

**BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES**  
**ITEMS FOR DISCUSSION AND ACTION\FISCAL, FACILITIES AND AUDIT**

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**ACTION:** **Approve System Office Lease Agreement and Capital Expenditure**

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The current space for the NSCS office is not meeting the needs of staff and does not have the necessary meeting space for Board meetings. The System Office currently occupies two floors of the current leased space which is not conducive to collaboration and there is limited meeting space. The Chancellor has been in negotiations with the building owner at 1233 Lincoln Mall for more than a year to secure suitable leased space. This location provides the important proximity to the capitol and other state agencies, as well as meeting space that can be used for future Board meetings held in Lincoln, eliminating the need to rent meeting space. Board meetings as well as the Senator's reception held at this facility have been well received.

The Chancellor and General Counsel are close to an agreement on the lease terms with the building owners and are ready to move into the next phase of the arrangement with approval from the Board. The lease costs for the facility are similar to our current lease costs when considering the ability to hold Board and other meetings in the facility and to save on meeting space rental costs. Any increased cost can be absorbed into the current System Office budget. The lease document will be available at the Board meeting.

The 3,853 of leased space will need to accommodate the 15 staff members, meeting spaces, and technology requirements of the System Office. The NSCS will also have access to all common meeting spaces in the facility. With approval of the lease, the System Office will be able to release an RFP to engage an Architect/Engineering firm and ultimately get bids on the configuration and furnishing of the space. The cost for preparing the space and any rent during the construction period will be paid out of the Farm Trust Fund, which is available for projects that benefit the NSCS.

The Chancellor recommends approval of the lease and ability to use the Farm Trust Fund for configuration, furnishing and equipment costs. The Board will be regularly updated on overall costs of the project.

The System Office recommends approval of the System Office Lease Agreement and Capital Expenditure.

## LEASE AGREEMENT

1233 LINCOLN MALL

THIS LEASE AGREEMENT, effective August 1, 2022, (the "Effective Date") is between EPW Holdings LLC, a Nebraska limited liability company ("Landlord") and the Board of Trustees of the Nebraska State Colleges d.b.a. the Nebraska State College System ("Tenant").

WHEREAS, Landlord and Tenant desire to enter into a lease (the "Lease") by which Tenant will lease from Landlord a portion of the Building located on the real estate legally described as Lots 1-2, Lincoln Original, Block 126, Lincoln, Lancaster County, Nebraska ("Real Estate") more commonly known as 1233 Lincoln Mall;

THEREFORE, IN CONSIDERATION of the mutual promises of and benefits to the Parties, it is agreed as follows:

1. Description.

A. Premises. Landlord leases to Tenant and Tenant leases from Landlord approximately 3853 usable square feet of the Building located on the Real Estate (the "Premises") subject to the terms and conditions of this Lease. The Premises are located on the first (ground) floor of the Building more particularly described in Exhibits "A" and "B" hereto.

B. Common Areas. The use and occupancy by Tenant of the Premises shall include the use in common with all other tenants of the Building, the parking areas, service roads, loading facilities, sidewalks, lawn areas, elevators, hallways, basement conference room(s), basement kitchenette(s), basement exercise room(s), bathrooms on each floor and any other areas designated by Landlord as common areas in the Building or appurtenant thereto. All common areas shall be under the exclusive control and management of Landlord. Landlord shall maintain the common areas, but no interruption of the use or maintenance of the common areas by reason of any repairs, improvements, alterations or causes beyond the reasonable control of Landlord shall be deemed an eviction or disturbance of Tenant's use or occupancy of the Premises, nor render Landlord liable for any damages to Tenant arising therefrom.

C. Rules. Tenant shall comply with all reasonable Rules and Regulations, a copy of which is attached in Exhibit C, established from time to time by Landlord for the use of the Premises, including the Common Areas.

D. Signage. Landlord's Sign Policy for the Building in conjunction with the Premises is attached in Exhibit D and is incorporated herein by reference.

2. Term.

A. Effective Date, Access and Occupancy. The Lease is effective as of August 1, 2022. Tenant shall have reasonable access to the Premises as necessary for renovations as of August 1, 2022. Tenant's occupancy of the Premises may begin March 1, 2023. Tenant's

obligations to pay Base Rent and Tenant's Expenses begin on March 1, 2023. All conditions of this Lease shall be in full force and effect on the Effective Date. The word "Term" as used in this Lease, unless otherwise indicated, includes any extensions of this Lease.

B. Lease Term. This Lease shall be for ten (10) years and shall terminate on February 28, 2033, (the "Termination Date.") unless extended by written agreement of the Parties.

3) Rent.

Tenant agrees to pay "Rent" to Landlord during the Term of this Lease, consisting of "Base Rent" and "Tenant's Expenses".

On August 1, 2022, Tenant shall pay fifteen thousand (\$15,000.00) dollars in Rent to the Landlord.

Beginning March 1, 2023, Base Rent and Tenant's Expenses are due on the first day of each month thereafter throughout the term, including any extension thereof.

If any Rent is not paid when due, then interest on the amount remaining unpaid shall accrue at the rate of 10% per annum, with interest accruing from the date payment was due until payment is made. If Tenant's tenancy is calculated for a partial month, then Rent will be appropriately prorated. If any Rent has not been paid by the fifth (5<sup>th</sup>) day following the date the Rent is due, then the Rent is considered delinquent and Landlord may demand, and Tenant shall pay to Landlord, a late fee equal to five percent (5%) of the Rent due. Any failure of Landlord to demand either payment of interest or a late fee for any Rent not paid when due, shall not be considered a waiver by Landlord for the right to demand and collect any interest or late fees for any subsequent Rent not paid when due. Notwithstanding the foregoing, if this Lease is subject to the Nebraska Prompt Pay Act (the "Act"), the following shall apply: a) if any Rent payment is not paid when due, the interest on the amount remaining unpaid shall accrue according to the Act, b) any failure of the Landlord to demand either payment or interest or a late fee for any Rent not paid when due, shall not be considered a waiver by Landlord for the right to demand and collect any interest or late fees for any subsequent Rent not paid when due.

A. Base Rent. Base Rent due for each month of the Term shall be:

Year	Per Square Foot (annually)	Per Month
1	\$12.00	\$3,853.00
2	\$12.24	\$3,930.06
3	\$12.48	\$4,007.12
4	\$12.73	\$4,087.39
5	\$12.99	\$4,170.87
6	\$13.25	\$4,254.35
7	\$13.51	\$4,337.84
8	\$13.78	\$4,424.53
9	\$14.06	\$4,514.43

10	\$14.34	\$4,604.34
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B. Tenant's Expenses. Tenant's Expenses shall consist of Tenant's Percentage of the Operating Expenses incurred by Landlord attributable to the Building and Real Estate during the Term. Tenant's Percentage shall be 40.34%, determined by dividing the usable square footage of the Premises by 9551, the total usable square feet of the Building. Tenant's Expenses shall be paid in monthly installments together with Base Rent. Within one hundred twenty (120) days following the end of the calendar year, Landlord shall undertake a reconciliation of the actual Operating Expenses incurred during such year and the Tenant's Expenses paid by Tenant during such calendar year, remitting or crediting to Tenant any amount paid in excess of Tenant's Percentage of the actual Operating Expenses or invoicing Tenant as Tenant's Expenses for any amount paid less than Tenant's Percentage of the actual Operating Expenses for such calendar year. If Operating Expenses are calculated for a partial calendar year, the Operating Expenses will be appropriately prorated. Tenant may review Landlord's records of the Operating Expenses during Landlord's normal business hours, with a 14-day written notice. Tenant will be allowed an annual audit for the most recent completed calendar year. If an audit is not requested by Tenant by the end of the following calendar year, the prior year's Operating Expenses are deemed to be final. Notwithstanding the foregoing, Tenant's Expenses during 2023 shall be set at \$13.00/square foot. Increases in Tenant's Expenses shall not exceed more than five percent (5%) annually, beginning in 2024.

Operating Expenses. As used in this Lease, the term "Operating Expenses" means all costs for the operation, management and maintenance of the Building and Real Estate, including without limitation all real property taxes and government assessments (and any tax levied in whole or in part in lieu of or in addition to real property taxes including those associated with the Business Improvement District); insurance; utilities for water, gas, electricity and other such services not separately metered for the Premises; janitorial services; roof repairs; security services; garbage and waste disposal; snow removal; lawn care; landscaping, irrigation, window cleaning, elevator repairs/service, emergency alarm contracts/service, annual inspections, pest control, maintenance and repairs which are not the responsibility of another tenant, including maintenance and repairs of the Common Areas; management fees and any other costs, charges, or expenses would be regarded as maintenance and operating expenses attributable to the Building, Real Estate and Premises under generally accepted accounting principles. Replacements of the roof, HVAC units, and structural repairs shall be excluded from the Operating Expenses.

4. Landlord Improvements. Tenant shall accept the Premises in its as-is where-is condition.

5. Insurance. Tenant shall maintain comprehensive general liability insurance (containing a so-called "occurrence clause") against claims for bodily injury, death and property damage occurring in or about the Premises. Such insurance shall be for a minimum protection of one million dollars (\$1,000,000.00) with respect to the personal injury or death of any person and two million dollars (\$2,000,000.00) with respect to the personal injury or death occurring or resulting from one occurrence. If, by reason of changed economic conditions, the insurance amounts referred to above become inadequate, as reasonably determined by the Landlord, then the Landlord may increase the amount of such insurance to such amount it deems proper. All

policies of insurance carried pursuant to this paragraph shall name the Landlord and its lender, if applicable, as co-insureds. Certificates of insurance shall be delivered by Tenant to Landlord upon request. Tenant further waives and releases any claim against Landlord for damage to property of Tenant or in the custody of Tenant on or about the Premises so long as negligence or damage is not caused by Landlord.

6. Utilities. Tenant shall pay, before delinquency, all charges for water, gas, heat, electricity, power, cable TV, data services, telephone, sanitary service (including cleaning) and other similar charges incurred by Tenant with respect to its use and occupancy of the Premises which are not charged to Tenant as Tenant's Expenses. Landlord shall be responsible for providing cleaning and janitorial services in the Building, the cost of which is included in the Operating Expenses.

7. Discontinuance of Services. Landlord reserves the right to temporarily discontinue any utility services at such times as may be necessary by reason of accident, repairs, alterations or improvements, strikes, lockouts, riots, acts of God, governmental preemption in connection with a national or local emergency, any rule, order or regulation of any governmental agency, conditions of supply and demand which make any product unavailable, Landlord's compliance with any mandatory governmental energy conservation or environmental protection program, or any voluntary governmental energy conservation program at the request of or with consent or acquiescence of Tenant, or any other happening beyond the control of Landlord. Landlord will not be liable for damages to person or property or for injury to, or interruption of, business for any discontinuance, nor will such discontinuance in any way be construed as an eviction of Tenant, or cause an abatement of Rent, or operate to release Tenant from any of Tenant's obligations under this Lease.

8. Maintenance and Repairs. Tenant shall, at Tenant's expense, repair, maintain in good order and condition all portions of the Premises, including without limitation the maintenance of the interior doors, interior walls, ceilings, lighting, wiring, plumbing, painting, carpeting, and all interior glass. Tenant further agrees not to commit any damage or waste to the Premises beyond normal wear. Landlord shall have the right to enter and inspect the Premises at any time upon reasonable notice to determine whether any damage or waste is being committed upon the Premises.

Should Tenant have a dedicated "server room" in the Premises which requires cooling and/or ventilation beyond that provided by the Building's normal and ordinary heating, cooling and ventilation system, Tenant shall be responsible for and any maintenance of any supplemental or additional equipment or systems required by Tenant.

9. Parking. Tenant shall have the right to use for its employees, contractors and invitees four (4) parking stalls as assigned by Landlord.

10. Alterations. Tenant shall not undertake any improvements or alterations to the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Landlord's consent may be conditioned upon the furnishing by Tenant of a bond of a surety company reasonably acceptable to Landlord. At the time Landlord's approval of any

alterations is sought, Tenant shall submit to Landlord plans and specifications for such work, together with a statement of the estimated cost for such work. All such alterations shall be completed in good and workmanlike manner with first class materials. Upon the termination of this Lease, all alterations or improvements shall remain a part of the Premises and be surrendered to Landlord, unless Landlord requires Tenant by notice given within ten (10) days following termination to remove specified alterations or improvements.

11. Assignment and Subletting. Tenant may not assign or transfer this Lease or any interest in this Lease or any portion of this Lease without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant may also not sublet the Premises, or any portion thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. This provision shall apply to any assignment, transfer or lease, whether by voluntary act, operation of law, or otherwise. Consent by the Landlord to one assignment, transfer or sublease of this Lease or the property shall not be a waiver to Landlord's rights under this Lease as to any subsequent assignment, transfer or sublease. No assignment, transfer or sublease shall release Tenant of its obligations under this Lease. Landlord's rights to assign this Lease are and shall remain unqualified.

12. Damages to or Destruction of Premises. If the Premises or any portion thereof is damaged or destroyed by fire or other casualty so as to render the Premises unfit for occupancy, and Landlord does not elect to reconstruct or repair the Premises, then Landlord shall have the right of canceling this Lease by giving written notice to Tenant within thirty (30) days of such destruction or damage. If Landlord elects not to give notice of cancellation, and Landlord undertakes to reconstruct or repair the Premises but fails to complete such reconstruction or repair within 120 days after such destruction or damage, then either Landlord or Tenant may further terminate this Lease by giving written notice to the other party of such termination within 30 days after the date of the expiration of the 120 day period, which termination shall be effective as of the date of the expiration of the 120 day period. From the date of such fire or casualty until the Premises are restored in accordance with the provisions set forth above, Tenant shall pay only such portion of Rent accruing from time to time as the value of the portion of the Premises reduced by the value of the portion made unfit for occupancy by reason of such casualty shall bear to the value of the entire Premises.

13. Condemnation. In the event that the whole of the Premises is taken or condemned for public use, then this Lease shall terminate as of the date possession to the Premises vests in the condemning authority, and Rent shall be prorated to the date of such termination. It is recognized by both Parties that the Landlord and Tenant each shall have separate rights of damages against the public authority on account of any condemnation or taking under the power of eminent domain of any part or all of said Premises, and it is expressly provided herein that neither party waives or forgoes any claim it may have on behalf of its property or leasehold value.

14. Permitted Use. The Premises may be used for general office use but shall not be used for any other purpose without the consent of the Landlord, which consent shall not be unreasonably withheld. No use shall be made of the Premises which would result in impact fees being imposed by the City of Lincoln without the prior, express written consent of Landlord.

15. Covenant Against Liens. Tenant shall do all things necessary to prevent the filing of any construction or other liens against the Premises, or the interest of any mortgagees or holders of any deed of trust covering the Premises, by reason of any work, labor, services performed or any materials supplied or claimed to have been performed or supplied to Tenant, or anyone holding the Premises, or any part thereof, through or under Tenant. If any such lien shall at any time be filed, Tenant shall either cause the same to be vacated and canceled of record within thirty (30) days after the date of the filing thereof or, if Tenant in good faith determines that such lien should be contested, Tenant shall furnish such security by surety bond or otherwise as may be necessary or be prescribed by law to release the same as a lien against the Premises and to prevent any foreclosure of such lien during the pendency of such contest. If Tenant shall fail to vacate or release such lien in the manner and within the time period aforesaid, then, in addition to any other right or remedy of Landlord resulting from Tenant's said default, Landlord may, but shall not be obligated to, vacate or release the same either by paying the amount claimed to be due or by procuring the release of such lien by giving security, or in such other manner as may be prescribed by law. Tenant shall repay to Landlord, on demand, all sums disbursed or deposited by Landlord pursuant to the foregoing provisions of this paragraph, including Landlord's cost and expenses and reasonable attorney's fees incurred in connection therewith. However, nothing contained herein shall imply any consent or agreement on the part of Landlord, Landlord's mortgagees or holders of deeds of trust of the Premises to subject their respective estates or interest to liability under any mechanic's or other lien law, whether or not the performance or the furnishing of such work, labor, services or materials to Tenant or anyone holding the Premises, or any part thereof, through or under Tenant, shall have been consented to by Landlord and/or any of such parties.

16. Furnishings, Fixtures and Equipment. It is mutually agreed that all personal property on the Premises, including merchandise of every kind, nature and description, furnishings and equipment, and all other property hereafter placed or kept on the Premises by Tenant, are and shall continue to be the sole property of the Tenant, unless the same shall have been installed to replace equipment previously installed by Landlord. Tenant may, during the term of the Lease or any extensions thereof, remove any furniture, fixtures, or equipment as it may so desire, provided Tenant shall repair all damages resulting from such removal, as nothing herein is intended to impose any restrictions on the use of the furniture, fixtures or equipment as the Tenant may deem necessary or desirable.

17. Quiet Enjoyment. Landlord covenants that Landlord is the sole owner in fee simple of the Premises, has good and marketable title thereof, and has full right to lease the Premises for the Lease Term aforesaid, and that Tenant upon payment of Rent and performing Tenant's obligations in this Lease may peaceably and quietly have, hold, and enjoy the Premises and the use of the Premises as provided herein.

18. Subordination. Landlord may assign its rights under this Lease as security to the holders of one or more mortgages, trust deeds or other encumbrances now or hereafter in force against all or any part of the land or improvements constituting the Premises. Upon the request of Landlord, Tenant will subordinate its rights hereunder to the lien of one or more mortgages, trust deeds or other encumbrances now or hereafter in force against all or any part of the land and

improvements constituting the Premises, and to all advances made or hereafter to be made upon the security thereof; provided however, that any such mortgage, deed of trust or other security document shall provide that the secured party, in the event of its acquiring title to the Premises, whether through foreclosure, judicial process or otherwise, shall recognize the validity of this Lease and shall honor the rights of Tenant hereunder so long as Tenant is not in default under this Lease at the time such secured party acquired title to the Premises.

19. Estoppel Certificates. Tenant, from time to time upon written request from Landlord, agrees to execute, acknowledge, and deliver to Landlord, in form reasonably satisfactory to Landlord and/or Landlord's lender, a written statement certifying that: Tenant has accepted the Premises; that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect as modified, setting forth the modifications; that Landlord is not in default hereunder; the date to which the rent and other amounts payable by Tenant have been paid in advance, if any; and such additional facts as reasonably may be required by Landlord or Landlord's lender. Tenant understands and agrees that any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser of the Premises, any prospective lender of Landlord, and their respective successors and assigns.

20. Tenant's Default. If Tenant defaults in the payment of any Rent or other sums due and payable to Landlord under this Lease and such default continues for a period of five (5) days after written notice of such default has been given by Landlord to Tenant, or if Tenant shall violate or default in the performance of any covenants, agreements, stipulations or other conditions contained herein (other than the payment of Rent and other sums payable under this Lease) and such violation or default continues for a period of thirty (30) days after written notice of such violation or default has been given by Landlord to Tenant, or, in the case of a default not curable within thirty (30) days, if Tenant shall fail to commence to cure the same within thirty (30) days and thereafter proceed diligently to complete the cure thereof, then Landlord at its option may reenter and repossess the Premises with or without process of law, declare this Lease terminated and the term of this Lease ended forthwith, or pursue any other remedy available under law. Landlord may use such legal force as may be necessary to remove all persons and property then located in the Premises. Landlord shall have full and uncontested right to take possession of Tenant's fixtures, excluding any fixtures located in or associated with the redundant computer room, holding the same as additional security for the Rent and other sums due hereunder. Notwithstanding such reentry and repossession by Landlord and the holding of such fixtures, the liability of Tenant for the payment of the Rent and other sums due hereunder and for the performance of Tenant's other obligations hereunder for the balance of the term of this Lease shall not be relinquished or extinguished and Landlord at any time may commence one or more actions to collect any sums due from Tenant under this Lease. In the event of any such reentry and repossession, Landlord shall have the right to relet all or any portion of the Premises under such terms and conditions as Landlord may deem appropriate and any such reletting shall not relieve Tenant of any of its obligations to Landlord under this Lease, except to the extent of any net Rental actually received by Landlord from such reletting after deducting all of Landlord's expenses, including but not limited to legal expenses, brokerage commissions and the costs of remodeling the Premises so as to render it suitable for reletting.



21. Surrender of Premises at End of Term. Tenant agrees that upon the Termination Date of this Lease it will surrender, yield up and deliver the Premises in good and clean condition, except the effects of reasonable wear and tear and depreciation arising from lapse of time, or damage without fault or liability of Tenant. Tenant shall remove its inventory, furnishings, fixtures, and equipment. Any personal property or fixtures that Tenant does not remove shall be presumed to be abandoned and shall thereupon be the property of Landlord. Nothing herein is to be construed to require that Tenant remove any property that has become a fixture of the Premises.

22. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Nebraska.

23. Indemnification. Landlord and Tenant agree to indemnify and defend each other against and to hold each other harmless from any and all claims or demands of any third party arising from or based upon any alleged act, omission or negligence of the indemnifying party or its contractors, concessionaires, licensees, agents, servants, invitees, employees or any one else for whom the indemnifying party may be or alleged to be responsible. In the event that either party shall without fault on its part be made a party to any litigation commenced by any third party against the other party, then such other party shall protect and hold the party harmless from and with respect to such litigation, and shall pay all costs, expenses and attorneys' fees incurred or paid by the party without fault in connection with such litigation, together with any judgments rendered against the party without fault.

24. Environmental Compliance by Tenant. Tenant shall not cause or permit any Hazardous Materials (as hereinafter defined) to be brought upon, stored, used, generated, released into the environment, or disposed of on, in, under, or about the Premises, without the prior written consent of the Landlord, which consent may be withheld in Landlord's reasonable discretion. Tenant shall comply with all local, state, or federal rules, regulations or statutes concerning use, storage and disposal of any Hazardous Materials brought onto, used, or stored on the Premises following consent. Upon the expiration or sooner termination of this Lease, Tenant covenants to remove from the Premises, at its sole cost and expense, any and all Hazardous Materials brought upon, stored, used, generated, or released into the environment during the term of this Lease and still located on the Premises, by Tenant or Tenant's agents, employees, subtenants, assignees, contractors or invitees. To the fullest extent permitted by law, each party hereto hereby agrees to indemnify, defend, protect, and hold harmless the Landlord and the other party and its agents, and respective successors and permitted assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses (including, without limitation, loss, or restriction on use of rentable space or of any amenity of the Premises and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) incurred by or assessed against the indemnified party that arise during or after the term hereof directly or indirectly from the presence of Hazardous Materials on, in, or about the Premises which is or was caused or permitted by such indemnifying party or its agents, employees, invitees or contractors during the term hereof. As used in this Lease, the term "Hazardous Materials" shall mean and include any hazardous or toxic materials, substances, or wastes including (a) any materials, substances, or wastes that are toxic, ignitable, corrosive, or reactive and that are regulated by any local governmental authority, any agency of the State of Nebraska, or any agency of the United States

Government, (b) petroleum and petroleum-based products, (c) urea formaldehyde foam insulation, (d) polychlorinated biphenyls (PCBs”), (e) freon and other chlorofluorocarbons, and (f) asbestos and asbestos-containing materials.

25. Holdover. Tenant will have no right to remain in possession of all or any part of the Premises after the expiration of the Term. If Tenant remains in possession after the expiration of the Term, with the express or implied consent of Landlord: (a) such tenancy will be deemed to be a periodic tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further term; and (c) such tenancy may be terminated by Landlord upon the earlier of thirty (30) days prior written notice or the earliest date permitted by law. In such event, Base Rent will be increased to an amount equal to one hundred fifty percent (150%) of the Base Rent payable during the last month of the Term, and any other sums due under this Lease will be payable in the amount and at the times specified in this Lease. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease.

26. Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed to be an original for all purposes.

27. Several and Joint Liability. Each of the parties, if more than one, executing the Lease as “Tenant” shall be jointly and severally liable for all obligations required herein.

28. Amendments. The parties may amend this Lease at any time by agreement, in writing and signed by both parties.

29. Unavailability of Funding. Due to possible future reductions in state and/or federal appropriations whereby the Nebraska State College System is eliminated in its entirety, the Tenant cannot guarantee the continued availability of funding for this Lease beyond the current fiscal year. In the event funds to finance the Nebraska State College System become unavailable due to reductions in appropriations for a future fiscal year, the Tenant may terminate the Lease by notice in writing to the Landlord.

30. Notices. All notices or other communications required or permitted under this Lease must be in writing and shall be deemed delivered on the earlier of: (i) actual receipt, if delivered in person or by messenger; or (ii) upon deposit in the United States Mail. Notices delivered by mail must be deposited with the U.S. Postal Service, certified, return receipt requested, postage prepaid, and properly addressed to the intended recipient at the office address of the respective Party. Any Party may change its address for notice purposes by delivering written notice of its new address to all other parties in the manner set forth above. For the purposes of this Lease, any written notice required to be given to the parties shall be to the following addresses:

LANDLORD:  
EPW Holdings LLC  
1233 Lincoln Mall, Suite 202  
Lincoln, NE 68508

TENANT:  
NSCS- General Counsel  
1233 Lincoln Mall, Suite 100  
Lincoln, NE 68508

31. Approval of Preliminary Design. Landlord hereby approves of the office layout depicted in the attached Exhibit E-Preliminary Design. Notwithstanding the foregoing, prior to Tenant beginning any construction within the Premises, Tenant shall first obtain Landlord's written approval of the construction by providing for Landlord's inspection those architectural and engineering drawings created for the purpose of obtaining a building permit. Landlord's approval of construction drawings shall not be unreasonably withheld.

32. Exhibits. The following exhibits are attached to this Lease and are hereby incorporated by this reference:

Exhibit A - Premises  
Exhibit B – Building and Real Estate  
Exhibit C –Rules and Regulations  
Exhibit D – Sign Policy  
Exhibit E – Preliminary Design

IN WITNESS WHEREOF, the Parties have executed this Lease to become effective as provided herein.

**LANDLORD:            EPW HOLDINGS LLC**

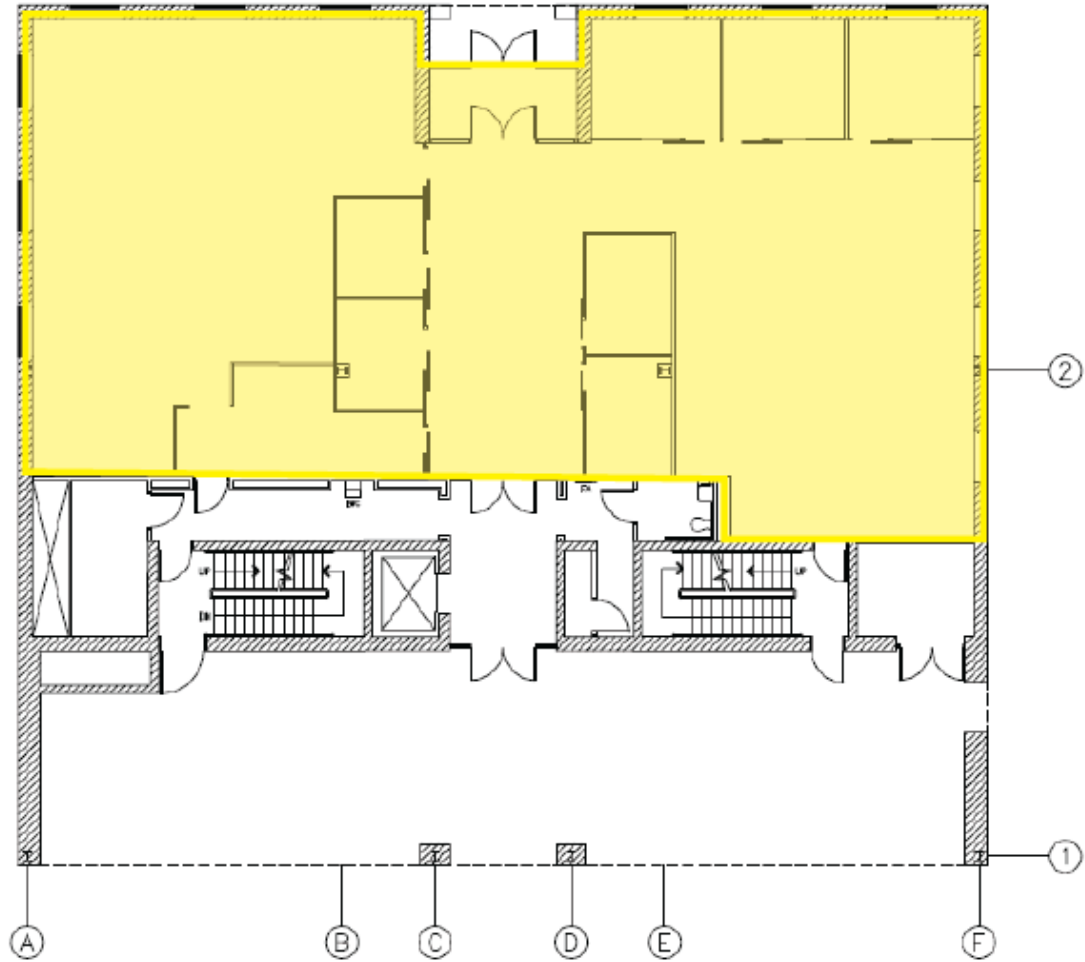
By: \_\_\_\_\_  
                 Managing Member

**TENANT:                BOARD OF TRUSTEES OF THE NEBRASKA  
STATE COLLEGES dba NEBRASKA STATE  
COLLEGE SYSTEM**

By: \_\_\_\_\_

Its. \_\_\_\_\_

# Exhibit A – Premises



\*Shaded area denotes perimeter area of the Premises. Interior walls may not be as depicted.

Exhibit B – Building and Real Estate



## Exhibit C – Rules and Regulations

1. The Building shall operate during normal business hours (as prescribed by the Landlord) except for federal and/or state holidays. The Building shall be heated and cooled to customary temperatures during such hours. During evening, weekends and most holidays, the temperature range shall be greater by neither so hot nor so cold as to prevent appropriately attired person from doing normal office work. Access to the Building and common areas via the South entry shall be controlled by the Building secured access system (Landlord shall provide access cards for Tenants employees). Notwithstanding the foregoing, Tenant may determine the hours that the Premises is open to the public via the north entry doors, which provide direct access into the Premises and are exclusively controlled by the Tenant.
2. Common areas, defined as those areas which are not Premises under each Tenant's Lease, shall be available for the normal and customary use of all Tenants and guests of Tenants in the Building.
3. Tenant shall be responsible for any damages and excessive cleaning arising from the use of any common area space.
4. Both Landlord and Tenant recognize the value of property security. Any person requiring after-hours access to the building agrees to maintain security at all times.
5. Landlord reserves the right to require whatever measures necessary to ensure the security of the Building, including, but not limited to, the registering of persons who enter the Building after normal office hours.
6. Each Tenant shall cooperate with Landlord's employees in keeping the Building, Real Estate and Premises neat and clean. Landlord shall be in no way responsible to Tenant, their agents, employees, or invitees, for any loss of property from the Premises or any damage to property thereon, from whatsoever cause.
7. Nothing shall be swept or thrown into the corridors, halls, or stairways. No birds or animals shall be brought into or kept in or about the Building. No bicycles shall be brought into or kept in the Building.
8. No signs, advertisements or notices shall be placed, displayed, painted, or affixed on or to any windows or doors or other part of the complex, including but not limited to the building, grounds or parking lot, except of such color, size and style and in such places as shall be first approved in writing by Landlord.

Note: Landlord hereby approves Tenant's use of a removable vinyl application on the north entrance doors to direct building traffic to the south entrance.

9. Tenant shall not make or permit any improper noise or obnoxious odors in the Building, or otherwise interfere in any way with other Tenants, or person having business with them.

10. No draperies, shutters, or other window coverings shall be installed on exterior windows or walls and doors facing public corridors or walkways without Landlord's prior written approval. Landlord shall have the right to require installations and continued use of uniform window coverings for such window.
11. Sidewalks, doorways, vestibules, halls, stairways, and similar areas shall not be obstructed by Tenant or used for any purpose other than ingress and egress to and from the Premises and for going from one to another part of the Building.
12. Corridor doors, when not in use, shall be kept closed.
13. Tenant shall notify the Building manager when heavy equipment is to be taken in or out of the Building, and the moving shall be done under the supervision of the Building manager. Persons employed to move such property shall be acceptable to the Building manager.
14. Landlord shall have the power to prescribe the weight and position of any heavy equipment. To distribute the weight of the equipment, Landlord may require that it stand on supporting devices approved by Landlord. All damage done to the Building by taking in or putting out any property of a Tenant, or done by a Tenant's property while in the Building, shall be repaired at the expense of such Tenant.
15. No furniture or bulky material of any kind will be received in the Building or carried up or down stairs, except in the manner and at the time specified by the Building manager.
16. Should a Tenant require telegraphic, telephonic, annunciator or other communication service, Landlord will direct the installers (i.e. technicians and electricians) where and how wires are to be introduced and placed, and none shall be introduced or placed except as Landlord shall direct.
17. Electric current shall not be used for heating without Landlord's prior written consent, this includes space heater.
18. No exposed wiring shall be installed within the Premises.
19. Landlord or its Building manager shall, at reasonable hours, have the right to enter the Premises, to examine same or to make such alterations and repairs as may be deemed necessary. During the last 90 days of the term, Landlord may exhibit the Premises to prospective new Tenants.
20. Plumbing fixtures and appliances shall be used only for purposes for which constructed, and no sweepings, rubbish, rags, or other unsuitable material shall be thrown or placed therein. Damage resulting to any such fixtures or appliances from misuse by a Tenant shall be paid by it, and Landlord shall not in any case be responsible therefor.
21. Smoking is prohibited within the Building and on all grounds of the Real Estate, including the parking lot and sidewalks.

22. Landlord reserves the right to rescind any of these rules and make such other and further rules and regulations as in its judgment shall from time to time be needed for the safety, protection, care and cleanliness of the building, the operation thereof, the preservation of good order therein, and the protection and comfort of its Tenants, their agents, employees and invitees, which rules when made and notice thereof given to a Tenant shall be binding upon him in like manner as if originally herein prescribed.

23. In the event of any conflict between the terms of these Rules and Regulations and the provisions of this Lease, the applicable provisions of this Lease shall control.



#### Exhibit D – Sign Policy

1. Landlord will furnish and maintain a suitable building directory and establish suite numbers to facilitate locating and identifying Tenant's Premises.
2. In order to effect uniformity, to control the graphics, and to maintain dignified aesthetics all signage, including name plates, placed at the entrance of the Premises shall be reviewed by Landlord.
3. Signs, name plates or graphics which are wholly within the Premises and not visible from the exterior of the Building or from public spaces within the Building will be permitted. Landlord shall review and not unreasonably withhold permission for Tenant to install additional signage on the glass entry door.
4. Tenant shall, at Tenant's expense, remove all signs located within the Premise, at the termination of this Lease, and the installation and removal shall be in such manner as to avoid any injury, defacement, or overloading of the Building or other improvements.

## Exhibit E – Preliminary Design

