

## CONDITIONS OF SALE

### Distributors and Other Commercial Customers

Note: The following Conditions of Sale are subject to change: All Sales Transactions are subject to the latest published Conditions of Sale of the Trine Access Technology Corporation and to any Special Conditions of Sale which may be contained in applicable Trine quotations and acknowledgements. Modified product warranties are provided to consumers.

**1. ACCEPTANCE, GOVERNING PROVISIONS AND CANCELLATIONS.** No order for Trine Access Technology or services shall be binding upon Trine until accepted by a writing of an authorized official of Trine or by shipment or other performance of such order. Any such order shall be subject to these Conditions of Sale, and acceptance shall be expressly conditioned on assent to such Conditions, which assent shall be deemed given unless purchaser shall expressly notify Trine to the contrary prior to the earlier of any shipment or other performance of an order by Trine or within five (5) days after purchaser's receipt of any acknowledgement or confirmation of such order. Trine expressly reserves the right to reject and withdraw acceptance of any order.

No order accepted by Trine may be altered or modified by purchaser unless agreed to in a writing signed by an authorized official of Trine; and no such order may be cancelled or terminated except upon payment of Trine's loss, damage and expense arising from such cancellation or termination. These Conditions of Sale may not be supplemented or modified by course of dealing, course of performance or any oral communication between the parties. No modified or other conditions will be recognized by Trine unless specifically agreed to in writing and failure of Trine to object to provisions contained in any purchase order or other communication from a purchaser (including, without limitation, penalty clauses of any kind) shall not be construed as a waiver of these Conditions nor an acceptance of any such provisions.

Unless otherwise agreed in writing by a duly authorized representative of Trine, products sold hereunder are not intended for use or in connection with a nuclear facility or activity. If so used, Trine disclaims all liability for any nuclear damage, injury or contamination, and purchaser shall indemnify Trine against any such liability, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise. Any contract for sale and these Conditions shall be governed by and construed according to the laws of the State of New York. Any dispute arising out of or relating to these Conditions of Sale or any matter relating hereto shall be brought in the federal or state courts sitting in or for the Bronx, New York, and the parties waive any objection they may have to the jurisdiction or subject matter of these courts.

**2. QUOTATIONS AND PRICES.** Written quotations are conditioned upon acceptance by purchaser within thirty (30) days from the date issued and shall be considered as offers by Trine to sell during such thirty (30) day period on these Conditions of Sale unless sooner terminated by notice. Other Trine publications are maintained as sources of general information and are not quotations or offers to sell.

**All clerical errors are subject to correction.**

**MINIMUM ORDER: \$75.00 Net. DROP SHIP FEE: Trine reserves the right to charge a fixed fee of \$10.00 for shipping to an address other than customers.**

All prices are subject to change without notice. In the event of a net price change, the price of equipment on order but unshipped will be adjusted to the price in effect at the time of shipment. Downward adjustment of prices shall apply only to unshipped portions of outstanding orders.

**3. PAYMENT TERMS.** Unless otherwise agreed by Trine, terms of payment for Trine products to purchasers of satisfactory credit are either (1) a 1% cash discount for all invoices paid in full if the payment is received by Trine within 10 days after the date of Trine's invoice or (2) full payment to be received by Trine within 30 days after the date of Trine's invoice. Applicable terms of payment are stated in quotations or on the discount sheet for the product involved. Cash discount will apply only to the net amount of the invoice after transportation charges and taxes. A late charge of 1% per month or the maximum amount permitted by law will be applied to all past due amounts.

Trine reserves the right at any time to demand full or partial payment before proceeding with a contract of sale if, in its judgment, the financial condition of purchaser shall not justify the terms of payment specified. If delivery is delayed or deferred by purchaser beyond the scheduled date, payment shall be due in full when Trine is prepared to ship and the products may be stored at the risk and expense of purchaser. If purchaser defaults when any payment is due, then the whole contract price shall become due and payable upon demand, or Trine, at its option, without prejudice to other lawful remedies, may defer delivery or cancel the contract for sale.

**4. TAXES AND OTHER CHARGES.** Any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax (except the Federal excise tax on vehicles), duty, custom, inspection or testing fee, or other tax, fee or charge of any nature whatsoever, imposed by any governmental authority, on or measured by any transaction between Trine and purchaser, shall be paid by purchaser in addition to the prices quoted or invoiced. In the event Trine shall be required to pay any such tax, fee or charges, purchaser shall reimburse Trine therefore; or, in lieu of such payment, purchaser shall provide Trine at the time the order is submitted with an exemption certificate or other document acceptable to the authority imposing the same. Purchase orders must state the existence and amount of any such tax, fee or charge which it shall be Trine's responsibility to collect from purchaser and pay.

**5. DELIVERY.** Delivery of products to a carrier at any Trine facility or other shipping point shall constitute delivery to purchaser; and, regardless of freight payment, title and all risk of loss or damage in transit shall pass to purchaser at that time. Trine cannot be held responsible for breakage after having received "in good order" receipts from the transportation company. All claims for loss and damage must be made by purchaser to the carrier. Claims for shortages or other errors must be made in writing to Trine within 15 days after receipt of shipment, and failure to give such notice shall constitute unqualified acceptance and a waiver of such claims by purchaser. Unless otherwise agreed by Trine in quotations, discount schedules, catalogs or other Trine publications, all expenses of freight FOB Trine's place of shipment shall be borne by purchaser. No allowance will be made in lieu of transportation if purchaser accepts shipment at factory, warehouse, freight station, or otherwise supplies its own transportation. Method and route of shipment will be at the discretion of Trine unless purchaser shall specify otherwise, and any additional expense of the method or route of shipment specified by purchaser shall be borne by purchaser. Trine reserves the right to make delivery in installments, unless otherwise expressly stipulated in the contract for sale; and all such installments when separately invoiced shall be paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve purchaser of its obligations to accept remaining deliveries.

**6. SUBSTITUTES.** Trine may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or non-availability of materials from suppliers, and assumes no liability for deviation from published dimensions and descriptive information not essential to proper performance of the products.

**7. WARRANTIES TO DISTRIBUTORS AND OTHER COMMERCIAL CUSTOMERS.** Trine warrants products manufactured by it to be free from defects in materials and workmanship for a period of one (1) year from date of shipment by Trine, except for all Axion (R) labeled products which are covered for two (2) years from date of shipment by Trine. If within such period any such products shall be proved to Trine's satisfaction to be so defective, such products shall be repaired or replaced at Trine's option. This warranty shall not apply (a) to products not manufactured by Trine, (b) to products which shall have been repaired or altered by other than Trine so as, in its judgment, to affect the same adversely, or (c) to equipment which shall have been subjected to negligence, accident or damage by circumstances beyond Trine's control, or to improper operation, maintenance or storage, or to other than normal use or service. With respect to products not manufactured by Trine, the warranty obligations of Trine shall in all respect conform and be limited to the warranty actually extended to Trine by its supplier. The foregoing warranties do not cover reimbursement for transportation, removal, installation, or other expenses which may be incurred in connection with repair or replacement. Except as may be expressly provided in an authorized writing by Trine, Trine shall not be subject to any other obligations or liabilities whatsoever with respect to products manufactured by Trine or services rendered by Trine.

**THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**8. LIMITATION OF LIABILITY.** Anything to the contrary herein contained notwithstanding, TRINE ACCESS TECHNOLOGY, ITS CONTRACTORS AND SUPPLIERS OF ANY TIER SHALL NOT BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER. The remedies of the purchaser set forth herein are exclusive where so stated and the total cumulative liability of Trine, its contractors and suppliers of any tier, with respect to this contract or anything done in connection therewith, such as the use of any product covered by or furnished under the contract, whether in contract, in tort (including negligence or strict liability) or otherwise, shall not exceed the price of the product or part on which such liability is based. Further, any claim purchaser may have with reference to Trine products or services sold or provided hereunder shall be deemed waived by purchaser unless asserted against Trine in writing within 90 days from the date the purchaser discovered, or should have discovered, the basis for the claim.

**9. RETURN OF EQUIPMENT.** No products may be returned without first obtaining Trine's written permission and a returned goods authorization number. Trine shall issue a credit to purchaser for returned goods, subject to the terms of this paragraph, and purchaser will not be entitled to any other form of reimbursement for returns. Products accepted for credit, not involving a Trine error, shall be subjected to a minimum service charge of \$25.00, or a charge of 15% of invoice, whichever is greater, plus all transportation charges incurred by Trine. THE MINIMUM RESTOCKING CHARGE IS \$25.00. Returned products must be securely packed to reach Trine without damage, any cost incurred by Trine to put the products in first class condition will be charged to purchaser.

**10. PATENTS.** As to products sold to purchaser by Trine, Trine shall defend any suit or proceeding brought against purchaser so far as based on a claim that said products constitute an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance at Trine's expense for the defense of the same. In the event of a final award of costs and damages, Trine shall pay such award. In the event the use of said products by purchaser is enjoined in such a suit, Trine shall, at its own expense, either (a) procure for purchaser the right to continue using said products, (b) modify said equipment to render them non-infringing, (c) replace said products with non-infringing products, or (d) refund the purchase price (less depreciation) and the transportation and installation costs of said products. Trine will not be responsible for any compromise or settlement made without its written consent. The foregoing states the entire liability of Trine for patent infringement, and in no event shall Trine be liable if the infringement charge is based on the use of Trine products for a purpose other than that for which sold by Trine, any alteration to the Trine products or the use of the Trine products with any other product or service not manufactured by Trine. As to any products furnished by Trine to purchaser and manufactured in accordance with designs provided by purchaser, purchaser shall defend, indemnify and hold harmless Trine against any award made against Trine for patent, trademark, or copyright infringement.

**11. PATTERNS AND TOOLS.** Notice will be given if special patterns or tools are required to complete any order. Charges for such patterns or tools do not convey title thereto or the right to remove them from Trine's plant. If patterns or tools are not used for a period of two years, Trine shall have the right to scrap them without notice.

**12. FORCE MAJEURE.** Trine shall not be liable in damages or otherwise for delays in shipment or default in delivery for any reason of force majeure or for any cause beyond Trine's reasonable control including, but not limited to (a) an act of nature, (b) government action, war, riots, civil commotion, embargoes or martial laws, (c) Trine's inability to obtain necessary materials from its usual sources of supply, (d) shortage of labor, raw material, production or transportation facilities or other delays in transit, (e) other contingencies of manufacture or shipment. In the event of any delay in Trine's performance due in whole or in part to any cause beyond Trine's reasonable control, Trine shall have such additional time for performance as may be reasonably necessary under the circumstances. Acceptance by purchaser of any goods shall constitute a waiver by purchaser of any claim for damages on account of any delay in delivery of such goods.