

BYSTRONIC INC.
TERMS AND CONDITIONS FOR BYCARE SERVICE CONTRACTS AND
MAINTENANCE AND REPAIRS NOT COVERED BY WARRANTY

1. Scope. These Bystronic Inc. terms and conditions for ByCare Service Contracts and maintenance and repairs not covered by warranty (the “Terms”) apply to (a) every ByCare Service Contract or cutting head insurance plan, (b) the sale of Goods, or provision of software or services, including online subscriptions and phone support, by Bystronic to a Customer for maintenance and repairs not covered by warranty, (c) the training of personnel on the maintenance or use of Bystronic Products not covered by the agreement for the original purchase of such Products, and (d) engineering services including but not limited to unique tool file generation and training on custom tools acquired from third parties.
2. Definitions. The following terms have the meanings indicated (whether in their singular or plural form):
 - a. “Acceptance” means that the Customer has accepted the Goods as evidenced by execution of a document, Customer has commenced use of the Goods, or Customer is deemed to have accepted the Goods in accordance with Section 5. h. hereof.
 - b. The term “Agreement” means the Terms and the following:
 - i. Any BYSTRONIC quote or proposal setting forth the prices of any Goods, software or services;
 - ii. The ByCare Service Contract, cutting head insurance plan, work order, parts order and any other documents or forms issued or executed by BYSTRONIC relating to the Goods, software or services; and
 - iii. Any other document signed by an authorized representative of BYSTRONIC relating to the purchase of the Goods, software or services.
 - c. A “ByCare Service Contract” is a contract between the Customer and Bystronic for Bystronic to provide Product maintenance and repair for a fixed period of time after the original Product warranty expires.
 - d. The terms “Bystronic” means Bystronic Inc. or its affiliated company that provided the services or sold or licensed the Goods or software to the Customer.
 - e. “Contractual value” means the price paid by the Customer for Goods, software or service (or portion thereof) that fails to comply with the applicable limited warranty contained herein.
 - f. The term “Customized Tool” means application specific special tools which are not Standard Tooling.
 - g. The term “Customer” means the counterparty to a ByCare Service Contract or cutting head insurance plan or the original entity acquiring Goods, software or services from Bystronic.
 - h. “Delivery” means BYSTRONIC has delivered (or caused to be delivered) the Goods or software in accordance with the applicable delivery term.
 - i. The term “Facility” shall mean the place where the services under the applicable ByCare Service Contract are performed or the place where the Goods or software is installed, or other services are performed, by a Bystronic representative (if applicable), or the place to which the Goods or software is shipped, as indicated by the Agreement.
 - j. “Goods,” when used herein, refers to Parts and Tooling.
 - k. “Installation” means the installation of the Goods or software at the Facility.
 - l. “Parts” mean Replacement Parts and Refurbished Parts.
 - m. The term “Product” means a machine, product or equipment, or accessories, combinations, or components thereof, sold or licensed by Bystronic to the Customer.

- n. “Refurbished Parts” mean used replacement parts or components, spare parts or components, or service parts or components provided by Bystronic that are refurbished or repaired and are used for repairs or maintenance.
 - o. “Replacement Parts” mean new replacement parts or components, spare parts or components, or service parts or components provided by Bystronic that did not come assembled as part of a Product and are used for repairs or maintenance.
 - p. The term “Standard Tooling” shall mean press brake tooling as published and available in the Bystronic Standard Tooling Catalog.
 - q. “Tooling” means Customized Tools and Standard Tooling sold by Bystronic to Customer.
 - r. “Warranty Remedy Period” means the period of time during which Goods, software or service are warranted by Bystronic.
 - s. “Warranty Start Date” means, (1) with respect to Goods, the date of Installation as listed on the applicable Bystronic service report or, if no on-site Installation was performed by a Bystronic representative, the date of delivery of the Goods, (2) with respect to software, the date of delivery, and (2) with respect to services, the date of substantial completion of the services.
3. General Terms and Conditions of Services. The following terms and conditions apply to services performed by a Bystronic representative hereunder:
- a. Unless otherwise expressly agreed upon by Bystronic in the Agreement, all manpower time and cost projections provided to Customer, whether written or verbal, will be considered estimates, and such estimates will not be binding on Bystronic.
 - b. Bystronic may subcontract the performance of any of the services. Bystronic will be responsible for the performance of its subcontractors under this Agreement. For the purpose of the Terms, references to Bystronic personnel or similar wording shall be deemed to include any subcontractor or subcontractor’s personnel.
 - c. Bystronic retains the sole right to determine personnel assignments but will attempt to respect Customer’s request for the assignment of particular Bystronic personnel consistent with sound business practice.
 - d. Customer will ensure that the services to be provided under the Agreement can be completed without interruptions.
 - e. Customer will ensure that the Facility where the service is to be provided is prepared and accessible. Required preparatory work not performed by the Customer will be billed as per the then-current Bystronic Field Service Rate Sheet.
 - f. Customer is to provide assistants at no charge. Such assistants must be familiar with mechanical and electrical applications and equipped with adequate hand tools.
 - g. Services will be carried out during normal working hours (Monday to Friday 8:30 A.M. to 5:00 P.M. CT) excluding holidays and travel days. Services requested outside of the normal working hours will be billed as per the then-current Bystronic Field Service Rate Sheet. All time outside of the normal working hours must be agreed upon by Bystronic, the Customer and the Field Service Technician performing the services.
 - h. Customer will ensure that all installations at the Facility comply with any provincial, federal, state, local, and other standards, laws, regulations, ordinances, and other legal requirements. If special rules apply, it is the Customer’s responsibility to inform the Bystronic personnel at the Facility.
 - i. Customer will ensure that for the entire time Bystronic personnel are at the Facility there is at least one person employed by Customer who can provide any necessary first aid.
4. Terms and Conditions of ByCare Service Contracts. The following terms and conditions apply to ByCare Service Contracts:
- a. Both parties agree on the applicable level of “Bystronic Care Package” in accordance with the Agreement, with the services and duration as described in the sales order. During the contracted period, the listed, ByCare coverage will be provided at no additional charge.

Upon the expiration of the contracted period, the service package will automatically renew in one year intervals at current package pricing if not terminated by written notice to Bystronic two months in advance of expiration.

- b. The Preventative Maintenance Program is designed to supplement, not replace, the periodic maintenance to be performed on any machine or equipment, as stipulated in the machine or equipment documentation.
 - c. Customer will ensure that all materials and supplies required for maintenance are available at the Facility before the maintenance work starts.
 - d. The machine or equipment must be available in a clean condition when the technician arrives. Required preparatory work not performed by the Customer will be billed per the then-current Bystronic Field Service Rate Sheet.
 - e. If any support service not covered by the ByCare Service Contract is required it must be scheduled and will be billed separately.
 - f. Revisions (update of a machine or parts thereof) are not covered by the ByCare Service Contract.
 - g. The logbook for each machine or equipment must be kept up to date by the Customer. A signed copy of the Bystronic service technician's report must be filed in the logbook.
 - h. Bystronic reserves the right to amend its Field Service Rate Sheet at any time without notice.
5. Terms and Conditions of Orders for Goods. The following terms and conditions apply to Goods sold by Bystronic to Customer hereunder:
- a. Bystronic retains the sole and absolute right to decide which Replacement Parts and Standard Tooling to keep in stock and which Refurbished Parts or Customized Tools are to be manufactured specifically for Customer.
 - b. Bystronic requires any Customer purchase order, requisition, or any other type of document for an order of Goods to be in reference to a Bystronic quote. Bystronic shall confirm its acceptance of a Customer order in the form of a Bystronic "Order Confirmation," issued by Bystronic's office in Hoffman Estates, Illinois, whereupon Bystronic will begin to process such order. However, Bystronic shall not process any order for Customized Tools until such time as Bystronic receives written Customer approval of special tool drawings describing such Customized Tools.
 - c. Orders for Goods may not be cancelled for any reason after Bystronic issues an "Order Confirmation."
 - d. ACCEPTANCE BY BYSTRONIC OF CUSTOMER'S ORDER OR CUSTOMER'S ACCEPTANCE OF BYSTRONIC'S PROPOSAL, IS LIMITED TO AND CONDITIONED UPON CUSTOMER'S ACCEPTANCE OF AND ASSENT TO THE TERMS. ANY ADDITIONAL, INCONSISTENT OR DIFFERENT TERMS AND CONDITIONS CONTAINED IN THE PURCHASE ORDER OR OTHER DOCUMENTS ISSUED BY CUSTOMER TO BYSTRONIC ARE HEREBY EXPRESSLY REJECTED BY BYSTRONIC. CUSTOMER ACKNOWLEDGES THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN ITS PURCHASE ORDER OR OTHER DOCUMENTS, RECEIPT AND ACCEPTANCE BY CUSTOMER OF THE GOODS, SOFTWARE OR SERVICES SHALL CONSTITUTE ACCEPTANCE BY CUSTOMER OF THE TERMS. In the event of a conflict or inconsistency between the proposal, Sales Order, or Order Confirmation and the Terms, the proposal, Sales Order, or Order Confirmation shall prevail. Typographical or clerical errors in a proposal, Sales Order, Order Confirmation or invoice, including prices, are subject to correction by Bystronic.
 - e. All prices are stated in USD or CD, as set forth in the applicable Bystronic quote.
 - f. Bystronic reserves the right to pass through extraordinary increases in the direct costs of Goods to the Customer during the period of time between order and delivery.

- g. Customer is responsible for any and all city, state, federal, international and other applicable taxes and customs and duties attributable to sales.
 - h. Risk of loss to any Goods or software shall pass to Customer on delivery in accordance with the applicable delivery term.
 - i. Customer may inspect all Goods delivered in a reasonable time, place and manner; provided, however, that inspection for obvious defects must occur within five (5) days of delivery. Customer shall give written notice of rejection to Bystronic within two (2) days after completion of inspection. Acceptance shall be deemed to occur after such two-day period, absent notice of rejection. With respect to any such Goods properly rejected hereunder, Bystronic shall have a commercially reasonable time thereafter in which to cure by tendering conforming Goods.
6. Return Policies.
- a. Replacement Parts. The following items are applicable to returns of Replacement Parts.
 - i. All Replacement Parts must be returned in the original packaging.
 - ii. No returns are allowed on opened electrical items. All other opened or used items will be given credit in the sole and absolute discretion of Bystronic.
 - iii. All returned Replacement Parts are subject to inspection for damage, misuse or improper packaging. It is within the sole and absolute discretion of Bystronic to provide credit appropriate to the condition of the Replacement Parts. The Customer assumes all risk of loss or damage until returned Replacement Parts are accepted by Bystronic.
 - iv. All Replacement Part returns must have a Return Authorization Number issued by Bystronic. Any return received without a Return Authorization Number will be shipped back to the original destination at the Customer's expense.
 - v. Returned Replacement Parts must be received at Bystronic no more than 14 days from the issuance of the Return Authorization Number. Warranty claims will no longer be valid after 14 days, after which only partial credit will be given.
 - vi. All Replacement Parts over six (6) months in age from the date of the original invoice may not be returned and will be considered final sales.
 - vii. All Replacement Parts must be returned with the freight prepaid. Any Replacement Parts return shipment which arrives as freight collect will be shipped back to the original destination at the Customer's expense.
 - viii. Replacement Parts ordered for a preventative inspection and not performed by a Bystronic technician are not returnable.
 - ix. Upon the return of a Replacement Part accepted by Bystronic, a credit for the full value of the original "Bystronic to Customer" freight charge will be issued on shipments that were sent using standard ground delivery. Any "Bystronic to Customer" freight charge incurred for methods of shipment other than standard ground delivery will not be credited upon return.
 - x. A 20% restocking fee is assessed on the then current price of each Replacement Part returned.
 - b. Refurbished Parts. Notwithstanding anything to the contrary contained herein, Refurbished Parts are not returnable.
 - c. Standard Tooling. Standard Tooling may be returned for credit if, in Bystronic's sole and absolute discretion, the Customer satisfies each of the following conditions:
 - i. Standard Tooling must be returned in unused condition.
 - ii. Standard Tooling must be returned in the original packaging.
 - iii. Standard Tooling must be accompanied by proof of purchase and a Return Authorization Number issued by Bystronic. Customer must obtain a Return Authorization Number issued by Bystronic prior to making any Standard Tooling returns.

- iv. Standard Tooling must be returned within 30 days of the original invoice date.
 - v. All Standard Tooling must be returned with the freight prepaid. Any Standard Tooling return shipment which arrives as freight collect will be shipped back to the original destination at the Customer's expense.
 - vi. A 25% restocking fee is assessed on the then-current price of each item of Standard Tooling returned.
 - d. Customized Tools. Notwithstanding anything to the contrary contained herein, Customized Tools are not returnable.
- 7. Scheduling.
 - a. All non-warranty calls will have a four-hour minimum charge for labor and all the related travel expenses will be charged to the Customer.
 - b. Customers with Products that are in a non-operating condition will be given scheduling priority whenever possible.
 - c. All non-warranty service calls must be booked with a purchase order number.
 - d. Technician service reports must be signed when the technician leaves the Facility. If the Customer is not satisfied with the services, Customer shall indicate this on the signed service report.
 - e. A work order must be issued for each Product indicating specific problems. A purchase order must be supplied for each work order issued to the technician.
- 8. Terms of Payment.
 - a. Terms are payment in full within 30 days of invoice date. All Goods remain the property of Bystronic until all payments have been received in full by Bystronic.
 - b. If Customer fails to pay for any Goods, software or services on terms, or reasonable grounds for insecurity otherwise arise, Bystronic will have the right to revoke any credit Customer has, suspend further shipments, and/or cease provision of services until all payments due have been received in full by Bystronic or receipt of adequate assurance of performance from Customer. Bystronic reserves the right to assess interest on any amount that is past due at the rate of 1.5% per month, unless this rate exceeds the highest rate permitted by law, in which event the rate shall be the highest rate permitted by law, and Customer will not withhold payment for any item on any invoice that is not then the subject of a bona fide dispute. Customer will pay all invoice amounts without setoff or deduction of any kind. Customer will pay all costs and expenses (including but not limited to reasonable legal fees) incurred by Bystronic to collect late payments or other amounts due from Customer.
 - c. In the event of repeated late payments, Bystronic may physically render the Product unusable (including, without limitation, by locking or disabling the Product), provided Bystronic will not lock out the Product if Customer has paid all invoice amounts that are not then the subject of a bona fide payment dispute.
 - d. Payments must be made only by accepted credit card (U.S. only) or electronic funds transfer.
- 9. Limited Warranty. Except as otherwise expressly agreed upon in writing by an authorized representative of Bystronic, the following limited warranties are provided by Bystronic solely to the Customer:
 - a. Bystronic warrants that the Goods and all components thereof manufactured by Bystronic shall, upon delivery, be and remain free from defects in material and workmanship, and that, upon performance, the services shall be and remain free from defects in workmanship, but, in each case, only for the following time periods. The Warranty Remedy Period for Replacement Parts and Tooling shall end twelve (12) months after the applicable Warranty Start Date, and when a Replacement Part or Tooling fails and is replaced, the new Replacement Part or Tooling assumes only the unexpired Warranty Remedy Period of the replaced item. The Warranty Remedy Period for Refurbished Parts shall end ninety (90)

days after the applicable Warranty Start Date; provided, however, that the Warranty Remedy Period for refurbished cutting heads is twelve (12) months after the applicable Warranty Start Date. The Warranty Remedy Period for services shall end ninety (90) days after the applicable Warranty Start Date; provided, however, that the Warranty Remedy Period for training Customers to use custom tools not sold by Bystronic will end when the services are substantially complete.

- b. If a non-conformity to the limited warranty contained in Section 9. a. is discovered during the applicable Warranty Remedy Period, and provided Customer provides written notice of such non-conformity to Bystronic promptly after such discovery and within the applicable Warranty Remedy Period, Bystronic shall, in its sole and absolute discretion, either (i) repair or replace the portion of the Goods, or re-perform the portion of the services, that fail to comply with such limited warranty, or (ii) refund the purchase price applicable to the portion of the Goods or services that fails to comply with such limited warranty. If any portion of the Goods or services so repaired, replaced or re-performed fails to conform to the limited warranty contained in Section 9. a., and provided Customer provides written notice of such non-conformity to Bystronic promptly after such discovery and within the original Warranty Remedy Period for the item repaired, replaced or re-performed, or thirty (30) days from completion of such repair, replacement or re-performance, whichever is later, Bystronic will repair or replace or re-perform the portion of the Goods or services that fails to comply with such limited warranty. Customer must provide Bystronic free access to the Products and Goods in order for Bystronic to perform its warranty obligations. Bystronic will have a reasonable opportunity to inspect and test or re-test any Goods before return. Goods may not be returned to Bystronic without Bystronic's prior approval.
- c. Goods and all components thereof supplied by Bystronic but manufactured by third parties and custom tools Customer acquired from third parties are warranted only to the extent of the manufacturer's warranty, and only the remedies, if any, provided by the manufacturer will be available to Customer.
- d. Bystronic warrants that, except as specified below, the software supplied by Bystronic will, when properly installed, execute in accordance with Bystronic's published specification. If a non-conformity to the warranty contained in Section 9. d. is discovered during the period ending one (1) year after the date of delivery, provided Customer provides written notice of such non-conformity to Bystronic promptly after such discovery and within such period, including a reasonably-detailed description of the non-conformity and the manner of its discovery, Bystronic shall correct the non-conformity by, in its sole and absolute discretion, either (i) modifying or making available to the Customer instructions for modifying the software; or (ii) making available at Bystronic's facility necessary corrected or replacement programs. Bystronic shall have no obligation with respect to any non-conformities in software resulting from (i) unauthorized modification of the software or (ii) the software interfacing with Customer-supplied software. Bystronic does not warrant that the functions contained in the software will operate in combinations which may be selected for use by the Customer, or that the software is free from errors which are commonly categorized by the computer industry as "bugs."
- e. **OTHER THAN THE LIMITED WARRANTIES CONTAINED IN SECTION 9, BYSTRONIC MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS, SOFTWARE OR SERVICES SOLD OR PROVIDED, THEIR QUALITY OR PERFORMANCE, OR THE RESULTS TO BE ACHIEVED BY CUSTOMER FROM THEIR USE. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE HEREBY DISCLAIMED AND EXCLUDED. THE REMEDIES STATED IN SECTION 9 ARE CUSTOMER'S EXCLUSIVE REMEDIES, AND CUSTOMER'S**

FAILURE TO COMPLY IN ALL RESPECTS TO THE AGREED PAYMENT TERMS IN ANY AGREEMENT WITH BYSTRONIC WILL VOID BYSTRONIC'S WARRANTIES.

- f. Bystronic's limited warranties are available only to the Customer, and Bystronic's limited warranties are not assignable or transferrable by Customer. Goods or software that are resold or remarketed are not covered under Bystronic's limited warranties.
10. Items Not Covered by the Limited Warranty
- a. The limited warranty on Goods does not cover the installation of the Goods or the expenses associated with such installation.
 - b. Consumables, custom tooling supplied by third parties and parts replaced due to normal wear and tear are excluded from warranty coverage. Examples of wear parts include but are not limited to hard drives, filters, bellows, fiber cable, upper and lower protective glass, and seals.
 - c. Subsequent defects that are identified at the time of, or after, the installation of Goods, but which are not related to the Goods themselves, are not covered under warranty.
 - d. Bystronic limited warranties do not cover any Goods or software which:
 - i. has been improperly repaired or altered;
 - ii. has been improperly installed by Customer or any third party;
 - iii. has been subjected to misuse, negligence or accident, including but not limited to the use of Tooling for an application for which such Tooling is not designed;
 - iv. has been used in a manner contrary to Bystronic's instructions or operating manuals;
 - v. is comprised of materials provided (or a design specified) by Customer; or
 - vi. has failed as a result of ordinary wear and tear.
 - e. Use of third party spare or wear parts, including consumables and custom tooling, is not covered by the limited warranty.
 - f. Incorrect installation carried out by the Customer, operator, or unauthorized third parties, including, but not limited to Bystronic parts, is not covered by the limited warranty.
 - g. Lightning strikes, electrical current peaks, or other Force Majeure Events that causes damage is not covered by the limited warranty.
 - h. Damage which reasonably could have been reduced or prevented by the operator is not covered by the limited warranty.
 - i. In relation to third party equipment, Bystronic is not responsible for providing working access to Bystronic Products for warranty repairs, including disassembly and re-assembly of non-Bystronic supplied equipment, third party spare parts, or for providing transportation to or from any repair facility, all of which shall be at Customer's risk and expense.
 - j. Bystronic is not responsible for the information Customer or its other vendors may supply to Bystronic for engineering services including unique tool file generation.
 - k. To the extent Customer participates in Bystronic's advanced maintenance training program, Customer may only use certified personnel to conduct such maintenance and, if such maintenance is performed by personnel who allow their certification to lapse or in a negligent manner, the limited warranty does not apply.
11. Limitation of Liability. The liability of Bystronic, its agents, employees, subcontractors and suppliers with respect to any and all claims arising out of the performance or breach of the Agreement, including but not limited to the manufacture, sale, delivery, installation, repair, services or technical direction covered by the Agreement, whether arising in contract, tort, warranty, strict liability or otherwise, shall not exceed in the aggregate the Contractual Value. **BYSTRONIC, ITS AGENTS, EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS SHALL IN NO EVENT BE LIABLE TO THE CUSTOMER, ITS SUCCESSORS IN INTEREST OR ANY BENEFICIARY OR ASSIGNEE OF THE AGREEMENT FOR ANY CONSEQUENTIAL,**

INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT OR ANY DEFECT IN, FAILURE OR MALFUNCTION OF THE GOODS, SOFTWARE OR SERVICES, WHETHER BASED UPON LOSS OF USE, LOST PROFITS OR REVENUES, LOSS OF CONTRACTS, COST OF CAPITAL OR INTEREST, LOST GOODWILL, WORK STOPPAGE, IMPAIRMENT OF OTHER GOODS, LOSS BY REASON OF SHUTDOWN OR INEFFICIENCY, INCREASED EXPENSES OF OPERATION, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, CLAIMS OF CUSTOMER OR CLIENTS OF CUSTOMER FOR SERVICE INTERRUPTION, WHETHER OR NOT SUCH DAMAGES ARE BASED ON CONTACT, WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE. Bystronic is not under any circumstances responsible for expenses that may be incurred by Customer in effecting cover or obtaining replacement parts, tooling, software or services. No warranty claim shall be asserted against Bystronic, its agents, employees, subcontractors or suppliers unless Bystronic is notified in writing of the breach of warranty prior to the expiration of the applicable Warranty Remedy Period, and no other suit or action shall be instituted or maintained against Bystronic unless it is filed in a court of competent jurisdiction within one year after the date the cause of action accrues, whether arising in contract, tort, warranty, strict liability or otherwise. This limitation of liability shall prevail over any conflicting or inconsistent provisions contained in any of the documents comprising the Agreement, except to the extent such conflicting or inconsistent provisions further restrict Bystronic's liability.

12. Indemnification. Customer agrees to indemnify, defend and hold BYSTRONIC harmless from and against all damages, losses, liabilities, judgments, costs and expenses (including, without limitation, attorneys' fees and expenses) to the extent resulting from or related to (i) Customer's use and/or resale of the Goods or services delivered or provided under the Agreement; (ii) damage to any Goods (or any portion thereof) while in Customer's possession or while Customer otherwise has the risk of loss hereunder; (iii) alterations made by Customer (or by any third party at Customer's direction) to any Goods or software; (iv) attachments, accessory items or parts added to any Goods which were not authorized in writing by BYSTRONIC; (v) Customer's breach of the Agreement; or (v) if the Parts, Customized Tools or software delivered hereunder are to be prepared or manufactured according to Customer's specifications, claims or liability for intellectual property infringement on account of such preparation or manufacture.
13. Force Majeure. Bystronic shall not be responsible for failure to perform under the Agreement (or for any loss or damage) due to any cause(s) beyond Bystronic's reasonable control, including but not limited to incomplete or inaccurate information supplied by Customer, acts of God, fires, floods, weather, accidents, riots, civil disobedience, war, acts of terrorism, strikes, work stoppage or slowdown, epidemics, pandemics, quarantines, governmental orders or requirements, supply chain disruptions, or inability to secure labor, equipment, raw materials or transportation (a "Force Majeure Event"). Notice to this effect shall be given promptly to Customer. Any such Force Majeure Event, even though existing on the date of the Agreement or on the commencement of the ByCare Service Contract or cutting head insurance plan, shall excuse Bystronic's performance during the existence of such Force Majeure Event, including any further delay reasonably incident to the resumption of normal services following such Force Majeure Event.
14. Entire Agreement. The Agreement is (i) a final written expression of all of the terms of the parties' agreement with respect to the subject matter of the Agreement and (ii) a complete and exclusive statement of those terms. The Agreement supersedes all prior agreements, understandings, representations or warranties, whether oral or written, between or by BYSTRONIC and/or Customer with respect to the subject matter of the Agreement. No statement, recommendation or assistance made or offered by BYSTRONIC through its representatives in connection with suitability, capacity, performance or compliance with Customer's specification of the Goods, software or services sold or provided shall constitute a waiver by BYSTRONIC of any provision hereof. No statements subsequent to the acceptance of the order shall be binding upon

BYSTRONIC, nor shall the Agreement be amended or modified, unless agreed upon in writing by the Customer and a duly authorized representative of BYSTRONIC.

15. Attorney's Fees. The prevailing party in any litigation arising out of or related to the Agreement shall be entitled to recover its reasonable legal fees and costs incurred in the prosecution or defense thereof from the non-prevailing party.
16. Survival; Severability. Notwithstanding any expiration or cancellation of the ByCare Service Agreement, cutting head insurance plan or work order, Customer shall remain obligated under all those provisions of the Agreement which expressly or by their nature could reasonably be expected to extend beyond and survive such expiration or cancellation. If any provision in the Agreement (or any portion thereof) shall be held to be void or unenforceable, the remaining provisions in the Agreement or any portion of any provisions of the Agreement not held void or unenforceable shall continue in full force and effect.
17. Assignment. The Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns. Bystronic may assign the Agreement to a buyer of all or substantially all of the assets of Bystronic. The Agreement shall not be assigned, in whole or part, by Customer without BYSTRONIC'S prior written consent (which may be granted or withheld in Bystronic's sole discretion).
18. Governing Law. If Customer is a U.S. resident, the Agreement will be governed by and construed in accordance with the laws of the State of Illinois, without regard to its conflicts of law principles and Bystronic and Customer agree that any disputes arising under or in connection with the Agreement will be litigated, if at all, solely in the courts of the State of Illinois and/or federal courts located in the County of Cook and/or the City of Chicago, Illinois. BYSTRONIC and Customer irrevocably submit to the jurisdiction of any such court in any such suit, action or proceeding, and agree to receive service of process by certified or registered mail or any other proper method and waive any objection which they may now or in the future have to venue or to convenience of any such court.
19. Confidentiality and Non-Solicitation. BYSTRONIC may provide Customer with confidential or proprietary information relating to the Goods, software or services, including but not limited to copies of certain prints, drawings, specifications, documentation and diagrams (collectively, the "Confidential Information"). Customer agrees that it will only use the Confidential Information for the purpose of using, operating, repairing and maintaining the Goods, software or services (the "Permitted Purpose"). Customer shall not utilize (or attempt to utilize) the Confidential Information to reverse engineer, duplicate, or simulate in any manner the Goods or software, except as required for the Permitted Purpose. Customer agrees that the Confidential Information shall not be disclosed to any other person or entity (other than Customer's employees with a need to know Confidential Information for the Permitted Purpose) without the prior written consent of BYSTRONIC. Customer will take all necessary steps to ensure that the Confidential Information is kept secure from unauthorized disclosure. Customer shall not make copies of the Confidential Information without the prior written consent of BYSTRONIC. Each of Customer and Bystronic (the "Covenanting Party") agrees that, at any time during which Customer is a customer of Bystronic, without the other party's prior written approval, the Covenanting Party will not, directly or indirectly, solicit or hire any employee or service provider of the other party for employment or other engagement by or on behalf of Covenanting Party; provided, however, that the foregoing provision will not prevent the Covenanting Party from engaging in a general solicitation of employment not specifically directed towards employees or service providers of the other party.
20. Intellectual Property. Unless and solely to the extent Customer has paid all costs and expenses of any design or development work performed by Bystronic for the Customer, all right, title and interest in and to such work shall vest in and remain with Bystronic, and Customer hereby assigns (and shall cause its employees or representatives to assign) to Bystronic all of their right, title and interest in and to such work, and Bystronic shall be free to exploit such work on behalf of any customer. Notwithstanding Bystronic's delivery of Goods, software or services to Customer,

Customer agrees that (a) Bystronic is the exclusive owner of and retains all right, title and interest in and to all inventions developed or conceived of by Bystronic (or its employees or affiliates), and all associated patent rights, (b) Bystronic is the exclusive owner of and retains all right, title and interest in and to all other intellectual property rights developed or acquired by Bystronic that relate to the Goods, software or services, and (c) Bystronic has not provided to Customer any express or implied license to use any Bystronic trademark, service mark, trade dress, or trade name.

21. Privacy Consent Notice. Bystronic collects and maintains certain personal data in its business-to-business relationships, as needed for the purposes described below, including the Customer's representatives' or employees' name, title, email address, phone numbers and mailing address ("Personal Data"). Such Personal Data may be needed in order for Bystronic to be able to communicate with the Customer and to manage the sale and supply of Goods, software or services to the Customer. Bystronic may share Personal Data with its affiliates in order to support the sale or supply of Goods, software or services. Bystronic will collect and use Personal Data in accordance with applicable privacy and data protection laws, in order to communicate regarding the Customer's and Bystronic's business relationship and for customer relationship management and other legitimate business purposes. It is the Customer's responsibility to inform its employees and representatives of the information set out in this clause. It is also Customer's responsibility to ensure the security and integrity of the Personal Data when it is in transit from the Customer to Bystronic. CUSTOMER CONSENTS TO, AND WILL SECURE ALL NECESSARY CONSENT AND AUTHORITY OF ITS EMPLOYEES AND REPRESENTATIVES FOR, THE TRANSFER TO BYSTRONIC AND PROCESSING OF ANY PERSONAL DATA BY BYSTRONIC, WHETHER LOCATED IN THE UNITED STATES OR ANY OTHER COUNTRIES, FOR THE PURPOSES DESCRIBED IN SECTION 19 OR FOR ANY OTHER PURPOSE TO WHICH CUSTOMER CONSENTS. Customer will indemnify, defend and hold harmless Bystronic and its affiliates from and against any claim arising out of or in connection with the Customer's failure to comply with this clause or any privacy and data protection laws applicable to the Customer.
22. Notices. Any notice required under the Agreement shall be given in writing and in one of the following ways. Any such notice shall be effective as follows: (i) if sent via e-mail and mail, when transmission is confirmed and a hard copy has been deposited in the mail; (ii) if sent via a nationally-recognized courier, on the day when delivery is made; (iii) if sent via certified mail, on the fifth mail day following deposit with the postal service; or (iv) if delivered by hand, when received by an agent or representative of the recipient. Any such notice must be addressed and sent to an authorized official of the recipient.