

CraigCor Distribution Co. (Pty) Ltd – Standard Terms & Conditions

1. General

These General Terms and Conditions of Sales (along with any directly associated written specification or quotation of the Seller) exclusively will govern the sale of licensing by the Seller of all goods and services (including without limitation, hardware firmware and software Products, training, programming, maintenance, engineering parts and repair services- collectively "Products") furnished hereunder. No addition or modification to these terms and conditions will be binding on the Seller unless agreed to in writing signed by an authorised representative of the Seller at the Seller's head office. The Seller expressly rejects any other terms and conditions of the Customer printed on his order form or elsewhere which are not otherwise consistent with these or other terms and conditions set forth in the Seller's written specification, quotation or other acknowledgement.

2. Payment Terms

Unless otherwise approved by the Seller in writing, payment terms are net thirty (30) days from the date of statement with ongoing approved credit as determined by the Seller. The Seller reserves the right to suspend any further performance under this agreement or otherwise in the event the payment is not made when due. No payment by offset is permitted unless approved by the Seller. Interest charges will be added to overdue invoices at the rate of 2% per month (subject to any limit imposed by any applicable law)

3. Delivery Terms and Title

Delivery terms are Ex Works with respect to shipping cost and risk of loss. Title to the Products remains with the Seller until full payment has been made except that title to all intellectual property rights associated with the Products (e.g. software and firmware) remains with the Seller (or its suppliers and licensors), and such Products are made available or licensed only for use by the Customer pursuant to this agreement or other license agreement of the Seller. Acknowledged shipping dates are approximate only and based on prompt receipt of all necessary information from the Customer. Neither party will be liable for late delivery.

4. Warranty

4.1 Hardware

Branches:

Pretoria: Unit 9, One Highveld, 5 Bellingham Street, Centurion **Tel:** +2712 000 1050 **Fax:** +2712 000 1054

Directors: MJ Lingenfelder (Managing) • JM Lingenfelder



**Authorised
Distributor**

The Seller warrants for a period of one (1) year from the date of invoice from the Seller, that hardware Products furnished hereunder will be of merchantable quality, free from defects in material, workmanship and design. Repaired or replacement Products provided under warranty are similarly warranted for a period of six (6) months from the date of shipment to the Customer or the remainder of the original warranty term, whichever is longer.

4.2 Software and Firmware

Unless otherwise provided in a licence agreement of the Seller or a third party, the Seller warrants for period of one (1) year from the date of invoice from the Seller, that standard software or firmware Products furnished hereunder, when used with hardware, specified by the Seller, will perform in accordance with published specifications prepared, approved and issued by the Seller. The Seller makes no representation or warranty, express or implied, that the operation of the software or firmware Products will be uninterrupted or error free, or that the functions contained therein will meet or satisfy the Customer's intended use or requirements. Software and Firmware corrections are warranted for a period of three (3) months from the date of shipment to the Customer or the remainder of the original warranty term whichever is longer

4.3 Factory Repair and Field Exchange

The Seller warrants for a period of six (6) months from the date of invoice from the Seller, that billable or non-warranty factory repaired or field exchanged hardware Products furnished hereunder will be free from defects in material and workmanship. Products furnished on an exchange basis may be new or reconditioned.

4.4 Service

The Seller warrants that Products comprised of services, including engineering and customer application programming services, whether provided on a fixed cost or time and material basis, will be performed in accordance with generally accepted industry practices to the extent such services are subject to written acceptance criteria agreed to in advance by the Seller. All other warranties relative to provided services are disclaimed.

4.5 Customer Specifications

The Seller does not warrant and will not be liable for any design, materials or construction criteria furnished or specified by the Customer and incorporated in to the Products or for the Products made by or sourced from other manufacturers or vendors specified by the Customer. Any warranty applicable to such Customer specified Products will be limited solely to the warranty, if any, extended by the original manufacturer or vendor other than the Seller to the extent permissible thereunder.

4.6 Remedies

Satisfaction of the above warranties will be limited, at the Seller option, to the replacement, repair, re-performance or modification of, or issuance of a credit for the purchase price of the Products involved and where applicable, only after the return of such Products with the Seller's consent. Replacement Products may be new or reconditioned. Any warranty service (consisting of time, travel and expenses related to such services) performed other than at the Seller's factory will be at the Customer's expense

4.7 General

Warranty satisfaction is available only if (a) the Seller is promptly notified in writing and (b) the Seller's examination discloses, to its satisfaction, that any alleged defect has not been caused by: misuse; neglect; improper installation; operation; maintenance; repair; alteration or modification; accident; or unusual deterioration or degradation of the Product or parts thereof due to physical environment or electrical or electromagnetic noise environment.

4.8 The above warranties are in lieu of all other warranties whether expressed, implied of statutory, including implied warranties or merchantability or fitness for a particular use, or performance or application warranties, and extended only to Customers purchasing from the Seller or its appointed distributor.

5. Limits of liability

In no event will the Seller be liable for incidental, indirect or consequential damages of any kind. The Seller's maximum cumulative liability relative to all other claims and liabilities, including that with respect to direct damages and obligations under any indemnity, whether or not insured, will not exceed the cost of the Products giving rise to the claim or liability. Any action against the Seller must be brought within eighteen (18) months after the cause of action accrues. These disclaimers and limitations of liability will apply regardless of any other contrary provisions of the agreement and regardless of the form of action, whether in contract, tort or otherwise, and further will extend to the benefits of the Seller's vendors, appointed distributors and other authorised resellers as third party beneficiaries. Each provision in the agreement, which provides for a limitation of liability, disclaimer of warranty or condition or exclusion of damages is severable and independent of any other provision and is to be enforced as such.

6. Intellectual Property

The seller will defend any suit or proceeding brought against the Customer based on a claim that the design or construction of the Products sold or licensed hereunder by Seller infringe any Patent, Copyright or Mask Work Registration of the country of the Seller's principal place of business provided that the Customer promptly notifies the Seller of any such claim and resulting suit or proceeding in writing and further provided that, at the Seller expense, (a)

the Customer gives the Seller the sole right to defend or control the defence of the suit or proceeding, including settlement, and (b) the Customer provides all necessary information and assistance for that defence. Except for any consequential damages the Seller, will pay all costs and damages finally awarded or agreed upon by the Seller that are directly related to any such claim. In the event of a charge of infringement the Seller's obligation under the agreement will be fulfilled if the Seller, at its option and expense, either:

- (i) Procures for the Customer the right to continue using such Products;
 - (ii) Replaces the same with noninfringing Products;
 - (iii) Modifies the same so as to make them non-infringing; or
 - (iv) Accepts the return of any infringing Products and refunds their purchase price.
- Notwithstanding the foregoing, the Seller will have no liability with respect to any claim of infringement to the extent based on a configuration or modification incorporated in the Products at the request of the Customer, on any process application into which the Products are integrated by the Customer, or on use of the Products in combination with other equipment or products not supplied by the Seller. This paragraph sets forth the Seller's entire liability with respect to intellectual property and infringement of Patents by any Products (including software programs, equipment or Products thereof) or by their operation, and is in lieu of all warranties or conditions relating to infringement or intellectual property either express or implied.

7. Licensed Software and Firmware

Products comprised of software or firmware may be subject to additional terms and conditions set forth in separate licence agreements of the Seller which will control to the extent necessary any conflict with the terms and conditions stated herein. Such products will not be delivered or made available until the Customer also agrees to the terms and conditions of such separate licence agreements.

8. Packing and Marking

Customer specified packing or marking may be subject to additional charges not otherwise included in the price of the Products.

9. Weights and dimensions

Published weights and dimensions are estimates or approximate only and are not warranted.

10. Quotations

Written quotations are valid for thirty (30) days from issue unless otherwise stated. Verbal quotations expire the same day they are made. All typographical and clerical errors are subject to correction.

11. Prices

Prices and other information shown in any publication of the Seller (including product catalogues and brochures) are subject to change without notice and confirmation by specific quotation. Such publications are not offers to sell and are maintained only as a source of general information. The Customer will pay or reimburse the Seller for all sales, use, customs, excise, and value added or similar taxes. Products comprised of time and material services will be provided in accordance with the Seller's published service rates (including applicable overtime and travel expenses) in effect as of the date such services are provided, unless otherwise confirmed by the Seller's written quotation or order acknowledgement. Billable service time includes travel time to and from the job site and all time the Seller's representative are available for work and waiting (whether on or off the job site) to perform the services.

12. Changes

Customer requested order changes, (including those affecting the identity, scope and delivery of the Products, must be documented in writing and are subject to the Seller's prior approval and adjustments in price, scheduling and other affected terms and conditions. In any event, the Seller reserves the right to reject any change that it deems unsafe, technically inadvisable or inconsistent with established engineering or quality guidelines or standards, or incompatible with the Seller's design or manufacturing capabilities.

13. Returns

All returns of Products will be subject to prior approval by the Seller. Non-warranty returns of unused and saleable Products for credit will be subject to the Seller's return policies in effect at the time, including applicable restocking charges and other conditions of return. Products returned under warranty must be properly packed and shipped to locations, specified by the Seller. Shipping containers must be clearly marked per the Seller's instruction and shipped freight prepaid by the Customer.

14. Order Cancellation

An order may be cancelled by the Customer prior to shipment only by written notice and upon payment to the Seller of reasonable cancellation and restocking charges, including reimbursement for direct costs, plus allowance for disruption. Cancellation charges associated with orders for custom Products or Products specifically manufactured to the Customer's specification may equal the actual selling price of the Products. The Seller has the right to cancel an order for cause at any time by written notice, and the Seller will be entitled to cancellation and restocking charges as identified above. No termination by the Customer for cause will be effective unless and until the Seller has failed to correct such

alleged cause within forty-five (45) days after receipt of the Customer's written notice specifying such cause.

15. Force Majeure

The Seller will not be liable for any loss, damage or delay arising out of its failure hereunder due to causes beyond its reasonable control, including without limitation, acts of God or the Customer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, or transportation embargoes. In the event of such delay, the Seller's performance date(s) will be extended for such length of time as may be reasonably necessary to compensate for the delay.

16. Government clauses and contracts

Application of government contract regulations and clauses to the Products or this agreement will be subject to the separate review and consent by an authorised representative of the Seller at its head office prior to acceptance of this agreement. Products sold or licensed hereunder are not intended to be used, nor should they be used, in any nuclear related application either as a "Basic Component" as defined under United States nuclear regulations or under similar nuclear Laws and Regulations of any other country or otherwise.

17. Export control

Products and associated materials supplied or licensed under this Agreement may be subject to various export laws and regulations. It is the responsibility of the exporter to comply with all such laws and regulations. The Seller will not comply with boycott related requests except to the extent permitted by South African Law.

18. Disputes

The parties will attempt in good faith promptly to resolve any dispute arising out of this agreement by negotiations between representatives who have authority to settle the controversy. If unsuccessful the parties further will attempt in good faith to settle the dispute by non-binding third party mediation, with fees and expenses of such mediation apportioned equally to each side. Any dispute not so resolved by negotiation or mediation may then be submitted to a court of competent jurisdiction in accordance with the terms of this agreement. These procedures are the exclusive procedures for the resolution of all such disputes between the parties.

19. Governing Law and jurisdiction

This agreement and all disputes arising there under will be governed by and interpreted in accordance with the laws and will be subject to the exclusive jurisdiction of the courts of the country or local jurisdiction of the Seller's principal place of business but specifically excluding

the provisions on the 1980 UN Convention of Contracts for the International Sales of Goods.
If any provision of this agreement should be held wholly or partly invalid under any applicable law, the remainder of the agreement will not be affected thereby.

20. Assignment

Either party without the written consent of the other may not assign this agreement. However consent will not be required for internal transfers and assignments as between the Seller and its parent company, subsidiaries or affiliates as part of a consolidation, merger or any other form of corporate reorganisation.