

AGREEMENT FOR OPERATION & MAINTENANCE SERVICES FOR NITREX™ NITROGEN TREATMENT SYSTEM

This Operation & Maintenance Agreement is made on this _____ day of _____, _____, by and between _____ (Owner) and _____ (Service Provider – Authorized by Nutrient Removal Technologies, Inc.).

In consideration of the mutual agreements herein contained, the parties hereto agree as follows:

Service Provider agrees to perform the services described in Attachment A regarding operation and maintenance of the Nitrex™ nitrogen treatment system at _____, with a property legal description of _____

I: SERVICES

Services shall be performed in accordance with the terms and conditions of Attachment A.

II: TERM

Services will be performed quarterly for a total period of twenty-four months after startup of the Nitrex™ nitrogen treatment system.

III: COMPENSATION

Compensation shall be made based upon the schedule set forth in Attachment A.

IV: PAYMENT TERMS

Monthly invoices shall be provided by Service Provider for services performed. Owner agrees to issue payment for all invoices within thirty (30) days of the date of Service Provider invoice issue. If any invoice remains unpaid after 30 days, interest charges will be assessed at the rate of 1-1/2 percent per month. Failure to provide payment within forty-five (45) days of the date of issuance of any invoice will be cause for Service Provider to stop providing services outlined in this Agreement, at which time the Oregon Department of Environmental Quality (ODEQ) or its agents will be immediately notified of the termination of this Agreement.

V: REPORTING REQUIREMENTS

In accordance with ODEQ Regulations, Service Provider will file annual reports transmitting data from quarterly sampling of the effluent, as detailed in the System Checklists in Attachment B, as well as a review of any unscheduled service.

VI: ACCESS TO SITE/RIGHT OF ENTRY

1. Owner represents that all sampling ports are at ground level with access covers that may be reasonably removed by one person.
2. Owner further represents that access to the control panel may be readily achieved during contract maintenance visits.

VII: PROPERTY USE

This Agreement assumes permanent occupancy of the dwelling or facilities specified in this Agreement. The Owner agrees to notify Service Provider should occupancy become seasonal (i.e. unoccupied for a period in excess of 8 to 10 weeks).

VIII: INSURANCE AND INDEMNITY

Owner shall not be responsible for any loss, damage or liability arising from Service Provider's willful or negligent acts, errors and omissions of Service Provider's staff, consultants, contractors and agents. Service Provider shall indemnify Owner, its officers, directors, agents, and employees from all claims, demands and causes of action, including expenses of defense for personal injury and loss or damage to property owned by third parties arising out of or in any manner connected with or related to the performance of services and caused by the negligence or willful misconduct of Service Provider's services. Such indemnification shall include, but not be limited to, the cost of defense arising out of or in any way connected with the presence, discharge, release, or escape of contaminants of any kind, excepting only such liability as may arise out of Owner's sole negligence in the performance of services.

IX: SEVERABILITY; ASSIGNMENT

If any provision of this Agreement is held invalid or unenforceable, all remaining provisions shall continue in full force and effect. Service Provider shall not assign any aspect of this Agreement except upon the prior written consent of Owner, which shall not be unreasonably withheld.

X: TERMINATION

This Agreement may be terminated by either of the parties by providing written notification to the other party at least thirty (30) days prior to the date of termination. Service Provider will notify ODEQ of termination of this Agreement within thirty (30) days of the date of termination.

XI: NOTICES

Any notice, or other communications required or permitted to be made or given to the Parties hereto pursuant to this Agreement, will be sufficiently made or given on the date of courier, personal delivery or mailing or registered mail received within ten (10) days of the mailing date, courier or personal delivery, if sent to such part at the address set forth below, or to such other address as the Party may designate by written notice.

Owner:

Name: _____

Address: _____

Attention: _____

Telephone: _____

Fax: _____

Email: _____

Service Provider:

Name: _____

Address: _____

Attention: _____

Telephone: _____

Fax: _____

Email: _____

XII: LIST OF ATTACHMENTS

ATTACHMENT A – Maintenance and Service Scope

ATTACHMENT B – System Checklists

ATTACHMENT C – Permits

ATTACHMENT D – Warranty

The parties to this Agreement hereby accept the terms and conditions of this Agreement.

Owner

By: _____
Owner or Authorized Agent

Date: _____

Service Provider

By: _____
Service Provider

Date: _____

ATTACHMENT A

Maintenance and Service Scope for the NITREX™ nitrogen treatment system located at _____

The treatment system shall be operated in accordance with the conditions required by local and State permits dated _____. Copies of the permits are in Attachment C.

Scope

The treatment system consists of:

- Septic Tank
- Nitrifying Pretreatment System
- Nitrex™ Filter System
- Soil Absorption Area

The treatment system shall have the following services performed during each site visit:

- 1) Check sludge and scum depth in the septic tank and clean the effluent filter as needed.
- 2) Check Nitrifying Pretreatment System in accordance with manufacturer's or designer's recommendations
- 3) As appropriate, check Nitrifying Pretreatment System panel and alarm system.
- 4) As appropriate, check Nitrifying Pretreatment System dosing pumps and float switches in pump chamber.
- 5) As appropriate, check pump and float switches in Nitrifying Pretreatment System.
- 6) As appropriate, check spray nozzles, fan and media in Nitrifying Pretreatment System.
- 7) Inspect Nitrex™ filter tanks and media condition.
- 8) If applicable, check Soil Absorption Area pump chamber, pump, and float switches.
- 9) If applicable, check Soil Absorption Area pump control panel and alarm.
- 10) Check condition of Soil Absorption Area, visual inspection for ponding or wet areas, as well as liquid level in ponding monitors.
- 11) Record wastewater flow meter reading.
- 12) Take samples and have them analyzed by an EPA certified laboratory for the following constituents, except for temperature which shall be measured on site with a calibrated thermometer:

	Septic Tank Effluent	Pretreatment Effluent	Nitrex™ Filter Effluent
pH	1	1	1
BOD ₅	1	1	1
TSS	1	1	1
Alkalinity	1	1	1
TKN	1	1	1
NH ₄ - N	1	1	1
NO ₃ - N	1	1	1
NO ₂ - N	1	1	1
Temperature	1	1	1

SERVICE PROVIDER shall

- Notify Owner verbally, if possible, of any problems encountered, with written communication within five (5) days of the observation, along with an estimated date and cost of correction.
- Provide emergency service within forty-eight (48) hours of a service request.
- Complete the System Checklists in Attachment B and submit as part of the quarterly reports, copies of which will be submitted to ODEQ or its agent.
- File quarterly reports within forty-five (45) days to the Owner and ODEQ or its agent on the results of the above activities.
- Maintain accurate records of service, performance data, and timeline for contract renewal, all of which will be available for inspection upon request of ODEQ.

Budget

Service Provider shall invoice the Owner for services rendered according to the following schedule:

Inspections	= \$	per visit
Annual ODEQ Fee	= \$ 50.00	
Septic tank effluent sample tests	= \$	
Nitrifying Pretreatment System effluent sample tests	= \$	
Nitrex™ effluent sample tests	= \$	
<u>Data Analysis and Monitoring</u>	<u>= \$</u>	
Total Cost	= \$	

Total agreement price = 8 quarterly site visits @ \$ /site visit = \$

Annual Cost = \$

Unscheduled service:

1. Unscheduled emergency service calls shall be billed at the following hourly rates:
 - *Monday through Friday 7am – 5pm: \$XX
 - *Monday through Friday 12am – 7 am, 5 pm – 12pm: \$YY
 - *Saturday and Sunday: \$ZZ
 with a minimum of a 2 hour charge.

2. In the event of an alarm or system failure, Service Provider may be required to take immediate corrective measures (i.e. pumping septic tank). The cost of these corrective activities shall be reasonable and be billed as additional costs to the Owner.

ATTACHMENT B

SYSTEM CHECKLISTS

(Complete and maintain service report file)

***NITREX™ WASTEWATER TREATMENT SYSTEM
ROUTINE INSPECTION***

OWNER: _____

ADDRESS: _____

SERVICE PROVIDER: _____

DATE: _____ TIME: _____

SYSTEM STATUS

Pump Chamber – if applicable

Pump H-O-A Setting: _____
Pump Cycle Timer: _____
Elapsed Time Meter: _____
Event Counter: _____
High Level Alarm Count: _____
Exercise Pumps: _____
Test & Clean Floats: _____
Effluent Filter Condition: _____
Comments: _____

Nitrifying Pretreatment System Disposal Pumps and/or Recirculation Pumps (this does not replace the manufacturer's or designer's minimum specifications)

Pump H-O-A Setting: _____
Pump Cycle Timer: _____
Elapsed Time Meter: _____
Event Counter: _____
Alarm Selector: _____
High Level Alarm Count: _____
Exercise Pumps: _____
Test & Clean Floats: _____
Tank Condition: _____
Foam Medium Condition: _____

Spray Nozzles _____
Fan Condition: _____
Comments: _____

Soil Absorption Area

Liquid Level in Monitors: _____
Effluent Ponding over Soil Absorption Area: _____
Comments: _____

Nitrex™ System

Observe Inlet: _____
Influent Temp: _____
Observe Media: _____
Observe Outlet: _____
Effluent Temp: _____
Odor: _____
Comments: _____

Effluent Filter Chamber

Inspect & Clean Filter: _____
Observe Inlet: _____
Observe Outlet: _____
Comments: _____

Valve and Flow Meter Pit

Exercise Ball Valves: _____
Observe for signs of flooding: _____
Comments: _____

Comments: _____

ATTACHMENT C

PERMIT

ATTACHMENT D

NITREX™ SYSTEM LIMITED WARRANTY

Nutrient Removal Technologies, Inc. (“NRTI”) warrants as stated herein that the Nitrex™ Filter System (“Nitrex™ System”) is free from defects in materials and workmanship, under normal use and service, for a period of three (3) years from the date of installation, subject to the requirement that the Nitrex™ System is continuously covered by a service contract provided by NRTI or a NRTI authorized service provider.

Nitrogen Removal Performance

NRTI warrants to the original purchaser, and subsequent owners if a transfer of ownership occurs, that, provided the Nitrex™ System is properly operated and maintained and the nitrifying pre-treatment system is properly nitrifying and partially denitrifying per the site design as approved by NRTI, the Nitrex™ System will produce an effluent with total nitrogen of less than 10 mg/l.

If NRTI determines that total nitrogen effluent quality is not being achieved, NRTI shall prepare a Corrective Action Plan to remedy the situation.

If NRTI determines that a component supplied by NRTI as part of the Nitrex™ System has failed because of a defect in workmanship or materials, then NRTI will replace or repair that failed component with a new or remanufactured component. If requested by NRTI, then the defective components must be returned to NRTI, transportation prepaid. Repaired or replaced components shall be shipped FOB.

NRTI reserves the right to revise, change or modify the construction and design of the Nitrex™ System without incurring any obligation to make such changes or modifications in previously sold equipment. NRTI also reserves the right, in making replacements of component parts under this warranty, to furnish a component part which, in its judgment is equivalent to the part replaced.

Exclusions and Limitations

This warranty does not cover cosmetic damage or damage due to the acts of nature, misuse, abuse, modification, incorrect design or incorrect installation. The warranty does not cover the Nitrex™ System if it has been flooded by external means or is subjected to external damage or damaged due to altered or improper wiring or overload protection.

This warranty is null and void (a) where service is required due to the Nitrex™ System owner's failure to operate or maintain the equipment in a manner consistent with the specifications and guidelines set forth in the Nitrex™ Licensing Agreement, (b) if the Nitrex™ System owner fails to comply with any required Nitrex™ System maintenance, (c) if any person who is not an NRTI authorized service provider unpacks, installs, disassembles, services and/or repairs Nitrex™ System, or (d) if any Nitrex™ System component is altered or replaced by parts not supplied or approved by NRTI.

THIS WARRANTY IS NULL AND VOID IF THE NITREX™ SYSTEM IS NOT CONTINUOUSLY COVERED BY A SERVICE CONTRACT PROVIDED BY NRTI OR A NRTI AUTHORIZED SERVICE PROVIDER.

A Nitrex™ Licensing Agreement is required for each application of the Nitrex™ System.

THE OBLIGATIONS OF NRTI UNDER THIS WARRANTY ARE LIMITED, IN ITS EXCLUSIVE OPTION, TO REPAIR OR REPLACE COMPONENTS, PARTS AND MATERIALS WHICH PROVE TO BE DEFECTIVE.

In no event shall the liability of NRTI under this warranty exceed the total invoiced price, excluding installation costs, of the Nitrex™ System to the Nitrex™ System owner.

Making a Warranty Claim – Required Procedure

To make a claim under this warranty, you must place your claim in writing and send either via United States Post Office Certified Mail or a nationally recognized overnight delivery service to NRTI at the following address:

Nutrient Removal Technologies, Inc.
49 Edge Hill Road
Newton, MA 02467

Any warranty claim must be received no later than three (3) years from the date of installation of the Nitrex™ System. NRTI must be notified within thirty (30) days of discovery of facts that may give rise to a warranty claim.

THE FOREGOING WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY OBLIGATION OF NRTI AND ITS AGENTS, AND THE REMEDY PROVIDED ABOVE IS IN LIEU OF ANY AND ALL OTHER REMEDIES. THERE ARE NO OTHER AGREEMENTS, GUARANTEES, OR WARRANTIES, OR REMEDIES, ORAL, WRITTEN, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION TO, WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NRTI SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO ANY CAUSE WHATSOEVER. THE PURCHASER AGREES THAT NRTI'S LIABILITY IS SO LIMITED.

This Agreement shall be governed by and construed under the substantive laws of the Commonwealth of Massachusetts. The Customer agrees to submit all disputes arising out of, or relating to, this Agreement to a court in Boston, Massachusetts.

This agreement constitutes the entire warranty agreement between the parties hereto with respect to the Nitrex™ System. In such cases, the terms of service or maintenance contracts shall be independent of this warranty except for defects in materials and workmanship as provided for under the terms of this warranty. The Nitrex™ System owner does not need to return a warranty card of any kind. Sales information is permanently archived by Nutrient Removal Technologies, Inc. based upon information in the Nitrex™ Licensing Agreement.