CYCLE SUPPORT AND MAINTENANCE AGREEMENT

This Software Support and Maintenance Agreement ("Agreement") is entered into between Tryon Solutions, Inc., a North Carolina corporation, (hereinafter "Tryon") and the party ("Customer") identified in the corresponding Order referencing this Agreement, each of which may be referred to in the singular as a "Party" or collectively as the "Parties." This Agreement becomes effective and Customer agrees to be bound by its terms upon the Effective Date (as defined below), but only if Customer has one or more current and valid license(s) for the Software (as defined below) for which Support Services are being purchased. If the person entering into this Agreement is doing so on behalf of a legal entity, such person represents that it has the legal authority to bind such legal entity to this Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

1.1. **"Add-on"** shall mean any optional extension (typically a software component, set of code, written materials, or files) that provides extra features or enhances the use of the Software, including all updates, revisions, modifications, additions, corrections, or fixes thereto, and any associated media or printed materials, which may include online or electronic Documentation.

1.2. **"Documentation"** means any and all manuals, instructions, specifications and other documents and materials in any form or medium provided by Tryon for use with the Software or Add-on. Documentation shall not include any marketing materials in any media or any demonstrations materials or recordings.

1.3. **"Effective Date"** shall mean the earlier of the (a) issuance of a purchase order; (b) payment by Customer of an invoice for the Support Services; or (c) the execution of an Order by signature.

1.4. **"Error"** shall mean any material verifiable and reproducible failure of the Software or Add-on to conform in any material respects to features and functions as described in the Documentation, if any (specifically excluding any nonconformity resulting from Misuse).

1.5. **"Order"** means the purchase order, invoice, or other document referencing this Agreement and causing it to be placed in effect.

1.6. **"Software"** shall mean the specific version of Tryon's Cycle software program for which Customer is purchasing Support Services as identified in the Order, and including the Documentation relating thereto.

1.7. **"Software Update"** shall mean either an updated version of the Software, Add-on, or a software modification or change that, when made or added to the Software or Add-on, corrects a defect and provides material conformity to any documentation outlining the designed functionality.

1.8. **"Misuse"** shall mean (a) any improper or unauthorized use of the Software or Add-on, modification or change of the Software or Add-on without Tryon's written consent; (b) use of non-current releases of the Software or Add-on where Tryon has advised Customer to terminate its use (such as a situation resulting from an intellectual property claim); or (c) combining or merging the Software or Add-on with any hardware, software or other intellectual property not supplied by Tryon or not authorized in writing by Tryon to be so combined or merged by Customer.

1.9. **"Support Services"** shall mean the Services described in Section 3 of this Agreement.

1.10. "**Support Term**" shall mean the consecutive period during which Support Services are purchased by Customer, as described in the Order.

1.11. **"Third Party Software"** shall mean software that is not developed or written by Tryon and which may be obtained by Customer from either Tryon or another party.

2. Term and Termination.

2.1. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue for twelve (12) months, unless otherwise specified in the Order, or until terminated pursuant to this Section 2.

2.2. **Renewal.** Upon the expiration of the initial Support Term and on each anniversary of the Effective Date thereafter, Support Services shall automatically renew for one (1) year periods unless cancelled by either Party upon thirty (30) days prior written notice to the renewal date. Upon each renewal period of Support Services, the Support Fee may increase by not more than 3%.

2.3. **Termination with Software.** This Agreement shall immediately and automatically terminate if Customer fails to maintain a current and valid license of the associated Software.

2.4. **Termination.** This Agreement may be terminated (a) by mutual agreement of the Parties or (b) by either Party if the other party commits a material breach of this Agreement and fails to cure such breach within thirty (30) days following receipt of breach notice. Any payment obligations of either Party shall survive termination.

2.5. **Termination Rights/Reinstatement.** If Customer cancels Support Services, Customer may continue to use the Software or Add-on pursuant to its applicable license, but will not be entitled to receive Support Services or Software Updates for such Software or Add-on. To reinstate Support Services, Customer must pay to Tryon all accumulated Support Fees for the period during which Customer did not purchase Support Services and the Support Fees for the annual term in which Customer re-enrolls the Software under Support Services.

3. Support and Maintenance Services.

3.1. **Supported Software.** Support Services will be provided for the current release of the Software and/or any Add-ons during the Support Term. Support Services shall be available for the current version, or the version specified in the Order, of the Software or Add-on for at least twelve (12) months following the Effective Date of this Agreement.

3.2. **Availability.** Support Services shall be available via email and telephone, Monday through Friday (excluding United States federal holidays) from 9am to 6pm EST, to resolve issues with Software and any Add-ons. Tryon shall strive to respond to all support issues raised by Customer no later than the next business day. Support Services will be performed remotely via the internet and telephone.

3.3. **Software Updates.** During the Support Term, Customer shall be entitled to receive any Software Update generally made available to Tryon's customers. Customer shall not be entitled to transfer any prior version of the Software or Add-on to any other person or entity. Software Updates shall in no way increase the licensed number of copies of the Software. The use of all Software Updates and Documentation provided under this Agreement shall be governed by the license agreement under which Customer originally obtained the Software or Add-on and any terms and conditions contained within

the Software Update. Any Software Update for an Add-on to support Third Party Software shall apply only to versions of the Add-on released subsequent to the version specified in the Order.

3.4. **Maintenance and Backups.** Customer acknowledges that it is the sole responsibility of the Customer, at all times, including specifically during all service functions performed by Tryon pursuant to this Agreement and undertaken on the Customer's local installation of the Software (and any Add-on), to protect and maintain an up-to-date and restorable backup of any and all databases, files, utilities, software and other systems which Tryon's staff may directly access or in connection with which Tryon's staff may offer advice.

3.5. **Exclusions.** The following services are excluded from Support Services:
- Personal computer problems;
- Repetitive user errors;
- Repetitive basic operational and/or training related inquiries;
- Network connectivity problems;
- Custom software development or "code changes" related to Software and any Add-on;
- Failures of Third Party Software (except for Third Party Software embedded in, bundled with, integrated into, or otherwise ordinarily provided with the Software or an Add-on);
- Support Services related to Third Party Software (except for Third Party Software embedded in, bundled with, integrated into, or otherwise ordinarily provided with the Software or Add-on);
- Errors for which Tryon has provided a Software Update to resolve a reported Error which have not been implemented by Customer within a reasonable time after delivery (not to exceed 30 days);
- Custom test development or feature file authoring related to the Software or Add-on;
- Beta or pre-release Software or Add-on;
- Altered, damaged, or modified Software or Add-ons (other than such altered or modified Software or Add-on as have been altered or modified by or in accordance with Tryon's written directions to Customer or as generally allowed by the Software as noted in the Documentation);
- Software or Add-on problems caused by Customer's negligence, hardware malfunction, or other causes beyond the control of Tryon; and
- Training related to the Software or Add-on.

3.6. **Language.** All support will be provided in English.

4. Payment and Cost.

4.1. **Payment.** Customer will pay to Tryon (or Tryon's reseller or agent) the amounts due as indicated in the Order per the terms contained in the Order.

4.2. **Renewal Payments.** Tryon (or Tryon's reseller or agent) will invoice Customer in advance of each renewal period for the continuation of the Support Services. Payment for Support Services renewals shall be due in full on the first day of each renewal period. Failure of Customer to pay the associated amounts for the renewal of Support Services prior to the beginning of the renewal term may result in the immediate suspension or termination of Support Services, at the discretion of Tryon.

4.3. **Taxes.** Customer shall be responsible to pay all taxes and fees, however designated, that are levied or imposed by reason of the transactions contemplated by this Agreement, including without limitation all sales, value-added, use, transfer, privilege, excise and other taxes, duties, or fees, whether international, national, state or local, excluding, however, taxes based on Tryon's net income.

5. Warranty/Limitation of Liability.

5.1. **Warranty.** To the maximum extent permitted by applicable law, the Support Services (including any Software, Add-on, Software Update or Documentation) is provided "as is," "with all faults" and "as available" without warranty of any kind; and, Tryon hereby disclaims any and all warranties, whether express, implied, statutory or otherwise, including without limitation, any warranty of merchantability, satisfactory quality, fitness for a particular purpose, non-infringement, and any warranty arising out of any course of performance, course of dealing or usage of trade. Not limiting the foregoing, Tryon does not warrant that the Support Services will meet Customer's needs or expectations or that the use of the Support Services will be error free, uninterrupted or free of harmful components.

5.2. **Limitation of Liability.** To the maximum extent permitted by applicable law, in no event will Tryon have any liability for indirect, special, incidental, consequential or punitive damages of any nature, including loss of data, lost profits, or cost of cover, however caused and on any theory of liability, whether for breach of warranty or contractor, tort (including negligence), or otherwise, arising out of or related to this Agreement, even if Tryon has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy stated herein. In no event with Tryon's total cumulative liability exceed the amounts actually pay by Customer to Tryon under the Order during a period of twelve (12) months preceding the claim.

6. PRIVACY

6.1. At all times your information will be treated in accordance with Tryon Solution's Privacy Policy, the terms of which may be updated from time to time and are incorporated by reference as if fully restated herein, and can be viewed at: https://www.cycleautomation.com/legal/privacy-policy/

7. Miscellaneous.

7.1. **Entire Agreement.** This Agreement and all addendums or appendices executed pursuant hereto, constitutes the entire agreement between the parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the parties with respect to the subject matter hereof. No change or modification of this Agreement shall be valid unless it is in writing and signed by each of the Parties hereto. No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the party against whom the waiver is sought to be enforced. Only in the event of conflict between the terms and conditions contained in an Order directly between Customer and Tryon and those contained in this Agreement, the terms and conditions contained in the Order shall control. In all other events of conflict, the terms and conditions contained in this Agreement shall control.

7.2. **Independent Contractor.** The Parties agree that Tryon will act as an independent contractor in the performance of its duties under this Agreement. The Parties recognize that this Agreement does not create any actual or apparent agency, partnership, franchise, or relationship of employer and employee between the Parties.

7.3. **Severability**. If any provision, or portion thereof, of this Agreement is, or becomes, invalid under any applicable statute or rule of law, then such provision will be enforced to the maximum extent possible under applicable law so as to effect the intent of the parties and the other provisions of this Agreement will continue in full force and effect.

7.4. **Notice.** Notices to either Party shall be in writing and deemed effective when received. Notices to Tryon shall be sent to 801

Corporate Center Drive, Suite 118, Raleigh, NC 27607 USA. Notices to Customer shall be sent to the address indicated in the Order. Any Party may change its notice address upon notice to the other Party in accordance with this Section.

7.5. **Force Majeure.** Each Party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, communication line failures, and power failures. Nothing in the foregoing shall be deemed to relieve Customer of its obligation to pay fees owed under this Agreement.

7.6. **Fees and Costs.** If any legal action is brought to enforce any rights or obligations under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, court cost and other collection expenses, in addition to any other relief it may be awarded.

7.7. **Governing Law and Forum.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of North Carolina, United States. Any legal proceeding related to this Agreement shall be conducted in the state and federal courts located in Wake County, North Carolina, United States.

7.8. **Assignment.** Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign this Agreement to any party that acquires all or substantially all of its related business by merger, sale of stock or assets, or a similar transaction.

7.9. **Headings**. The section and other headings contained in this Agreement are for reference purpose only and shall not in any way affect the meaning or interpretation of this Agreement.