

MEMORANDUM OF UNDERSTANDING

(UCF BOUTIQUE HOTEL)

THIS MEMORANDUM OF UNDERSTANDING is made as of this 12th day of May, 2015 by and between **UNIVERSITY OF CENTRAL FLORIDA**, on behalf of its Board of Trustees (“UCF”) and **KUD INTERNATIONAL LLC**, a Delaware limited liability company (“KUD”).

Preliminary Statements:

- A. UCF is a major state university located in East Orange County, Florida.
- B. UCF has determined there exists a significant need for a boutique hotel and conference center with appropriate amenities to serve UCF and its students, parents of students, alumni, visitors and associates of the University.
- C. KUD has significant experience in developing projects such as the proposed boutique hotel project.
- D. UCF has ranked KUD as the preferred entity with which UCF will negotiate based upon a competitive selection process for the proposed hotel project.
- E. UCF and KUD wish to memorialize their understanding as to the process by which they desire to proceed to acquire the necessary information and arrive at the agreements necessary for the development of the proposed hotel project to go forward.

Understanding and Agreement:

UCF and KUD understand and agree as follows:

1. Feasibility Study. Immediately upon execution of this Memorandum of Understanding, KUD will commission PKF Consulting USA to do a feasibility/demand study determining the feasibility of a high-quality boutique hotel being developed with the following characteristics: (i) located on approximately 7.4 acres on the UCF campus at the NE corner of the intersection of Alafaya Trail (S.R. 434) and University Boulevard and bounded on the east by Gemini Boulevard (the “**Project Site**”); (ii) between 130 and 170 hotel room keys; (iii) conference space of between 8,000 and 18,000 square feet; (iv) a full-service hotel with a three-meal restaurant service; and (v) surface parking for 200 cars, more or less, depending on the number of rooms (the “**Hotel Project**”). UCF and KUD expect that this feasibility study will be completed by **July 1, 2015** and will provide information necessary for KUD and UCF together to define in greater detail the scope of the Hotel Project. If the feasibility study determines that the Hotel Project is not feasible, the cost of the feasibility study will be solely at KUD’s expense. If the feasibility study determines that the Hotel Project is feasible but thereafter KUD and UCF are unable to negotiate a mutually agreeable, binding ground lease agreement and/or development agreement and related agreements, or if the Florida Board of Governors refuses to approve the ground lease, development agreement or other agreements which are acceptable to UCF and KUD, then in that event, upon termination of this Memorandum of Understanding within ten

(10) business days after invoice from KUD, UCF will reimburse KUD for one-half of the cost of the feasibility study.

2. Project Scope, Ground Lease Details, and Development Details. Following receipt of the feasibility study, UCF and KUD will work together to negotiate the details of the following:

(a) Project Scope. It is anticipated that the feasibility study will provide KUD and UCF with financial and other information that will assist KUD and UCF in coming to agreement on the details of the Hotel Project, including the number of rooms, amount of conference space, restaurant seating, additional amenities, site acreage, and number of parking spaces.

(b) Ground Lease Details. The Project Site has been ground leased to UCF by the State of Florida Trustees of the Improvement Trust Fund (“**TIF**”) for a term that expires in approximately fifty eight (58) years. UCF and KUD intend that UCF will sub-ground lease the Project Site to a special purpose entity (“**SPE**”) affiliated with KUD (the “**Ground Lease**”). Following receipt of the feasibility study, UCF and KUD will work together so as to be in the position by **September 1, 2015** to deliver to the staff of the Florida Board of Governors the proposed Ground Lease, proforma income statements, and such other information as may be required by the Florida Board of Governors to approve a Ground Lease that is acceptable to UCF and KUD. The consideration for the Ground Lease that was proposed by KUD in response to UCF’s invitation to bid was the greater of \$1,500 per room key per year (i.e., for example, \$150,000 a year for 100 keys), or 1% of gross operating revenues from the Hotel Project. KUD and UCF will negotiate the final financial terms after reviewing the feasibility study and the proforma income statements generated in conjunction with the feasibility study. UCF and KUD will need to confirm the affect that a limited lease term may have on the feasibility of the Hotel Project, whether a limited lease term will impair the ability of the KUD to obtain either the equity or loan financing required for the Hotel Project, and if there are alternatives for extending that term.

(c) Development Details. KUD and UCF will work together to obtain the information necessary for KUD and UCF to understand in detail the expenses involved in the development and operation of the Hotel Project. UCF and KUD will cooperate to assemble the information necessary to determine such development-related items as: (i) the number of parking spaces and ground area needed; (ii) stormwater retention and detention improvements required on-site, and the availability of tying into the UCF’s stormwater system; (iii) what permitting will be handled by UCF and what permitting will be required from third-party agencies such as the water management district with respect to the master stormwater permit discharging into Alafaya Trail; (iv) impact fees; (v) sanitary sewer, potable water, irrigation water, and chilled water availability from UCF or other utility providers; and (vi) any UCF requirements that may add to the site and/or building design and development costs. The details of the development may be set forth in a separate development agreement, which may be finalized separately from and after the Ground Lease is finalized. Many of the development details will not be able to be finalized until such time as detailed engineering and architectural plans are

developed, which KUD may or may not undertake until such time as the Board of Governors approves the Ground Lease.

3. Board of Governors Approval. It is anticipated that the Board of Governors will require sixty to ninety days to review and approve the Ground Lease, from the date that all the required information is delivered to Board of Governors staff. If the necessary information and completed application are submitted as of **September 1, 2015**, KUD and UCF hope and expect that the Board of Governors' approval will be obtained **between November 1 and December 1, 2015**. At such time as the Board of Governors approves the Ground Lease, UCF and KUD shall simultaneously execute the Ground Lease. The Ground Lease may contemplate (i) a 30-day investigation period, during which KUD will obtain a survey, investigate and obtain permits, and review title, geotechnical studies and environmental studies; and (ii) a 90-day planning period during which KUD will undertake to develop the detailed engineering and architectural plans necessary for KUD and UCF to finalize a detailed development agreement. If the environmental studies indicate any hazardous materials on the Project Site, the removal of those hazardous materials and remediation of the Project Site shall be the responsibility and expense of UCF. If the geotechnical studies determine there are any unsuitable soil conditions, the remediation of that unsuitable soil, other than for hazardous materials, shall be the responsibility and expense of KUD if the Hotel Project goes forward.

4. Exclusivity. UCF and KUD agree that until such time as this Memorandum of Understanding is terminated pursuant to the terms hereof, UCF shall negotiate exclusively with KUD with respect to the development of any hotels on UCF campus. UCF agrees that the Ground Lease will include a provision pursuant to which UCF agrees that during the term of the Ground Lease, no competing hotel will be constructed on the UCF campus.

5. Assignment. This Memorandum of Understanding may not be assigned by any party without the consent of the other party. Notwithstanding the foregoing, this Memorandum of Understanding may be assigned by KUD to the SPE without the need for consent provided however that such assignment shall not relieve KUD of its obligations hereunder.

6. Failure to Agree; Termination. The parties will negotiate in good faith the terms of the agreements referred to in this Memorandum of Understanding. In the event the parties are unable to reach agreement, the proposed development of the Hotel Project will be abandoned, and either party may terminate this Memorandum of Understanding by written notice to the other, and the parties shall have no further obligation with respect to the Hotel Project except as provided in this Memorandum of Understanding.

7. No Partnership; No UCF Financial Liability. UCF does not, in any way or for any purpose, become a partner of KUD in the conduct of its business, or otherwise, or a joint venturer or a member of a joint enterprise with KUD. Further, UCF shall have no financial liability for the re-payment of any expenses or debt incurred by KUD for the Hotel Project.

8. Notices. Any notice or consent required to be given by or on behalf of either party to the other shall be in writing and shall be given by (i) hand delivery, or by (ii) registered or certified mail, return receipt requested, or (iii) Federal Express or other overnight national carrier, or by (iv) fax or email, provided notice is simultaneously given by one of the other

methods of delivery, addressed to UCF at the address specified below, and to KUD at the address specified below, or at such other address as may be specified from time to time in writing sent to the other party by allowed delivery method.

If to UCF:

Mr. William F. Merck II
Vice President
328 Millican Hall
University of Central Florida
Orlando, Florida 32816
Telephone: (407) 823-2351
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with a copy to

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General Counsel
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Millican Hall, Suite 360
Orlando, Florida 32816
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If to KUD:

Mr. Dennis Biggs
President
KUD International, LLC
1251 Avenue of the Americas, Suite 910
New York, New York 10020
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with a copy to

Michael Ryan, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
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Email: mike.ryan@lowndes-law.com

9. Paragraph Headings. The paragraph headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Memorandum of Understanding nor in any way affect this Memorandum of Understanding.

10. Entire Agreement. This Memorandum of Understanding and the agreements referred to herein set forth all covenants, promises, agreements, conditions and understandings between UCF and KUD concerning the Hotel Project and there are no covenants, promises, agreements, conditions or understanding, either oral or written, between them other than are herein set forth or in any separate agreement now existing or hereafter entered into between the parties with respect to a specific project component. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Memorandum of Understanding shall be binding upon UCF or KUD unless reduced to writing and signed by them.

11. Severability of Provisions. In the event any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Memorandum of Understanding shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsection, paragraphs, subparagraphs, sentences, clauses or phrases of this Memorandum of Understanding, which shall be and remaining full force and effect, as if the section, subsection, paragraph, subparagraph, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof. The parties hereby declare that it would have been their intention to have agreed upon the remaining parts of this Memorandum of Understanding if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

12. Use of Name. KUD shall not use the name of the University of Central Florida without the express written consent of UCF, not to be unreasonably withheld. Nothing in this Memorandum of Understanding shall be construed to grant KUD the right to use the symbols, logos, trademarks or other representations of the University of Central Florida without the express written consent of UCF.

13. Public Records Law. UCF shall have the right to cancel the Memorandum of Understanding at any time for failure of KUD to allow public access to all documents, paper, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by KUD in conjunction with this Memorandum of Understanding.

14. Governing Law. This Memorandum of Understanding shall be governed by Florida law.

[Signatures on the following page]

[Attached to Memorandum of Understanding (UCF Boutique Hotel)]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of the day and year first above written.

Approved as to Form and Legality

Ch/c, 5-13-15

THE UNIVERSITY OF CENTRAL
FLORIDA, on behalf of its Board of Trustees

By:

John C. Hitt
John C. Hitt, President

KUD INTERNATIONAL, LLC

By:

D. Biggs
Dennis Biggs, President