

A. Scope of Terms and Conditions

- (1) These terms and conditions (these “Terms and Conditions”) shall govern all current and future contractual relationship, in particular all offers, sales contracts, deliveries of hardware and software, and all services and products and other items (hereinafter “Delivery Items”) and shall hereinafter be referred to as the “Agreement“ made between BigRep America Inc., 80 Pine Street, 24th Floor, New York, NY 10005, USA, (hereinafter “BigRep”) and the respective other party (hereinafter “Customer”; both parties hereinafter “Parties”). In case that a Maintenance and Support Services Agreement is agreed between the parties, these shall be added to these terms as Appendix and shall hereinafter be together referred to as the “Agreement”. In the event of any conflict between these Terms and Conditions and any Support Agreement, such provision in the Terms and Conditions shall prevail and govern.
- (2) These Terms and Conditions shall apply exclusively. Differing or contrary terms shall only apply if expressly agreed upon in writing. This requirement of written agreement shall also apply even if BigRep is aware or has knowledge of differing or contrary terms. No implied waiver or warranty shall be construed by the foregoing.

B. Binding (and non-binding) Terms

- (1) Offers of BigRep are non-binding.
- (2) Any offers of the Customer made via the online shop of BigRep, in writing, by telefax and/or email are legally binding.
- (3) The offer by the Customer shall be deemed to be accepted by BigRep either upon subsequent acceptance of the order (“**Order Confirmation**”) or by dispatching the ordered product. The Order Confirmation can be in writing by telefax and/or email and will be made within 14 calendar days from receipt of Customer’s offer. Such Order Confirmation may also be declared by BigRep by submitting an invoice. Upon such Order Confirmation a binding Agreement comes into existence. For the avoidance of doubt, offer request forms filled by Customers and submitted to BigRep shall be non-binding.
- (4) The Customer shall be responsible for the correctness of any order submitted by the Customer, and for providing BigRep with any necessary information relating to the Delivery Items without delay in order to enable BigRep to perform the Agreement in accordance with the terms of the contract.
- (5) BigRep shall have the right to carry out technical modifications to the Delivery Items, provided that their technical functions are not impaired as a result and any modification is reasonably acceptable for Customer taking into account BigRep’s best interest.

C. Prices and Payment

- (1) Unless otherwise agreed, all prices are set out in the respective quote or (for resellers) in the price list in the version applicable at the time the Agreement is concluded.
- (2) Prices are ex works (EXW), exclusive of the respective statutory VAT and exclusive of costs for dispatch and installation, except as otherwise expressly agreed upon. Prices are expressed in "Euro" or "USD".
- (3) BigRep reserves the right to implement a respective and reasonable price increase, if in the period between conclusion of the Agreement and delivery of the Delivery Items any increases in costs, in particular as a result of tariff agreements or material price changes, incur. BigRep will provide proof of such cost changes to the Customer on request. The Customer shall be entitled to rescind the Agreement within 2 calendar weeks of receipt of the notification of the price increase by BigRep if the net price stipulated by BigRep by way of the price increase exceeds the net price originally agreed by the parties by more than three (3) percent.
- (4) BigRep is under no obligation to render performance in advance. In particular if the Customer orders the Delivery Items online via BigRep's online shop, all deliveries by BigRep shall, unless otherwise agreed, require advance payment (to be made in the manner specified in BigRep's order form made available in the online shop) or shall be paid cash on delivery, in each case upon receipt of an invoice.
- (5) In the event the Parties agreed upon payment after delivery, prices are due and payable net within fourteen (14) days from the date set forth on the invoice. If the Customer is late with payment the statutory interest rate shall apply. BigRep reserves all rights to claim further damage in case of delay by Customer.

D. Delivery, Passing of Risk

- (1) Delivery is made ex works (EXW) from BigRep's registered place of business, i.e. the Customer bears all costs and risks of loading and transport; except as otherwise explicitly agreed between the Parties in writing. The Parties may agree that delivery can also be made ex works (EXW) from one of BigRep's manufacturing facilities in Germany.
- (2) Delivery is conditioned upon timely and proper performance of all duties by the Customer.
- (3) When collected, the risk of accidental loss or of accidental deterioration of Delivery Items shall pass to the Customer upon handover of the Delivery Items. In the event that Delivery Items

are dispatched at the Customer's request, the risk of accidental loss or of accidental deterioration shall pass to the Customer upon handover of the Delivery Items to the Customer designated to carry out the dispatch or to the person designated to carry out the dispatch.

- (4) In case of default or other breach hereunder by the Customer BigRep is entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the Delivery Items passes to the Customer at the time of such default or breach of duty to cooperate.
- (5) Any date of delivery communicated by BigRep shall only be approximate, unless a fixed date of delivery has been expressly agreed upon.
- (6) If shipping is agreed upon, the date of delivery shall be the day on which the Delivery Items are handed over by BigRep to the carrier.
- (7) Partial deliveries shall be permitted provided that the Delivery Items can be used separately within the scope of the contractual intended use, the delivery of the remaining ordered Delivery Items is guaranteed and no significant additional work and expenses or additional costs are incurred for the Customer.
- (8) If BigRep should be in default with a delivery or service or if a delivery or service should become impossible to deliver for whatever reason, the liability of BigRep for damages is restricted as defined in Section H of these Terms and Conditions.

E. Retention of Title

- (1) BigRep retains title to the Delivery Items until receipt of all payments in full. In case of breach of contract by the Customer including, without limitation, default in payment, BigRep is entitled to take possession of the Delivery Items.
- (2) The Customer shall handle the Delivery Items with due care, maintain suitable insurance for the Delivery Items and, to the extent necessary, service and maintain the Delivery Items.
- (3) As long as the price of the purchased Delivery Items has not been completely paid, the Customer shall immediately inform BigRep in writing if the Delivery Items become subject to rights of third persons or other encumbrances.
- (4) The Customer may resell Delivery Items subject to the above retention of title only in the course of his regular business. For this case, the Customer hereby assigns all claims arising out of such resale, whether the Delivery Items have been processed or not, to BigRep.

Notwithstanding BigRep's right to claim direct payment, the Customer shall be entitled to receive the payment on the assigned claims. BigRep agrees to not demand payment on the assigned claims to the extent the Customer's complies with all his obligations for payment and does not become subject to an application for insolvency or similar proceedings or to any stay of payments.

F. Software License and Restrictions

- (1) Software (firmware) embedded in the Delivery Items is protected by copyright. The software embedded the Delivery Items is made available to Customer for intended use on a license basis. Subject to the fulfilment of payment obligations according to the respective Agreement, BigRep grants the Customer the non-exclusive, non-sublicensable, limited right to use the respective copy of the software (firmware) (and/or third party licenses or right thereto) which is embedded in the Delivery Items for its own business purposes as agreed upon herein and solely in connection with the Delivery Items. The use of the software on more than one machine or device per software copy is prohibited. To the extent software (firmware) supplied by BigRep has been developed either in whole or in part by third parties, the licence terms and conditions of the respective third party shall apply thereto.
- (2) Customer undertakes to ensure the intended use of the software of the Delivery Items by appropriate technical and organizational measures.
- (3) Without BigRep's prior written permission, the Customer shall not, (i) translate, process, adjust or otherwise modify the software, and in particular shall not undertake, or cause to be undertaken, any reverse engineering or decompiling, unless it is necessary to establish interoperability with other programs; in this case, however, the provisions contained in the Customer's rights governing defects must be taken into account; copy the software, unless the copy is a backup copy.
- (4) The structure and organization of the software are valuable trade secrets of BigRep and Customer will protect the software as BigRep's proprietary information. BigRep reserves all rights to the Software not expressly granted to Customer.

G. Warranty

- (1) The Customer or the third party designated by the Customer shall promptly upon delivery inspect the Delivery Items with due care. The Delivery Items shall be deemed to be approved by the Customer in case of any obvious defects or other defects identifiable in the course of an

immediate, careful inspection, unless the defect is notified to BigRep in writing within seven (7) working days after delivery. In respect of other defects the Delivery Items shall be deemed to be approved by the Customer unless the defect is notified to BigRep in writing within seven (7) working days from the day the defect has been identified; if the defect was already identifiable at an earlier stage for the Customer under normal use of the Delivery Items, this earlier date shall be decisive for the beginning of the period of notification.

- (2) In the event that Delivery Items have a defect BigRep shall be obliged to, at its option, rectify it or deliver replacement Delivery Items or supplementary performance. The Customer's right to rescind the Agreement is excluded in a case of minor defects.
- (3) The warranty rights shall lapse if the Customer or a third party makes changes to the Delivery Items, to which BigRep has not previously given its express consent; unless the Customer proves that defects or malfunctions that arise are not due to the changes and that said changes did not make the defect detection and rectification more difficult.
- (4) The Customer is not entitled to remedy defects himself or to demand compensation for the expenses thereby incurred.
- (5) The Customer is obliged to describe defects that arise as precisely as possible and to report those without undue delay in writing or by e-mail. BigRep shall endeavor to start to rectify the defect using the possibilities and means available to it without undue delay after a defect has been reported. BigRep shall endeavor to inform the Customer of how and within what time frame it can eliminate the reported defect or, as the case may be, whether and how the Customer can bypass the defect.
- (6) The manner in which the defect is rectified is at BigRep's equitable discretion. The defect can also be rectified in the form of BigRep giving the Customer instructions on what to do. The Customer must follow said instructions, of what to do unless it is unreasonable to expect the Customer to do so. If the defect rectification is more involved than assumed, BigRep is entitled to provide the Customer with a replacement or workaround. If BigRep provides a workaround the provided performance shall not be deemed to be defective. In this context BigRep is also entitled to make changes to the configuration of the Delivery Items if and to the extent that the operability of the Delivery Items are not thereby impeded either individually or altogether.
- (7) If the defect occurs in software (firmware) of BigRep, BigRep shall endeavor to carry out the supplementary performance by providing an update. The update shall, at BigRep's option, be made available for download or shall be delivered by e-mail. BigRep does not accept responsibility for its software (firmware) being compatible with other software and hardware used by

the Customer where said software or hardware is not part of the Delivery Items and shall therefore not be liable unless the Customer has notified BigRep in advance and in writing of the other software and hardware used and BigRep, aware of this fact, has given its consent to the use of the software (firmware).

- (8) Warranty rights shall become time-barred within 12 months from the date of this Agreement, if acceptance is necessary, provided the defects are reported within 7 days as per the terms set forth in Section G(1) above.
- (9) If, contrary to the Customer's report of a defect, it transpires that the Delivery Items do not have a defect or that there are no warranty rights because the warranty period has expired or because of other reasons, the Customer shall bear the cost caused by its complaint, especially the cost of checking for defects, unless it was not identifiable for the Customer that the Delivery Items do not have a defect or that there are no warranty rights.

H. Limitation of Liability

- (1) IN NO EVENT SHALL BIGREP BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR FOR ANY DAMAGES FOR LOST PROFITS, LOSS OF USE, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF DATA, ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR THE SERVICES. BIGREP SHALL NOT BE LIABLE FOR ANY ACTS OR OMISSIONS OF THIRD PARTIES. IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION OF LIABILITY AS SET FORTH ABOVE, THIS LIMITATION WILL BE DEEMED MODIFIED SOLELY TO THE EXTENT NECESSARY TO COMPLY WITH APPLICABLE LAW.
- (2) IN NO EVENT SHALL BIGREP BE LIABLE FOR ANY CAUSE OR CLAIM WHATSOEVER ARISING OUT OF OR RELATED TO THIS AGREEMENT IN EXCESS OF THE AMOUNTS BIGREP HAS BEEN PAID HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE. IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION OF LIABILITY AS SET FORTH ABOVE, THIS LIMITATION WILL BE DEEMED MODIFIED SOLELY TO THE EXTENT NECESSARY TO COMPLY WITH APPLICABLE LAW.
- (3) THE FOREGOING LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF WHETHER THE CAUSE OF ACTION ARISES IN CONTRACT, IN TORT OR OTHERWISE AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY OR NEGLIGENCE.

- (4) THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT BIGREP HAS AGREED TO THE PRICING AND ENTERED INTO THIS AGREEMENT, IN PART IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE THE RISK BETWEEN BIGREP AND CUSTOMER AND CONTRIBUTES TO THE BASIS OF THE BARGAIN BETWEEN THE PARTIES.

I. Confidentiality

BigRep and Customer understand and agree that in connection with the negotiation and performance of this Agreement, each party may have had or have access to or may have been or be exposed to, directly or indirectly, private or confidential information of the other party, including, but not limited to, trade secrets, computer programs and code, scripts, algorithms, features and modes of operation, inventions (whether or not patentable), techniques, processes, methodologies, schematics, testing procedures, software design and architecture, design and function specifications, analysis and performance information, health-related information, documentation, details of its products and services, as well as names and expertise of, and information relating to, vendors, employees, consultants, customers and prospects, know-how, ideas, and technical, business, pricing information, financial and marketing information and strategies and any other information that the receiving party reasonably should know is confidential ("Confidential Information"). Each party (on its behalf and on behalf of its subcontractors, employees or representatives, or agents of any kind) agrees to hold and treat all Confidential Information of the other party in confidence and will protect the Confidential Information with the same degree of care as each party uses to protect its own Confidential Information of like nature. The Confidential Information will not, without the prior written consent of the other party, be disclosed to any third party except that the receiving party may disclose the Confidential Information or portions thereof to (a) its directors, officers, employees, agents and representatives on a need-to-know basis or (b) as may be required by law, applicable regulation or judicial process, provided, however, that if the receiving party is required to disclose such Confidential Information under this Section I the receiving party shall promptly notify the disclosing party of such pending disclosure and consult with the disclosing party prior to such disclosure as to the availability and advisability of seeking a protective order or other means of preserving the confidentiality of the Confidential Information. Notwithstanding anything contained herein to the contrary, Confidential Information does not include any information that (i) at the time of the disclosure or thereafter is lawfully obtained from publically available sources generally known by the public (other than as a result of a disclosure by the

receiving party or its representative); (ii) is available to the receiving party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; or (iii) has been independently acquired or developed by the receiving party without violating its obligations under this Agreement or under any applicable law. This Section shall supersede any previous agreement relating to confidential treatment and/or non-disclosure of Confidential Information; provided, however, that any information disclosed pursuant to that earlier agreement shall be deemed to be Confidential Information and protected under the terms of this Agreement as if this Agreement had been in place at the time of such disclosure.

J. Force Majeure

Neither Party will be liable for any loss, damage, detention, delay, or failure to perform in whole or in part resulting from causes beyond that Party's control including, but not limited to, acts of terrorism, fire, flood, earthquake, war, riots, labor disputes, shortage of components outside the sphere of BigRep, or any governmental law, order, regulation, or ordinance.

K. Applicable law, arbitration, jurisdiction

- (1) This contract shall be governed by the laws of the state of New York.
- (2) The courts in the State of New York, USA shall have exclusive jurisdiction.
- (3) Customary trade terms shall be interpreted in accordance with the Incoterms 2010.