

ARTICLE IV
INSURANCE REQUIREMENTS

1. Tenant shall carry insurance policies issued by an insurance carrier licensed, authorized or permitted to operate in the State of New York (with an A.M. Best rating of A- or better) including Empire City Subway (Limited), Verizon New York Inc, , The City of New York, and each of their parents, subsidiaries and affiliate entities and any other entity that this Agreement may require as additional insureds "ATIMA" or "as their interests may appear," except for workers' compensation and employer's liability. The insurance coverage shall have the following minimum limits:

- a. Workers' compensation insurance as required by statute and employee liability insurance with limits of not less than \$1 million;
- b. Commercial general liability insurance, including but not limited to, products liability and complete operations, contractual liability and independent contractor liability for a combined single limit of no less than \$2 million per occurrence;
- c. Excess liability insurance in an umbrella form of not less than \$2 million excess of coverage specified in (b) above;
- d. Commercial automobile liability coverage of not less than \$1 million combined single limit for each occurrence.

2. The policies shall contain the following provisions:

- a. Thirty (30) days' prior written notice to the insured of cancellation or material modification.
- b. Under the commercial general liability policy, ECS and its officers and employees shall be included as additional insured as their interests may appear.

3. Tenant's insurance coverage shall be primary and non-contributory insurance to the full limits of liability as stated in Article IV, Sections 1 and 2 above, and any insurance carried by Empire City Subway (Limited), Verizon New York Inc., The City of New York, and/or each of their parents, subsidiaries and affiliate entities, for claims, damages, actions, judgments, costs, expenses and liabilities that is also covered by Tenant's insurance shall be considered excess insurance and shall not be called upon to contribute until the limits of Tenant's primary and umbrella/excess insurance are exhausted.

4. Tenant shall require all of its contractors and/or subcontractors performing work in the Conduit System to obtain substantially the same insurance with substantially the same limits as that required of Tenant and to list Empire City Subway (Limited), Verizon New York Inc., The City of New York, and/or each of their parents, subsidiaries and affiliate entities as additional insureds on contractors'/subcontractors' policies of insurance.

Contractors'/subcontractors' insurance coverage shall be primary and non-contributory insurance to the full limits of liability as stated in Article IV, Sections 1 and 2 above, and any insurance carried by Empire City Subway (Limited), Verizon New York Inc., The City of New York and/or each of their parents subsidiaries and affiliate entities for claims, damages, actions, judgments, costs, expenses and liabilities that is also covered by Tenant's insurance shall be considered excess insurance and shall not be called upon to contribute until the limits of Tenant's insurance including primary and umbrella/excess insurance are exhausted.

5. All insurance must be effective and certificates of insurance shall be delivered to ECS within five (5) days of execution of this Agreement, and renewal certificates shall be delivered to ECS within ten (10) days of the expiration of the term of each policy. Copies of certificates of insurance and all notices thereunder shall be delivered to ECS at 140 West Street, 7th Floor, New York, New York 10007, Attn: ECS Manager. Tenant shall give ECS at least thirty (30) days' prior written notice of cancellation of any insurance policy on which ECS is included as additional insured pursuant to this Article. All certificates of insurance shall list Empire City Subway (Limited), Verizon New York Inc., The City of New York, and each of their parents, subsidiaries, and affiliate entities as additional insureds on a primary, non-contributory basis.

6. Tenant's insurance coverage shall not affect Tenant's obligations under this Agreement and the limits of such insurance shall not constitute a limit on the Tenant's liability under this Agreement. The indemnification obligations of Tenant shall not be limited in any respect by any limitation on the amount or type of damages, compensation or benefits payable by or for the Tenant under workers' compensation acts, disability benefits acts or other employee benefit acts.

7. Tenant shall promptly advise ECS of all claims relating to damage to property or injury to or death of persons, arising or alleged to have arisen in any manner, directly by the installation, maintenance, repair, replacement, presence, use or removal of Tenant's Facilities. Copies of all accident reports and statements made to Tenant's insurance carrier, or others, shall be furnished promptly to ECS.

8. In lieu of the above requirements, Tenant may submit to ECS annually a written statement that it is self-insured up to the limits of the primary general liability and umbrella/excess coverage set forth above, provided that Tenant can demonstrate that it has an S&P, Moody's or Fitch bond rating of AA, or better. If Tenant is a government entity, Tenant may submit to ECS annually a written statement in lieu of the above requirements stating that self retains up to the primary general liability coverage set forth above.

9. Failure to provide the above insurance requirements shall be grounds for denying Tenant access to the Conduit System.