

AGREEMENT

This Agreement ("Agreement") is between **Suffolk County Community College ("College")**, having its principal office at 533 College Road, Selden, New York 11784-2899, a community college established 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

Gym Source USA LLC ("Contractor"), a Delaware corporation having its principal place of business at P.O. Box 424, Stockton, New Jersey 08559.

The parties hereto desire for Contractor to provide to the College the necessary maintenance and repair services on the gym equipment located on the Michael J. Grant and Eastern Campuses, in accordance with the bid terms, conditions and specifications as more fully described Exhibit D ("**Services**").

Term of Agreement: **October 1, 2022 to September 30, 2023**, with four (4) additional one-year options to renew at the sole and absolute discretion of the College.

Total Cost of Agreement: Shall not exceed amounts as set forth in Exhibit E, attached hereto.

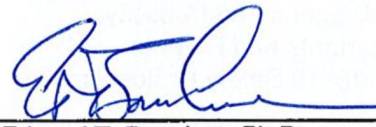
Terms and Conditions: Shall be as set forth in Exhibits A through E, attached hereto and made a part hereof.

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

Gym Source USA LLC
FID #: 46-4077906
Tel.: (856) 448-1866

Suffolk County Community College

By: 
Deborah McKeever
President

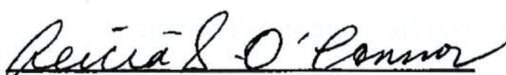
By: 
Edward T. Bonahue, Ph.D.
President

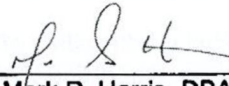
Date: 9 October 2022

Date: 10/11/22

Approved as to Legality:
Suffolk County Community College

Approved:
Suffolk County Community College

By: 
Alicia S. O'Connor
College Deputy General Counsel

By: 
Mark D. Harris, DBA
Vice President for Business and
Financial Affairs

Date: 10/10/2022

Date: 10.10.2022

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EXHIBIT A
General Terms and Conditions

Whereas, the College issued a formal sealed bid, which was advertised on July 28, 2022, and

Whereas, Contractor submitted a proposal in response to such bid on August 19, 2022, and

Whereas, the College has selected Contractor to provide the services as set forth herein; and

Now therefore, in consideration of the mutual promises and covenants hereafter set forth, the parties hereto agree as follows:

1. Contractor Responsibilities

a. Services

Contractor shall provide the Services described in Exhibit D, entitled "Description of Services."

b. Qualifications and Licenses

To the extent applicable, Contractor specifically represents and warrants that it has and shall possess, and that, to the extent applicable, its employees, agents and subcontractors have and shall possess, the required education, knowledge, experience and character necessary to qualify them individually for the particular duties they perform and that Contractor has and shall have, and, to the extent applicable, its employees, agents and subcontractors have and shall have, all required authorizations, certificates, certifications, registrations, licenses, permits or other approvals required by the State, County or other authorities for the Services provided.

2. Term and Termination

a. Term

This Agreement shall cover the period set forth on page one of this Agreement, unless sooner terminated as provided below. Upon receipt of a Termination Notice, as that term is defined below, Contractor shall promptly discontinue all Services affected, unless otherwise directed by the Termination Notice.

b. Termination for Cause

- i.** A failure to maintain the amount and types of insurance required by this Agreement may result in immediate termination of this Agreement, in the sole discretion of the College.
- ii.** Failure to comply with federal, state or local laws, rules, regulations, or College or County policies or directives may result in immediate termination of this Agreement, in the sole discretion of the College.
- iii.** If Contractor becomes bankrupt or insolvent or falsifies its records or reports, or misuses its funds from whatever source, the College may terminate this Agreement in whole or in part, effective immediately, or, at its option, effective at a later date specified in the notice of such termination to Contractor.

- iv. In the event of a failure on the part of Contractor to observe any of the other terms and conditions of this Agreement, this Agreement may be terminated in whole or in part in writing by the College provided that no such termination shall be effective unless Contractor is given five (5) calendar days' (or longer, at the College's option) written notice of intent to terminate (Notice of Intent to Terminate), delivered in accordance with the Exhibit entitled "Notices and Contact Persons." During such five (5) day period, (or longer, at the College's option) Contractor will be given an opportunity for consultation with the College and an opportunity to cure all failures of its obligations prior to termination by the College. In the event that Contractor has not cured all its failures to fulfill its obligations to the satisfaction of the College by the end of the (5) day period (or longer, at the College's option), the College may issue a written termination notice (Termination Notice), effective immediately.

c. Termination for Emergencies

An emergency or other condition involving possible loss of life, threat to health and safety, destruction of property or other condition deemed to be dangerous, in the sole discretion of the College, may result in immediate termination of this Agreement, in whole or in part.

d. Termination for Convenience

The College shall have the right to terminate this Agreement at any time and for any reason deemed to be in its best interest, provided that no such termination shall be effective unless Contractor is given thirty (30) calendar days' prior written notice ("Termination Notice.") In such event of termination, the College shall pay Contractor for the services rendered through the date of termination.

e. Payments upon Termination

- i. Upon receiving a Termination Notice, Contractor shall promptly discontinue all services affected unless otherwise directed by the Termination Notice.
- ii. The College shall be released from any and all responsibilities and obligations arising from the services provided in accordance with this Agreement, effective as of the date of termination, but the College shall be responsible for payment of all claims for services provided and costs incurred by Contractor prior to termination of this Agreement, that are pursuant to, and after Contractor's compliance with, the terms and conditions of this Agreement.
- iii. Upon termination, Contractor agrees to promptly reimburse to the College the balance of any funds advanced to Contractor by the College. Upon termination, any funds paid to Contractor by the College which were used by Contractor in a manner that failed to comply with the terms and conditions of this Agreement must be promptly reimbursed. If there is no response or if satisfactory repayments are not made, the College may recoup such payments from any amounts due or becoming due to Contractor from the College under this Agreement or otherwise. The provisions of this subparagraph shall survive the expiration or termination of the Agreement.

3. Indemnification

a. General

Contractor 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 Contractor in connection with the services described or referred to in this Agreement. Contractor 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 Contractor, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

b. Federal Copyright Act

Contractor hereby represents and warrants that it will not infringe upon any copyrighted work or material in accordance with the Federal Copyright Act during the performance of this Contract. Furthermore, Contractor 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 attorney's fees, arising out of the acts or omissions or the negligence of Contractor in connection with the services described or referred to in this Agreement. Contractor 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 Contractor, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

4. Insurance

a. Contractor agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the College and/or County as may be mandated and increased from time to time. Contractor agrees to require that all of its subcontractors, in connection with work performed for Contractor related to this Agreement, 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 County for Contractor. Unless otherwise specified by the College and/or County and agreed to by Contractor, 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 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 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.
- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.
- c. The Contractor shall furnish to the College a certificate of insurance for each such policy of insurance and upon request, a true and certified original copy of each such policy, evidencing compliance with the aforesaid insurance requirements. **In the case of commercial general liability insurance, the College and the County of Suffolk shall be named as additional insureds and the Contractor shall furnish a certificate of insurance evidencing the College's and the County's status as additional insureds on the policy. The Contractor must ensure that the certificate of insurance references the assigned Contract Number and Project Name.**
- d. Any such Declaration Page, certificate of insurance, policy, endorsement page or other evidence of insurance supplied to the College shall provide for the College and the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in the policies. Such Declaration Page, certificate of insurance, policy, endorsement page, other evidence of insurance and any notice of nonrenewal or material change shall be mailed to the College and the County at the addresses set forth in this Agreement in Exhibit C entitled "Notices and Contact Persons" or at such other address of which the College and/or County shall have given Contractor notice in writing.
- e. In the event Contractor shall fail to provide the Declaration Page, certificate of insurance, policy, endorsement page or other evidence of insurance, or fails to maintain any insurance required by this Agreement, the College and/or County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due Contractor under this Agreement or any other agreement between the College and/or County and Contractor.

5. Independent Contractor

It is expressly agreed that Contractor's status hereunder is that of an independent contractor. Neither Contractor, nor any person hired by Contractor shall be considered employees of the College and/or County for any purpose.

6. Severability

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, 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 Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

7. Merger; No Oral Changes

It is expressly agreed that this Agreement represents the entire agreement of the parties and that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties.

8. Set-Off Rights

The College and/or County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the College's option to withhold, for the purposes of set-off, any moneys due to Contractor under this contract up to any amounts due and owing to the College and/or County with regard to this contract and/or any other contract with the College, or any County department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the College and/or County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The College and/or County shall exercise its set-off rights in accordance with normal College and County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the College and/or County, its representatives, or the County Comptroller and only after legal consultation with the College General Counsel and County Attorney.

9. Non-Discrimination in Services

During the performance of this Agreement:

- a. Contractor shall not, on the grounds of race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status:
 - i. deny any individual any services or other benefits provided pursuant to this Agreement; or
 - ii. provide any services or other benefits to an individual that are different, or are provided in a different manner, from those provided to others pursuant to this Agreement; or
 - iii. subject an individual to segregation or separate treatment in any matter related to the individual's receipt of any service(s) or other benefits provided pursuant to this Agreement; or
 - iv. restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided pursuant to this Agreement; or
 - v. treat an individual differently from others in determining whether or not the individual satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, service(s) or other benefits provided pursuant to this Agreement.
- b. Contractor shall not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, or have the effect of defeating or substantially impairing accomplishment of the objectives of this Agreement in respect to individuals of a particular race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, in determining:

- i. the types of service(s) or other benefits to be provided, or
- ii. the class of individuals to whom, or the situations in which, such service(s) or other benefits will be provided; or
- iii. the class of individuals to be afforded an opportunity to receive services.

10. College's Non-Discrimination Notice

Suffolk County Community College does not discriminate on the basis of race, color, religion, creed, sex, age, marital status, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, equal pay compensation-sex, national origin, military or veteran status, domestic violence victim status, criminal conviction or disability in its admissions, programs and activities, or employment. This applies to all employees, students, applicants or other members of the College community (including, but not limited to, vendors and visitors). Grievance procedures are available to interested persons by contacting either of the Civil Rights Compliance Officers/Coordinators listed below and are located at www.sunysuffolk.edu/nondiscrimination. Retaliation against a person who files a complaint, serves as a witness, or assists or participates in the investigation of a complaint in any manner is strictly prohibited.

The following persons have been designated to handle inquiries regarding the College's non-discrimination policies:

Civil Rights Compliance Officers

Christina Vargas
Chief Diversity Officer/Title IX Coordinator
Ammerman Campus, NFL Bldg., Suite 230
533 College Road, Selden, New York 11784
vargasc@sunysuffolk.edu
(631) 451-4950

or Dionne Walker-Belgrave
Affirmative Action Officer/Deputy Title IX Coordinator
Ammerman Campus, NFL Bldg., Suite 230
533 College Road, Selden, New York 11784
walkerd@sunysuffolk.edu
(631) 451-4051

11. Nonsectarian Declaration

Contractor agrees that all services performed under this Agreement are secular in nature, that no funds received pursuant to this Agreement will be used for sectarian purposes or to further the advancement of any religion, and that no services performed under this program will discriminate on the basis of religious belief.

12. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venues shall be designated in Suffolk County, New York or the United States District Court for the Eastern District of New York.

13. No Implied Waiver

No waiver shall be inferred from any failure or forbearance of the College and/or County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

14. Conflicts of Interest

- a. Contractor agrees that it will not during the term of this Agreement engage in any activity that is contrary to and/or in conflict with the goals and purposes of the College and/or County.
- b. Contractor is charged with the duty to disclose to the College and/or County the existence of any such adverse interests, whether existing or potential. This duty shall continue so long as Contractor is retained on behalf of the College. The determination as to whether or when a conflict exists or may potentially exist shall ultimately be made by the College General Counsel and the County Attorney after full disclosure is obtained.

15. Cooperation on Claims

Each of the parties hereto agrees to render diligently to the other party, without additional compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this Agreement.

16. Confidentiality

Any records, reports or other documents of the College and/or County or any of its agencies used by Contractor pursuant to this Agreement or any documents created as a part of this Agreement shall remain the property of the College and/or County and shall be kept confidential in accordance with applicable laws, rules and regulations.

17. Assignment and Subcontracting

- a. Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute the Agreement, or assign all or any portion of the monies that may be due or become due hereunder, to any other person or corporation, without the prior consent in writing of the College, and any attempt to do any of the foregoing without such consent shall be of no effect.
- b. Contractor shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the College. Such subcontracts shall be subject to all of the provisions of this Agreement and to such other conditions and provisions as the College and/or County may deem necessary, provided, however, that notwithstanding the foregoing, unless otherwise provided in this Agreement, such prior written approval shall not be required for the purchase of articles, supplies, equipment and services which are incidental to, but necessary for, the performance of the work required under this Agreement. No approval by the College of any subcontract shall provide for the incurrence of any obligation by the College and/or County in addition to the total agreed upon price. Contractor shall be responsible for the performance of any subcontractor for the delivery of service.

18. No Intended Third-Party Beneficiaries

This Agreement is entered into solely for the benefit of College, County and Contractor. No third party shall be deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this Agreement.

19. Certification as to Relationships

The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the College and/or County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

20. Publications and Publicity

- a. Contractor shall not issue or publish any book, article, report or other publication related to the Services provided pursuant to this Agreement without first obtaining written prior approval from the College. Any such printed matter or other publication shall contain the following statement in clear and legible print:

“This publication is fully or partially funded by Suffolk County Community College and the County of Suffolk.”

- b. The College shall have the right of prior approval of press releases and any other information provided to the media, in any form, concerning the Services provided pursuant to this Agreement.

21. Copyrights and Patents

a. Copyrights

If the work of Contractor under this Agreement should result in the production of original books, manuals, films or other materials for which a copyright may be granted, Contractor may secure copyright protection. However, the College and/or County reserves, and Contractor hereby gives to the College and/or County, and to any other municipality or government agency or body designated by the College and/or County, a royalty-free, nonexclusive license to produce, reproduce, publish, translate or otherwise use any such materials.

b. Patents

If Contractor under this Agreement makes any discovery or invention in the course of or as a result of work performed under this Agreement, Contractor may apply for and secure for itself patent protection. However, the College reserves, and Contractor hereby gives to the College, and to any other municipality or government agency or body designated by the College, a royalty-free, nonexclusive license to produce or otherwise use any item so discovered or patented.

22. COVID-19 Safety Protocols

Contractor shall be required to comply with all applicable laws, regulations, mandates, standards, directives, policies and procedures issued or promulgated by the U.S. government, New York State, the County of Suffolk, and Suffolk County Community College in connection with the COVID-19 pandemic, including, but not limited to, Executive Orders, New York State reopening guidelines, and standards and directives issued by the New York State Department of Health, the Centers for Disease Control and Prevention (CDC), the United States Department of Labor’s Occupational Safety and Health Administration (OSHA), and/or the New York State Department of Labor’s Public Employee Safety & Health Bureau (PESH).

End of Text for Exhibit A

EXHIBIT B Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement

Contractor represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, 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 Agreement's duration. Contractor 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 Agreement, for which the College shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Law

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, all employers (as defined) under service contracts and recipients of County financial assistance (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Contractor represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001, the Living Wage Law.

Required Forms: Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)"

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit"

3. Use of County Resources to Interfere with Collective Bargaining Activities Local Law No. 26-2003

Contractor represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities." County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 including the following prohibitions:

- a. Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse Contractor for any costs incurred to assist, promote, or deter union organizing.

- c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.
- d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If Contractor services are performed on County property, Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

If Contractor services are for the provision of human services and such services are not to be performed on County property, Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Required Form: Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit"

4. Lawful Hiring of Employees Law

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury) certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury) certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of this agreement.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate this Agreement for violations of this Law and to seek other remedies available under the law.

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in the Exhibit collectively referred to as the "Suffolk County Legislative Requirements." In accordance with this law, Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, agree to maintain the documentation mandated to be kept by this law on site at all times. Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, further agree that employee sign-in sheets and register/log books shall be kept on site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign in sheets/register/log books to indicate their presence on the site during such working hours.

Contractor represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

Required Forms: Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor –"Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. SECTION 1324a) With Respect To Lawful Hiring of Employees"

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2.

5. Gratuities

Contractor 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 an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

Contractor represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. Child Sexual Abuse Reporting Policy

Contractor agrees to comply with Chapter 577, Article IV, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy," as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to child sexual abuse reporting policy.

8. Non-Responsible Bidder

Contractor represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§143-5 through 143-9. Upon signing this Agreement, Contractor certifies that he, she, it, or they have not been convicted of a criminal offense within the last ten (10) years. The term “conviction” shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under “Nonresponsible Bidder.”

9. Use of Funds in Prosecution of Civil Actions Prohibited

Pursuant to the Suffolk County Code Section §590-3, Contractor represents that it shall not use any of the moneys received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. Suffolk County Local Laws

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County website at <https://www.suffolkcountyny.gov/>.

End of Text for Exhibit B

EXHIBIT C
Notices and Contact Persons

1. Notices Relating to Payments, Reports, or Other Submissions

Any communication, notice, claim for payment, report, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the College or Contractor or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the College

Mark D. Harris, DBA
Vice President for Business and Financial Affairs
Suffolk County Community College
533 College Road, NFL 232
Selden, NY 11784-2899

and For Contractor

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

2. Notices Relating to Insurance

Any notice relating to insurance necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the College or Contractor or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the College

Alicia S. O'Connor
College Deputy General Counsel
Suffolk County Community College
533 College Road, NFL 230
Selden, NY 11784-2899

and For Contractor

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

3. Notices Relating to Termination and/or Litigation

In the event Contractor receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, Contractor shall immediately deliver to the College General Counsel and the County Attorney, at the addresses set forth below, copies of all papers filed by or against Contractor.

Any communication or notice regarding termination shall be in writing and shall be given to the College or Contractor or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the College and the County:

Alicia S. O'Connor
College Deputy General Counsel
Suffolk County Community College
533 College Road, NFL 230
Selden, NY 11784-2899

and

Suffolk County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-5402

For Contractor:

At the address set forth on page one of this Agreement, attention to the person who executed this Agreement or such other designee as the parties may agree in writing.

Notices for all parties (except those related to termination or litigation) should be delivered by first class and certified mail, return receipt requested, in a postpaid envelope or by courier service, or by fax or by email.

Notices related to termination or litigation should be delivered by first class and certified mail, return receipt requested, in a postpaid envelope or by nationally recognized courier service or personally and by first class mail.

Notices shall be deemed to have been duly delivered: (i) if mailed, upon the seventh business day after the mailing thereof; or (ii) if by nationally recognized overnight courier service, upon the first business day subsequent to the transmittal thereof; or (iii) if personally, pursuant to New York Civil Practice Law and Rules Section 311; or (iv) if by fax or email, upon the transmittal thereof. "Business Day" shall be defined as any day except a Saturday, a Sunday, or any day in which commercial banks are required or authorized to close in Suffolk County, New York.

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

End of Text for Exhibit C

EXHIBIT D
Description of Services
BID TERMS AND CONDITIONS

1. The following conditions apply to this bid: (a) Late Formal Sealed Bids will NOT be accepted. Bidders are urged to mail bids early to assure delivery on time. (b) Bids must be received by the Procurement Office on or before the specified bid opening date and time. (c) Prices MUST be inserted with typewriter or ink. Entries with white-out or cross-outs MUST be initialed or that entry may be disqualified. (d) Bidders should submit Unit Price in appropriate column on bid pages or forms attached hereto. In the event of a discrepancy between the Unit Price and the Extension Price, the Unit Price shall govern. (e) Bidders should retain one (1) copy of bid forms and applicable attachments. (f) Bidders MUST state Manufacturer's name and catalog number of each item bid on, as appropriate. (g) ABSOLUTELY NO MINIMUM ORDERS shall be applied to this bid. (h) Purchases made by the College are not subject to State or Local Sales Taxes or Federal Excise Taxes. (i) The College is not subject to any existing "FAIR TRADE AGREEMENT" and Bidders should be governed accordingly. (j) Any Manufacturer offering prices for equipment or supplies (disposables), MUST agree to sell parts and service for their equipment currently owned or leased by the College or acquired as a result of this bid, directly to the College. This provision applies even if this bid is for supplies only. (k) When applicable, Vendor shall submit documentation to the College, prior to delivering the product, indicating a "Class A" Fire Rating and New York State Department of State Compliance Numbers, in accordance with "NAPPA 101" and New York State Fire Prevention Code, Part 772 (NYS DOS Number). Products delivered without prior approved certification will be rejected, and the Vendor shall be responsible for all costs associated with their return. (l) Bid must be returned in its entirety. (Every page must be returned). (m) All work performed must be in compliance with all rules and regulations stated by OSHA, Local, State, Federal or any other regulatory agencies. (n) On repair Agreements, Contractor will furnish all labor, materials, transportation, tools, instrumentation, parts and accessories necessary to repair and restore the equipment to optimum operating condition. (o) All Contractor personnel assigned to any requirement of a contract established must be fully qualified and cognizant of the required and applicable Electrical Codes and safety requirements, and must adhere to them. (p) All parts supplied must match the designated equipment, and must be in accordance with the specifications of the Manufacturer of the part to be replaced. (q) Except as otherwise specified, all contractual requirements will be performed at the College site, as required. (r) Any requirement to remove any part of the equipment or system(s) to Contractor's shop must be approved by an authorized College representative. The College shall supply all utilities which are available on location insofar as compatibility requirements permit. (s) All requirements performed by the Contractor will be subject to inspection and approval by an authorized designated representative of the College. (t) Employees of the Contractor while on service call shall carry identification badges or cards and shall be instructed to submit same to scrutiny upon request by the Office of Public Safety or supervisory personnel of the College.
2. Bids on equipment must be on standard new equipment, latest model, except as otherwise specifically stated in proposal or detailed specification. Where any part or nominal appurtenances of equipment is not described, it shall be understood that all equipment and appurtenances which are usually provided in the manufacturer's stock model shall be furnished.
3. Bids on materials and supplies must be for new items except as otherwise specifically stated in bid or detailed specification.
4. Bidder declares that the bid is made without any connection with any other Bidder submitting a bid for the same items, and is in all respects fair and without collusion or fraud.
5. INDEPENDENT CONTRACTOR The Contractor is an independent contractor of the College or County. The Contractor shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Contractor (a "Contractor Agent"), be (i) deemed a College or County employee, (ii) commit the College or County to any obligation, or (iii) hold itself, himself, or herself out as a College or County employee or Person with the

authority to commit the College or County to any obligation. As used in any Agreement awarded as a result of this bid the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof (including agencies, bureaus, offices and departments thereof).

6. **BIDDERS' EXCEPTIONS** Bidders may take exception to paragraphs of this bid under a separate cover letter to be attached to this bid, indicating specific bid page, paragraph, and the exception(s). The Director will consider whether or not to accept a Bidder's exception(s). In any event, the decision of the Director will be final.
7. **DETAILED SPECIFICATIONS** Proposals submitted hereunder shall be in accordance with detailed specifications set forth on bid pages or as attached and made part hereof. Such specifications are representative of the type of item(s) required. The Director reserves the right to accept item(s) with different specifications or methodologies if, in his opinion, the item(s) offered can satisfy the needs of the Using Department(s). Furthermore, any alternate item(s) offered can be rejected if they fail to meet the specifications of the item(s) specified in this bid.
8. **PRICES** The provisions of the New York State Fair Trade Law (Feld-Crawford Act) and the federal price discrimination law (Robinson-Patman Act) do not apply to purchases made by the College.
9. **REDUCTION IN PRICES** If an award is made, the Contractor agrees, should prices be reduced to the general trade during the term of the agreement, the College shall receive the benefit of such reduction immediately upon effect. It shall be incumbent upon the Contractor to notify the College of such price reductions.
10. **NEW YORK STATE PRICES** Bidders must represent and warrant that if they are under contract with New York State for items specified herein that the price, per unit, quoted to the College, therefore, is not higher than the price, per unit, quoted to New York State for like quantities.
11. **APPROXIMATE QUANTITIES** The estimated usage quantities or estimated annual dollar value, when indicated, are merely estimates based on experience or anticipated usage and are given for information purposes only. The College will NOT be compelled to order any amount of any respective item. Agreements, however, shall be for the quantities actually ordered by the College during the period specified.
12. **SPECIFICATIONS** If Bidder is offering an "Equal" item, Bidder is to submit complete specifications and illustrations of products offered with the bid. Acceptance of a bid and designation of a Manufacturer's catalog description, brand name or number in any Agreement resulting therefrom shall not be construed as qualification of the specifications of this bid or relief there from except as specifically stated in the Agreement.
13. **EQUIVALENT BIDS** Bidders may offer equipment of the same capability, but of different manufacture and model than that specified in this bid. The use of the name of a Manufacturer, brand, make or catalog designation in specifying items described herein does not restrict Bidders from offering equivalent bids. Such a designation is used to indicate the character, quality and performance equivalence desired. However, acceptance of an equivalent product will be strictly at the discretion of the College. Furthermore, proof and/or demonstration of equivalence, compatibility and performance shall be incumbent upon the Bidder.
14. **PRODUCT IDENTIFICATION** If a product is identified by a BRAND NAME, a substitute of equal quality, construction, finish, composition, size, workmanship and performance characteristics may be acceptable. In submitting a bid, each Bidder warrants that the substitute product being offered is an equal. Bid Sheets shall be so noted with the Manufacturer's name and brand of the product offered as an equal. If, as a result of an award, a delivery is made of a brand or product represented as an equal which is subsequently deemed to be unacceptable, the Vendor shall be required, at his expense, to pick up the rejected item and replace it with brand(s) listed in the bid or an acceptable equal which will have the approval of the Director.

15. PROTECTION FROM CLAIM AGAINST "OR EQUAL" In the event of any claim by any unsuccessful Bidder concerning or relating to the issue of "equal or better" or "or equal", the successful Bidder agrees, at his own cost and expense, to defend such claim or claims and agrees to hold the College free and harmless from any and all claims for loss or damage arising out of this transaction for any reason whatsoever.
16. ALTERNATE BIDS If the Bidder wishes to offer an alternate to the specified item(s), s/he may do so, provided that s/he clearly indicates that the item(s) offered is an alternate and does not represent the alternate to be an equivalent, and further provided he accompany the alternate offer with full explanation and specification. Consideration of the alternate shall be at the sole discretion of the Director.
17. SHIPPING CHARGES All bids must be F.O.B. Destination and include delivery within doors unless otherwise specified. The College acknowledges that if an emergency shipment (overnight, Saturday Delivery, etc.) is required and requested by the Using Department, such shipping charges would be paid by the Using Department on a "Prepay Shipping Charges and Add To Claim" basis.
18. SAMPLES Samples, when required, must be submitted strictly in accordance with instructions; otherwise bid may not be considered. If samples are requested subsequent to bid opening, they shall be delivered within five (5) days of request for bid to have consideration. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating if the Bidder desires their return; also specifying the address to which they are to be returned, provided they have not been used or made obsolete by tests. Award samples may be held for comparison with deliveries. Samples will be returned at the Bidder's risk and expense.
19. AWARD (a) The College reserves the right before making an award to make investigations as to whether or not the items, qualifications or facilities offered by the Bidder meet the requirements set forth herein and are ample and sufficient to insure the proper performance in the event of an award. The Bidder must be prepared, if requested by the College, to present evidence of experience, ability and financial standing, as well as a statement as to plant, machinery, trained personnel and capacity of the manufacturer for the production and distribution of the material on which he is bidding. Upon request of the College, the Successful Bidder shall file certification from the manufacturer relative to authorization, delivery, service and guarantees. If it is found that the conditions of the bids are not complied with or that articles or equipment purposed to be furnished do not meet the requirements called for, or that the qualifications, financial standing or facilities are not satisfactory, the College may reject such bids. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the College to make any examinations before award; and it is further understood that, if such examination is made, it in no way relieves the Bidder from fulfilling all requirements and conditions of the bid. (b) Awards will be made to the lowest responsible Bidder or on the basis of best value, in accordance with the College's Procurement Policy. Cash discounts will not be a factor in determining awards, except in tie bids. Consideration will be given to the reliability of the Bidder, the quantities of the materials, equipment or supplies to be furnished, their conformity with the specifications, the purpose for which required and the terms of delivery. (c) The College reserves the right to reject any and all bids in whole or in part and to waive technical defects, irregularities and omissions if, in its judgment, the best interest of the College will be served. (d) Unless otherwise indicated herein, the College reserves the right to make award by items, by classes, by groups of items, or as a whole, or, in appropriate circumstances, to award to multiple bidders.
20. When in the determination of the College, the articles or equipment delivered fail to meet College specifications or, the Vendor consistently fails to deliver as ordered, the College reserves the right to cancel the order and purchase the balance from other sources at Vendor's expense.
21. Delivery must be made as ordered and in accordance with the bid. If delivery instructions do not appear on order, it will be interpreted to mean prompt delivery. The decision of the director as to reasonable compliance with

delivery terms shall be final. Burden of proof of delay in receipt of order shall rest with the Vendor.

22. The College will not schedule any deliveries for Saturdays, Sundays or legal holidays, except commodities required for daily consumption or where the delivery is an emergency, a replacement, or is overdue, in which event the convenience of the College will govern.
23. Supplies shall be securely and properly packed for shipment, according to accepted commercial practice, without extra charge for packing cases, reels, bailing or sacks. The containers remain the property of the College unless definitely stated otherwise in the bid.
24. The Vendor shall be responsible for delivery of supplies in good condition at point of destination. The Vendor shall file all claims with carrier for breakage, imperfections and other losses, which will be deducted from invoices. The College will note for the benefit of the Vendor when packages are not received in good condition.
25. All supplies which are customarily labeled or identified must have securely affixed thereto the original un-mutilated label or marking of the manufacturer.
26. WARRANTY of parts is aligned with manufacturer parts warranty. Labor's warranty is (30) thirty days from date of completion of the work.
27. REPLACEMENT PARTS If the requirements specified herein represent, for the most part, replacement and/or repair components to existing and presently owned equipment, such components must match and inter-member without modification to the equipment and systems indicated.
28. Not Applicable
29. ADDITIONAL ITEMS Additional items of the same or similar manufacture or additional services related to the specifications and requirements stated herein may be added by an amendment to the Agreement, provided that such items or services do not or are not expected to exceed the statutory limit of \$2,000.00 in any Agreement period.
30. Deliveries are subject to reweighing at destination by the College and payment will be made on the basis of net weight of materials delivered. Normal shrinkage will be allowed in such instances where shrinkage is possible. Short weight shall be sufficient cause for cancellation of order at Vendor's expense.
31. Reference is made to the Model Agreement attached (set forth in Section VI) for the terms and conditions of the Agreement to be entered into, including indemnification and insurance. The Model Agreement is subject to revision arising out of the terms and conditions imposed by law or deemed appropriate by the College's Office of Legal Affairs.
32. BIDDER'S SEXUAL HARASSMENT POLICY: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.
33. COLLEGE SEXUAL HARASSMENT POLICY: Bidder's are advised that the College's Sexual Harassment Policy can be accessed using the following link:

<https://www.sunysuffolk.edu/legalaffairs/documents/equal-opportunity-anti-discrimination-policy.pdf>

End of Section I

SECTION II BID REQUIREMENTS

1. **Intent:**

Suffolk County Community College requires the services of a reliable, and experienced Contractor to provide maintenance and repair services as needed, on the gym equipment located on the College's campus locations identified herein.

2. **Bid Submission Instructions:**

Bids must be mailed or delivered to the following address.

Suffolk County Community College
Procurement Office
533 College Road
Selden, NY 11784

Bids are due by **August 12, 2022 at 11:00 AM**. The College retains the right to reject late bids.

Bids will be publicly opened on **August 12, 2022 at 11:30 AM** in the following location:

Room 115
Southampton Building
Ammerman Campus
533 College Road
Selden NY 11784

The College has set up a drop box by the Public Safety Booth for the purpose of physically dropping off bid submissions. The Public Safety Booth is located at the College entrance off College Road on Washington Ave. On the day of the bid opening, **Contractors can begin dropping off bids starting at 9:00 AM. All bids being physically dropped off shall be submitted by 11:00 AM to this drop-box.** If the Contractor is waiting on line at 11:00 AM to drop off their bid, the Contractor will be allowed to drop off the bid. If Contractor is not on line as of 11:00 AM and a bid is brought for drop-off after this time, it will be strictly rejected without exception.

Upon arrival at the College, bidder shall approach the Public Safety Officer at the bid drop off checkpoint, and drop the bid in the box.

- **Bid envelope must reference the Name & Address of Bidder, Bid Number, Title, and Bid Opening Date and Time.**
- **Bid must be received at the above address on or before the bid opening date and time. Bid must be signed in ink.**

OVERNIGHT DELIVERY

Alternatively, Contractors are welcome to send the bid in using overnight mail. Please note that overnight delivery service carriers have different schedules when coming on Campus, as do the College's mailroom services. Below are the timelines in which overnight deliveries are made to the College's mailroom by various carriers:

FedEx: **10:30 AM** for Priority Packages
 3:00 PM for Standard Overnight Packages

UPS: There is no scheduled delivery time. However, the carrier offers next day overnight shipping for

10:30 AM or 12:00 PM.

USPS: The Post Office does not make deliveries to the College. The College's mailroom staff makes two pickups per day, at **7:00 AM** and **3:00 PM**, to collect mail and deliveries from the Post Office.

Please ensure bids that are mailed, are done so in sufficient time to reach the College's mailroom, undergo processing, and then be delivered to the Procurement Office by the bid submission due date and time. The College will not be responsible for bid packages that are misdirected due to above-indicated information missing from the bid mailing envelope, resulting in bids not being received by the Procurement Office in a timely fashion.

3. **Award:**

Award, if any, will be made to the lowest responsible Bidder, who, in the opinion of the College, meets the specifications and qualifications stated herein, and submits the lowest Billable Hourly Rate. The award shall be in the form of contract which, when issued and executed by both parties, will enable the successful Bidder to perform the services specified herein for the period indicated and at the prices bid upon receipt of a signed Purchase Order.

4. **Term of Agreement:**

Initial period covered shall be for one (1) year from the date of an award. The contract shall include four (4) one-year renewal options to be exercised at the College's sole and absolute discretion. The term of each option shall be as mutually agreed upon by both parties.

5. **Prices:**

Prices shall remain firm for the first year of the contract and no upward escalation will be permitted. Thereafter, increases in labor and/or material costs may be considered, provided they are based on certified labor contracts, uncontrollable material costs which can be verified in national publications or other increases auditable by the College. The burden of proof for such increases shall be upon the Contractor and shall be formally directed to the Director. The decision as to whether or not such increases will be granted shall be made by the Vice President of Business and Financial Affairs and shall be final. In the event an increase is not granted when requested, the Contractor may elect to continue at the bid prices or give written notice of termination, upon receipt of which the Agreement be rebid.

6. **Payment Terms:**

For each month in which Contractor performs work under the contract, Contractor shall prepare and present a monthly invoice to:

Suffolk County Community College,
Accounts Payable Department
PO Box 2280
Selden, NY 11784

Invoices can also be emailed to cboap@sunysuffolk.edu. Payment will be made within thirty (30) days after approval of invoice by the College. Invoice must reference the purchase order number and be itemized in detail so that anyone reading same may readily understand the kind, quantity, quality and prices. Cash discount terms, where applicable, must be indicated on the invoice. By submitting an invoice, Contractor certifies that all items or services were delivered or rendered as set forth on the invoice; that the prices charged are in accordance with the referenced purchase order, delivery order or contract; that the claim is just, true and correct; that the balance stated herein is actually due and owing and has not been previously claimed; that no taxes from which the County/College is exempt are included. Incomplete invoices will be returned to the Contractor unpaid.

7. **Deficient Service Procedure:**

The Contractor agrees that in the event any of the services provided for under the terms of this contract should in any way be omitted or unsatisfactorily performed by the Contractor and/or his employees, the College shall so notify the Contractor verbally and follow with a written notification of the deficient services for immediate correction within seven (7) days. Such notification shall be sent to service@gymsource.com. The Contractor shall perform a site inspection and correct any deficiencies within five (5) business days of such notification. Such corrective action will be signed off by the College at the time of correction. The Contractor shall commit to performing all work to the College's satisfaction and in accordance with industry standards.

8. **Disclaimer:**

The Model Agreement is attached hereto in Section IV and is made part hereof the Solicitation Documents. The contract is non-exclusive and the College is not bound to purchase, and no materials are to be delivered or work performed without a Purchase Order. The College shall be under no obligation whatsoever to issue such Purchase Orders.

9. **E-Procurement:**

The College has implemented an e-Procurement solution, named SharkMart, with the objective of streamlining processes and gaining operational efficiencies.

Bidders identified for a contract award will be required to register in SharkMart. The Procurement office will send an email to the Bidder's contact that will include a SharkMart link to start the registration process. This process involves the completion of a company and tax profile (W9). The registration process must be completed before any purchase orders are issued.

Registering is completely free of charge and will enable your firm to benefit from the following functionality:

1. Receive orders electronically
2. Manage your company profile electronically and provide timely updates as needed
3. Ability to receive, send and respond to order emails
4. Submit electronic invoices with the "order to invoice" functionality
5. Ability to view all on-line orders, invoices and the invoice status

10. **Specifications:**

Contractor shall, on an as-needed basis, provide maintenance and repair services as needed, on the gym equipment located on any of the College campus locations identified below:

- Michael J. Grant Campus: 1001 Crooked Hill Road, Brentwood NY 11717
- Eastern Campus: 121 Speonk-Riverhead Road, Riverhead NY 11901

The list of the equipment currently at the College's Michael J. Grant and Eastern Campuses are included as Exhibit 1, at the end of this Section II – Bid Requirements. The equipment at any of the Campuses may change due to new purchases of equipment and/or disposal of existing obsolete equipment. The College reserves the right to add and/or delete any equipment from the items requiring maintenance and repair services.

I. **MINIMUM REQUIREMENTS**

- Contractor shall have been in business under the same name for the past 5 years providing maintenance and repair services of gym equipment of similar scope and complexity as the equipment owned by the College.
- Contractor shall have all necessary equipment, and competent technicians to perform the required services. Technicians assigned to the College's account must be familiar with the equipment identified herein, and be able to perform maintenance and repair services on the equipment. It is the College's preference that the Contractor's personnel attended training on properly completing maintenance and repairs.
- Contractor shall submit with their bid, the name and contact information of a representative assigned to the College's account who will be available on an as-needed basis 24 hours a day, 7 days a week.

A. **PREVENTATIVE MAINTENANCE SERVICE**

Contractor will be required to perform annual preventative maintenance services for all items listed in Exhibit 1 at the end of this Section II – Bid Requirements at the request of the College. It is anticipated that the preventative maintenance will be performed on-site every three (3) months, in accordance with a schedule determined by the College.

College will reach out to the Contractor to schedule the maintenance visits. Contractor shall not come on site unless the visit has been scheduled by the appropriate College Department. Typically, preventive maintenance visits shall be scheduled and shall take place between the hours of 7:00 am and 2:00 pm. During each scheduled maintenance visit, a technician shall carry out the necessary procedures appropriate for each piece of equipment to ensure that it is in optimal operating condition.

Within five (5) days following the completion of the maintenance visit, Contractor shall submit a report describing the general condition of the equipment and any recommendations for additional service, repairs and parts that is deemed to be necessary.

For any repairs that are required outside of those included with the maintenance service, Contractor shall prepare and provide to the College a cost estimate at no additional charge to the College. The cost estimate shall be provided within five (5) business days following the maintenance visit, and shall include information on the cost of the additional work and/or parts needed. Contractor shall commence any such work only after the appropriate College representative issues an authorization to proceed with the

repair, and the Contractor receives a Purchase Order (PO) for the repairs from the College.

Each preventative maintenance visit must include the following:

- 1) For all equipment types:
 - a. Inspection of the unit, repairs, adjustments, lubrication
 - b. Check all nuts, bolts and other fasteners; tighten where required
 - c. Check all bushings, fittings and weldments
 - d. Check all wires, cables and contact points
 - e. Check all seats and pads for wear. If worn out or ripped, replace
- 2) For all treadmills:
 - a. Inspect motor compartment
 - b. Check D.C. motor brushes
 - c. Check drive belt(s)
 - d. Check front and rear rollers
 - e. Check running belt and deck
 - f. Lubricate deck surface in accordance with manufacturer's specifications.
 - g. Check and calibrate, if necessary, elevation components
- 3) For all universal type and single station weight machines:
 - a. Inspect clean and lubricate chains and guide rods
 - b. Inspect cables, weight plates and pads
- 4) For all upper body cycles:
 - a. Inspect primary and secondary drives, tension assembly and electronic components
 - b. Inspect, clean and lubricate chains
- 5) For all stair simulators:
 - a. Check belts resistance and electronic components
 - b. Clean and lubricate chain fittings
- 6) For all ski simulators:
 - a. Inspect, adjust and lubricate rails, rollers and bearings
 - b. Inspect tension controls
 - c. Check display, if any
- 7) For all bikes:
 - a. Inspect primary chains or belts, friction belt, electronic and control boards, flywheel, primary and secondary drives

Contractor will be compensated for preventative maintenance based on the pricing established in Section III - Bid Prices. The pricing for preventive maintenance of the equipment identified in Exhibit 1 shall be all inclusive, with the exception of parts necessary to perform any repairs included under the preventive maintenance service. Any part(s) needed to complete the service will be reimbursed at a 20% discount off of MSRP. Contractor shall provide back-up documentation to support the MSRP cost. Receipts for any shipping must be provided if paid outside of the manufacturer's invoice, and will be reimbursed at direct cost.

B. REPAIR SERVICES

The College may also require repair services on an as-needed basis. College will notify the Contractor when these services are required.

Contractor shall be equipped to respond to a service call within two (2) business days of notification by the College. If, for some reason, a repair cannot be performed immediately, Contractor shall work with the College's requesting department to schedule and complete the repair as soon as possible. Non-emergency services shall be scheduled during normal business hours which are defined as 7:00 am to 2:00 pm, Monday through Friday.

Contractor shall submit a budget cost estimate to the appropriate College department at no additional cost before any work is started. All cost estimates shall be provided by the Contractor within no more than five (5) business days of Contractor's onsite visit for assessing the work, and shall be provided at no cost to the College. Cost estimates shall be prepared in a manner consistent with the pricing structure of the contract which includes the following:

- Labor hours required to complete the work
- Billable Hourly Rate as established under this Agreement
- Anticipated parts and materials with associated cost based on a discount of 20% off MSRP. Contractor shall provide back-up documentation to support the MSRP cost.
- Shipping costs associated with the purchasing of parts by the Contractor will be reimbursed at direct cost with no mark-up

Submission of a cost estimate does not guarantee that College will move forward with the work.

If the College moves forward with the work, the Contractor shall be reimbursed in accordance with Section III – Bid Prices, for the actual time spent on the job.

II. GENERAL REQUIREMENTS

The Contractor shall assign a company representative to the College who will work on the College's account under the contract and who will be available on an as-needed basis. The Contractor shall provide the College with contact information for the representative and update this information promptly throughout the contract term.

Normal working hours are 7:00 AM to 2:00 PM Monday through Friday. Work shall be performed during normal working hours. No overtime shall be authorized under this contract.

The College assumes no responsibility for any work commenced by the Contractor without prior written approval from the College in the form of a Purchase Order, and will not reimburse the Contractor for any such non-emergency work performed.

All work shall be in accordance with the Federal Government, New York State, OSHA, New York State Department of Labor, and all local codes.

Contractor shall acquaint himself with conditions found at the site and shall assume responsibility for placing and installing the appropriate equipment and systems in the required locations

Contractor shall have the necessary service staff, tools, and equipment to provide the required services in a timely manner. The College will not pay for any rental or replacement expenses associated with the necessary tools or equipment required for normal use. Contractor shall be responsible for satisfactory functioning of all equipment provided. The equipment shall be the responsibility of the Contractor and Contractor shall maintain the equipment in accordance with manufacturer recommendations, current editions of Federal, State and all other applicable local codes, including all applicable safety and health codes and College requirements.

Contractor shall use the most up-to-date parts/materials being manufactured. No obsolete parts/materials will be allowed. All parts shall be new and must be equal or better than the original equipment. All materials used in the installation shall be of the highest quality and shall be free from any and all defects. All parts replaced under this contract shall become the property of the College and shall be left at the site unless directed otherwise by an authorized representative of the College.

Equipment, supplies and materials may be stored at the site only upon approval of the College and at the Contractor's risk. In general, such on-site storage should be avoided to prevent possible damage or loss of material.

Contractor shall perform all work in the best workmanlike manner and shall clean up and remove all debris and rubbish generated as a result of the work. Upon completion of the work, the premises shall be left in a neat, unobstructed condition, and the work site in satisfactory repair and order.

Contractor shall furnish adequate protection from damage for all work and shall repair damages of any kind for which the Contractor's staff is responsible.

In addition, Contractor shall perform work so as to cause the least inconvenience to the College and with proper consideration to other contractors or workmen. Contractor shall properly supervise the work being performed at the College and shall perform services as promptly and expeditiously as possible.

Except for emergency work, Contractor may be required to submit a budget cost estimate before any work is started. Cost estimates shall be provided by the Contractor at no cost to the College. Cost estimates must be provided within no more than five (5) business days. Submission of a cost estimate does not guarantee that College will move forward with the estimated work. The College may choose to not move forward with the work due to funding or other planning changes. Cost estimates shall be prepared in a manner consistent with the pricing structure of the contract which includes the following:

- Labor hours required to complete the work
- Billable Hourly Rate for the appropriate trade
- Anticipated parts and materials with associated cost based on a discount of 20% off MSRP. Contractor shall provide back-up documentation to support the MSRP cost.
- Shipping costs associated with the purchasing of parts by the Contractor will be reimbursed at direct cost with no mark-up

If the College moves forward with the work, compensation will be based on actual time spent on the job and in accordance with Section III – Bid Price.

All labor shall be guaranteed for a period of thirty (30) days from the date of completion of the work. All parts shall be guaranteed in accordance with the manufacturer's warranty.

Upon arrival to the Campus to perform work, Contractor's personnel shall report to the Department that placed the call for service, and provide a service ticket that reflects the arrival time. Once work is completed, the service ticket must be updated to reflect the departure time. In addition to the arrival time and the departure time, the service ticket shall also reflect the location of service, and actual services performed. The Service ticket must be countersigned by the College representative.

No travel time will be paid to the Contractor. Payments will be made only for time on the job.

When submitting requests for payment, any and all invoices must be accompanied by the information identified below.

- The Purchase Order number under which work was being performed
- Reference the location and campus where work was completed
- When performing repair services being billed outside of the regular maintenance, copy of service ticket that clearly and legibly reflects the arrival and departure times on the date(s) the Contractor's personnel was on site to perform the services. The service ticket shall be the basis for payment for repair work, and service ticket(s) not submitted in a timely fashion will result in payments being held up. **A copy of the service ticket also shall be submitted to the Department that submitted the request for service.**
- Description of the actual work that was completed
- Billable Hourly Labor Rate and number of hours spent on the job
- Back-up documentation demonstrating the MRSP cost for all parts/materials

Under this contract, subcontracting is not permitted.

The award of the contract to the successful bidder does not grant the Contractor exclusive rights to all jobs. The College reserves the right to bid separately any job if it is determined to be in the College's best interest. If such a situation arises, the Contracted vendor has the right to bid on all such jobs.

11. **Site Visit:**

N/A

12. **COVID-19 Safety Protocols**

The Bidder awarded the contract shall be required to comply with all applicable laws, regulations, mandates, standards, directives, policies and procedures issued or promulgated by the U.S. government, New York State, the County of Suffolk, and Suffolk County Community College in connection with the COVID-19 pandemic, including, but not limited to, Executive Orders, New York State reopening guidelines, and standards and directives issued by the New York State Department of Health, the Centers for Disease Control and Prevention (CDC), the United States Department of Labor's Occupational Safety and Health Administration (OSHA), and/or the New York State Department of Labor's Public Employee Safety & Health Bureau (PESH).

EXHIBIT 1
LIST OF EQUIPMENT

EASTERN CAMPUS

<u># of Units</u>	<u>Equipment</u>	<u>Description</u>
1	PRECOR BIKE	RBK885
4	PRECOR OLYPTICAL	EFX885 p30
3	PRECOR TREADMILL	TRM 811 p30
1	PRECOR REAR DEL/PEC FLY	DSL0505
1	PRECOR DIVERGING LOW ROW	DSL 0324
1	PRECOR CONVERGING SHOULDER PRESS	DSL 0515
1	PRECOR DIVERGING LAT PULL DOWN	DSL 0314
1	PRECOR ABDOMINAL/BACK EXTENSION	C028es
1	PRECOR ROTARY TORSIA	DSL 0315
1	PRECOR TRICEPS EXTENSION	DSL 0208
1	PRECOR BICEP CURL	C003ES
1	PRECOR CONVERGING CHEST PRESS	DSL 0414
1	PRECOR INNER/OUTER THIGH	C008ES
1	PRECOR SEATED CALF EXTENSION	DSL 0623
1	PRECOR SEATER LEG CURL	C007ES
1	PRECOR LEG PRESS	DSL0602
1	ASSAULT FITNESS AIR ROWER	Assault Air rower elite
2	PRECOR BENCH PRESS	DBR 0408
1	PRECOR INCLINE BENCH PRESS	DBR 0410
1	PRECOR OLYMPICS SQUAT RACK	DBR 0608
2	PRECOR MULTIPLE ADJUSTABLE BENCH	DBR 0119
1	PRECOR MULTIPURPOSE BENCH	DBR 0116

MICHAEL J. GRANT CAMPUS EQUIPMENT

<u># of Units</u>	<u>Equipment</u>	<u>Description</u>
2	PRECOR CFX	833
2	CYBEX ARC TRAINER	
1	PRECOR AMT12	885
3	PRECOR TREADMILL	TRM-811
2	PRECOR TREADMILL	TRM-731
1	CYBEX UPRIGHT BIKE	750C
1	CYBEX UPRIGHT BIKE	530C
1	CONCEPT 2 ROWER	
1	CYBEX PRESTIGE CHEST PRESS W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE OVERHEAD PRESS W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE FLY READ DELT W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE LATERAL RAISE W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE PULLDOWN W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE ROW W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE LEG EXTENSION W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE LEG CURL W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE LEG PRESS W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE TORSO ROTATION W/STANDARD WEIGHT STACK	
1	CYBEX PRESTIGE HIP ABDUCTION	
1	CYBEX PRESTIGE HIP ADDUCTION	
1	HOIST AB ROC-IT	
1	HOIST ROC-IT GLUTE MASTER	
1	HOIST CHIN DIP ASSIST	
2	HOIST HD-3000 FUNCTIONAL TRAINER	

End of Section II



**ADDENDUM NO. 1
FORMAL BID NO. B22-021
MAINTENANCE AND REPAIR OF GYM EQUIPMENT**

August 12, 2022

Attention to Proposers:

This constitutes Addendum No. 1 to the referenced formal bid, and consists of this one (1) page cover letter which provides notification of the postponement of the bid submission and bid opening date and times.

The bid submission due date and time of August 12, 2022 at 11:00 AM has been changed to August 19, 2022 at 11:00 AM.

Bids will be opened on August 19, 2022 at 11:30 AM.

The bid opening location shall be as identified in the bid submission instructions of the bid document.

All other terms and conditions of the Formal Sealed Bid solicitation remain unchanged.

A copy of this addendum must be signed by the bidder and attached to the bid response.

Prior to submission of your bid, please confirm you are in receipt of all Addenda that may have been issued under the solicitation.

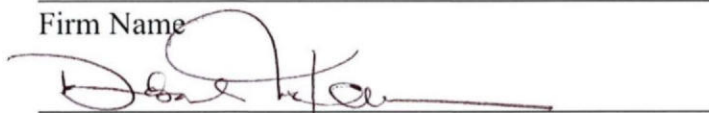
Beatriz Castano

Beatriz Castaño
Administrative Director of Business Operations

Acknowledged and Subscribed to:

GYM SOURCE USA LLC

Firm Name



By (Sign in ink)

DEBORAH MCKEEVER

Print Name

PRESIDENT

Title

08/16/2022

Date

End of Text for Exhibit D

EXHIBIT E
Payment Terms and Conditions

1. General Payment Terms

- a. Contractor shall prepare and present an invoice to the College for payment by the College. Invoices shall be documented by sufficient, competent and evidential matter. Payment by the College will be made within thirty (30) days after approval by the College.
- b. Contractor agrees that it shall be entitled to no more than the fees set forth in this Exhibit E for the completion of all work, labor and services contemplated in this Agreement.
- c. The charges payable to Contractor under this Agreement are exclusive of federal, state and local taxes, the College being exempt from payment of such taxes.
- d. The acceptance by Contractor of full payment of all billings made on the final approved under this Agreement shall operate as and shall be a release to the College and/or County from all claims and liability to Contractor, its successors, legal representatives and assigns, for services rendered under this Agreement.

2. Agreement Subject to Appropriation of Funds

This Agreement is subject to the amount of funds appropriated and any subsequent modifications thereof and no liability shall be incurred by the College and/or County under this Agreement beyond the amount of funds appropriated for the Services covered by this Agreement.

3. Limit of College's Obligations

The maximum amount to be paid by the College as set forth on the cover page of this Agreement shall constitute the full obligation of the College in connection with this Agreement and any matter arising therefrom.

4. Specific Payment Terms and Conditions

See ATTACHMENT 1, annexed hereto

ATTACHMENT 1
Specific Payment Terms and Conditions

Contractor shall submit and indicate that the following information has been submitted with its bid:

- (1) Copy of documentation demonstrating that bidder has been in business under the same name for the past 5 years providing the services required under this bid.
- (2) List of technicians who will be assigned to the College's account.
- (3) The name and contact information of the primary contact who shall be the contract liaison with the College.

Maintenance

The respective preventative maintenance fee per inspection for each campus will be used to reimburse Contractor for the services rendered.

Repairs

Billable Hourly Labor Rate will be used to reimburse Contractor for all repair work performed.

Billable Hourly Rate must be all inclusive, and include all labor, tools, equipment, fuel and transportation, any administrative tasks such as billing, and report writing, as well as the Contractor's profit and overhead, necessary to complete the required services. Labor payment shall be only for time on the job site. No travel time will be paid. The College will not reimburse the Contractor for any additional costs (i.e., mileage, tolls, telephone calls, etc.) beyond the amounts indicated in this Section III – Bid Prices.

Technician Billable Hourly Rate for the first hour: \$ _____

Technician Billable Hourly Rate for 30 minute increments after the first hour: \$ _____

Parts/Materials: shall be billed at a 20% discount off MSRP. Receipts for any shipping must be provided if paid outside of the manufacturer's invoice and will be reimbursed at direct cost.



Contact:
Gym Source USA LLC | PO Box 424 | Stockton, NJ | 08559
Deborah McKeever
856.448.1866
SERVICEPROGRAMS@gymsource.com

EASTERN CAMPUS

Gym Source USA's preventive maintenance program is designed to provide the highest quality of inspection protection, at the lowest possible cost. Our decades of experience has proven that the most cost-effective approach to preventive maintenance is *per inspection vs. billable hour*. This approach allows our customers to budget a fixed amount regardless of the number of hours required to complete an inspection—some of which may take far more time due to use, abuse, and age. Our technicians are paid by the hour, not by the job ensuring our customers that no shortcuts are ever taken.

All Inclusive PMI quote for Eastern Campus:	\$2,385/Inspection (X3) \$7,155/Annual
Repair Labor Rate:	\$150/60 minutes (minimum) \$ 70/30 minute increments

Includes:

- Total Equipment List Per RFP: 26
 - 13 Strength Units
 - 09 Cardio Units
 - 04 Benches / Racks
- Labor
- Travel
- Administrative Costs:
 - Written Reports
 - Written Parts/Labor Cost Estimates
 - Parts Ordering

20% MSRP discount on manufacturer original parts, except for any manufacturer not offering discounts or offer discounts less than 20%. When less than 20%, the maximum discount amount will be applied. At no time will parts charge be greater than MSRP. For these orders, Gym Source can provide original manufacturer sales receipt. Any manufacturer additional cost of part freight/shipping/surcharges are in addition to part cost and each will be identified separately on formal written quote. Parts orders require Suffolk County Community College approval and issuance of purchase order.



Contact:
Gym Source USA LLC | PO Box 424 | Stockton, NJ | 08559
Deborah McKeever
856.448.1866
SERVICEPROGRAMS@gymsource.com

MICHAEL J. GRANT CAMPUS

Gym Source USA's preventive maintenance program is designed to provide the highest quality of inspection protection, at the lowest possible cost. Our decades of experience has proven that the most cost-effective approach to preventive maintenance is *per inspection vs. billable hour*. This approach allows our customers to budget a fixed amount regardless of the number of hours required to complete an inspection—some of which may take far more time due to use, abuse, and age. Our technicians are paid by the hour, not by the job ensuring our customers that no shortcuts are ever taken.

All Inclusive PMI quote for Michael J. Grant Campus:	\$2,815/Inspection (X3) \$8,445/Annual
Repair Labor Rate:	\$150/60 minutes (minimum) \$ 70/30 minute increments

Includes:

- Total Equipment List Per RFP: 29
 - 16 Strength Units
 - 13 Cardio Units
 - 00 Benches / Racks
- Labor
- Travel
- Administrative Costs:
 - Written Reports
 - Written Parts/Labor Cost Estimates
 - Parts Ordering

20% MSRP discount on manufacturer original parts, except for any manufacturer not offering discounts or offer discounts less than 20%. When less than 20%, the maximum discount amount will be applied. At no time will parts charge be greater then MSRP. For these orders, Gym Source can provide original manufacturer sales receipt. Any manufacturer additional cost of part freight/shipping/surcharges are in addition to part cost and each will be identified separately on formal written quote. Parts orders require Suffolk County Community College approval and issuance of purchase order.

End of Text for Exhibit E