

ARTICLE XI  
MISCELLANEOUS PROVISIONS

1. Any written notice to be given to ECS under this Agreement shall be sent by fax and first class mail to:

Empire Customer Service Center (ECSC)  
Attention:  
Fax No.: (212) 334-1087, Phone: (212) 274-0740

2. Any written notice to be given to Tenant under this Agreement shall be sent by fax and first class mail to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Any such notice shall be effective immediately upon being deposited in the United States mail. The parties may mutually agree, by course of conduct or otherwise, to exchange written notice by e-mail, in which case such notice shall be effective upon transmission by the sending party.
4. The exchange or offering of any money, gift, item, personal service, entertainment or unusual hospitality by either party to this Agreement to the other party is expressly prohibited. This prohibition is equally applicable to either party's officers, employees, agents or immediate family members.
5. This Agreement shall not be construed to create a partnership or joint venture relationship between Tenant and ECS. Tenant shall at all times be deemed an independent contractor.
6. Nothing contained herein shall be construed as a limitation, restriction, or prohibition against ECS with respect to any agreement(s) or arrangement(s) which ECS has entered into, or may in the future enter into, with other parties not covered by this Agreement, except that licenses for Occupancy existing at the time of such future agreements or arrangements shall not be diminished. The privileges of Tenant shall at all times be subject to such existing and further agreement(s) or arrangement(s). ECS, in negotiating and entering into any such agreement(s) and/or arrangement(s), shall give due and reasonable regard to Tenant's continued Occupancy in the Conduit System.
7. No use, however extended, of the Conduit System or payment of any fee or charge required hereunder shall create or vest in Tenant any ownership or property right in the Conduit System.

8. Except as otherwise provided herein, Tenant shall not assign, sub-license, sublet or transfer any authorization granted herein, and such authorization shall not inure to the benefit of Tenant's successors or assigns, without the prior written consent of ECS. In the event such consents are granted by ECS, the provisions of this Agreement shall apply to and bind Tenant's successors and assigns.
9. This Agreement shall not be construed against one party or the other as the drafter. The Exhibit attached hereto are intended to supplement the provisions contained in the Articles of the Agreement. Should any irreconcilable conflict arise between any provision contained in the Articles of the Agreement and any provision contained in the Exhibits, the provisions in the Articles of the Agreement shall control.
10. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.
11. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior written or oral agreements, understandings, representations and promises. This Agreement also supercedes ECS's Rules and Regulations Governing Occupancy of the Telegraph and Telephone Subways, approved by the Commissioner of Water Supply, Gas and Electricity, December 31, 1913, and all amendments made thereto. Except as otherwise provided herein, this Agreement may not be modified or amended, nor may any obligation of either party be changed or discharged, except upon fifteen (15) days written notice and as and when approved by DoITT. Currently effective licenses, if any, issued pursuant to previous agreements shall remain in effect as if issued pursuant to this Agreement.
12. This Agreement is subject to all laws, rules, and regulations that in any manner affect the rights and obligations of the parties hereto.
13. If not terminated in accordance with its terms, this Agreement shall continue in effect for a term of one (1) year from the date hereof and thereafter until three (3) months after written notice of termination is given by either party. Such notice of termination may be given to take effect at the end of the original one (1) year period or at any time thereafter.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the date and year first above written.

Empire City Subway Company, Limited

\_\_\_\_\_  
(TENANT)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_