

END USER LICENSE AGREEMENT

for Tryon Solutions Cycle Software Product

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1.2. **"Competitor"** shall mean any third party that makes commercially available software application products similar to those offered by Tryon or provides similar services related to supply chain software applications.

1.3. **"Computer"** means a physical or virtual (such as a hardware partition, blade, or virtualized environment) computer device capable of running the Software.

1.4. **"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.

1.5. **"Effective Date"** shall mean the earlier of the (a) issuance of a purchase order or payment by Customer; (b) date Software is provided or made available to Customer for download; or (c) activation of the Software with a License Key or Customer's initial connection to the License Server.

1.6. **"IP"** shall mean the intellectual property owned or licensed by Tryon, including, but not limited to, the Software, Documentation, any Add-on, and any authorized copies, modifications, or derivative made thereof by Customer.

1.7. **"License Key"** means a unique key, obtained automatically while activating the software via the internet or as provided otherwise by Tryon, that authorizes a User to activate and enable the Software for a period of time. License Keys shall have an expiration date, unless otherwise deemed to be perpetual.

1.8. **"License Server"** is a computer server or software application, hosted by Tryon or Customer, which manages the Customer's Software licenses and ensures the number of Users per the License Type does not exceed the Permitted Number of Users.

1.9. **"License Type"** means the type of license that the Software is licensed under as described in Section 2.3.

1.10. **"Order"** means the most detailed written agreement, purchase order, invoice, sales receipt, or other document documenting the terms of the sale of the Software and/or Add-on to Customer by Tryon or a Reseller.

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1.12. **"License Reassignment"** means revoking the right to run the Software on one Computer or License Server by one User and granting the right to run the same Software on another Computer or License Server by another User.

1.13. **"Misuse"** shall mean (a) any improper or unauthorized use of the Software or Add-ons, modification or change of the Software or Add-ons without Tryon's written consent; (b) use of non-current releases of the Software or Add-ons where use of the non-current release results in a potential IP Claim under Section 8 (Intellectual Property Indemnification) of this EULA and a correction has been made available to address such potential IP Claim; or (c) combining or merging the Software or Add-ons 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.

1.14. **"Software"** means any software programs owned or licensed by Tryon including all updates, revisions, modifications, additions, corrections, or fixes thereto, and any associated media or printed materials, which may include online or electronic Documentation.

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

1.16. **"User"** shall mean an individual associated with Customer that will use the Software and has a registered account on the License Server.

2. GRANT OF LICENSE

2.1. **License Terms.** Subject to the terms and limitations of this EULA, Tryon hereby grants Customer a non-exclusive, non-transferable license, without rights to sublicense, to:

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- (b) install the Software on not more than the number of Computers as authorized by the License Type, each of which is running a validly licensed copy of the operating system for which the Software is designed;

- (c) use the Software license key to activate each copy of the Software for each Computer to the extent permitted by Customer's payment of applicable license fees under a Tryon approved licensing model;
- (d) use the Software and/or Add-on (in object code form only) solely for Customer's internal information processing and computing needs; and
- (e) use the Add-on(s) and Documentation accompanying the Software in connection with permitted uses of the Software.

2.2. Permitted Users. The IP granted hereunder shall only be used by Customer in accordance with the License grant as indicated in the Order. The IP may only be used for internal business needs of Customer and by Customer's authorized affiliates, employees, consultants, and agents who have a need to access and use the IP. Customer will not, nor allow any third party to, lease, lend, or use the IP for services purposes for the benefit of a third party, except as authorized in writing by Tryon.

2.3. License Types. Software may be licensed to Customer in any of the following types:

- (a) A **"Trial License"** permits the Customer to install and run the Software but may limit the use of certain features. A Trial License may include the use of an Add-on. A Trial License and an Add-on are not transferrable and shall not be used for more than thirty (30) days, unless otherwise authorized in writing by Tryon.
- (b) An **"Individual License"** permits the Customer to install and run the Software on one designated Computer by one User. A separate Individual License is required for each Computer and/or User where an individual will be installing and running the Software. An Individual License is not transferrable from one Computer to another, or from one User to another, without License Reassignment.
- (c) A **"Team License"** permits Customer, or an individual employed or engaged by Customer, the right to install and run the Software on any number of Computers designated by the Customer, provided that each computer is activated and registered to a License Server. The number of concurrent Users running the Software at any one time may not exceed the Permitted Number of Users. A Team License is not transferrable from one License Server to another License Server without a License Reassignment.

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- (a) A **"Stable"** or **"Commercial"** release constitutes the final version of the Software that Tryon deems to be stable with minimal bugs and errors. Customer may operate such components in a live operating environment, but it is highly recommended that Customer keeps data sufficiently backed up to prevent any potential data loss.
- (b) A **"Beta"** or **"Pre-release"** release does not represent the final product from Tryon, and may contain bugs, errors, and other problems that could cause system or other failures and data loss. Customer is strongly advised not to use such component in a live operating environment where it may be relied upon to perform in the same manner as a commercially released product or with data that has not been sufficiently backed up.

2.5. License Keys. Each Trial License and Individual License of the Software must be activated with a valid License Key. Each License Key has an expiration date based on the terms of the Order. When Customer activates the Software with a License Key, Customer may only use the Software until the expiration date on the Computer for which the Software is activated with the License Key.

The License Key for a Team License shall reside on the License Server. Each time a User desires to use the Software on any Customer Computer, the Computer shall receive a temporary authorization to use the License Key from the License Server. At the conclusion of its use, the authorization shall be terminated and the License Server shall make the License Key available for use by other Customer Computers.

Unless otherwise provided by Tryon, internet access is required to obtain the License Key or receive an authorization to utilize a Team License from the License Server.

2.6. License Server Interruptions. Customer acknowledges and agrees that due to the technical uncertainties inherent to the internet and of the access interruptions that may result therefrom, access to the Tryon License Server or License Key activation may be suspended from time to time for any maintenance that may be required. Tryon shall strive to take reasonable measures to ensure that Customer is informed as best as possible of the interruption and may prepare sufficiently in advance so as to avoid disrupting its activities. Customer understands and agrees that there may be instances where Tryon may need to interrupt the License Server or License Key activation without notice in order to protect the integrity of the services due to security issues, virus attacks, or other unforeseen circumstances.

2.7. Team License Requirements. A Team License requires an internet or network connection to connect to Tryon's License Server. Given the continuous evolution and improvements to both the Software and License Server, as new versions are released Customer is required to regularly update their Software to the latest version (via a maintenance contract or otherwise) to retain their ability to manage their Team License pool via the Tryon License Server. Therefore, each Team License shall undergo License Reassignment to an Individual License thirty-six (36) months following the Release Date of the Software version in use. Customer may avoid this conversion by updating the Software to a newer version not less than every thirty-six (36) months.

For the purposes of this Section 2.7, "Release Date" shall mean the date when the base version (as indicated by the first and second digit [x.x] in the version number) was generally made available by Tryon to its customers.

2.8. Copies of Documentation and Add-ons. Customer may make copies of any Add-ons and the Documentation for its own internal use in connection with use of the Software in accordance with this EULA, but no more than the amount reasonably necessary.

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3.1. Reservation of Rights. The structure, organization, and source code of the IP are the valuable trade secrets and confidential information of Tryon. The IP is protected by law, including but not limited to the copyright laws of the United States and other countries, and by international treaty provisions. Except as expressly stated herein, this EULA does not grant Customer any intellectual property rights in the IP. All rights not expressly granted are reserved by Tryon.

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4. RESTRICTIONS AND REQUIREMENTS

4.1. **Proprietary Notices.** Any permitted copy of the IP that Customer makes must contain the same copyright and other proprietary notices that appear on or in the original as provided by Tryon.

4.2. **No Reverse Engineering.** Customer will not, nor allow any third party to, alter, modify or adapt the Software or Add-ons, including but not limited to translating, reverse engineering, decompiling, disassembling, or creating derivative works, and may not take any other steps intended to produce a source code statement of the Software, Add-ons, or any part thereof without Tryon's express written consent, which can be withheld for any reason.

4.3. **No Unbundling.** The Software and any Add-ons may include various applications and components, may support multiple platforms and languages, and may be provided to Customer on multiple media or in multiple copies. Nonetheless, the Software and Add-ons are designed and provided to Customer as a single product to be used as a single product on Computers as permitted herein. Unless otherwise permitted in the Documentation, Customer is not required to install all component parts of the Software or Add-ons, but Customer may not unbundle the component parts of the Software for use on different Computers.

4.4. **Transfer.** Customer will not rent, lease, sell, sublicense, assign, or transfer its rights in the IP or authorize any portion of the Software to be copied onto another individual or legal entity's computer unless approved in writing by Tryon.

4.5. **Competitors.** Except as expressly permitted by Tryon, Customer may not permit access to IP by a Competitor of Tryon. Notwithstanding anything to the contrary in this EULA, Tryon acknowledges and agrees that Customer may provide Competitor with access to IP to the extent such access is required to enable Customer to (a) access tables and/or data managed by the Software or Add-on, and/or (b) integrate or interface the Software or Add-on with another software or hardware system, provided that such Competitor execute a non-disclosure agreement mutually agreeable by Tryon and Competitor prior to any access to the IP.

5. UPDATES

5.1. If the Software or Add-on is an Update to a prior version of the Software or Add-on, respectively, (the "Prior Version"), then Customer's use of this Update is conditional upon its retention of the Prior Version. Therefore, if Customer validly transfers this Update pursuant to Section 4.4, the Customer must transfer the Prior Version along with it. If Customer wishes to use this Update in addition to the Prior Version, then Customer may only do so on the same Computer on which it has installed and is using the Prior Version. Any obligations that Tryon may have to support Prior Versions during the License Term may end upon the availability of this Update. No other use of the Update is permitted. Additional Updates may be licensed to Customer by Tryon with additional or different terms.

6. TERM AND TERMINATION

6.1. **Term.** The term of this EULA shall commence on the Effective Date and shall remain in effect until terminated pursuant to this Section 6 (the "License Term").

6.2. **Trial License Termination.** If this EULA manages a Trial License, this EULA shall terminate thirty (30) days after the Effective Date, unless otherwise authorized in writing by Tryon.

6.3. **Term/Subscription Licenses.** The License Terms for Software purchased on a "term" or "subscription" basis shall terminate on the date specified in the Order, or if the date is not provided one (1) year from the Effective Date. Prior to the expiration of the License Term, Tryon or Reseller may provide Customer an invoice to extend the EULA for a period of time equal to or greater than the length of the initial License Term at the then current price. If Customer elects to submit payment, this EULA shall renew for the

term stated in the invoice. Customer shall have no obligation to renew this EULA.

6.4. **Perpetual Licenses.** The License Term for Software purchased on a "perpetual" basis shall have no expiration date, unless terminated pursuant to this Section 6 of the Agreement.

6.5. **Tryon's Right to Terminate.** Without prejudice to any other rights, Tryon may terminate this EULA if Customer fails to comply with the terms and conditions of this EULA. In such event, Customer must destroy all copies of the Software and Documentation.

6.6. **Effect of Termination.** Upon termination of this EULA or expiration or termination of a license, all rights granted to Customer for the applicable license(s) shall cease and Customer shall immediately: (a) cease using the applicable Software, any Add-ons, and Documentation; (b) return the applicable Software to Tryon or Reseller together with all Add-ons, Documentation and other materials associated with the Software and all copies of any of the foregoing, or destroy such items; and (c) in case of termination due to an uncured Customer breach, Customer will pay Tryon or Reseller all amounts due and payable.

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7.1. Under no circumstances shall Tryon be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of, or inability to use the software product or services, information or data (collectively, "Information") even if such person has been advised of the possibility of such loss.

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Tryon shall have no liability or responsibility for problems in the Software caused by Misuse or for problems arising out of the malfunction of Customer's computer hardware or third party software.

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8.1. If Customer purchases an Individual License or Team License, Tryon shall indemnify, defend and hold harmless Customer from and against any claim brought against Customer by a third party which claim specifically alleges that the Software (in the form supplied to Customer by Tryon) directly infringes or misappropriates a trademark, patent, or copyright of such claimant that is enforceable in the United States (an "IP Claim"), and Tryon will pay those costs and damages finally awarded or settled (upon settlement terms acceptable to Tryon) against Customer based on such IP Claim. This indemnity is conditional upon (a) Customer giving Tryon notice in writing no later than thirty (30) days after becoming aware of such IP Claim; (b) Tryon, at its option, having sole control and authority over such claim and the defense and settlement thereof; and (c) Customer's reasonable cooperating in all respects in the defense of such IP Claim, at Tryon's expense. Tryon shall have no liability or obligation to Customer under this Section 8 to the extent that the IP Claim is caused by Misuse of the Software by Customer or if a Trial License is in use by Customer.

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8.3. The foregoing provisions of this Section 8 set forth the entire and exclusive liability of Tryon in respect of any claimed infringement or misappropriation by the Software and any Add-on of any patent, trademark, trade dress, trade secret, copyright or other intellectual property rights of any third party.

9. LIMITED WARRANTY

9.1. **Warranty.** Except as otherwise provided in this Section 9, Tryon warrants that the IP will substantially conform in all material respects to the Documentation. If Tryon breaches, or is alleged to have breached, the warranty set forth in this Section 9, Tryon may, in its discretion and its expense, take any of the following steps to remedy such breach: (i) repair the non-conforming IP; (ii) replace the non-conforming IP with functionally equivalent software (which will, on its replacement of the IP, constitute IP hereunder); or (iii) if Tryon is unable to repair or replace the non-conforming IP as set forth in this Section 9 within a commercially reasonable period of time, terminate the affected portion of the license Term and provide a refund of any prepaid, unused fees for that portion of the license Term.

9.2. **Customer Use.** Tryon (and Reseller) shall have absolutely no liability in connection with Customer's use or misuse of the IP including without limitation, any liability for damage to Customer's computer hardware, data information, materials, and business resulting from the IP, or the lack of information available on the Tryon website, or elsewhere.

9.3. **Exclusions.** Tryon (and Reseller) shall have no liability for: (a) any loss or injury caused, in whole or in part, by its actions, omissions, or negligence, or for contingencies beyond its control; (b) any errors, omissions, inaccuracies or completeness of the IP, or delays or interruptions, regardless of how caused; or (c) any decision made or action taken or not taken in reliance upon the IP furnished hereunder. Tryon makes no warranty, representation or guaranty that the IP will be uninterrupted or error free or that any defects can be corrected. Tryon expressly disclaims any representations beyond those described in the Documentation and warranties in this Section 9, including without limitation, the implied warranties of merchantability and fitness for a particular purpose.

9.4. For purposes of this Section 9, Tryon shall include Tryon and its Resellers, and their divisions, subsidiaries, successors, parent companies, employees, partners, principals, agents and representatives, and any third-party providers or sources of information or data. WITHOUT LIMITING ANY REMEDY MADE AVAILABLE UNDER SECTION 8 (INTELLECTUAL PROPERTY INDEMNIFICATION), THIS SECTION 9 SETS FORTH TRYON'S ENTIRE OBLIGATION AND LIABILITY FOR ANY BREACH OF THE SOFTWARE WARRANTY SET FORTH IN THIS SECTION.

10. EXPORT RESTRICTIONS

10.1. Customer to comply with all laws and regulations of the United States governing the use, access or export of the IP and any part thereof. Without limitation, the IP or any part thereof may not be used or accessed within or by, or otherwise exported to, (a) any United States embargoed country, or (b) anyone on the United States Treasury Department's list of Specially Designated Nations, the United States Department of Commerce's Table of Denial Orders, or other similar list.

11. PEER-TO-PEER COMMUNICATIONS

11.1. The Software or Add-ons may use Customer's connection to a local area network or the internet, without additional notice, to automatically connect to other Tryon software, and in doing so, may indicate on the local area network that it is available for communication with other Tryon software. These connections may transmit the IP address of Customer's connection to the network.

12. PRIVACY

12.1. 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/>

13. MISCELLANEOUS

13.1. **Modifications and Severability.** This EULA may only be modified in writing signed by the Customer and an authorized officer of Tryon. If any provision of this EULA is found void or unenforceable, the remainder will remain valid and enforceable according to its terms.

13.2. **Terms and Headings.** In this EULA, words importing the singular number include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders. The division of this EULA into sections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this EULA.

13.3. **Law and Forum.** If the Customer acquired this product in the United States, this EULA is governed by the laws of the State of North Carolina. If the IP was acquired outside the United States, then Customer agrees and ascends to the adherence to all applicable international treaties regarding copyright and intellectual property rights which shall also apply. In addition, Customer agrees that any local law(s) to the benefit and protection of Tryon ownership of, and interest in, its intellectual property and right of recovery for damages thereto will also apply. Any legal proceeding related to this EULA shall be conducted in the courts located in Wake County, North Carolina, United States.

13.4. **Assignment.** Neither Party shall assign this EULA 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 EULA to any party that acquires all or substantially all of its related business by merger, sale of stock or assets, or a similar transaction.

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