as an additional insured and deliver evidence of same to owner prior to the commencement date of this Lease and thereafter when requested.
7. Lessee hereby unconditionally indemnifies and holds Owner, Owner's employees, contractors, officers, directors, agents, affiliates and other individuals or entities related to Owner harmless from and against any claims, liabilities, loss, damage, costs and expenses, including attorney's fees, in connection with or arising out of Lessee's lease of, occupancy on, or use of the Premises as well as with respect to any portion of the property surrounding the Premises, irrespective of whether or not Lessee acted in negligence or with willful misconduct, including, but not limited to, damage to property owned by others, physical injury to Owner, Owner's employees, officers, directors, agents, affiliates, neighbors or any other persons. This indemnity shall survive termination of this Lease.
8. Lessee covenants and agrees to immediately vacate the Premises upon termination of this Lease or on any portion of the Premises which may be removed from the Lease, and restore the Premises to its original condition.
9. Lessee covenants and agrees that during the term of this Lease. Lessee shall regularly mow and maintain the Premises to be free of high grass, trash and debris.

Lessee may not and Lessee hereby covenants and agrees not to (i) use the Premises for any purpose other than as stated in the Lease, (ii) allow a lien to be placed on the Premises, (iii) assign this lease or sublease any portion of the Premises without Owner's written consent, (iv) litter or leave trash or debris on the Premises or dump or allow dumping of any materials of any kind on any portion of the Premises or (v) create a nuisance on the Premises.

Notwithstanding anything herein to the contrary, Owner may terminate this Lease for any reason at any time. In the event Owner terminates this Lease as provided herein, Owner shall give Lessee sixty (60) day's prior written notice of such termination and within such 60-day period, Lessee must completely vacate the Premises and restore same to its original condition and the rent shall be prorated refunded based on the date Premises is vacated.

Owner's remedies for Lessee's default are to (a) enter and take possession of the Premises; (b) enter the Premises and perform Lessee's obligations; and (c) terminate this Lease by written notice and sue for damages. Owner may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Lessee, until the default is cured, without being liable for damages. Pursuit of any remedies set forth in this Lease does not preclude pursuit of other remedies in this Lease or provided by law. If this Lease or any term or provision hereof becomes the subject of litigation, the prevailing party in such litigation shall be entitled to recover from the non-prevailing party court costs and reasonable attorney's fees.

If Lessee does not vacate the Premises following termination of this Lease, Lessee will become a Lessee at will and must vacate the Premises on receipt of notice from Owner. No holding over by Lessee, whether with or without the consent of Owner, will extend the Term.

Lessee acknowledges that operating a fireworks stand is an inherently dangerous activity. Lessee agrees that all invitees will be properly supervised.

Lessee grants Owner a security interest in Lessee's personal property now or subsequently located on the Premises. This Lease is a security agreement under the Uniform Commercial Code. Owner may file a copy of this Lease as a financing statement or execute and file a financing statement on behalf of Lessee.

This Lease, together with the attached exhibits is the entire agreement of the parties and there are no other agreements, whether written, verbal or otherwise, other than those expressly incorporated in this Lease.

Any notice required to be given under this Lease shall be deemed delivered when deposited in the United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to Owner or Lessee at the addresses set forth herein or to such other address as either party may hereafter provide to the other party or when sent by fax transmittal to Owner or Lessee at the fax numbers set forth above.

Owner, its agents or invites, hereby retain the right to enter upon the Premises and to use the Premises and permit third parties to use the Premises for any purpose whatsoever which does not unreasonably interfere with Lessee's Uses herein.

Executed as of the date set forth above.

Lessor:

380 SAVANA LLC

By: AJ Date: 04/14/2024
Name/Title: **AJAY GOVADA, PRESIDENT**

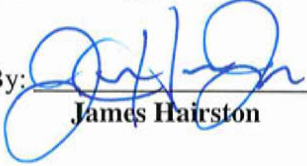
V&T REAL ESTATE LLC

By: Viswa Date: 04/13/2024
Name/Title: **VISWA KANDI, PRESIDENT**

PC REAL ESTATE LLC

By: Praveen Date: 03/27/2024
Name/Title: **PRAVEEN CHINTHA, PRESIDENT**

Lessee:
Simple Kicking Solutions, LLC
d/b/a Kicking Fireworks

By: 
James Hairston

Date: 4/16/2024

EXHIBIT A

