

PLANT*CML

END USER PURCHASE AGREEMENT FOR POST-INSTALLATION SUPPORT SERVICES

This End User Purchase Agreement for Post Installation Support and Services (hereinafter "Agreement") is made as of the 28th day of SEPT., 2010 (hereinafter "Effective Date") between LUZERNE COUNTY 9-1-1, a GOVERNMENT corporation, with its principal place of business located at 100 YOUNG ST. HANOVER TWP, PA. 18706 (hereinafter "Customer") and Plant Equipment Inc. a California corporation dba PlantCML, with offices at 42505 Rio Nedo Street, Temecula, CA 92590 (hereinafter "PlantCML").

1. **Scope of Agreement:** This Agreement sets forth the terms and conditions governing the purchase of post installation support services by Customer. Subject to the terms and conditions contained herein, PlantCML agrees to sell the post-installation support services and spare parts as required or identified in the Quote, and any subsequent Quotes, and as are more fully described in the Exhibits attached hereto and incorporated by reference herein:

- Exhibit A PlantCML Quote
- Exhibit B Software and Firmware Support Program
- Exhibit C Hardware Repair and Warranty Policy
- Exhibit D Remote Monitoring Policy
- Exhibit E Statement of Work

2. **Term of Agreement.** This Agreement shall commence on the Effective Date and terminate upon the expiration of the term of support services purchased hereunder, unless earlier terminated in accordance with the provisions of this Agreement ("Initial Term"). This Agreement may be renewed and continue in force on a year-to-year basis ("Extended Term") upon written notice to PlantCML sixty (60) days prior to the expiration of the Initial Term or any subsequent Extended Term.

3. **Termination of Agreement.** Either party may terminate this Agreement immediately, in whole or in part, for default or breach subject to the following provisions. If the default or breach is reasonably capable of cure, the non-defaulting party shall give the other party written notice in accordance with **Section 12** herein and thirty (30) calendar days from the date of the notice to cure. In the event of termination of this Agreement, PlantCML shall be entitled to payment for support services performed by PlantCML prior to the date of termination of this Agreement. PlantCML shall be entitled to payment for support services rendered by PlantCML prior to or after the date of termination of this Agreement. Neither party shall have any other liability arising out of the incident of termination of this Agreement. Accordingly, this provision does not preclude a party's liability for claims arising out of, in connection with or related to this Agreement generally. Notwithstanding the foregoing provisions regarding termination, as set forth in this **Section 3**, or the provisions regarding expiration, as set forth in **Section 2** of this Agreement, neither expiration nor termination of this Agreement for any reason shall relieve either party of the warranty and confidentiality obligations set forth in this Agreement and the attachments hereto. Upon termination of this Agreement, any PlantCML obligation to provide support services and any Order for support services, shall immediately terminate.

4. **Order.** This Agreement shall not be construed as a purchase order for any services. Customer shall issue PlantCML Order Department a purchase order for the support services identified in the Quote. Such purchase order, and any preprinted terms and conditions thereon, shall not be binding on PlantCML. Should Customer require additional support services, customer shall submit written request for an additional quote.

5. **Prices and Payment.** The purchase price for support services shall be referenced in the Quote. Payment in full for support services for the Initial Term or any subsequent Extended Term

shall be due thirty (30) calendar days from the date of invoice, but in no event later than the date of Effective Date of the Initial Term or the commencement of the Extended Term.

6. **Taxes.** Unless otherwise specified, prices shown do not include applicable federal, state, or local sales tax, transportation tax, or other tax which is required to be imposed upon the items ordered by reason of their sale or delivery. Such tax, if any, will be charged and listed as separate items on the invoice unless Customer furnishes PlantCML applicable tax-exemption certificates. In such case Purchaser's tax exempt status shall be recognized in accordance with all existing laws.

7. **Default and Late Charges.** Either party may cancel the agreement for default if (a) the other party breaches any material provision of this Agreement, or (b) the other party becomes insolvent or a petition under any bankruptcy act or similar statute is filed by or against that party and is not vacated within thirty (30) days after such filing. Cancellation shall be effective upon receipt of written cancellation notice filed by the aggrieved party. All invoices not paid when due will be subject to a service charge of 1-1/2 percent of the unpaid balance after (60) days.

8. **Technical Services, Training, Support and Maintenance.** If purchased, PlantCML agrees to provide certain services in connection with Customer's purchase of services as more particularly described and in accordance with the provisions set forth below.

A. Field Engineering Implementation Services. PlantCML agrees to provide Customer with field engineering implementation services, if purchased, as identified on any quote and/or purchase order. Such field engineering implementation services, if purchased, may be described more fully in a specific Statement of Work ("SOW") which is attached hereto and incorporated by reference in **Exhibit E**, or can be included at a later date and will be incorporated into this Agreement by this reference. Any and all amendments to the SOWs shall be made in writing and shall become a part of this Agreement.

B. Project Management Services. PlantCML agrees to provide Customer with project management services, if purchased, as identified on any quote and/or purchase order. Such project management services, if purchased, may be described more fully in a specific Statement of Work ("SOW") which is attached hereto and incorporated by reference in **Exhibit E**, or can be included at a later date and will be incorporated into this Agreement by this reference. Any and all amendments to the SOWs shall be made in writing and shall become a part of this Agreement

C. Training Services. PlantCML agrees to provide Customer with training services, if purchased, as identified on any quote and/or purchase order. Such training services, if purchased, may be described more fully in a specific Statement of Work ("SOW") which is attached hereto and incorporated by reference in **Exhibit E**, or can be included at a later date and will be incorporated into this Agreement by this reference. Any and all amendments to the SOWs shall be made in writing and shall become a part of this Agreement

D. Maintenance and Support Services. PlantCML agrees to provide Customer maintenance and support services, if purchased, as identified on any quote and/or purchase order, in accordance with the Software and Firmware Support Program and/or the Hardware Repair and Warranty Policy, copies of which are attached hereto as **Exhibit B** and **Exhibit C**, respectively, and incorporated herein by reference. PlantCML's Managed Services, if purchased, such as Remote Monitoring, AntiVirus Definition Update Services, Disaster Recovery Services and Patch Management Services are available pursuant to the terms and conditions of the PlantCML Managed Services Program attached hereto as **Exhibit D** and incorporated by reference herein.

E. Move, Add, Change or Delete ("MACD") Services. PlantCML agrees to provide Customer with MACD services, if purchased, as identified on any quote and/or purchase order. Such MACD services, if purchased, may be described more fully in a specific Statement of Work ("SOW") which is attached hereto and incorporated by reference in **Exhibit E**, or can be included at a later date and will be incorporated into this Agreement by this reference. Any and all amendments to the SOWs shall be made in writing and shall become a part of this Agreement.

9. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PLANTCML, ITS SUPPLIERS OR SUBCONTRACTORS, BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR ANY OTHER PECUNIARY LOSS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR THE SERVICES, EVEN IF PLANTCML HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT WHERE SUCH DAMAGES OCCUR AS THE RESULT OF A BREACH OF CONFIDENTIALITY, OR RELATE TO A CUSTOMER INDEMNITY CLAIM. PLANTCML'S LIABILITY FOR DAMAGES ARISING OUT OF, RELATING TO OR IN ANY WAY CONNECTED WITH THIS AGREEMENT AND EXHIBITS HERETO, ANY PURCHASE ORDER OR THE PROVISION OR NON-PROVISION OF SERVICES (WHETHER IN CONTRACT OR TORT) SHALL BE LIMITED TO ACTUAL DAMAGES AND SHALL, IN NO EVENT, EXCEED THE AMOUNT PAID BY CUSTOMER TO PLANTCML FOR THE SERVICES, IN THE MOST RECENT FULL CALENDAR YEAR, NET OF ALL DISCOUNTS, REBATES, AND REFUNDS, FROM WHICH THE CLAIM AROSE. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS SECTION. CUSTOMER ACKNOWLEDGES THAT WITHOUT ITS AGREEMENT TO THE LIMITATIONS CONTAINED HEREIN, THE FEES CHARGED FOR THE SERVICES WOULD BE HIGHER.

10. **Force Majeure.** Neither party shall be responsible or liable for any loss or damage occasioned by such party's inability to perform any of its obligations herein where such inability was caused by fire, strike, flood, acts of God, explosions, civil or military authority, insurrection or civil disorder, embargoes, and acts of terrorism and governmental responses thereto.

11. **Confidentiality and Nondisclosure.**

A. **Confidential Information.** By virtue of this Agreement, the parties may have access to information that is confidential to one another ("Confidential Information"). Such Confidential Information may include, but shall not be limited to the following types of information (whether or not reduced to writing): Proprietary system protocols, trade secrets, inventions, drawings, file data, documentation, diagrams, specifications, know-how, processes, formulas, models, flow charts, software in various stages of development, source codes, object codes, research and development procedures, test results, product features and functionality (current and pending development), marketing techniques and materials, marketing and development plans, price lists, pricing policies, business plans, information relating to customers and/or suppliers' identities, characteristics and agreements, financial information and projections, and employee files and other related or similar information. Confidential Information shall also include all reports, summaries, compilations, analyses, notes or other information prepared by the recipient that are based on or reflect any Confidential Information. It is the express intent of this section that neither party disclose to any third party any Confidential Information, however, a party may disclose such information to contractors of a party who, by virtue of the duties assumed by such contractors, have a need to know such information, provided that prior to such disclosure the party has obtained from the contractor a written agreement to abide by confidentiality obligations substantially equivalent to those stated herein. Additionally, Customer may disclose Confidential Information to municipal agencies within its region, provided that such municipal agencies agree to abide by confidentiality obligations substantially equivalent to those stated herein.

B. **Nondisclosure.** A party's Confidential Information shall not include information that (a) is or becomes a part of the public domain through no act or omission of the receiving party in breach of this Agreement; or (b) was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party either directly or indirectly from the disclosing party; or (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the other party. The parties agree, both during the term of this Agreement and for a period of three (3) years after termination of this Agreement, to hold each other's Confidential Information in confidence. The parties agree to use reasonable efforts to avoid making the other's Confidential Information available in any form to any third party and to avoid using the other's Confidential Information for any purpose other than the implementation of this Agreement or in the exercise of rights conferred by this Agreement. Each party agrees to use the same degree of care that it uses to protect its own confidential information of a similar nature and value, but in no event less than a reasonable standard of care, to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the provisions of this Agreement. Each party agrees that it shall not reverse-engineer, decompile or disassemble any Product disclosed to it and

shall not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices of ownership from any originals or copies of Confidential Information it obtains from the other party. Each party represents that it has an appropriate agreement with each of its employees who may have access to any Confidential Information that is sufficient to enable it to comply with all of the terms of this Section.

12. **Notices.** All notices given under this Agreement shall be in writing and shall be delivered either by (i) personal delivery; (ii) expedited messenger service; (iii) postage prepaid return receipt requested certified mail; or, (iv) facsimile confirmed by postage prepaid U.S. mail, addressed to the party or parties for whom it is intended, at the addresses specified on below. Notice by certified mail or expedited messenger service shall be effective on the date it is officially recorded as delivered to or refused by the intended recipient by return receipt or equivalent. All other notices given under this Agreement that are delivered in person or by facsimile shall be deemed to have been delivered to and received by the addressee and shall be effective on the date of actual receipt of delivery.

For Customer:

Name: Luzerne County 9-1-1
Address: 100 Young Street
Hanover Township, PA 18706
Attn: Fred J. Rosencrans
Tel: (570) 826-3058
Fax: (570) 826-3056
Copy to: Neil O'Donnell
Tel:(570)821-5717
Fax: (570)821-5799

For PlantCML:

Name: Plant Equipment Inc. dba PlantCML
Address: 42505 Rio Nedo Street
Temecula, CA 92590
Attn: Dave Rutan, President
Tel: (951) 719-2100
Fax: (951) 296-2727

13. **Amendment or Waiver.** No provision of this Agreement shall be deemed waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and contains the Manual Signature of the party against whom it is sought to be enforced. For purposes of this Agreement, a Manual Signature shall mean a pen and ink signature made by an authorized representative of the parties on a typed or printed amendment, waiver or modification.

14. **Severability.** In the event any one or more of the provisions of this Agreement is held to be unenforceable under applicable law, (i) such unenforceability shall not affect any other provision of this Agreement; (ii) this Agreement shall be construed as if said unenforceable provision had not been contained herein; and (iii) the parties shall negotiate in good faith to replace the unenforceable provision by such as has the effect nearest to that of the provision being replaced.

15. **Governing Law, Consent to Jurisdiction and Attorneys' Fees.** The validity, performance and all matters relating to this Agreement, its Exhibits and any amendments thereto shall be governed by the laws of the Commonwealth of Pennsylvania. The parties hereby consent to jurisdiction and venue in the United States District Court for the Middle District of Pennsylvania and/or the Luzerne County Court of Common Pleas. If any legal action or other proceeding is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover costs incurred in the action or proceeding, in addition to any other relief to which the prevailing party may be entitled.

16. **Assignment and Subcontracting.** Neither this Agreement nor any right hereunder may be transferred, assigned or delegated by either party without the prior written consent of the other. Any attempted assignment, delegation or transfer shall be void except in the case of assignment by a party to a wholly-owned subsidiary, or a merger or sale of all/substantially all of a party's assets. Notwithstanding the foregoing, PlantCML shall have the right to subcontract all or a portion of any services provided hereunder.

17. **Authority.** Each party hereto represents and warrants that (i) it has obtained all necessary approvals, consents and authorizations of third parties and governmental authorities to enter into this Agreement and to perform and carry out its obligations hereunder, (ii) the persons executing this Agreement on its behalf have express authority to do so, and, in so doing, to bind the party thereto; (iii) the execution, delivery, and performance of this Agreement does not violate any provision of any bylaw, charter, regulation, or any other governing authority of the party; and (iv) the execution, delivery and performance of this Agreement has been duly authorized by all necessary partnership or

corporate action and this Agreement is a valid and binding obligation of such party, enforceable in accordance with its terms.

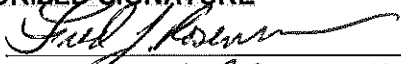
18. **Survival of Provisions.** The parties agree that where the context of any provision indicates an intent that it shall survive the term of this Agreement then it shall survive.

19. **Entire Agreement.** This Agreement and the Exhibits hereto, and any purchase order or any Statement of Work (SOW) entered into pursuant to this Agreement shall constitute the entire understanding between the parties concerning the subject matter hereof and supersede all prior discussions, agreements and representations, whether oral or written and whether or not executed by Customer and PlantCML.

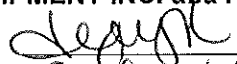
20. **Conflicts.** Customer and PlantCML acknowledge and agree that, in the event of a conflict between any provision of this Agreement, the exhibits attached hereto, any SOW related to this Agreement, or any other ancillary document or agreement related to this Agreement, the terms of this Agreement shall control.

21. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument.

CUSTOMER'S AUTHORIZED SIGNATURE

Signature: 
Print Name: FRED J. ROSENKRANS
Title: DATA MANAGER
Date: 09/28/2010

PLANT EQUIPMENT INC. dba PLANTCML

Signature: 
Print Name: Jennifer York
Title: Senior Contract Manager
Date: 10/4/10