



CITY OF SAN DIEGO
FLAT RATE LEASE

BETWEEN

THE CITY OF SAN DIEGO,
a California municipal corporation, as lessor

AND

“INTRAX, INC.,
a California corporation,” as “lessee”

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CITY OF SAN DIEGO
FLAT RATE LEASE

THIS CITY OF SAN DIEGO FLAT RATE LEASE ("Lease") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), as lessor, and, "INTRAX, INC." ("LESSEE"), to be effective as of April 14, 2008 (the "Effective Date"), but only upon execution by the parties and approval by the San Diego City Attorney, as follows:

1. Building.

This Lease shall be for a portion of the building ("Building") commonly known as "World Trade Center San Diego" (the "World Trade Center"), and located at 1250 Sixth Avenue, San Diego, California.

2. Premises.

CITY leases to LESSEE and LESSEE leases from CITY a portion of the Building known as Suites 802 & 803 (the "Premises"), consisting of approximately 418 rentable square feet, as shown on the floor plan attached hereto as EXHIBIT A. LESSEE acknowledges and agrees that the square footage figures set forth in this Lease are approximations for reference only, that these approximations are reasonable, and shall not be subject to revision except with an actual physical change in the Premises, or if LESSEE should relocate within the Building.

3. Relocation.

CITY may, in its discretion and upon sixty (60) days prior written notice to LESSEE, relocate LESSEE to other, reasonably comparable office space within the Building. CITY shall pay all reasonable costs related to such relocation incurred by LESSEE.

4. Use.

LESSEE shall use the Premises solely and exclusively for general office operations and for no other purpose without CITY'S prior written consent.

5. CITY'S Consent, Discretion.

Whenever required or permitted under this Lease, CITY'S consent or approval shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided.

6. Term.

The term of this Lease ("Term") shall be on a month to month basis for a period not to exceed March 31, 2011. Either party may terminate this Lease with a 30-day advance written notice.

7. Rent.

LESSEE shall pay rent in accordance with the following rent schedule during the term of this Lease ("Term") and any extension thereof:

\$691.35 per month

The rent under this Lease shall not include parking fees or costs related to any telephone service. CITY shall have the right to apply an increase to bring rent to fair market value with a thirty (30) day advance written notice to LESSEE.

8. Time and Place of Payment.

LESSEE shall pay rent monthly in advance on or before the first day of each calendar month during the Term. Checks shall be made payable to "City Treasurer" and delivered to the Office of the City Treasurer, Civic Center Plaza Building, 1200 Third Avenue, First Floor, San Diego, CA 92101, or mailed with an invoice to:

The City Of San Diego
Office of the City Treasurer
P. O. Box 122289
San Diego, CA 92112-4165

9. Delinquent Rent.

If LESSEE fails to pay rent when due, LESSEE shall pay, in addition to the delinquent rent, five percent (5%) of the delinquent rent. If rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%) (i.e., a total of ten percent (10%) of the delinquent rent), which the parties agree to be appropriate to compensate CITY for loss resulting from rental delinquency and the cost of servicing a delinquent account. In no event shall the charge for late payments of rent be less than twenty-five dollars (\$25).

10. Security Deposit.

The parties acknowledge delivery and receipt of a security deposit ("Security Deposit") in the amount of five hundred dollars and no cents (\$500.00) to secure LESSEE'S performance of this Lease. Upon the expiration or earlier termination of this Lease and LESSEE'S surrender of the Premises to CITY, CITY shall return the Security Deposit without interest, less any lawful deductions.

11. Early Termination.

LESSEE acknowledges and agrees that CITY may, in its sole discretion and with notice to LESSEE, cease operating and close the World Trade Center, or relocate the World Trade Center to another building. In either such case, either party may terminate this Lease upon thirty (30) days prior written notice to the other party. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by LESSEE as a result of such termination of this Lease. LESSEE expressly waives any claim for expense or loss which LESSEE might incur as a result of CITY'S ceasing operation or relocation of the World Trade Center.

12. Holdover.

Any holding over by LESSEE after the expiration or earlier termination of this Lease shall be on a month-to-month basis, shall not be construed as a renewal or extension of this Lease, and all other terms and conditions of this Lease shall continue in full force and effect. CITY may then increase the rent to fair market value and may terminate the holdover tenancy at will upon three (3) days notice to quit the Premises.

13. Prohibited Uses.

LESSEE shall not: (a) use the Premises except as permitted under this Lease; (b) make any alterations or changes to the Premises; (c) effect any repairs to the Premises without CITY'S prior consent; (d) allow or permit any liens or encumbrances to be placed on any portion of the Building; (e) operate or use any machine or device which results in excess use of utilities; (f) use the Premises in any manner which may create a health, safety, or fire hazard; (g) fail to pay all taxes assessed against LESSEE related to its tenancy, use or occupancy of the Premises; or (h) fail to obey the Building's "Rules and Regulations", as may be amended from time to time, attached hereto as EXHIBIT B.

14. Services.

The rent payable under this Lease shall include payment for utilities, janitorial services five (5) nights per week, and a listing in the lobby directory, if available.

15. Keys.

LESSEE has possession of keys for the Premises. Keys shall not be duplicated except by CITY at LESSEE'S sole cost. LESSEE shall pay to CITY twenty dollars (\$20) per key duplicated. LESSEE assumes the risk of lost keys. LESSEE shall pay CITY all costs necessitated by a loss of any of LESSEE'S keys, including without limitation changing locks and providing keys to other tenants of the Building. Keys must be returned to CITY upon expiration or earlier termination of the Lease, or LESSEE'S relocation within the Building.

16. Signs.

LESSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without CITY'S prior written consent. If any such unauthorized item is found on the Premises, LESSEE shall remove the item at its expense within twenty-four (24) hours notice by CITY, or CITY may remove the item at LESSEE'S cost.

17. LESSEE'S Acceptance of Premises.

LESSEE acknowledges that the Premises are in good order and condition and shall take possession of the Premises "as is." CITY has not made and makes no representation or warranty as to the condition or suitability of the Premises for LESSEE'S intended use, and assumes no obligation to alter or improve the Premises. LESSEE has relied solely on its own independent investigations of the condition and suitability of the Premises, and is satisfied with the condition thereof, including but not limited to electrical and fire sprinkler systems, security, asbestos, air quality, and other environmental aspects, seismic and earthquake requirements, and compliance with the Americans with Disabilities Act and applicable zoning, municipal, county, state and federal laws, ordinances and regulations, and any covenants or restrictions of record. LESSEE shall maintain the Premises in good repair, and in a decent, safe, healthy and sanitary condition. LESSEE shall not make any alterations or additions to the Premises without CITY'S prior written consent. At the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises and any furniture provided under this Lease in as good condition and repair as when LESSEE received the Premises and such furniture, normal wear and tear excepted.

18. Entry and Inspection.

CITY reserves and shall always have the right, but not the obligation, to enter the Premises for the purpose of viewing and ascertaining the condition of the Premises, to protect its interests in the Premises, or to inspect the operations conducted on the Premises. If CITY determines that the Premises are not in a decent, safe, healthy and sanitary condition, CITY may, after ten (10) days prior notice to LESSEE, have any necessary maintenance work done at LESSEE'S sole expense. LESSEE shall pay CITY on demand any and all costs to put the Premises in a decent, safe, healthy, and sanitary condition. If at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, at its discretion and without further notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate, in CITY'S opinion, to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any obligation on CITY or increase any of CITY'S obligations under this Lease.

19. Improvements/Alterations.

No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by LESSEE without prior written approval of the Mayor. LESSEE shall not make any major structural or architectural design alterations to approved improvements, structures, or installations on the Premises without the prior written approval of the Mayor. This provision shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this Lease to make or assume any expense for any improvements or alterations.

20. Compliance with Law.

LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole cost and expense. LESSEE shall comply with any and all notices issued by the Mayor under the authority of any law, statute, ordinance, or regulation.

21. Indemnity.

LESSEE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established which arise out of or are in any manner directly or indirectly connected with this Lease or the development, occupancy, or use of the Premises, and all costs and expenses of investigating and defending against same, including without limitation attorney fees and costs, provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, LESSEE shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

22. Insurance.

a. Coverage and Amount. LESSEE shall acquire and maintain at all times during the Term the following insurance at its sole expense:

- i. Public Liability and Property Damage. Public liability and property damage insurance in the amount of not less than one million dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims

form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the development, use or occupation of the Premises; and

- ii. Fire, Extended Coverage and Vandalism. Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the Leasehold, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.

- b. Additional Requirements. LESSEE'S responsibility to maintain said insurance shall also include the following:

- i. Additional Insured. All insurance policies, by separate endorsement, shall name the City of San Diego, its elected officials, officers, representatives, agents, and employees as additional insureds, protect CITY against any legal costs in defending claims, and shall not terminate without sixty (60) days prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies shall be in effect on or before the first day of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. Copies of all current insurance policies shall remain on file with CITY during the Term. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate showing that a new or extended policy has been obtained which meets the terms of this Lease.
- ii. Modification. At any time during the Term and upon thirty (30) days prior written notice, CITY may require, at its discretion, revision of the amounts and types of insurance required under this Lease. Such requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises.
- iii. Accident Reports. LESSEE shall report to CITY any accident causing more than five thousand dollars (\$5,000) worth of property damage or any serious injury to persons on the Premises. The report shall contain the names and addresses of the parties involved, a statement of the

circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.

- iv. Failure to Comply. If LESSEE fails or refuses to acquire and maintain the required insurance or fails to provide proof of insurance, CITY may obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall notify LESSEE of the payment of premiums within thirty (30) days of payment stating the paid amount, the name of the insurer, and the rate of interest. LESSEE shall pay CITY the reimbursement and interest on the first (1st) day of the month following the notice of payment by CITY. If LESSEE fails or refuses to acquire and maintain, or pay for insurance as required by this Lease, or fails to provide proof of insurance, CITY may without further notice declare LESSEE in default, and CITY may enforce all of its rights and remedies under this Lease.

23. Hazardous Substances.

- a. LESSEE shall not allow the installation or release of hazardous substances in, on, under, or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated in this Lease.
- b. If any release of a hazardous substance occurs, LESSEE shall pay all costs of remediation and removal of the substance in accordance with all applicable rules and regulations of governmental authorities.
- c. LESSEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE'S development, occupation, use or maintenance of the Premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.
- d. If LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Premises, LESSEE shall give written notice to CITY within three (3) days of receipt of the knowledge or cause for belief. If LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety,

LESSEE shall notify CITY immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate the danger. LESSEE shall notify CITY immediately of any notice of violation received or initiation of environmental actions or private suits related to the Premises. LESSEE and LESSEE'S sublessees shall not store, utilize, or sell any hazardous substance on the Premises without CITY'S prior written consent.

- e. At any time within the twelve (12) months before expiration or earlier termination of this Lease, LESSEE, at CITY'S option, shall cause an environmental assessment of the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at the sole cost and expense of LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the Premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved, and LESSEE shall pay all costs and expenses therefor.

24. Asbestos Disclosure.

Portions of the structural components of the Building may contain asbestos. LESSEE acknowledges receipt of notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. LESSEE shall disclose to the appropriate parties the existence of asbestos on the Premises, as required by Health and Safety Code Section 25915. LESSEE shall protect, defend, indemnify and hold CITY harmless from any loss or claim which may result from the existence of asbestos on the Premises.

25. Asbestos.

If either CITY or LESSEE makes improvements, alterations, or repairs to the Building or the Premises, the party causing such improvements, alterations, or repairs shall be responsible for any asbestos removal, management, or containment, and shall pay all costs associated therewith. Asbestos removal, management, or containment shall be conducted in accordance with all applicable laws and as approved by CITY. CITY reserves the right to inspect any improvements, alterations, or repairs to the Premises or the Building made by LESSEE. CITY may, at its discretion, station supervisory personnel at the work site to ensure that LESSEE'S obligations under this section are fulfilled. Each party shall coordinate with the other any improvement, alteration, or repair, and, except in the event of an emergency, the party responsible for such work shall

provide written notice to the other party at least fifteen (15) days prior to commencing the work.

26. Common Areas.

The term "Common Areas" shall mean all areas and facilities outside the Premises and within the exterior boundary line of the Building (including all interior utility raceways within the Building) that are provided and designated by the CITY from time to time for non-exclusive use by CITY, LESSEE, and other tenants of the Building.

- a. LESSEE'S Rights. CITY grants to LESSEE during the Term, the non-exclusive license to use, in common with others, the Common Areas as they exist from time to time, subject to any rights reserved by CITY under this Lease.
- b. Rules and Regulations (see EXHIBIT B). CITY shall have exclusive control and management of the Common Areas and may, from time to time, establish, modify, amend, and enforce reasonable rules and regulations with respect to the Common Areas, a current copy of which is attached as EXHIBIT B hereto ("Rules and Regulations"). LESSEE shall abide by the Rules and Regulations, and shall cause its employees, suppliers, shippers, customers, contractors and invitees to abide by the Rules and Regulations. CITY shall not be responsible to LESSEE for any other tenant's non-compliance with the Rules and Regulations.
- c. Changes. CITY may, in CITY'S sole discretion and from time to time, make changes to the Common Areas, including, without limitation, changes in the location, size, shape, and number of driveways, entrances, parking spaces, parking area, loading and unloading areas, ingress and egress, direction of traffic, landscaped areas, walkways, and utility raceways. CITY may temporarily close any Common Areas for maintenance purposes, provided reasonable access to the Premises remains available. CITY may make improvements to the Common Areas and use the Common Areas while making improvements, alterations, or repairs to any part of the Building, and do and perform such other acts and make other changes in, to or with respect to the Building, as CITY may deem appropriate.

27. Assignment and Subletting.

LESSEE shall not assign this Lease or any interest in this Lease, and shall not sublet the Premises or any part of the Premises, or any right or privilege appurtenant to the Premises, or allow any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part of the Premises, without CITY'S prior written consent, in each instance. CITY'S consent to any assignment, subletting, occupation, or use by any other person shall not be deemed to be consent to any subsequent assignment, subletting, occupation, or use by another person. Any assignment or subletting without CITY'S consent shall be void and shall, at CITY'S option, terminate this Lease. This Lease shall not, nor shall any interest in this Lease, be assignable as to the interest of LESSEE by operation of law, without CITY'S written consent. For the purposes of this

section, "assignment" shall include the transfer of any ownership interest in this Lease by LESSEE or by any partners, principals, or stockholders of LESSEE, as the case may be, from the original LESSEE.

28. Nondiscrimination.

LESSEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE'S use of the Premises, including without limitation the provision of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

29. Equal Opportunity.

LESSEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations. LESSEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, or place of birth. Upon CITY'S request, LESSEE shall submit a current Workforce Report and, if required, an Equal Opportunity Plan which set forth the actions LESSEE will take to achieve the CITY'S goals for the employment of African Americans, Native Americans, Asians, Latinos, women, and people with disabilities. LESSEE shall cause the foregoing provisions to be inserted in all subleases and all contracts for any work covered by this Lease so that such provisions will be binding upon each sublessee and contractor. LESSEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

30. Taxes.

LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machinery, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE, or levied by reason of the business or other LESSEE activities related to the Premises, including any licenses or permits. LESSEE acknowledges that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on that interest. LESSEE shall pay all such possessory interest taxes. LESSEE'S payment for such taxes, fees, and assessments shall not reduce any rent due CITY.

31. Standard of Employees.

LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner.

32. Cost Recovery.

LESSEE shall pay to CITY administrative fees as required under CITY'S schedule of such fees as an offset to administrative costs incurred for CITY staff services that are of benefit to LESSEE. CITY shall process applicable requests upon receipt of LESSEE'S payment of such a fee. CITY, in its sole discretion, may update its fee schedule from time to time.

33. CITY Employee Participation Policy.

CITY may unilaterally and immediately terminate this Lease if LESSEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in his/her capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on the recommendation made to the San Diego City Council related to the selection of LESSEE for this Lease. It is not the intent of this policy that these provisions apply to members of the City Council.

34. Drug-free Workplace.

LESSEE shall comply with the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition;
- b. Establish a drug-free awareness program to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. LESSEE'S policy of maintaining a drug-free workplace;
 - iii. any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. penalties that may be imposed upon employees for drug abuse violations;

AND

Include in each sublease agreement language indicating the sublessee's agreement to abide by these provisions for a drug-free workplace. LESSEE and its sublessees shall each be responsible for their own drug-free workplace program.

35. Disabled Access Compliance.

LESSEE shall comply with Title 24 of the California Code of Regulations (i.e., the "Building Code", as defined in Title 24 of the California Health and Safety Code), the Americans with Disabilities Act of 1990 ("ADA"); and any other applicable state and federal laws and regulations enacted protecting the rights of people with disabilities. LESSEE'S compliance shall include without limitation the following:

- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
- c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, LESSEE shall, at LESSEE'S sole cost and in conformance with all applicable building codes, comply with CITY'S disabled access requirements by making accessible any areas of the Premises which deny access to disabled persons.
- e. LESSEE shall include language in each sublease agreement indicating the sublessee's agreement to abide by the foregoing provisions.

LESSEE and each of its sublessees shall be individually responsible for their own ADA compliance program. LESSEE'S failure to comply with the above requirements and/or submitting false information in response to those requirements shall be a default under this Lease.

36. Default and Remedies.

- a. Default. LESSEE shall be in default of this Lease if any of the following occurs:
 - i. LESSEE fails to make any payment required under this Lease when due;
 - ii. LESSEE breaches any of its obligations under this Lease, other than those requiring payment to CITY, and fails to cure the breach within thirty (30) days following written notice thereof from CITY, or if not curable within thirty (30) days, fails to commence to cure the breach within thirty (30) days and diligently pursue the cure to completion;

- iii. LESSEE voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
 - iv. LESSEE is adjudicated a bankrupt; or
 - v. LESSEE makes a general assignment for the benefit of creditors.
- b. Remedies. Upon LESSEE'S default, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written Three Day Notice to Pay or Quit, or CITY may terminate the Lease and all rights of LESSEE, and all persons claiming rights through LESSEE, to the Premises or to possession of the Premises. Upon termination, CITY may enter and take possession of the Premises, and may recover from LESSEE the sum of:
- i. the worth at the time of award of any unpaid rent that was due at the time of termination;
 - ii. the worth at the time of award of the amount by which the unpaid rent that would have been earned after termination until the time of award exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could have been reasonably avoided;
 - iii. the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could be reasonably avoided;
 - iv. any other amount necessary to compensate CITY for all the detriment proximately caused by LESSEE'S breach and default, or that in the ordinary course of things, would be likely to result; and
 - v. all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses b(i) and b(ii), above, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause b(iii), above, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this section, the term "rent" shall include rent and any other amounts payable by LESSEE under this Lease.

- c. Default if Leasehold is Encumbered. If there is a CITY-approved deed of trust or mortgage on the leasehold interest, CITY shall give the mortgagee or beneficiary written notice of LESSEE'S default under this Lease, and the same mortgagee or beneficiary shall have thirty (30) days from the notice to cure the default, or, if the

default is not curable within thirty (30) days, to commence to cure the default and diligently pursue the cure to completion. CITY may extend the cure period if the mortgagee or beneficiary uses reasonable diligence to pursue a cure. If the mortgagee or beneficiary chooses to cure the default through litigation or foreclosure, then CITY may exercise any of the following options:

- i. CITY may correct the default and charge the costs to the account of LESSEE, which charge shall be due and payable on the date that the rent is next due after CITY'S notice of such costs to LESSEE, and mortgagee or beneficiary;
- ii. CITY may correct the default and pay the costs from the proceeds of any insurance fund held by CITY, CITY and LESSEE, or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default or to pay the costs of correction performed by or at the direction of CITY; and
- iii. CITY may terminate this Lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE shall assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition of early payoff of the related obligations by CITY. CITY may, as an alternative, substitute the terminated LESSEE with a new lessee reasonably satisfactory to the mortgagee or beneficiary. LESSEE shall pay to CITY all reasonable costs incurred by CITY in re-leasing to a new lessee.

If the default is noncurable by LESSEE, then any lender holding a beneficial interest in the Premises, whose qualifications as an assignee have been approved by CITY, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this Lease. If the mortgagee or beneficiary gives notice in writing of its election to substitute itself within the thirty (30) day period after receiving CITY'S written notice of a default, and the default, if curable, is cured by the mortgagee or beneficiary, then this Lease will not terminate pursuant to the default. In that event, CITY consents to the substitution and authorizes the mortgagee or beneficiary to perform under this Lease with all the rights, privileges, and obligations of LESSEE, subject to the curing of the default, if possible, by mortgagee or beneficiary. In that event, LESSEE shall assign to mortgagee or beneficiary all of its interest in and to the leasehold estate under this Lease.

- d. Abandonment by LESSEE. If LESSEE breaches the Lease and abandons the property, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all of its rights and remedies under this Lease, including but not limited to the right to recover the rent as it becomes due, plus damages.

- e. Waiver. Any waiver by CITY of a breach or default by LESSEE shall not be a waiver of any other breach or default. No waiver shall be valid and binding unless in writing and executed by the Mayor. CITY'S delay or failure to enforce a right or remedy shall not be a waiver of that or any other right or remedy under this Lease. The enforcement of a particular right or remedy for a breach or default shall not waive any other right or remedy for the same breach or default, or for any other or later breach or default. CITY'S acceptance of any rents shall not be a waiver of any default preceding such payment. LESSEE acknowledges that the Premises are a part of CITY-owned property held in trust for the benefit of the citizens of the City of San Diego, and that any failure by CITY to discover a breach or default, or take prompt action to require the cure of any breach or default, shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any breach or default. CITY'S acceptance of a partial payment of rent shall not constitute a waiver of the balance of the rent payment due.

37. Notices.

Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or by United States mail, postage prepaid, and addressed, respectively, as follows:

CITY OF SAN DIEGO
Attn: Real Estate Assets Director
1200 Third Avenue, Suite 1700 (M.S. 51A)
San Diego, CA 92101-9586

Intrax, Inc.
Attn: Tara Filer
1250 Sixth Ave. Ste. 300A
San Diego, CA 92112

Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.

38. Partial Invalidity.

If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

39. Number and Gender.

Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.

40. Captions.

The section headings and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. The lack of consecutive numbers shall have no effect on the enforceability of this Lease.

41. Lease Modifications.

Any modification, alteration, or amendment of this Lease shall be in writing and signed by all the parties hereto.

42. Time is of the Essence.

Time is of the essence to the performance of this Lease.

43. Survival.

Any obligation which accrues under this Lease prior to its expiration or termination shall survive the expiration or earlier termination of this Lease.

44. Governance.

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California.

45. Counterparts.

This Lease may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

46. Successors and Assigns.

Except as otherwise provided in this Lease, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and jointly and severally bind the successors and assigns of the respective parties.

47. Attorney Fees.

If any party brings an action or proceeding against another party under this Lease, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney fees and costs therefor. If, as a result of an action brought by or against LESSEE

relating to LESSEE'S leasehold or otherwise in connection with this Lease, and CITY intervenes therein, becomes a party, or is made a party thereto, LESSEE shall pay all of CITY'S expenses thereof, including without limitation costs and attorney fees.

48. Entire Understanding.

This Lease contains the entire understanding of the parties. There is no other written or oral understanding between the parties with respect to this Lease or the Premises. Each party has relied solely on its own examination of the Premises and advice from its own attorneys and experts in entering into this Lease. No other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease. No modification, amendment, or alteration of this Lease shall be valid unless it is in writing and signed by all parties. LESSEE shall pay to CITY an administrative fee for any modification, amendment or alteration of this Lease requested by LESSEE. Such administrative fees are established by the Mayor and may be revised from time to time.

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49. Authority.

Each individual executing this Lease on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Lease is binding upon such person or entity in accordance with its terms. Each person executing this Lease on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid, and such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this Lease is executed to be effective as of the Effective Date.

THE CITY OF SAN DIEGO, a California municipal corporation

Date: 4/2/08

By: [Signature]
Name and Title: J. F. BARWICK
DIRECTOR: REAL ESTATE ASSETS

INTRAX, INC., a California corporation

Date: 3/28/08

By: [Signature]
Tara Filer, Director

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. AGUIRRE, San Diego City Attorney

Date: 4.3.08

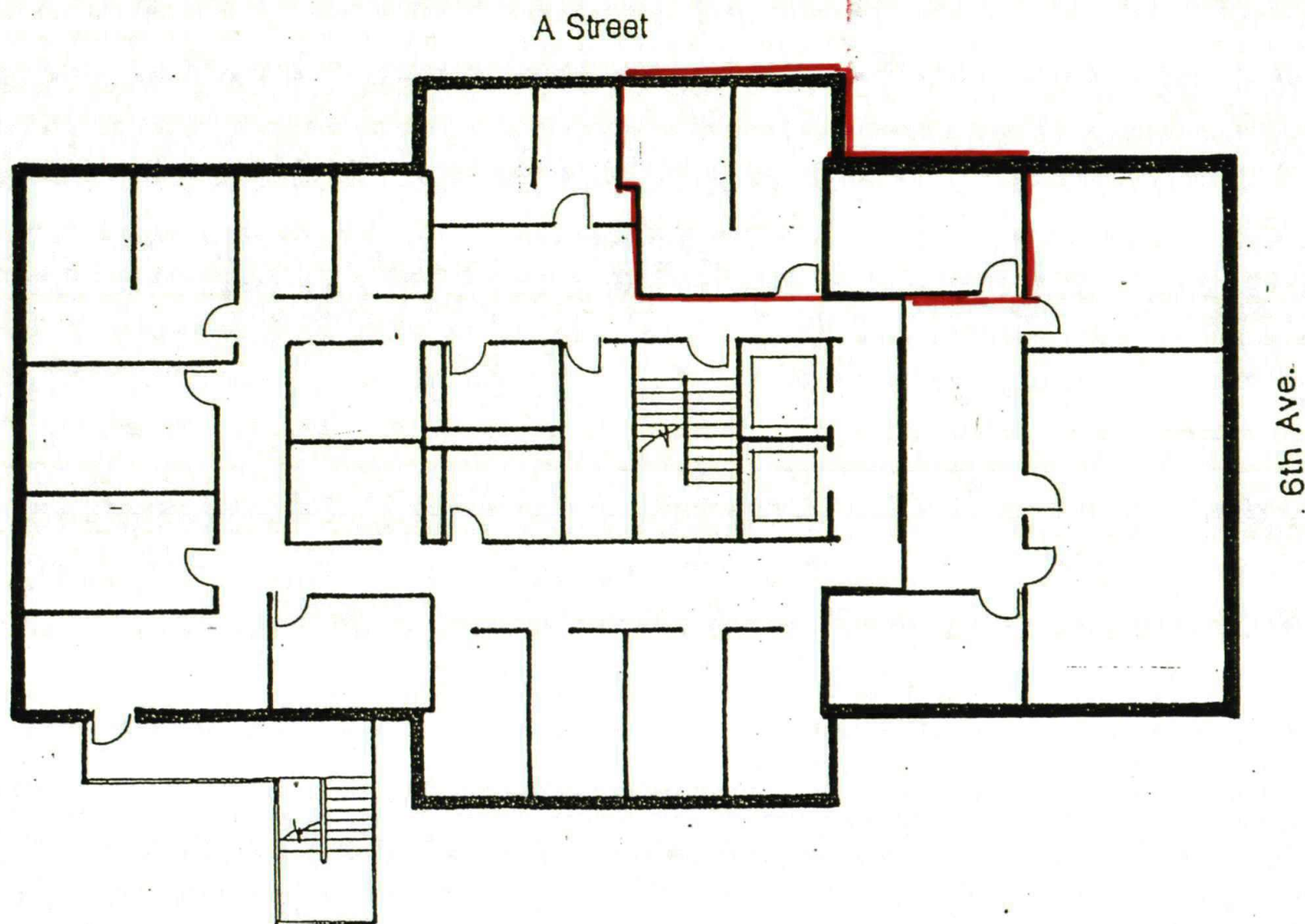
By: [Signature]
Deputy City Attorney

CRG/cb
3-13-08
I:\WPO\2007\GILLIS\LEASE-INTRAX INC.doc

EXHIBIT A
FLOOR PLAN

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N

8th Floor Plan



1/16" = 1'0"

EXHIBIT A

EXHIBIT B

RULES AND REGULATIONS

1. The sidewalks, entrances, halls, corridors, elevators and stairways of the Building and Premises shall not be obstructed or used as a waiting or lounging place by any tenant or any tenant's agent, servant, employee, invitee, licensee or visitor. Entrance doors leading from the Premises to the hallways shall not be propped or kept open at any time.
2. In case of invasion, riot, public excitement or other commotion, CITY may prevent access to the Building during the continuance of same. CITY shall in no case be liable for damages for the admission or exclusion of any person to or from the Building. CITY may exclude or expel from the Building any person who, in CITY'S judgment, is intoxicated or under the influence of liquor or drugs, or who is in violation of any of these Rules and Regulations.
3. CITY may require payment of a reasonable charge for any additional keys requested by LESSEE. LESSEE shall not have any keys made for the Premises, alter any lock, or install new or additional locks or bolts on any door without CITY'S prior written consent. LESSEE shall provide CITY with a key for any such lock or bolt. Upon the expiration or termination of its tenancy, LESSEE shall deliver to CITY all keys in its possession for all locks and bolts in the Building. LESSEE shall pay to CITY immediately upon demand all costs related to LESSEE'S loss of any Building or Premises key or access card.
4. LESSEE shall permit CITY'S employees (or CITY'S agents' employees) to take care of and clean the Building. LESSEE shall not employ any person other than CITY'S employees (or CITY'S agents' employees) for such purpose. LESSEE shall not cause any unnecessary labor by reason of LESSEE'S carelessness or indifference in the preservation of good order and cleanliness of the Premises and the Building. If LESSEE must dispose of crates, boxes, etc., which will not fit into office waste paper baskets, it will be LESSEE'S responsibility to dispose of same. In no event shall LESSEE set such items in the public hallways or other Common Areas of the Building for disposal. LESSEE shall store all of its trash and garbage within its Premises or in facilities provided by CITY for that purpose. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by CITY.
5. CITY may prescribe the date, time, method and conditions that any personal property, equipment, trade fixtures, merchandise and other similar items shall be delivered to or removed from the Building. No iron safe or other heavy or bulky object shall be delivered to or removed from the Building, except by experienced safe men, movers or riggers approved in writing in advance by CITY. LESSEE shall pay CITY immediately upon demand for all damage done to the Building by the delivery or removal of such items, or by reason of their presence in the Building. Unless equipped with rubber tires, no hand trucks shall be used in any space, or in the public halls of the Building, either by LESSEE, jobbers, or others in the delivery or receipt of merchandise. Any Building freight elevator shall be available for use by all tenants in the Building. LESSEE'S initial

move-in and subsequent deliveries of bulky items, such as furniture, safes and similar items shall be subject to such reasonable scheduling as CITY, in its discretion, shall deem appropriate. Unless otherwise agreed to in writing by CITY, deliveries during normal office hours shall be limited to normal office supplies and other small items. No deliveries shall be made which impede or interfere with other tenants or the operations of the Building.

6. LESSEE shall not cover or obstruct the walls, partitions, skylights, windows, doors, and transoms that reflect or admit light into passageways or into any other part of the Building.
7. The restrooms, toilets, urinals, wash bowls, drains and water apparatus shall not be used for any purpose other than that for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein. LESSEE shall pay CITY immediately upon demand all costs related to any breakage, stoppage or damage resulting from violation of this rule by LESSEE or any of LESSEE'S agents, employees, invitees, licensees or visitors.
8. No sign, name, placard, advertisement or notice visible from the exterior of any Premises, shall be inscribed, painted or affixed by LESSEE on any part of the Building without the prior written approval of CITY. All signs or letterings on doors, or otherwise, must be approved by CITY and shall be inscribed, painted or affixed by a person approved by CITY at LESSEE'S sole cost and expense.
9. No signaling, telegraphic or telephonic instruments or devices, burglar alarm systems or similar service, or other wire, instruments or devices, shall be installed in or on the Premises without CITY'S prior written approval. Such installations, and the boring or cutting for wires, shall be made at LESSEE'S sole cost and expense and under the control and direction of CITY. CITY may require: (a) the installation and use of such electrical protecting devices that prevent the transmission of excessive currents of electricity into or through the Building; (b) the changing of wires and of their installation and arrangement underground or otherwise as CITY may direct; and (c) compliance on the part of all using or seeking access to such wires with such rules as CITY may establish relating thereto. All such wires used by LESSEE must be clearly tagged at the distribution boards and junction boxes and elsewhere in the Building, with the number of the Premises to which said wires lead, the purpose for which said wires are used, and the name of the company operating same.
10. LESSEE, its agents, servants or employees, shall not:
 - a. Go on the roof of the Building;
 - b. Use any additional method of heating or air conditioning the Premises;
 - c. Sweep or throw any dirt or other substance from the Premises into any of the halls, corridors, elevators or stairways of the Building;
 - d. Bring in or keep in or about the Premises any vehicles or animals of any kind;
 - e. Install any radio or television antennae or any other device or item on the roof,

- exterior walls, windows or window sills of the Building;
 - f. Place objects against glass partitions, doors or windows which would be unsightly from the interior or exterior of the Building;
 - g. Use the Premises for any manufacturing, storage or sale of merchandise or property of any kind;
 - h. Cause or permit unusual or objectionable odor to be produced or permeate from the Premises including, without limitation, duplicating or printing equipment fumes;
 - i. Install or operate any vending machines in the Premises without CITY'S prior written consent; or
 - j. Permit operation of any musical or sound producing instrument or device which may be heard outside the Premises or Building or which may emit electrical waves which will impair radio or television broadcast or reception from or into the Building.
11. LESSEE shall not store or use any hazardous substance in the Premises without CITY'S prior written consent, including for illustration purposes: (a) ether, naphtha, phosphorous, benzene, gasoline, petroleum, crude or refined earth or coal oils, flashlight powder, kerosene or camphene; (b) any flammable, combustible, explosive or illuminating fluid, gas or material of any kind; or (c) any fluid, gas or material of any kind having an offensive odor, without CITY'S prior written consent.
12. No canvassing, soliciting, distribution of hand bills or other written material, or peddling shall be permitted in the Building, and LESSEE shall cooperate with CITY in preventing and eliminating same.
13. LESSEE shall promptly notify CITY of all damage to or defects in air conditioning equipment, plumbing, electrical facilities or any part or appurtenance of the Building.
14. If the Premises becomes infested with pests or vermin, LESSEE, at its sole cost and expense, shall cause such pests or vermin to be exterminated from time to time to the satisfaction of CITY, and shall employ such exterminators as shall be approved by CITY.
15. No curtains, blinds, shades, screens, awnings or other coverings or projections of any nature shall be attached to or hung in, or used in connection with any door, window or wall of the Premises or of the Building without CITY'S prior written consent.
16. LESSEE shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. CITY may prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the building. Heavy objects shall stand on such platform as determined by CITY to be necessary to properly distribute the weight, which platform shall be provided at LESSEE'S sole expense. Business machines and mechanical equipment belonging to LESSEE, which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to CITY or to any tenant in the Building, shall be placed and maintained by

LESSEE, at LESSEE'S sole expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. CITY shall not be responsible for the loss or damage of any such equipment or other property for any cause. LESSEE shall pay CITY immediately upon demand all costs of damage done to the Building by maintaining or moving such equipment or other property.

17. LESSEE shall not waste electricity, water or air conditioning, shall cooperate with CITY to assure the most efficient operation of the Building's heating and air conditioning, shall comply with governmental energy saving rules, laws or regulations of which LESSEE has actual notice, and shall refrain from attempting to adjust controls. LESSEE shall keep corridors and window coverings closed at the end of each business day.
18. CITY may prohibit any advertising by LESSEE which, in CITY'S opinion, tends to impair the reputation of CITY or of the Building, or its desirability as an office building for existing or prospective tenants who require the highest standards of integrity and respectability. Upon written notice from CITY, LESSEE shall immediately refrain from or discontinue such advertising.
19. LESSEE shall be responsible for the acts and omissions of its associates, employees, agents and any other person entering the Building or the Premises under the express or implied invitation of LESSEE. LESSEE shall cooperate with CITY to assure compliance by all such parties with these Rules and Regulations.
20. CITY may make reasonable amendments, modifications and additions to these Rules and Regulations, and make additional reasonable rules and regulations, as in CITY'S sole judgment may be needed from time to time for the safety, care, cleanliness and preservation or good order of the Building.
21. A request by LESSEE will be attended to only upon application at the office of the Building. Employees of CITY shall not perform any work or do anything outside of their regular duties unless under special instructions from CITY. No employee is authorized to admit any person (LESSEE or otherwise) to any leased premises without specific instructions from CITY.
22. CITY may, without notice and without liability to LESSEE, change the name and the street address of the Building of which the Premises are a part. CITY shall pay for all reasonable costs incurred by LESSEE as a result of changing the street address of the Building, unless the change is requested by an authorized governmental agency.
23. LESSEE shall not obtain for use upon the Premises ice, towel or other similar services or accept barbering or shoe polishing services on the Premises, except from persons authorized by CITY and at the hours and under regulations fixed by CITY.
24. CITY may waive any one or more of these Rules and Regulations for the benefit of any tenant. No such waiver by CITY shall be construed as a waiver of such Rules and Regulations in favor of LESSEE or any other tenant, or prevent CITY from thereafter

enforcing any such Rules and Regulations against any or all of the tenants of the Building.

25. LESSEE assumes all responsibility for protecting the Premises from theft, robbery, and pilferage which includes keeping doors locked and other means of entry to the Premises secured. LESSEE shall comply with all safety and fire protection evacuation procedures and regulations established by CITY or any governmental agency.