

LICENSE AGREEMENT entered into as of the 28 day of May, 2019 by and between SUFFOLK FEDERAL CREDIT UNION ("SFCU"), a federal credit union, with offices at 3681 Horseblock Road, Medford, New York 11763, and Suffolk County Community College ("College"), an institution of higher education established pursuant to New York Education Law, with offices at 533 College Road, Selden, New York 11784.

**WITNESSETH:**

**WHEREAS**, SFCU has offered to supply automated teller services to **College** by installing Automated Teller Machines ("ATMs") within College-operated facilities; and

**WHEREAS**, an agreement between the **College** and **SFCU** will facilitate these automated teller services for the convenience of both **College** credit union members and members of the public who visit **College** facilities; and

**NOW, THEREFORE**, in consideration of the sum of One Dollar (**\$1.00**) in hand paid, together with other good and valuable consideration, the receipt of which is hereby acknowledged, including the terms and conditions hereof, the parties do hereby agree as follows:

**1. License**

**College** hereby grants to **SFCU**, and **SFCU** hereby accepts from **College**, a license to install, operate, maintain and service four (4) **ATMs** at College-operated facilities, the locations of which are more specifically described in Attachment A, annexed hereto.

**2. Term and Renewal**

The term of this license agreement ("the Agreement") shall be for three (7) years commencing upon execution hereof, and may be renewed for a period of three (3) years, upon written amendment to this Agreement, executed by both parties prior to the expiration of said seven-year term.

### 3. Fees and Revenue

- a. For the privilege of operating the **ATMs** within College-operated facilities, **SFCU** shall pay the **College** twenty percent (20%) of the **ATM** surcharge made upon non-credit union/foreign transactions (those generated by debit cards not issued by **SFCU**) withdrawals.
- b. All remittances shall be made payable to "Suffolk County Community College, 533 College Road, Selden, NY 11784" and sent no later than thirty (30) days after the end of the month, for each month during the term of the Agreement.

### 4. Reports

**SFCU** shall issue timely written reports of the number of all **ATM** transactions processed monthly, showing non-credit union/foreign transactions, within thirty (30) days after the end of each month.

### 5. Termination

- a. Termination for Cause. This Agreement may be terminated in whole or in part in writing by **College** in the event of a material failure by **SFCU** to fulfill its obligations under this Agreement; provided that no such termination shall be effective unless **SFCU** is given five (5) calendar days' written notice of intent to terminate delivered personally or by certified mail, return receipt requested. During such five (5) day period, **SFCU** will be given an opportunity for consultation with **College** and an opportunity to cure any material failure prior to termination. Prior to issuance of a written termination notice by **College**, **SFCU** shall be given an additional five (5) days to cure any material failure to fulfill its obligations under this Agreement. In the event that **SFCU** has not cured any material failure to the satisfaction of **College** by the end of the combined (10) day period, **College** may issue a written termination notice.
- b. Termination for Convenience. Either **College** or **SFCU** may terminate this Agreement upon giving ninety (90) days' written notice of intent to terminate, delivered personally or by certified mail, return receipt requested.

### 6. Notices and Contact Persons

- a. Any communication or notice shall be deemed to have been duly made upon receipt by **College** or **SFCU** or their designated representative at the following address, or at such other address that may be specified in writing by the parties:

**For College:** Suffolk County Community College  
533 College Road  
Selden, NY 11784  
ATTN: College General Counsel

**For SFCU:** Suffolk Federal Credit Union  
3681 Horseblock Road  
Box 9005  
Medford, NY 11763

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

## **7. Indemnification**

**SFCU** shall indemnify and hold harmless **College**, its consultant (if any), employees, agents and other persons from and against all losses, claims, costs, judgements, liens, encumbrances and expenses, including reasonable attorney's fees, arising out of the acts or omissions or negligence of **SFCU**, its agents, employees, subcontractors or consultants in connection with the services described or referred to in this Agreement.

## **8. Insurance**

- a. **SFCU** agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by College. Unless otherwise specified by College and agreed to by **SFCU**, in writing, such insurance will be as follows:
- I. **Commercial General Liability Insurance**, including contractual coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury and property damage per occurrence.
  - II. **Automobile Liability Insurance**, (if any vehicles are used in the performance of this Agreement) in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury and property damage occurrence.

III. **Workers' 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. **SFCU** shall furnish to **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 Section 108, this Agreement shall be void and of no effect unless **SFCU** 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. **Professional Liability Insurance** in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence.

- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating, A- or better.
- c. **SFCU** shall furnish to **College** Certificates of Insurance or, upon request, original or duplicate original policies, evidencing compliance with the aforesaid insurance requirements. In the event that **SFCU** does not wish to provide original policies or duplicate original policies, the parties shall agree as to a mutually agreeable time and place for inspection of original policies evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, said certificates of insurance or other evident of insurance shall provide for **College** to be a certificate holder and to be notified in writing thirty (30) days prior to any cancellation, non-renewal or material change. Such certificates, policies or other evidence of insurance and notices shall be mailed to the Department at the address set forth in the paragraph entitled "Notices and Contact Persons."

#### 9. 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.

#### **10. Independent Contractor**

It is expressly agreed that **SFCU's** status hereunder is that of an independent contractor. Neither **SFCU** nor any person hired by the **SFCU** shall be considered employees of **College** for any purposes.

#### **11. No Assignment**

**SFCU** 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 this Agreement, or assign all or any portion of the monies that may be due to the Consultant under the terms of this Agreement, to any other person or corporation, without the prior consent in writing of **College**, and any attempt to do any of the foregoing without such consent shall be of no effect.

#### **12. 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.

#### **13. Non-Discrimination Requirement**

In accordance with Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other Town, County, State and Federal administrative, statutory and constitutional non-discrimination provisions, **SFCU** shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability, sexual preference, veteran status or marital status.

##### **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](http://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](mailto: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](mailto:walkerd@sunysuffolk.edu)  
(631) 451-4051

**14. Non-Discrimination in Services**

During the performance of this Agreement, **SFCU** shall not, on the grounds of race, creed, color, national origin, sex, age, disability, veteran status, marital status or sexual orientation, deny any individual any service(s) or other benefits provided under the program or provide any service(s) or other benefits to an individual which are different, or are provided in a different manner from those provided to others under the program.

#### **15. Merger: No Oral Changes**

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

#### **16. License/Not A Lease**

It is expressly understood and agreed that no interest in real or personal property is leased or granted to **SFCU**; that it is a License and not a Lease; that **SFCU**'s right to occupy the premises and to operate the License hereby granted shall continue only so long as it shall comply strictly and promptly with each and all the material undertakings, provisions, covenants, agreements, stipulations and conditions contained herein; and that this License is not coupled with any interest in real property, subject to the conditions contained in this Agreement.

#### **17. Space and Equipment/Maintenance**

All space and equipment provided by **College** and used by **SFCU** in the performance of this Agreement shall be maintained, replaced and kept in repair by **SFCU** as directed by **College** and shall be surrendered by **SFCU** to **College** at the expiration of other termination of this Agreement in as good condition as when received, reasonable wear and tear and damage by the elements expected. **SFCU** shall not make any alterations in such space or equipment without the written approval of **College**.

#### **18. SFCU's Risks**

- a. **SFCU**, in addition to any terms contained herein, assumes all risks in operation of this Agreement and shall be solely responsible and answerable in damages for all injuries and accidents in person or property caused by **SFCU**, its agents, servants or employees, and thereby covenants and agrees to defend, indemnify and hold harmless **College** and its officials, employees and agents from all claims, suits, actions, losses, damages or injuries to person or property of whatsoever kind or nature, whether direct or indirect, arising out of the operation of this Agreement and to the extent caused by **SFCU**, its agents, servants or employees.
- b. The risk of loss, damage or destruction from any peril to the furniture, fixtures, equipment or other personal property of **SFCU** shall be borne by **SFCU**. **SFCU**

waives, to the extent permitted by its applicable insurance policy, any right to subrogation against **College** for loss, damage or destruction from any peril to the furniture, fixtures, equipment or other personal property of **SFCU** unless caused by **College**, its officials, employees or agents.

**19. Claims for Compensation**

- a. **SFCU** hereby expressly waives any and all claims for compensation for any and all loss or damages sustained by reason of any interference by any public agency or official, acting within their official duties, in the operation of this Agreement; any such interference shall not relieve **SFCU** from any such obligation hereunder.
  
- b. **SFCU** hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency or impairment of the gas and electrical apparatus, heating equipment, water supply equipment, or wires furnished for the premises hereby granted, or by reason of any loss or impairment of light, current, or water supply which may occur from time to time for any cause, or for any loss or damage sustained by **SFCU** resulting from fire, water storm, tornadoes, hurricanes civil commotion, riots, acts of God or other disasters; and **SFCU** hereby expressly waives all rights, claims, and demands and forever releases and discharges the people of the State of New York, the County of Suffolk, and **College** and their officers, employees and agents, from any and all demands, except for rights to indemnification exercised by third parties, claims, actions and causes of action arising from any of the enumerated causes whatsoever.

**20. No Implied Waiver**

No failure or delay by either party in enforcing any right or remedy under this Agreement shall be construed as a waiver of any future or other exercise of such right or remedy.

**21. Technical Services Requirements**

- a. Temporary staff will not be involved in this operation. **SFCU** staff and a 24-hour computerized monitoring system, which provides instant notification of downtime, will technically support the ATM. Diebold, Inc., New York Cash Exchange, and other service providers, are authorized by **SFCU** to provide additional technical support.



- b. The ATM will be accessible during ordinary business hours at **College**.
- c. The ATM will provide a telephone number, plainly visible to all ATM users, for the purpose of communicating ATM transaction problems.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the dates indicated.


**SUFFOLK FEDERAL CREDIT UNION**

By: 

Printed Name: Ralph D. Spencer, Jr.

Dated: May 28, 2019

**SUFFOLK COUNTY COMMUNITY COLLEGE**

By: 

Printed Name: Louis J. Petrizzo, Executive Vice President / College General Counsel

Dated: 05/29/19

**Exhibit A**

**Locations of ATMs**

1. Ammerman Campus, 533 College Road, Selden, NY 11784
  - Babylon Student Center
  
2. Michael J. Grant Campus, 1001 Crooked Hill Road, Brentwood, NY 11717
  - Captree Commons
  - Suffolk Federal Credit Union Arena
  
3. Eastern Campus, 121 Speonk-Riverhead Road, Riverhead, NY 11901
  - Peconic Building