

## Trioptek Solutions, Inc. Terms and Conditions of Sale of Products and Non-Hosted Services

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**\*\*\*IMPORTANT NOTICE REGARDING THE RESALE OF DELL® products and services by TRIOPTTEK SOLUTIONS, INC.**

TRIOPTTEK is required to abide by and operate under the Dell® Terms and Conditions of Sale and Customer Master Services Agreement in relation to the sale, service and support of any Dell® product or service resold through Trioptek Solutions, Inc.. Trioptek Solutions, Inc. is a registered reseller and partner with Dell®. Service and support on all Dell® computers, peripherals, networking products, servers, software or any other related Dell products or services is governed completely by the Dell® Policies and Conditions of sale available here:

<http://www.dell.com/content/topics/global.aspx/policy/en/policy?c=us&l=en&s=gen&~section=012>

NOTE: These U.S. Terms and Conditions of Sale apply to purchases made from Trioptek Solutions, Inc. by phone, the Internet, or in person thru an appointed Trioptek Solutions, Inc. employee.

These terms and conditions ("Agreement") apply to the purchase of products and/or services and support ("Product") by the Customer ("Customer") sold in the United States by Trioptek Solutions, Inc., here within referred to as TRIOPTTEK", including its affiliates or subsidiaries. By accepting delivery of the Product, Customer accepts and agrees to be bound to the terms and conditions of this Agreement. THIS AGREEMENT SHALL APPLY UNLESS (I) CUSTOMER HAS A SEPARATE WRITTEN PURCHASE AGREEMENT WITH TRIOPTTEK, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (II) OTHER TRIOPTTEK TERMS AND CONDITIONS APPLY TO THE TRANSACTION. TRIOPTTEK RESERVES THE RIGHT TO ALTER, ADD OR DELETE ANY PART OF THIS AGREEMENT AT ANY TIME WITHOUT PRIOR NOTIFICATION TO CUSTOMER.

1. Other Documents. This Agreement may NOT be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in a written agreement signed by both the Customer and TRIOPTTEK. If the customer does not receive an invoice or acknowledgement in the mail, via e-mail, or with the Product, information about the purchase may be obtained by contacting TRIOPTTEK.
2. Payment Terms; Orders; Quotes; Interest. Terms of payment are within TRIOPTTEK's sole discretion, and unless otherwise agreed to by TRIOPTTEK, payment must be received by TRIOPTTEK prior to TRIOPTTEK's acceptance of an order. Payment for the products will be made by credit card, check, or some other prearranged payment method. Invoices are due and payable within the time period noted on your invoice, measured from the date of the invoice. TRIOPTTEK may invoice parts of an order separately. Customer order is subject to cancellation by TRIOPTTEK, in TRIOPTTEK's sole discretion. Unless the Customer and TRIOPTTEK have agreed to a different discount, TRIOPTTEK's standard pricing policy will apply. TRIOPTTEK is not responsible for pricing, typographical, or other errors in any offer by TRIOPTTEK and reserves the right to cancel any orders resulting from such errors.
3. Shipping Charges; Taxes; Title; Risk of Loss. Shipping and handling are additional unless otherwise expressly indicated at the time of sale. Title to products passes from TRIOPTTEK to Customer on shipment from TRIOPTTEK's facility or any third-party vendor facilities if drop-shipped. Loss or damage that occurs during shipping by a carrier selected by TRIOPTTEK is TRIOPTTEK's responsibility. Loss or damage that occurs during shipping by a carrier selected by the Customer is the Customer's responsibility. The Customer must notify TRIOPTTEK within 7 days of the date of the invoice or acknowledgement if any part of the purchase is missing, wrong or damaged. Unless Customer provides TRIOPTTEK with a valid and correct tax exemption certificate applicable to the purchase of Product and the Product ship-to location, Customer is responsible for sales and other taxes associated with the order. Shipping dates are estimates only.

4. Warranties. TRIOPTTEK MAKES NO WARRANTIES FOR SERVICE, SOFTWARE, PRODUCT, MAINTENANCE OR SUPPORT. SUCH PRODUCT, SOFTWARE, SERVICE, MAINTENANCE OR SUPPORT IS PROVIDED BY TRIOPTTEK "AS IS" AND ANY THIRD-PARTY WARRANTIES, SERVICES, MAINTENANCE AND SUPPORT ARE PROVIDED BY THE ORIGINAL MANUFACTURER OR SUPPLIER, NOT BY TRIOPTTEK. TRIOPTTEK MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN TRIOPTTEK'S APPLICABLE SERVICE DESCRIPTION IN EFFECT ON THE DATE OF THE INVOICE, PACKING SLIP OR ACKNOWLEDGEMENT. TRIOPTTEK MAY REQUEST CANCELLATION OF THIRD-PARTY-BRANDED SOFTWARE LICENSES, SERVICES, MAINTENANCE OR SUPPORT IF TRIOPTTEK DOES NOT RECEIVE PAYMENT. IF CUSTOMER PURCHASES THIRD-PARTY-BRANDED PRODUCT, SERVICES, MAINTENANCE, OR SUPPORT, ADDITIONAL THIRD-PARTY TERMS AND CONDITIONS MAY APPLY.
5. Software. All software is provided subject to a license agreement and Customer agrees to be bound by such license agreement in addition to these terms. Title to software remains with the applicable licensor(s).
6. Return Policies; Exchanges. TRIOPTTEK's return policy is maintained on a case-by-case basis, subject to the sole discretion of TRIOPTTEK. Customer must contact TRIOPTTEK directly before attempting to return any Product. Customer must return all Product in their original or equivalent packaging. Customer is responsible for risk of loss, shipping and handling fees for returning or exchanging Product. Additional fees may apply. If customer fails to follow the return or exchange instructions and policies provided by TRIOPTTEK, TRIOPTTEK is not responsible for Product that is lost, damaged, modified or otherwise processed for disposal or resale. At TRIOPTTEK's discretion, credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing. A restocking fee not to exceed 15% of the original Product sale price may be applied to any Product returned.
7. Service and Support.
  1. TRIOPTTEK IS NOT RESPONSIBLE FOR, NOR OBLIGATED IN ANY CAPACITY, TO PROVIDE SERVICE ON OR SUPPORT ANY PRODUCTS OR SERVICES THAT CUSTOMER MAY PURCHASE THRU TRIOPTTEK WHERE TRIOPTTEK MAY ACT AS A RESELLER, SYSTEM CONFIGURATOR, VAR, INSTALLER, CONSULTANT OR OTHERWISE ACT ON THE CUSTOMER'S BEHALF IN REGARDS TO PRODUCTS AND/OR SERVICES PURCHASED FROM THIRD-PARTY VENDORS AND RESOLD THRU TRIOPTTEK. TRIOPTTEK DOES NOT MANUFACTURE, PRODUCE, MODIFY OR OTHERWISE PROVIDE PRODUCTS AS TRIOPTTEK-BRANDED PRODUCTS AND THEREFORE DOES NOT WARRANTY NOR PROVIDE SERVICE OR SUPPORT FOR, AND IS NOT RESPONSIBLE FOR THE PERFORMANCE, RELIABILITY, LOSS OF PROFITS OR ANY INTENDED ACTION OR UNINTENDED ACTION ARISING FROM THE USE OR MISUSE OF A PRODUCT OR SERVICE RESOLD BY TRIOPTTEK. PLEASE SEE THE SERVICE AND SUPPORT AGREEMENTS BELOW WHICH GOVERN SERVICE AND SUPPORT OFFERED BY THIRD-PARTY VENDORS THAT TRIOPTTEK MAY DO BUSINESS WITH.
    - Dell© - [Terms and Conditions of Sale](#)
    - Microsoft Corporation - [Terms and Conditions of Sale](#)
    - Fortinet - [Terms and Conditions of Sale](#)
    - Sonicwall - [Contact Information for Product Sales](#)
  2. Regarding the administration, monitoring, maintenance, support or other normal or abnormal acts of service related to computers, servers, networks, backup systems and any computerized or non-computerized Customer equipment, software or services of any kind, whether sold to Customer by TRIOPTTEK or a third-party vendor, it is the sole responsibility of the Customer to perform any and all related activities including, but not limited to, maintenance, review, renewal of services, upgrades, security audits, management and all performance monitoring. TRIOPTTEK is NOT RESPONSIBLE for monitoring, reviewing, auditing, maintaining or otherwise engaging with or performing service or support on any product or service at any time in any capacity. TRIOPTTEK may, upon Customer request,

deliver service and/or support for Customer equipment, whether independent or in conjunction with other services, performed on an "AS IS" basis without warranty of any kind.

3. Regarding any computer maintenance, repair, upgrades, or other activity performed on a computer system, where requested by the Customer, or other computer-related device for a Customer, it is the sole responsibility of the Customer to backup all existing data, configuration, software, and programs before receiving services or support (including telephone or Internet support). TRIOPTTEK and/or third-party service providers will have no liability for loss or recovery of data, programs or loss of use of system(s) arising out of the services or support or any act or omission, including negligence, by TRIOPTTEK or third-party service providers.
4. TRIOPTTEK and/or third-party service providers are not permitted by law to copy pirated or copyrighted materials or to copy or handle illegal data. Prior to TRIOPTTEK and/or third-party service providers providing service or support, Customer represents that system(s) does not contain illegal files or data. Customer also represents that he/she owns the copyright or possesses a license to make copies of all files on the system and does not have any data that would cause TRIOPTTEK or third-party service providers to be liable for copyright infringement if such data was copied by TRIOPTTEK and/or third-party service providers for the purpose of data backup.
8. **Limitation of Liability.** TRIOPTTEK DOES NOT ACCEPT LIABILITY FOR ANY PRODUCT NOT BEING AVAILABLE FOR USE, LOST PROFITS, LOSS OF BUSINESS OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. TRIOPTTEK WILL NOT BE HELD LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY CUSTOMER OR ANY THIRD PARTY. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCT, TRIOPTTEK IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES.
9. **Governing Law.** THE PARTIES AGREE THAT THIS AGREEMENT, ANY SALES THERE UNDER, OR ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND TRIOPTTEK arising from or relating to this agreement, its interpretation, or the breach, termination or validity thereof, the relationships which result from this agreement, TRIOPTTEK's advertising, or any related purchase SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO CONFLICTS OF LAW.