

**MAINTENANCE AGREEMENT BY AND BETWEEN**  
**THE NEW YORK CITY DEPARTMENT OF SANITATION**  
**AND [MAINTENANCE ENTITY]**

THIS AGREEMENT (the “Agreement”), is made on \_\_\_\_\_ by and between the City of New York, acting by and through its Department of Sanitation (“DSNY”), with its headquarters located at 125 Worth Street, New York, New York 10013, and \_\_\_\_\_, with its headquarters located at \_\_\_\_\_ (“Maintenance Entity”) (each of which may be referred to as a “Party” and collectively as the “Parties”).

**WHEREAS**, MAINTENANCE ENTITY or its agents, employees, contractors will install and maintain a fully enclosed public space waste container for commercial waste (the “Amenities”), as more fully described in **Exhibit A**, located at \_\_\_\_\_, as more fully described in **Exhibit B** (the “Project Area”).

**NOW THEREFORE**, in consideration of the foregoing and of the mutual promises, covenants and agreements herein contained, and intending to be legally bound hereby, the parties agree as follows:

**ARTICLE A.1. TERM AND TERMINATION**

- A.1.1. This Agreement shall be for a term of 2 years (24 months) from the execution date of this Agreement and DSNY shall have the option to renew the Agreement for an additional 1-year (12 month) term (“Renewal Term”), unless terminated pursuant to either of the following conditions: (a) for any reason or no reason by either Party upon 30 days’ prior written notice to the other Party, or (b) by either Party 15 days after such Party gives written notice to the other Party of the other Party’s material breach of this Agreement, which breach is not cured within such 15-day period.
- A.1.2. Upon expiration or termination of this Agreement, MAINTENANCE ENTITY shall remove the Amenities and restore the Project Area to a condition acceptable to DSNY. In the event MAINTENANCE ENTITY fails to remove the Amenities in a timely manner, DSNY or a contractor acting at DSNY’s request, may remove the Amenities and restore the Project Area. MAINTENANCE ENTITY shall pay for the actual cost of removal and restoration of the Project Area.

**ARTICLE A.2. MAINTENANCE AND USAGE**

- A.2.1. MAINTENANCE ENTITY shall submit designs for the Amenities and site plan for the Project Area for review and approval by DSNY. The site plan must meet the NYC Department of Transportation (“DOT”) Street Design Manual Siting Guidelines, including specifications for minimum clearances between Amenities and other elements of the right-of-way.
- A.2.2. MAINTENANCE ENTITY is hereby granted a license, terminable at will, to enter the Project Area to perform its obligations under this Agreement. No ownership, leasehold or other property interest shall vest in MAINTENANCE ENTITY by virtue of this Agreement.
- A.2.3. MAINTENANCE ENTITY shall, at its sole cost and expense, purchase and retain ownership of the Amenities.
- A.2.4. MAINTENANCE ENTITY shall provide, maintain, repair and/or replace the Amenities located in the Project Area as set forth below:

- A.2.4.1. Dirt, litter, obstructions and loose or bagged waste shall be removed to maintain the Project Area (including the surface of drains and catch basins as well as adjacent areas not accessible to DSNY mechanical brooms because of the installation of the Amenities) in a clean condition to the reasonable satisfaction of DSNY.
  - A.2.4.2. All maintenance, repair and/or replacement shall be performed in a safe, good, and workmanlike manner to the reasonable satisfaction of DSNY.
  - A.2.4.3. Snow and ice shall be removed from the Project Area within a reasonable period of time after each snowfall or accumulation of ice, so as not to interfere with safe usage.
  - A.2.4.4. Graffiti shall be regularly painted over or removed, within a reasonable timely manner after its appearance within the Project Area.
  - A.2.4.5. Any planters and planting beds shall be kept reasonably free of litter and debris. Any plants shall be kept in planted areas at all times, and they shall be watered and maintained in a reasonably clean and attractive condition. To the extent that MAINTENANCE ENTITY, or its agents, employees, or contractors, applies pesticides to any plants, it shall comply with Chapter 12 of the New York City Administrative Code.
  - A.2.4.6. All required repairs and/or replacement will, in all respects, conform to the original installation of the Amenities. Any and all required repairs and/or replacements will be performed promptly, and all such repair and replacement costs shall be borne solely by MAINTENANCE ENTITY.
- A.2.5. While this Agreement is in effect, MAINTENANCE ENTITY shall maintain, at its sole cost and expense, commercial general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and “occurrence” based rather than “claims-made.” Such coverage shall list the City, together with its officials and employees, as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26 and, if construction is performed as part of the services, ISO Form CG 20 37. If vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90. MAINTENANCE ENTITY shall also maintain workers’ compensation insurance, employers’ liability insurance, and disability benefits insurance, in accordance with New York State Law, on behalf of, or in regard to, all employees providing services under this Agreement.
- A.2.6. In the event that DSNY determines, at its sole discretion, that an emergency condition for which MAINTENANCE ENTITY is responsible under the terms of this Agreement has

occurred, MAINTENANCE ENTITY shall promptly take all steps necessary to alleviate the emergency condition as may be directed by DSNY, which may include but not be limited to performing repair and/or replacement work in the Project Area and/or on any Amenities.

- A.2.7. MAINTENANCE ENTITY shall provide and maintain, throughout the term of this Agreement, a twenty-four (24) hour, seven (7) days a week emergency contact telephone number on file with DSNY.
- A.2.8. MAINTENANCE ENTITY shall comply with all applicable laws, rules and regulations, and shall receive all required approvals from applicable government agencies, in performing this Agreement and in its operations in the Project Area.
- A.2.9. MAINTENANCE ENTITY is not permitted to display advertising on any Amenities or anywhere else in the Project Area.

### **ARTICLE A.3. NOTICES**

- A.3.1. Each written notice, demand, request, or other communication in connection with this Agreement shall be either served in person, with delivery of service acknowledged in writing by the party receiving the same, or by certified or registered mail, return receipt requested to:

New York City Department of Sanitation  
125 Worth Street, Suite 700  
New York, NY 10013  
Attn: Rayn Riel, Public Space Initiatives

MAINTENANCE ENTITY:

Attn: EMAIL  
PHONE NUMBER (for emergency use)

Or to such other address as may be specified by written notice sent in accordance herewith.

- A.3.2. Every notice, demand, request, or other communication hereunder shall be deemed to have been given at the time of mailing of the aforesaid.

### **ARTICLE A.4. ENTIRE AGREEMENT**

- A.4.1. This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist, or to bind any of the parties hereto, or to vary any of the terms contained herein.

IN WITNESS WHEREOF, the City, acting by and through the Commissioner of the Department of Sanitation, and MAINTENANCE ENTITY, acting by and through its \_\_\_\_\_, have executed this Agreement as of the date and year first above written.

NEW YORK CITY  
DEPARTMENT OF SANITATION

\_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

MAINTENANCE ENTITY

\_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

EXHIBIT A  
Description of Amenities/ Final Approved Design

EXHIBIT B  
Map of Project Area/ Site Photographs