

***Appendix D to DIR Contract No. DIR – TSO – 2658***  
***SERVICE AGREEMENT***

Agreement #

This is to acknowledge receipt of your order to Nu-Vision Technologies, LLC dba Amityville Technologies, LLC for the purpose of providing maintenance on the attached list of equipment, under the following terms and conditions. *Nu-Vision Technologies* (hereinafter referred to as the "Provider"), with its Regional Corporate Office located at 6000 New Horizons Boulevard, Amityville, New York 11701, does accept and acknowledge the order from:  
(hereinafter referred to as the "Customer").

**Customer Information:**

Customer  
Contact: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
A/P Contact: \_\_\_\_\_  
E-Mail Address \_\_\_\_\_

**Provider Information:**

Sales Contact: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
E-Mail Address \_\_\_\_\_

**1. Maintenance Parameters:** Provider will maintain the equipment included on attached Schedule A, with the exception of any Back-Up Batteries during the term of this agreement, all hereinafter called "the equipment" as listed in the attached Schedule A of Equipment. The equipment will be maintained in good working order, during the term of this agreement, provided such maintenance is necessitated by normal usage, suitable replacement will be furnished and installed by Provider. Equipment purchased from a third party is excluded from this agreement. If the equipment fails, Provider will replace or repair defective parts and provide the labor, shipping and handling charges of the failed components. Any additional equipment that Provider adds to the system during the term of this agreement can be added at an additional fee after the warranty period has expired. Maintenance does not cover the repair or replacement of Backup Batteries. Defects in software, unless covered under manufacturer warranty, are not covered under maintenance. Maintenance will not cover any damages, defects or malfunctions or service failures which are caused by environmental conditions, radio interference, toll fraud, hackers, viruses, modifications or repairs performed by personnel other than Provider or its authorized agents, unless approved by Provider, misuse, mis-handling, neglect, improper storage, improper servicing or improper operation of the system, fire, flood, water damage, lightning or other acts of god, acts of war or terrorism, or similar events, which are hereby defined as Excluded Causes. If the Customer requests Provider to complete repairs during the maintenance period necessitated by the Excluded Causes outlined above, Provider will charge its standard Time and Material rate together with shipping and handling charges related to performing such repairs. Provider makes no warranties expressed or implied, including any warranties of merchant ability of fitness for a particular purpose. Provider's sole responsibility of maintenance will be for equipment only and will not be responsible for any result of the equipment not functioning. This Agreement does not cover items which were damaged or defective prior to commencement of this coverage provided under the terms of this agreement. Any hours that Provider may be required to spend to

coordinate efforts with Customer's outside vendors such as long distance or other equipment vendors may result in additional billable hours at Providers standard labor rates.

**This Services Agreement does not guarantee uninterrupted operation of the equipment.**

**2. Schedule of Equipment Covered Under this Agreement:** (See Schedule A attached)

**3. Customer's Requirements:** Customer's equipment that Provider will maintain will occupy space that is environmentally controlled and meets the installation specifications prescribed by the manufacturer. Additionally, the equipment shall not be exposed to moisture or corrosive gases or materials. ENVIRONMENTAL EQUIPMENT REQUIRED TO CONTROL AND SUSTAIN THESE ENVIRONMENTAL CONDITIONS SHALL BE AT THE EXPENSE OF THE CUSTOMER.

During the term of this agreement or subsequent agreements with Provider, Customer agrees to provide a separate electrical outlet, or service connection circuit breaker restricted solely for the equipment being maintained, along with a suitable base in which the system can be grounded. Customer will take responsibility for any radio interference, which may be caused by other equipment housed in the area.

Storage battery systems shall not be located in the same room as the equipment being maintained, unless the Customer provides constant ventilation to the outside. Customer agrees to relocate sprinklers, or provide a cover over the equipment being maintained, so as to prevent water damage to the equipment. Any damage caused by sprinklers is not covered under this agreement.

The Customer will insure that the work environment is free of any hazardous materials or unsafe conditions **as may be defined by OSHA, the EPA or other governmental entities.**

**4. Providers Responsibility:** This services agreement is for the equipment being maintained as listed in Schedule A attached and as per the terms and conditions of DIR Contract No. DIR-TSO-2658 and this agreement. Provider shall, during the term of this agreement, furnish all parts, material and labor to maintain the equipment covered under this agreement in accordance with the manufacturer's specifications unless the malfunction was the result of an Excluded Cause as defined in Section 1 of this agreement. Provider will dispatch service personnel to Customer's premise to perform necessary repairs, unless Provider is able to perform the repairs from a remote location. Provider shall conduct remote diagnostics testing, when applicable. For the term of this agreement, and subject to the conditions therein, Provider shall maintain the equipment in good working order including the furnishing of all labor and materials with respect hereto.

**RESPONSE TIME:** When on-site repairs are necessary for routine maintenance, Provider shall use its best efforts to respond the next business day following receipt of Customer's service request, when logged into our Dispatch Center. For Service Emergencies, as defined below, Provider will respond within four (4) hours on a 24 X 7 basis. For Adds, Moves or Changes, which are not covered under the agreement, Provider shall use its best efforts to respond within five (5) business days.

**Service Emergency is defined as:**

- The answering position console cannot make outgoing or receive incoming calls.
- A minimum of 20% of all telephone or data ports, covered under this agreement, cannot make or receive calls/data.
- A majority of any trunk group is inoperative.
- The voice mail system is inoperative.

If it is determined that the Service Emergency was due to an Excluded Cause, as defined in Section 1, Customer will be billed at Provider's standard Time and Material rate.

**5. LIMITATION OF LIABILITY:** Limitation of Liability will be handled in accordance to Appendix A, Section 10K of DIR Contract No. DIR-TSO-2658.

**6. SECURITY:** PROVIDER IS NOT RESPONSIBLE FOR SECURITY OF CUSTOMER'S EQUIPMENT/NETWORK INCLUDING BUT NOT LIMITED TO VIRUS PROTECTION, TOLL FRAUD, HACKING, MIS-USE OR ABUSE OF ANY PART OF THE EQUIPMENT/NETWORK BY ANY USER, AUTHORIZED OR UNAUTHORIZED TO ACCESS THE EQUIPMENT/NETWORK.

**7. Patent Liability:** Customer acknowledges and agrees that the products being serviced contain patented or patentable inventions, trade secrets, copyrights, and other intellectual property rights owned or controlled by the manufacturer, and the manufacturer shall continue to be the sole owner of all Intellectual Property Rights with respect to the Products.

**8.** Termination shall be handled in accordance with Section 11.B. of Appendix A of the DIR Contract DIR-TSO-2658.

**9. Access to Premises.** The Customer will provide the necessary access to the premises that is required to service and maintain the equipment, listed under this agreement.

**10.** Assignments. Any assignment shall be in accordance with Section 4.D. of Appendix A of the DIR Contract No. DIR-TSO-2658.

**11. Music on Hold.** Customer shall have full responsibility for all negotiations and licensing fees for performance rights relating to recorded or broadcast music usage or its access by the telephone system.

**12. Call Monitoring.** Should any of Customer's employees bring action against Provider, its agents or employees, as a result of the Customer having the ability to monitor telephone calls, to the extent allowed by the Texas Laws and constitution, Customer shall hold Provider harmless and indemnify Provider from any costs, expense or award that is the result of that action.

**13. Foreign Attachments.** Provider will permit attachments of peripheral equipment provided by the Customer or others (foreign attachments) to Provider's maintained equipment. All foreign attachments must be fully compatible and interconnectable with Provider's maintained equipment, as specified by the respective manufacturers. In the event an interface connection/device is required, Provider will provide the connection, only to its maintained equipment, at Provider's then prevailing Time and Material rates.

Maintenance of foreign attachments shall be arranged and paid for by the Customer.

Service and/or replacement of maintained equipment caused by failure of foreign attachments shall be billed to the Customer at Provider's then prevailing Time and Material rates.

**14. Manufacturer Discontinued Product.** Provider shall not be obligated to replace the system or any part of the system where such system cannot be purchased new from the manufacturer at a reasonable cost or has been replaced by a new model, or the replacement is impractical. In such circumstances, Provider's repair obligation shall be to offer a replacement system to the Customer at Provider's identified in Appendix C, Pricing Index of DIR Contract No. DIR-TSO-2658, and the Customer shall be entitled to a refund of the maintenance plan equal to the unused portion of the prepaid maintenance charges.

**15. Solicitation of Employees.** Customer agrees not to solicit for hire any Provider employee during the period of the agreement and for one (1) year after termination of this agreement. Employment as a result of general advertisement do not apply to this provision.

**16. Subcontracting.** Provider may subcontract any or all of the work to be performed under this agreement, but shall retain responsibility under the terms and conditions of DIR Contract No. DIR-TSO-2658 and this agreement for such work.

**17. Severability.** In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under the law of this State, such unenforceability shall not affect any other provision of this agreement and this agreement shall then be construed as if such unenforceable provision or provisions had never been contained herein.

**18. Applicable Law.** This agreement shall be interpreted under the laws of the State of Texas. Disputes shall be handled in accordance with Section 11 of Appendix A of the DIR Contract No. DIR-TSO-2658. Nothing herein shall be construed to waive the sovereign immunity of the State of Texas.

**19. Entire Agreement.** Unless otherwise provided, this agreement and DIR-TSO\_2658 expresses the entire understanding of the parties with reference to the subject matter hereof and there is no understanding agreement representation or warranty, expressed or implied, statutory or otherwise, in any way limiting, extending, defining or relating to the provision hereof. No agreement altering, modifying, or extending the terms of this agreement shall be valid unless in writing duly signed by the parties or their duly authorized representative. The right of Provider at any time to require strict performance shall not be affected by any previous waiver or dealing.

**20. Cancellation:** Customer may cancel within the first thirty (30) days of an initial term or a renewal term agreement, by giving thirty (30) days written notice. Customer will be responsible for charges for the period of coverage up until the effective date of termination.

**21. Renewal.** This Agreement may be renewed for up to three (3) additional one-year terms by Customer issuing thirty (30) days written advance notice to Provider. The parties agree to cooperate in establishing a timely amendment extending the Agreement. Upon any such renewal, the Expiration Date shall be extended until the end of the applicable additional term, and this Agreement shall continue in full force and effect for such additional period.

**22. Add-On Equipment:** Any equipment added to the system during the term of this agreement will carry the manufacturers' warranty period. Upon completion of the manufacturers' warranty, the equipment list will be updated to incorporate the additional material, which could result in a change to the maintenance fee.

**23. Official Notification:** Notices shall be in accordance with Section 6. of the DIR Contract No. DIR-TSO-2658.

Payments will be made to Provider at 6000 New Horizons Boulevard, P.O. Box 9004, Amityville, New York 11701-9004. Invoicing and payment shall be in accordance with Section 8 I & J of Appendix A of the DIR Contract No. DIR-TSO-2658.

All payments shall be received prior to the start of the maintenance period. This agreement is not final or binding until executed by Provider and the first payment is received by Provider. All prices are exclusive of federal, state, and local tax. Customer shall handle taxes in accordance with Appendix A, Section 8E of DIR Contract No. DIR-TSO-2658.

**IN WITNESS WHEREOF,** Customer and Provider have entered into this agreement, as indicated by the signatures of their authorized representatives below, to be effective as of the last date of signature:

Signature of  
Customer: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
**Customer**  
**PO#:** \_\_\_\_\_

Signature of  
Provider: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_