

ARTICLE III
MAINLINE CONDUIT RENTAL

A. ECS RIGHTS AND RESPONSIBILITIES:

1. ECS shall provide, build, equip, maintain and operate the Conduit System for use by Tenant and Other Tenants in accordance with this Agreement, provided however, that ECS reserves to itself, its successors and assigns, the right to relocate, rearrange and maintain its Conduit System and to operate its Conduit System in such a manner as will best enable it to fulfill its obligations under the 1891 Agreement or other legal requirements. ECS further reserves the right to perform Custom Work in accordance with this Agreement, provided that nothing in this Agreement shall be construed as obligating ECS to perform any Optional Custom Work for Tenant.
2. ECS shall grant Tenant licenses to Occupy space in the Conduit System in accordance with the Terms of this Agreement based on Applications for Occupancy received from Tenant using the applicable forms attached hereto in Exhibit A, provided however, that ECS reserves the right to adopt any and all necessary improvements that, in its sole judgment, will increase the usefulness and efficiency of the Conduit System for Tenant, Other Tenants or the City of New York and further provided that ECS does not warrant the condition of any Conduit, Innerduct or space in the Conduit System.
3. ECS shall build Bonded Conduit upon receipt of a Request to Construct Bonded Conduit using the appropriate form attached hereto in Exhibit A, provided however, that prior to building any new Bonded Conduit, ECS shall undertake Construction Avoidance measures. If ECS's Construction Avoidance measures result in finding a Spare Conduit (or Spare Innerduct), or an alternate route that reasonably meets Tenant's Immediate Service Needs, ECS shall cancel that portion of the request that has been satisfied, notify Tenant of the availability of such Spare Conduit or Innerduct, and bill Tenant for the costs of Construction Avoidance in accordance with the rates and charges set forth in Exhibit B attached hereto. Any portion of the costs associated with Construction Avoidance measures that are not successful shall not be billed to Tenant. Unless otherwise instructed by Tenant, ECS shall made reasonable efforts to schedule the construction of Bonded Conduits for Tenant in the same order as the requests were received.
4. ECS reserves the right to require Tenant to Surrender or otherwise remove its Facilities from any space in the Conduit System for which Tenant does not have an Immediate Service Need if any Other Tenant notifies ECS that it has an Immediate Service Need for such space. Tenant shall be responsible for payment of the Occupancy Rate on such Conduits until such date as the ECSC receives an Application for Surrender of Occupancy form from Tenant.
5. Nothing contained herein shall be construed to compel ECS to construct, reconstruct, retain, extend, repair, place, replace or maintain any underground facility that is not required by ECS's 1891 Agreement. Nothing contained herein shall be construed as

granting an unconditional right to access and/or work in the Conduit System. ECS reserves the right to exclude any persons or entities, including Tenant, its employees, agents and contractors, from performing work in the Conduit System if ECS determines that such persons or entities have engaged in acts or omissions that do not comply with the Articles of this Agreement, ECS's policies, practices and procedures attached hereto in Exhibits C-G, or any amendments made thereto.

6. Upon written request, ECS shall provide Tenant either access to or copies of certain of its engineering records within fourteen (14) calendar days of receipt of such request provided that Tenant requires such records to fulfil its rights and responsibilities under this Agreement. Access to ECS's records shall be limited to table maps, duct cards, portions of "50-foot" maps, and any other engineering records that are not of a proprietary nature. ECS may keep these records in any format it finds convenient and shall not be required to modify the format of any record to accommodate the needs of Tenant. ECS reserves the right to: (i) redact any record, if possible, to avoid disclosing proprietary information, and (ii) charge Tenant for the actual costs of reproduction, redaction and delivery of records.
7. ECS reserves the right to inspect any or all work activities of Tenant, its employees, agents and contractors, performed in or around the Conduit System. ECS shall bill Tenant for inspections based on the actual time ECS inspectors spend inspecting Tenant, its employees, agents and contractors, working in and around the Conduit System at the rates and charges set forth in Exhibit B attached hereto.
8. Expect for changes in contact information, which may be made at any time without prior notice, ECS reserves the right to revise, change or clarify any of its policies, practices and procedures contained in Exhibits C-G, or to adopt new policies, practices or procedures, upon not less than thirty (30) days written notice to Tenant and DoITT. Unless ECS receives a written objection from DoITT, the proposed policies, practices and procedures shall take effect at the end of the thirty (30) day notice period or on such later effective date as specified in the notice. ECS also reserves the right to revise, change or clarify any form attached hereto in Exhibit A, or to create new forms for required use by Tenant, on not less than five (5) days written notice to Tenant.