

LICENSE AGREEMENT

This License Agreement (the “**Agreement**”) is entered into and effective as of the ____ day of _____, 2016, by the **CITY OF ORLANDO**, a municipal corporation organized and existing under the laws of the State of Florida (the “**Licensor**”), in favor of **UC ORLANDO CENTRAL LLC**, a Delaware limited liability company (the “**Licensee**”).

WITNESSETH:

WHEREAS, Licensor is the owner of the real property described on Exhibit A attached hereto located in the City of Orlando, Orange County, Florida (“**Licensor’s Property**”); and

WHEREAS, Licensee is the owner of the real property described on Exhibit B attached hereto located in the City of Orlando, Orange County, Florida (the “**Licensee’s Property**”); and

WHEREAS, Licensee leases a portion of the Licensee’s property to the Orange County Library District (“**Tenant**”); and

WHEREAS, Licensee intends to construct improvements on the Licensee’s Property, (the “**Development**”) and, in connection therewith, to perform, or to cause its express agents, employees, contractors or subcontractors to perform, certain construction and related work on the Licensee’s Property in connection with the construction of the Development (the “**Work**”). Licensee also intends, in connection with the Work, to utilize a tower crane located on the Licensee’s Property (the “**Tower Crane**”); and

WHEREAS, Licensee requires rights with respect to the air space over the Licensor’s Property in connection with the Work and operation of the Tower Crane, and Licensor and Licensee desire to set forth certain agreements with respect to such rights as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of License to Licensee.** Licensor hereby grants to Licensee, including Licensee’s contractors, subcontractors, employees and express agents, a non-exclusive license to utilize air rights (the “**License**”) over the Licensor’s Property for the anticipated swing of the jib and counter-jib of the Tower Crane, as shown in Exhibit C attached hereto; provided, however, that (i) in no event shall Licensee or Licensee’s contractors, subcontractors or express agents, be allowed, at any time, to swing any live load, as defined as material being hoisted, over any portion of the Licensor’s Property; (ii) in no event shall the jib or counter-jib enter or be located less than 120 feet above the natural grade of Licensor’s Property or less than 40 feet above any improvements on the Licensor’s Property; (iii) in the use of the license provided hereby, Licensee shall coordinate with Licensor with respect to Licensor’s use of the Licensor’s Property, and shall operate the Tower Crane and manage the swing radius of the jib

and counter-jib of the Tower Crane in a manner that does not unreasonably interfere with Licensors' or Tenant's use of the Licensors' Property or cause damage to Licensors' or Tenant's Property or any improvements thereon; (iv) Licensee shall permit only personnel who are trained and qualified according to standards set forth by the National Commission for the Certification of Crane Operators to operate, supervise and signal any crane used pursuant to this Agreement; and (v) Licensee shall cease all use of the License and shall dismantle and remove all cranes used pursuant to this Agreement as soon as it is commercially feasible to do so in connection with the completion of the Work and in any event prior to the termination of the License (provided, for avoidance of doubt, that Licensee shall not have the right to use the ground level of the Licensors' Property for the purpose of dismantling the Tower Crane). All cost and liabilities associated with the use of the License shall be borne by Licensee.

2. **Term.** Except as otherwise provided herein, the License shall commence as of the date of this License and continue throughout the period in which the Work is being performed, and Licensee shall be permitted to utilize its rights under the License as often as they reasonably deem necessary during the period in which the Work is being performed. This Agreement shall remain in full force and effect until the earlier of (i) completion of the Work or (ii) December 31, 2020.

3. **No Limitation.** Except as otherwise provided herein, Licensee agrees that the rights granted to Licensee hereunder shall in no way or manner limit, adversely impact in a material fashion, or restrict the right of Licensors (or any successor-in-interest to Licensors) or Tenant to use, improve, renovate or erect additional improvements on the Licensors' Property in accordance with applicable law, or otherwise use the air rights associated with the Licensors' Property; provided, however, that in the event there is a conflict between Licensors' rights and Licensees' rights in this Agreement, Licensee's rights shall be superior to Licensors' with respect to using the Tower Crane to complete the Work only. Except as otherwise provided herein, Licensee's, or its express agents', employees' or contractors', exercise of its rights under this Agreement shall in no way or manner limit, adversely impact in a material fashion, restrict or interfere with pedestrian access to and from, deliveries to, pick-ups from, trash and garbage removal from, vehicular access to and from, replacement, maintenance and repair of, and use of the Licensors' Property.

4. **Indemnification.**

4.1 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND TENANT, INCLUDING ALL OF ITS AFFILIATES, PARENTS, SUBSIDIARIES, MEMBERS, STOCKHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, APPOINTED AND ELECTED OFFICIALS, REPRESENTATIVES, LICENSEES, INVITEES, AGENTS, INSURERS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNITEES"), FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES (COLLECTIVELY, THE "LIABILITIES") ARISING OUT OF OR RESULTING FROM THIS AGREEMENT OR THE ERECTION, OPERATION, DISMANTLEMENT, OR USE OF THE TOWER CRANE. LICENSEE'S

INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER THIS SECTION SHALL ARISE REGARDLESS OF ANY ASSERTION OR FINDING THAT ANY INDEMNIFIED PARTY IS LIABLE BY REASON OF NON-DELEGABLE DUTY.

4.2 IN ADDITION TO THE INDEMNITY OBLIGATIONS IN PARAGRAPH 4.1 ABOVE, LICENSEE AGREES TO THE FOLLOWING ADDITIONAL INDEMNIFICATION FOR PERSONAL OR BODILY INJURY OR DEATH OF AN EMPLOYEE OF THE LICENSEE AND TENANT, CONTRACTOR, SUBCONTRACTORS OF ANY TIER, SUPPLIERS OF ANY TIER OR THEIR AGENTS (COLLECTIVELY, “**PERSONAL INJURY PARTIES**”). TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE INDEMNITEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES (COLLECTIVELY, THE “**PERSONAL INJURY CLAIMS**”), FOR PERSONAL OR BODILY INJURY OR DEATH OF ANY EMPLOYEE OF THE PERSONAL INJURY PARTIES, ARISING OUT OF OR RESULTING FROM THE ERECTION, OPERATION, DISMANTLEMENT, OR USE OF THE TOWER CRANE OR MOBILE CRANE, THE RIGHTS GRANTED TO LICENSEE UNDER THIS LICENSE, INCLUDING ANY RIGHTS TO BE UTILIZED BY LICENSEE, LICENSEE'S AGENTS, CONTRACTORS, SUBCONTRACTORS OF ANY TIER, SUPPLIERS OF ANY TIER, OR THEIR OTHER OBLIGATIONS UNDER THIS AGREEMENT, EVEN TO THE EXTENT THE PERSONAL INJURY CLAIMS ARE CAUSED OR ALLEGED TO BE CAUSED IN WHOLE OR IN PART BY THE SOLE, COMPARATIVE, OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, AND/OR THE NEGLIGENCE OF ANY INDEMNITEE; PROVIDED, THAT TO THE EXTENT THAT IT IS FINALLY JUDICIALLY DETERMINED (NOT SUBJECT TO APPEAL) THAT SUCH PERSONAL INJURY CLAIMS WERE CAUSED BY THE NEGLIGENCE OF AN INDEMNITEE, SUCH INDEMNITEE SHALL NOT BE ENTITLED TO INDEMNIFICATION FOR CLAIMS TO THE EXTENT CAUSED BY SUCH GROSS NEGLIGENCE.

4.3 THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

4.4 LICENSEE'S INDEMNIFICATION AND DEFENSE OBLIGATIONS HEREIN SHALL NOT BE CONSTRUED TO NEGATE, OR ABRIDGE OR OTHERWISE REDUCE ANY RIGHT OR OBLIGATION OF INDEMNITY WHICH WOULD OTHERWISE EXIST UNDER LAW.

5. **Insurance.** Prior to commencing the Work or erecting the Tower Crane, Licensee shall procure and maintain (or cause to be procured and maintained) at Licensee's cost, commercial general liability insurance, on an “occurrence” basis (not a “claims-made” basis), for personal injury and property damage having limits of not less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate. A certificate showing that such insurance coverage is in effect shall be delivered to Licenser, prior to Licensee commencing the Work

or erecting any cranes. Such insurance shall be reasonably satisfactory to Licensor and shall be maintained in full force and effect during the term of the License and for at least six (6) months following the termination of the License. Licensor (and in the event of a sale of Licensor's Property, Licensor's successors and assigns) and Tenant must be named as additional insureds under the commercial general liability insurance. The above liability policy shall contain a contractual liability endorsement in favor of the City and Tenant and shall provide that the City will receive written notice prior to termination of coverage. Said insurance shall also be primary, and not contributory, as to any insurance coverage maintained by the City or Tenant. This provision shall survive termination of this Agreement to the extent necessary to protect the City and Tenant from liability arising during the term of the Agreement. Nothing herein operates as a waiver of the City's grant of sovereign immunity or the limits of liability established under Florida law.

6. **Reciprocal Agreement.** In consideration of this License, Licensor shall be permitted to utilize the air space over the Licensee's Property for the swing of the jib and counter-jib of a Tower Crane, in the event Licensor uses a Tower Crane on the Licensor's Property (the "**Reciprocal Agreement**") during the Term. Licensor and Licensee agree that the Reciprocal Agreement shall be substantially in the form of this License, with necessary adjustments to the parties and areas set forth herein to conform the agreement to the work that Licensor performs.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and may not be changed without the prior written consent of both parties.

8. **Successors and Assigns.** The rights and obligations set forth herein shall be binding upon Licensee, Licensor and their respective successors and assigns, including any future owners of the Licensee's Property and the Licensor's Property.

9. **Further Assurances.** Licensee and Licensor agree to execute and deliver any instruments or agreements that either party may reasonably request from time to time to evidence or to carry out the intent and purpose of this Agreement.

10. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

11. **Notice.** All notices shall be given in writing and delivered either by personal messenger, or by overnight courier, or by facsimile, with a copy by mail, postage prepaid. Notices to the parties shall be effective on delivery and shall be delivered to the following addresses:

To Licensee:	UC Orlando Central LLC c/o North Florida Development 315 E. Robinson Street, #290 Orlando, Florida 32801 Attention: Eric Brehm
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With a copy to: Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 North Eola Drive
Orlando, FL 32801
Attention: Rebecca Wilson, Esq.

To Licensors: Office of the City Clerk
City Hall
400 S. Orange Avenue, 2nd Floor
Orlando, Florida 32801

With a copy to: Office of the City Attorney
City Hall
400 South Orange Avenue
Orlando, Florida 32801
Attention: Kyle Shephard

12. **Maintenance and Repair Obligations.** Licensee, at Licensee sole cost and expense, shall promptly replace, restore and repair any damage caused by Licensee, or their contractors, subcontractors, employees or express agents, to any portion of the Licensors' Property, including any improvements located thereon, to its preexisting same or similar condition to the fullest extent possible.

13. **License Subject to Encumbrances.** Licensee and Licensors hereby acknowledge, stipulate and agree that the License is subject and subordinate to all recorded liens, encumbrances, easements and other matters affecting the Licensee's Property or the Licensors' Property.

14. **Licensors' Right and Authority.** Licensors hereby represents and warrants to Licensee that Licensors has the right and authority to grant the License without obtaining the consent of any third party.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and any local statutes, codes, rules, regulations or other legal requirements in Orlando, Florida.

16. **Severability.** The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid or void.

17. **Survival.** The Licensee's indemnity obligations in paragraphs 4.1 through 4.4 and the additional insured obligation survive the termination of this Agreement for a period

of one (1) year from and after the date hereof.

18. **No Waiver/No Vesting.** This Agreement does not constitute a waiver of the CITY's regulatory authority and the Development and the Licensors' Property remain subject to City Code and all other applicable laws, rules, codes and regulations. OWNER must still obtain any and all necessary permits from the CITY for construction of the Development.

19. **License.** This Agreement constitutes a License and does not rise to the level of a real property interest in the Licensors' Property.

*[Remainder of page intentionally left blank.]**

IN WITNESS WHEREOF, the parties hereto have signed and delivered this Agreement as their own free act and deed as of the date and year first hereinabove written.

BY THE MAYOR/MAYOR PRO TEMPORE
OF THE CITY OF ORLANDO, FLORIDA:

Mayor / Mayor Pro Tempore

Printed Name

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

Interim City Clerk
Amy T. Iennaco

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

Printed Name

[Remainder of page intentionally left blank.]

Signed, sealed and delivered in the presence of the following witnesses:

LICENSEE:
UC ORLANDO CENTRAL LLC,
Delaware limited liability company

Signature of Witness

Printed Name of Witness

By: _____

Printed Name: _____

Title: _____

Date: _____

Signature of Witness

Printed Name of Witness

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____, as _____ of UC ORLANDO CENTRAL LLC, a Delaware limited liability company, on behalf of the company. He (She) ☐ is personally known to me or ☐ has produced _____ as identification.

Notary Public Signature

(Name typed, printed or stamped)

Exhibit "A" – Licensor's Property

Lots 1 through 4, ROGERS & McCALL SUBDIVISION, as recorded in
Plat Book B, page 9, Public Records of Orange County, Florida;
Together with:
The West 15 feet of Lot 4, SPERRY E F^{of Summerlin} SUBDIVISION, as recorded
in Plat Book B, page 89, Public Records of Orange County,
Florida.

Parcel ID: 26-22-29-7632-00-010

Also including:

GRANNIS & SPERRYS ADDITION D/4 LOTS 1 2 & 3 (LESS E 5 FT) 15 & 16 BLK D

Parcel ID: 25-22-29-3140-04-011

Exhibit “B” – Licensee’s Property

Lots 1 through 8, inclusive, SPERRY’S SUBDIVISION of the North 1/2 of Block 13 of SUMMERLIN’S ADDITION TO ORLANDO, according to the plat thereof as recorded in Plat Book B, Page 89, Public Records of Orange County, Florida, LESS AND EXCEPT THEREFROM the West 15 feet of said Lots 4 and 5.

Parcel ID: 25-22-29-8216-00-010

EXHIBIT “C”

Tower Crane Swing