

AMENDMENT NO. 2 TO EQUIPMENT LEASE AGREEMENT

This is second amendment to the Equipment Lease Agreement, dated December 2, 2013 (Agreement) and amended by Amendment No. 1 on November 12, 2015, between Suffolk County Community College (hereinafter, “College” or “Lessee”), having a principal office at 533 College Road, Selden, NY, a community college established pursuant to New York State Education Law under the sponsorship of the County of Suffolk, a municipal corporation of the State of New York, and

Vanguard Modular Building Systems, LLC (hereinafter, “Vanguard”), a Delaware limited liability company having a principal office at 717 Constitution Dr., Suite 100, Exton, PA 19341, and

WHEREAS, on November 12, 2015, the College and Vanguard executed Amendment No. 1 to the Agreement which required Vanguard to perform certain mold inspection services, and

WHEREAS, pursuant to an Agreement and Plan of Merger, Vanguard merged with and into **BOXX Modular, Inc.** (hereinafter “BOXX”), a corporation organized and existing under the laws of the State of Delaware having a principal office at 3475 High River Road, Fort Worth, TX 76155, and

WHEREAS, the Agreement and Plan of Merger was approved, adopted, certified, executed and acknowledged by BOXX, the surviving corporation, and Vanguard, the merging limited liability company, and

WHEREAS, the Certificate of Incorporation of the surviving corporation, as in effect immediately prior to the effective time of the merger, is the Certificate of Incorporation of the surviving corporation, and

WHEREAS, said merger was effective as of December 31, 2021, and

WHEREAS, by virtue of said merger, BOXX acquired all of Vanguard’s existing contractual obligations, assets and liabilities, and

WHEREAS, the College and BOXX wish to amend the Agreement to reflect the occurrence of said merger and the name of the surviving corporation, BOXX, and to identify said surviving corporation as the Lessor herein.

NOW, THEREFORE, it is mutually understood and agreed by and between the parties hereto that effective as of January 1, 2022:


- 1) The Agreement shall be amended to reflect the name of the Lessor in the Agreement as “BOXX Modular, Inc.”

Modular Classroom Building – Michael J. Grant Campus
BOXX Modular, Inc.

- 2) The name BOXX Modular, Inc. shall replace the name Vanguard Modular Building Systems, LLC (or Lessor) in all instances where the name Vanguard (or Lessor) appears in the Agreement and in Amendment No. 1.
- 3) The Agreement, as amended herein by Amendment No. 2, shall be binding in all respects on BOXX for the term of the Agreement and any renewal thereof.
- 4) All other terms and conditions as forth in the Agreement and in Amendment No. 1, not inconsistent herewith, shall remain in full force and effect.

In Witness Whereof, the parties hereto have executed this Amendment No. 2 to the Equipment Lease Agreement as of the latest date written below.

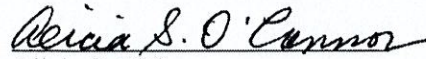
BOXX Modular, Inc.



By: Yvan Moquin
Secretary

Date: 04/29/2022

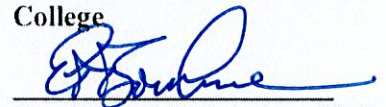
Approved As To Legality:



Alicia S. O'Connor
Deputy General Counsel

Date: 5/2/2022

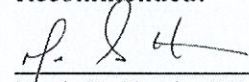
Suffolk County Community College



By: Edward T. Bonahue, Ph.D.
President

Date: 5/3/22

Recommended:



Mark D. Harris, DBA
Vice President for Business &
Financial Affairs

Date: 05.03.2022

AMENDMENT NO. 1 TO EQUIPMENT LEASE AGREEMENT

This is first amendment to the Equipment Lease Agreement, last dated December 2, 2013 (Agreement) between **Suffolk County Community College** (“Lessee” or “College”); having its principal office at 533 College Road, Selden, New York 11784-2899, a chartered Community College (pursuant to New York State Education Law) under the sponsorship of the County of Suffolk (County), a municipal corporation of the State of New York; and

Vanguard Modular Building Systems, LLC (“Lessor” or “Vanguard”), a Delaware limited liability company, duly authorized to conduct business in the State of New York, having an office at 3 Great Valley Parkway, Suite 170, Malvern, PA 19355;

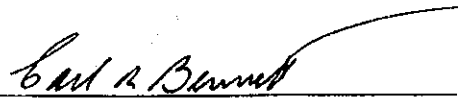
The parties hereto desire to amend the Agreement to include mold inspection services, as more fully described in Exhibit A-1, attached hereto.

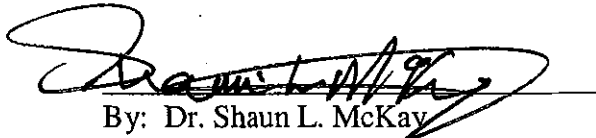
Terms and Conditions: Shall be as set forth in Exhibits A through I of the Agreement and Exhibit A-1, attached hereto.

In Witness Whereof, the parties hereto have executed this Amendment No. 1 to Agreement as of the latest date written below.

Vanguard Modular Building Systems, LLC

Suffolk County Community College


By: Carl R. Bennett
Assistant Secretary



By: Dr. Shaun L. McKay
President

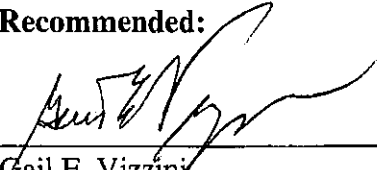
Date: 11/04/2015

Date: 11/12/15

Approved As To Legality:

Recommended:


Louis J. Petrizzo, Esq.
College General Counsel


Gail E. Vizzini
Vice President, Business & Financial Affairs

Date: 11/06/15

Date: 11/9/15

EXHIBIT A-1

1. Annually, commencing in June of 2016, Vanguard shall retain a qualified mold inspection consultant or company, which shall be pre-approved by the College, to perform a mold inspection of the crawl space of the Equipment. Said pre-approved consultant/company shall communicate with the College and identify a mutually agreeable date upon which the inspection is to take place.
2. Said mold inspection shall be performed no later than July 15th each year during the term of this Agreement.
3. Within fifteen (15) days of the inspection, Vanguard shall provide to College the consultant/company's inspection report documenting the inspection results.
4. If mold is identified in the crawl space of the Equipment, Vanguard shall, within fifteen (15) days of the date of the inspection report, ensure that the impacted areas are abated, in accordance with accepted remediation procedures for mold abatement.
5. Within ten (10) days following said mold abatement services, Vanguard shall provide to College the consultant/company's report documenting the abatement activities and certifying the results that the crawl space has been fully remediated.
6. Vanguard shall provide these services at no cost to the College for the duration of this Agreement.
7. In the event Vanguard fails to comply with any of the provisions herein, College shall have the right to retain independent contractors to conduct the aforesaid mold inspections and provide any necessary mold abatement services. In such event, the College shall deduct the cost of such inspections, remediation, and abatement services, together with administrative costs incurred by the College in procuring such independent contractors, from any and all monthly lease payments due and owing to Vanguard.
8. All other terms and conditions of the Equipment Lease Agreement not inconsistent herewith shall remain in full force and effect.

End of Text of Exhibit A-1

EQUIPMENT LEASE AGREEMENT

This Equipment Lease Agreement (Lease) is between **Suffolk County Community College** (“Lessee” or “College”), having its principal office at 533 College Road, Selden, New York 11784-2899, a chartered Community College (pursuant to New York State Education Law) under the sponsorship of the County of Suffolk (County), a municipal corporation of the State of New York; and

Vanguard Modular Building Systems, LLC (“Lessor” or “Vanguard”), a Delaware limited liability company, duly authorized to conduct business in the State of New York, having an office at 3 Great Valley Parkway, Suite 170, Malvern, PA 19355;

Whereas, the parties hereto desire to enter into a lease agreement whereby Vanguard will design, construct, assemble, and lease to the College a modular classroom building (“the Equipment”), as described in Exhibit B (attached).

Term of Lease: Ten (10) years, with one (1) five-year option to renew, which option shall be described as either the “Option Term” or the “Year 10 Expansion Option Term.”

Cost of Lease: Initial Term: Ten (10) years (120 months) at \$613,884.00 per year, due and payable on the first day of the month in installments of \$51,157.00.


Option Term: Five (5) years (60 months) at \$329,124.00 per year, due and payable on the first of the month in installments of \$27,427.00, or

Year 10 Expansion Option Term: Five (5) years (60 months) at \$605,352.00 per year, due and payable on the first day of the month in installments of \$50,446.00.

Terms and Conditions: Shall be as set forth in Exhibits A through G, attached

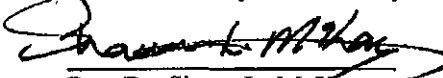
In Witness Whereof, the parties hereto have executed this Lease as of the latest date written below.

Vanguard Modular Building Systems, LLC


By: Carl R. Bennett
Assistant Secretary

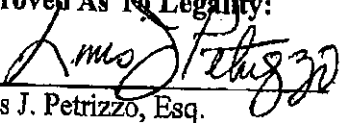
Date: 10/23/2013

Suffolk County Community College


By: Dr. Shaun L. McKay
President

Date: 12/2/13

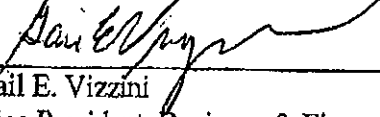
Approved As To Legality:



Louis J. Petrizzo, Esq.
College General Counsel

Date: 11/21/13

Recommended:



Gail E. Vizzini
Vice President, Business & Financial Affairs

Date: 11-21-13

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Vanguard Warranties and Maintenance Agreement

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Exhibit H
Suffolk County Community College Request for Proposals to Design, Construct and Lease a
Modular Building, advertised October 11, 2012.

Exhibit I
Plans and Drawings of Year 10 Expansion

**Exhibit A
General Terms and
Conditions**

Whereas, the College issued a Request for Proposals, advertised October 12, 2012, to design, construct and lease to Suffolk County Community College a modular classroom building for its Michael J. Grant Campus, located in Brentwood, New York (see, Exhibit H); and

Whereas, Vanguard Modular Building Systems, LLC submitted a proposal that demonstrates the best relevant experience and expertise, offers the best value to the College and will best serve the public interest;

Now, therefore, in consideration of the promises and the mutual covenants and conditions herein contained, it is agreed by the parties hereto, as follows:

1. Lessor Responsibilities

- a. The duties of Lessor shall be to provide a new, high quality modular classroom building, as described in Exhibit B, entitled "Description of Modular Building and Scope of Services," which shall comply with all applicable building code provisions.
- b. The Equipment shall be delivered, constructed, assembled and installed to a completely operational building structure at the College's Michael J. Grant Campus, Crooked Hill Road, Brentwood, New York at the site described in Exhibit C, entitled "Plans and Drawings."
- c. All transportation and installation costs incurred by Lessor for the delivery and installation of the Equipment shall be borne by Lessor.
- d. Lessor shall perform such services as may be necessary to accomplish the work required to be performed under and in accordance with this Lease.
- e. Lessor specifically represents and warrants that it has and shall possess, and that its employees, agents and subcontractors have and shall possess, the required education, knowledge, licenses, if necessary, experience and character required to qualify them individually for the particular duties they perform under this lease.
- f. The provisions of this Exhibit A shall prevail over inconsistent provisions of any other Exhibit, and over any other document not specifically referred to in this Lease or made part thereof by this Lease or by subsequent amendment in writing and signed by both parties except to the extent that such provisions of this Exhibit A are specifically referred to and amended or suspended by such Exhibit amendment or other document.

2. Term, Lease Commencement Date and Extension of Lease After Option Term

- a. This Lease shall cover the Initial Term and Option Term (or Year 10 Expansion

Option Term), as provided on the first page hereof, unless sooner terminated as provided in Paragraph 6 below, entitled "Lease Subject to Appropriation of Funds."

- b. The Initial Term shall commence upon a date certain ("Commencement Date") which shall be within ten (10) days from the date upon which a Certificate of Occupancy (or Temporary Certificate of Occupancy) is issued by the Suffolk County Department of Public Works, provided the College has indicated its acceptance of the Equipment by executing a Delivery and Acceptance Certificate in substantially the form provided in Exhibit D. The Initial Term shall terminate on the tenth (10th) anniversary of the Commencement Date.
- c. The Option Term (or Year 10 Expansion Option Term) shall commence upon the ten (10)-year anniversary of the Commencement Date, and shall terminate five (5) years thereafter. If Lessee, in its sole and absolute discretion, elects to exercise its option to renew the lease for the Option Term, Lessee shall notify the Lessor, in writing, at least one hundred twenty (120) days prior to the date the Initial Term ends.
- d. If Lessee, in its sole and absolute discretion, elects to exercise its option to renew the lease for the Year 10 Expansion Option Term, Lessor shall expand the Modular Building in accordance with all plans and specifications detailing such expansion, and as identified in drawings specified as A5 and A6, each dated January 7, 2013, attached hereto as Exhibit I ("Plans and Drawings of Year 10 Expansion"). In order to exercise said option to renew the lease for the Year 10 Expansion Option Term, Lessee shall notify the Lessor, in writing, at least one (1) year prior to the date the Initial Term ends. Upon such notice, Lessor shall commence expansion as per Exhibit I, and such expansion shall be complete, such that Lessee shall have full use of the Equipment, by the first (1st) anniversary of such notice.
- e. The Parties, at the end of the Option Term or Year 10 Expansion Option Term, may mutually agree, in writing, to a further lease term extension. If Lessee wishes to extend the lease term, Lessee must notify the Lessor, in writing, at least one hundred twenty (120) days prior to the date the Option Term or Year 10 Expansion Option Term ends. If Lessor agrees to grant such extension, Lessor shall offer to Lessee, in writing within thirty (30) days of Lessee's request, any new lease rate and/or other conditions which would become effective, under any such extended lease term. Any agreement to extend the lease subsequent to the expiration of the Option Term or Year 10 Expansion Option Term must be memorialized in writing, signed and delivered by both parties.

3. Payment and Compensation

- a. In consideration of Lessor's faithfully complying with all the covenants set forth in this Lease, the College shall compensate Lessor according to the following schedule:

| | |
|------------------------|---|
| Security Deposit: | \$51,157.00 |
| Monthly Lease Payment: | Initial Term- \$51,157.00 Option Term- \$27,427.00 or Year 10 Expansion Option Term- \$50,466.00 |
| Number of Months: | Initial Term- 120 months (10 Years) Option Term- 60 months (5 Years) or Year 10 Expansion Option Term - 60 months (5 Years) |

- b. Lease Payments shall be made to:

Vanguard Modular Building Systems, LLC

And shall be remitted electronically to ABA No. 0312-0760-7, Account No. 8019338913 at PNC Bank, 38 Eastgate Drive, Moorestown, NJ 08057
Phone: (732) 220-3803; Fax: (732) 220-3020

- c. Lessee shall tender to Lessor a security deposit in the amount of \$51,157.00 (equivalent to one monthly lease payment), which shall be due and payable at the time the first monthly lease payment is due hereunder. Such security deposit shall be refunded to Lessee at the expiration or termination of this Lease, or, in the Lessee's sole and absolute discretion, be credited as the final monthly payment due and payable under this Lease.
- d. No partial payments shall be made to Lessor.
- e. The Lease payments payable to Lessor under this Lease are exclusive of federal, state and local taxes, the College being exempt from payment of such taxes.
- f. The acceptance by Lessor of full payment of all monthly Lease payments under this Lease shall operate as and shall be a release of the College and County from all claims and liability to Lessor, its successors, legal representatives and assigns, for anything done or furnished under and by the provisions of this Lease.
- g. The Lease payments shall be payable without notice or demand at the office of Lessor (or such other place as Lessor or its assignee may from time to time designate, in writing), and will commence upon the first (1st) day of the month immediately following the Commencement Date, and on the same day in each succeeding month. There shall be a per diem adjustment to reflect the lease payment due for the month within which the Commencement Date

occurs.

4. Dismantle and Return of Equipment

a. Upon termination, or at the end of the Initial Term, Option Term, Year 10 Expansion Option Term, or any subsequent extension of the Lease term, Lessor shall dismantle and remove the Equipment, including any above-grade improvements/attachments, foundation piers, concrete decks and ramps, and canopies, cap utilities and shall restore surface of the site beneath the building. Lessee is responsible for all other site restoration at the end of the Lease. The removal of any below-grade improvements/attachments, footings or other site installed below-grade items is excluded from Lessor's scope of work as provided in this paragraph.

b. Lessee is responsible for payment to Lessor for such dismantling and removal of Equipment in the amount of (a) \$425,000.00, should this Lease terminate after the Initial Term; (b) \$450,000.00, should this Lease terminate after the Option Term; or (b) \$495,000 should this Lease terminate after the Year 10 Expansion Option Term.

c. At Lessee's sole option and directive, Lessor shall remove any or all below-grade improvements/attachments, footings or other site installed below-grade items for an additional charge to be determined on the basis of Cost plus Eleven Percent (Cost + 11%).

5. Utilities and Assessments

During the Initial Lease Term and Option Term (or Year 10 Expansion Option Term), Lessee shall be solely responsible for the payment of all utilities, including water, gas and electricity, as well as all other charges and fees associated with, or the result of, the equipment being leased and/or being placed on the real property stipulated in this Lease.

6. Lease Subject to Appropriation of Funds

a. It is understood by the parties hereto that this Lease is made subject to the amount of funds appropriated therefore and any subsequent modifications thereof for the period of this Lease by the Suffolk County Legislature, and no liability on account thereof shall be incurred by the College or County beyond the amount of funds appropriated by the aforesaid Legislature for this purpose.

b. The College reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved.

It is the College's intent to make Lease Payments for the full Lease Term if funds are legally available therefore and in that regard the College represents that the use of the Equipment is essential to its proper, efficient and economic operation. Lessor and College understand and intend that the obligation of the College to pay Lease Payments hereunder shall constitute a current expense of the College and shall not in any way be construed to be a debt of the College or County in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the College, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of the College.

- c. Notwithstanding anything contained in this Lease to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for Lease Payments due under this Lease, the College shall immediately notify Lessor or its assignee of such occurrence and this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the College of any kind whatsoever, except as to the Dismantle Fee and the portions of Lease Payments herein agreed upon for which funds have been appropriated and budgeted. In the event of such termination, the College agrees to peacefully surrender possession of the Equipment to Lessor or its assignee on the date of such termination. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Notwithstanding the foregoing, the College agrees:
- i. that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment or other Equipment performing functions similar to the Equipment for the fiscal period in which such termination occurs or the next succeeding fiscal period thereafter, and
 - ii. That it will not during the Lease Term give priority in the application of funds to any other functionally similar Equipment.

This paragraph will not be construed so as to permit the College to terminate this Lease in order to acquire or lease any other Equipment or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended.

7. Insurance

a. **Lessor's Insurance.** The Lessor agrees to procure, pay the entire premium for and maintain throughout the term of this Lease, insurance in amounts and types specified by the College and/or County and as may be mandated and increased from time to time. Except for Owner's and Contractors' Protective Liability and Builders Risk property insurance, the Lessor agrees to require that all of its subcontractors, in connection with work performed for the Lessor related to this Lease, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the College and/or the County for the Lessor. Unless otherwise specified by the

College and/or the County and agreed to by the Lessor, in writing, such insurance shall be as follows:

- i. **Commercial General Liability** insurance, including contractual liability coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage.
 - ii. **Automobile Liability** insurance (if any vehicles are used by the Contractor in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence.
 - iii. **Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and regulations and **Disability Benefits** insurance, if required by law. Contractor shall furnish to the College, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, this Agreement shall be void and of no effect unless the Contractor shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
 - iv. **Owner's and Contractors' Protective Liability (OCP)** insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage per occurrence and covering the liability of the College, all its employees (including but not limited to the Vice President for Business and Financial Affairs), the County of Suffolk and all its employees, both officially and personally, with respect to all work under this Agreement performed by Lessor or by its subcontractors, including omissions or supervisory acts of the College, its employees, the County of Suffolk or its employees. Lessor shall provide evidence of OCP insurance within ten (10) days of execution of the Lease, and the policy shall remain in effect until the "Commencement Date" of this Lease, as that term is defined in paragraph 2(b) herein. In no event shall Lessor be required to maintain OCP insurance subsequent to the Commencement Date.
 - v. **"All Risk" Builder's Risk Property** insurance upon the entire project on which the work of the Lease is to be done to One Hundred Percent (100%) of the completed value thereof. The completed value is Four Million Six Hundred Twenty-one Thousand Four Hundred Dollars (\$4,621,400.00). The Builder's Risk policy maintained by Lessor shall terminate on the Commencement Date.
- b. **Lessee's Insurance.** The Lessee agrees to procure, pay the entire premium for and

maintain throughout the term of this Lease, insurance in amounts and types as specified, as follows:

- i. **Property (Rented).** Coverage shall be such that the leased Premises is insured against loss or damage caused by: (a) fire, windstorm and perils generally included under "all risk" coverage; (b) vandalism and malicious mischief; and (c) all other events covered by an "all risk" policy, in the amount no less than full replacement cost or three million dollars (\$3,000,000.00), whichever is greater.
- ii. **Business Interruption.** In the event that a covered peril(s) should result in an occurrence that renders the Premises unusable and results in an extended break from regular operations, coverage shall be available to ensure, at a minimum, the provision of (i) alternative accommodation; and (ii) continuation of fixed expenses (i.e., lease payments) for the duration of the occurrence in an amount of no less than two million dollars (\$2,000,000.00).

8. Not in Default

Lessor warrants that it is not in arrears to the College or the County of Suffolk upon debt or contract and is not in default as a surety, contractor or otherwise on any obligation to the College or the County of Suffolk.

9. Financial Disclosure

Lessor represents and warrants that, unless exempt, it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code, Section A5-7, and shall file an update of such statement with the Comptroller on or before the 31st day of January in each year of this Lease's duration. Lessor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Lease, for which the College shall be entitled, upon a determination that such breach occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Lease.

10. Gratuities

Lessor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing a lease or securing favorable treatment with respect to the awarding or amending of a lease or the making of any determinations with respect to the performance of a lease, and that the signer of this Lease has read and is familiar with the provisions of Local law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

11. Independent Contractor

It is expressly agreed that Lessor's status hereunder is that of an independent contractor.

Neither Lessor nor any person hired by Lessor shall be considered employees of the College for any purpose.

12. Site Requirements

Unless provided otherwise in the Lease, Lessee shall be responsible for furnishing a suitable site for the Equipment. To be considered suitable, the Lessee must provide a site that is firm, fairly level, and clear of obstructions above and below the ground, and with suitable natural soils providing a soil compaction as required by local building codes. In the event that the natural soil bearing capacity of the soil beneath the building does not meet a minimum of 3,000 psf, the building and foundation system will be modified by Lessor at no additional cost to Lessee. Lessor excludes rock. If rock is encountered, Lessee shall be responsible for the additional cost to remove it.

13. Assignment or Sublease of Equipment

- a. Lessor expressly authorizes Lessee to sublet the Equipment to Long Island University, a New York State not-for-profit educational corporation, having an office at 700 Northern Boulevard, Brookville, New York 11548-1327. A copy of the Sub-Lease Agreement, and any subsequent addenda, changes or renewals, between the College and Long Island University shall be provided to Vanguard.
- b. Without Lessor's prior written consent, which consent shall not be unreasonably withheld, the College shall not assign, transfer, pledge, hypothecate, grant any security in or otherwise dispose of this Lease or the Equipment, nor sublet or lend the Equipment or permit it to be used by anyone other than the College or Long Island University.
- c. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part and the College's right will be subordinated thereto. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto. Upon assignment of Lessor's interests herein, Lessor will cause a timely written notice of assignment to be sent to the College which will be sufficient if it discloses the name of the assignee, the written acceptance of the assignment by the assignee, and address to which further payments hereunder should be made. The College covenants and agrees with the Lessor and each subsequent assignee of the Lessor to maintain for the full term of this Lease a written record of each such assignment and reassignment. In compliance with Section 149 (a) of the Internal Revenue Code, the College agrees to affix a copy of each notification of assignment to its counterpart of the Lease. The College hereby designates Lessor to be its agent for the purposes of maintaining a book entry system identifying the ownership of interests in and to this Lease and the Lessor hereby accepts its duties as agent hereunder.

14. Severability

It is expressly agreed that if any term or provision of this Lease, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and every other term and provision of this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

15. Licenses and Certificates

After installation of the Equipment, Lessee shall ensure that the building is in compliance at all times with all applicable ordinances. Lessee shall secure any necessary zoning permits, if required, in order for Lessor to obtain building permits. Lessor shall procure and maintain all permits required for the project, including the building permit and Certificate of Occupancy. Lessee shall be responsible for the cost of the building permit, unless such fee is waived.

16. Warranty and Maintenance

a. The Lessor grants the Lessee its Warranties and Maintenance Agreement, Special Edition, Suffolk County Community College (11-19-2012) (hereinafter "Warranty and Maintenance Agreement"), attached hereto and made a part hereof as Exhibit F.

b. The terms of this Warranty and Maintenance Agreement shall remain in force throughout the duration of the Initial Term and Option Term (or Year 10 Expansion Option Term).

c. Lessor guarantees that in the event that the Lessor assigns the lease to a third party, unrelated to the Lessee, as a result of the sale or other disposition of the building, Lessor shall either (i) continue to administer the Warranty and Maintenance Agreement at Lessor's own cost and expense through the remaining Initial Term or Option Term (or Year 10 Expansion Option Term), as applicable; or (ii) ensure that the assignee administers the Warranty and Maintenance at its own cost and expense throughout the remaining term of the Initial Term or Option Term (or Year 10 Expansion Option Term), as applicable. If any such assignee fails to so administer the Warranty and Maintenance Agreement as provided herein, Lessor shall remain responsible to honor and comply with said Warranty and Maintenance Agreement.

d. Lessee shall use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinance, insurance policies and regulations relating to such use. Except for ordinary wear and tear, and except as provided in the Warranties and Maintenance Agreement, described in Exhibit F, the Lessee, at its sole expense, shall be responsible for providing all labor, materials and equipment necessary to keep the Equipment clean and in good repair and operating condition. In addition to any other Lessee maintenance responsibilities outlined under this Lease, maintenance by Lessee shall include, janitorial maintenance, light bulb replacement, gutter and downspout cleaning and maintenance, and maintenance and replacement of HVAC filters, as well as maintaining proper thermostat

settings, in accordance with manufacturers' recommendations. Under no circumstance shall Lessor be responsible for maintenance work or repairs, or the consequence of such maintenance work or repairs, performed by Lessee, including Lessee's employees, agents, representative, contractors and subcontractors unless said work is the Lessor's responsibility under the Warranties and Maintenance Agreement and Lessor has failed or refused to perform the work..

e. Reporting Leaks. It is the responsibility of the Lessee to timely report to Lessor all leaks to the Equipment, including (i) plumbing leaks within the building, and (ii) all water leaks including, but not limited to, leaks at the roof and windows. Lessor shall make all necessary repairs related to such leaks within a reasonable period of time after such notification.

f. Lessor shall provide, at no additional cost to Lessee, annual testing and maintenance of the fire alarm system for the first five (5) years of the Lease. At the end of the first five years, Lessee assumes all responsibility for annual testing and maintenance of the fire alarm system.

17. Title to Equipment; Security Interest

During the term of this Lease Agreement, title to the Equipment and any and all additions, repairs replacements or modifications thereof, will rest in Lessor, subject to the rights of the Lessee under this Lease. In the Event of Default as set forth in Paragraph 20, entitled "Event of Default", or as set forth in Paragraph 6, entitled "Lease Subject to Appropriation of Funds," the Lessee will peacefully surrender possession of the Equipment to Lessor. Lessor shall have and retain a security interest under the Uniform Commercial Code in the Equipment, the proceeds thereof and any and all repairs, replacements or modifications thereto, in order to secure the Lessee's payments of all Lease Payments and the performance of all other obligations of the Lessee under this Lease. If requested by Lessor, the Lessee agrees to execute such additional documents including financing statements, affidavits, notices and similar instruments, in a form satisfactory to Lessor which Lessor deems necessary or appropriate to protect its interest in the Equipment and in this Lease.

18. Alterations

Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, unless such alterations, additions or improvements may be readily removed without permanent damage to the Equipment.

19. Lessor's Access to the Equipment

During reasonable business hours, Lessor shall be given right of entry to the Equipment, for the purpose of inspection, evaluation, assessment, repairs and/or upgrades of the Equipment. Lessor shall give Lessee a prior forty-eight (48) hour notice of Lessor's intention to access the Equipment.

20. Risk of Loss; Damage; Destruction

Except for (a) damage to property, equipment, and injury to persons which are directly caused by Lessor's negligence, and (b) Lessor's obligations under the Warranty and Maintenance Agreement, Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage

to the Equipment, nor unfitness or obsolescence thereof, shall relieve the College of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, the College will immediately place the same in good repair with the proceeds of any insurance recovery applied to cost of such repair. If Lessor determines that the Equipment is lost, stolen, destroyed or damaged beyond repair, the Lessee will replace the same with like equipment in good repair, at replacement value, up to the limit of available insurance proceeds.

21. Subordination, Non-Disturbance and Attornment

a. Lessee warrants that it holds such title to or other interest in the premises and other property as is necessary to the Lessor's access to the premises. Lessee agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all chattel mortgages, financing statements and other security agreements now or hereafter existing or imposed upon the premises by any lender of the Lessor, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease.

b. No such subordination, to either existing or future chattel mortgages, financing statements or other security agreements, shall operate to affect adversely any right of the Lessee under this lease so long as the Lessee is not in default under this lease. Lessor will include in any future chattel mortgages, financing statements or other security agreements to which this lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all obligations secured by existing chattel mortgages, financing statements or other security agreements have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Lessee promptly upon demand.

c. In the event of foreclosure or default of any chattel mortgages, financing statements or other security agreements, Lessee will be deemed to have attorned to any transferee of the premises or any portion thereof and its successors and assigns, and any such transferee will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between the Lessee and such transferee, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such transferee and the Lessee, provided, further, that the Lessee and transferee shall, with reasonable promptness following any such foreclosure or default, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

22. Force Majeure

The Lessor shall not be responsible for delays caused by events which are beyond Lessor's control including, but not limited to, Acts of God, strikes, weather, and acts of terrorism certified by the United States government.

23. Indemnification

- a. The Lessor agrees that it shall protect, indemnify and hold harmless the College and/or County and their officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Lessor, its agents, employees, subcontractors, officers, and officials in connection with the services described or referred to in this Agreement. The Lessor shall defend the College and /or County and their officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the College and /or County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Lessor, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.
- b. In addition to any other indemnities set forth in this Lease, Lessee does hereby indemnify and hold Lessor harmless from and against any and all liabilities, losses, damages, penalties, claims, suits, actions, expenses, and cost including, but not limited to, attorney fees and court cost incurred by or asserted against Lessor, which results directly from Lessee's acts, omissions, obligations, or duties under this Lease, and /or any breach or default of Lessee hereunder.

24. Personal Property

The Equipment is and will remain personal property and will not be deemed to be affixed or attached to any real property, or to any building thereon.

25. Liens and Taxes

The College shall keep the Equipment free and clear of all levies, liens and encumbrances, except those created under this Lease.

26. Event of Default

The term "Event of Default," as used herein, means the occurrence of any one or more of the following events:

- a. Failure of Lessor or Lessee to perform any material term, condition or covenant of this Lease;
- b. The Lessee fails to make any Lease payments (or any other required payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for twenty (20) days after the applicable due date;

- c. The Lessor fails to design, deliver and install the Equipment in accordance with the terms, conditions and specifications as provided herein;
- d. The Lessor fails to honor and comply with the Warranties and Maintenance Agreement, attached hereto as Exhibit F;
- e. The commencement of proceedings for bankruptcy, insolvency, assignment for the benefit of creditors or receivership, in respect to either party to this Lease;
- f. Lessee's or Lessor's willful acts and/or omissions, which are contrary to the terms and conditions of this Lease, or a violation of the laws that govern this Lease;
- g. Lessee or Lessor permits an attachment, levy or execution threatened or levied upon or against the Equipment.

27. Termination for Cause and Remedies

- a. This Lease may be terminated, in whole or in part, in writing in the Event of Default, as provided herein at paragraph 26; provided that no such termination shall be effective unless the other party is given ten (10) calendar days' written notice of intent to terminate ("Notice of Intent to Terminate"), delivered personally or by certified mail, return receipt requested. During such ten (10) day period, the party alleged to have been in Default will be given an opportunity for consultation with the other party and an opportunity to cure all failures of its obligations prior to termination. Prior to issuance of a written termination notice ("Termination Notice"), the alleged defaulting party shall be given an additional five (5) days to cure all failures to fulfill its obligations under this Lease. In the event that said party has not cured all its failures to fulfill its obligations to the satisfaction of the Lessee by the end of the combined fifteen (15) day period, a Termination Notice may be issued, effective at the completion of the semester in which it is issued or within ten (10) days of its issuance, whichever is later.
- b. In the event of a Termination for Cause, as provided herein, the Lessee or Lessor, at its sole option and without an obligation to do so, elect any one or more of the following remedies:
 - i. Any remedy allowed under the governing law; and/or
 - ii. Any remedy allowed under the terms and conditions of this Lease
- c. No right or remedy is exclusive of any other right or remedy conferred herein, or by law. Nothing contained in this section is to be construed to limit the remedies available to either the Lessor or the Lessee.

28. Hazardous Materials

- a. Hazardous Materials shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems and those materials, substances and/or wastes, including infectious waste, medical waste, and potentially infectious biomedical waste, which are or later become regulated by

any governmental authority, the state in which the Equipment is located, or the United State Government.

- b. In no event shall Lessee use or store Hazardous Materials in the Equipment, except such quantities as would be normal in the operation of an educational facility. In no event shall Lessee locate the Equipment at a remediation site where contamination by Hazardous Materials is known, or reasonably anticipated to be present.
- c. Lessee's use or storage of any materials customarily utilized by educational facilities shall not be considered hazardous materials.

29. Prevailing Wage

In satisfying its Scope of Services, as described in Exhibit B, and in the performance of any work performed under the Warranties and Maintenance Agreement (see, Exhibit F), Lessor shall comply with the New York State prevailing wage law (NYS Constitution, Art. I., §17 and NYS Labor Law, Art. 8). Compliance with state prevailing wage law includes without limitation, payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and any other obligations, as required by law.

30. Notice Requirements/Contact Persons

- a. Any communication, notice, claim for payment or other submission necessary or required to be made by the parties regarding this Lease shall be deemed to have duly made upon receipt by the parties at the following addresses (or at such other address that may be specified in writing by the parties):

For the College:

Gail E. Vizzini
Vice President for Business and Financial Affairs
Suffolk County Community College
533 College Road, NFL 232
Selden, New York 11784

For Lessor:

Carl R. Bennett
Assistant Secretary
Vanguard Modular Building Systems, LLC
3 Great Valley Parkway, Suite 170
Malvern, PA 19355

- b. Any communication or notice regarding litigation shall be deemed to have been duly made upon receipt by the (parties at the following addresses or at such other address that may be specified in writing by the parties):

For the College:

Louis J. Petrizzo, Esq.
College General Counsel
Suffolk County Community College
533 College Road, NFL 230
Selden, New York 11784

For Lessor:

Carl R. Bennett
Assistant Secretary
Vanguard Modular Building Systems, LLC
3 Great Valley Parkway, Suite 170
Malvern, PA 19355

c. Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contract person(s) or his or her designated successor(s).

31. No Oral Changes

No modifications of this Lease shall be valid unless written in the form of an Addendum or Amendment signed by both parties.

32. Governing Law and Venue

This Lease Agreement shall be construed in accordance with, and governed by, the laws of the State of New York. The venue for any legal action, arbitration, or proceeding shall be Suffolk County, New York.

33. Entire Agreement

This Lease, together with the Exhibits attached hereto, constitutes and represents the entire agreement between the parties, and supersedes any prior understanding or agreements, written or verbal, expressed or implied, between the parties. This Lease shall be considered for the benefit of, and shall be binding upon, the parties hereto, their respective successors, and assigns.

End of Text of Exhibit A

Exhibit B

Description of Modular Building and Scope of Services

[attached]

Exhibit C

Plans and Drawings

[attached]

Exhibit D

Delivery and Acceptance Certificate

[attached]

Exhibit E

Equipment Replacement Value Letter

[attached]

Exhibit F

Warranties and Maintenance Agreement

[attached]

Exhibit G

Board of Trustees Resolution No. 2013.46
Authorizing Lease Agreement

[attached]

Exhibit H

Suffolk County Community College Request for Proposals
to Design, Construct and Lease a Modular Building, advertised October 11, 2012

[attached]

Exhibit I

Plans and Drawings of Year 10 Expansion

[attached]

EXHIBIT B

EXHIBIT B

Description of Modular Building and Scope of Services

1. Modular Building

a. The modular building is approximately 24,000 square feet, and will be sited on the Michael J. Grant Campus of Suffolk County Community College, northeast of the Health, Sports and Education Center.

b. The modular building is comprised of sixteen (16) classrooms, one (1) computer classroom, an entrance lobby, a lounge, associated faculty, administrative offices and spaces, restrooms, storage rooms and assorted building systems rooms. The structure is a single story "U" shaped facility with finished interiors, concrete stairs and ramps for access and egress, a brick façade exterior (coving the entire exterior wall from the roof line to grade), and a complete heating and ventilation system with rooftop units. The modular building provides utility connections, concrete sidewalks, landscaping, exterior lighting, and a fire alarm system fully equipped with public address capabilities. All modifications reflected in the revised floor plan approved on September 18, 2013 are included. All aspects of the original site plan dated November 6, 2012, and updated site plan of October 2013, are included. All aspects of the College's RFP, Vanguard's original proposal and Vanguard's revised cost proposal, including plans, specifications and drawings relating to the expansion of the modular building, are included.

2. Scope of Services

a. The Lessor shall furnish all materials, appliances, tools, and labor, and complete in the most substantial and workmanlike manner, the construction of the Modular Building on the Michael J. Grant Campus, as shown on the Plan and Drawings annexed in Exhibit C, and shall do everything required by this Lease.

b. At the College's option, Lessor will provide the following, at no additional charge to the College:

i. The modular building courtyard can be modified by extending the courtyard width from the proposed 30' to up to 56';

ii. College is permitted to make design plan changes to the modular building, provided the changes do not significantly impact the overall square footage of the building;

iii. A roof hatch and ladder shall be provided for safe access to the roof from inside the building;

iv. Walking pads shall be provided and installed on the roof for the purpose of protecting the roof membrane during routing servicing of roof-top equipment, such as the HVAC units;

v. Lessor's price includes an allowance of seven thousand dollars (\$7,000.00) for landscaping. Any additional cost will be the responsibility of the College.

vi. Lessor shall provide the following telecommunications/data systems: Patch panels 49225-H48 system; 1U Leviton wire management panel; racks with vertical wire management by Middle Atlantic RLA—CC.

vii. Lessor shall remove and reinstall all concrete ramps, at no additional cost to the College, in the event the Lessee elects to exercise its option to renew the lease for the Year 10 Expansion Option Term.

3. Reports/Progress Meetings

The Lessor will be responsible for issuing timely reports in oral presentations and in writing on the status of pending and proposed activities, as may reasonably be requested by the College. Depending upon the nature of the services provided under this Lease, the parties may meet from time to time or as specified in any attachments to this Lease; the meeting time, place and attendees shall be as mutually agreed upon by the parties. All written reports will also be made available to the College in electronic format.

4. Time of Completion

The work to be performed under this Lease shall be commenced within five business days of the execution of this Lease, and will be substantially completed and the building ready for occupancy on or before July 15, 2014.

EXHIBIT C

Exhibit C
is drawings.

**If you wish to see these drawings, please contact the Legal
Affairs Department at 631-451-4235.**

Thank you.