

## GENERAL TERMS AND CONDITIONS OF SALE

**GENERAL** These General Terms and Conditions of Sale (these "Terms") are a legally binding agreement between CRAIC Technologies, Inc. ("CRAIC") and prospective and actual buyers of CRAIC equipment and services ("Buyers"). These Terms are deemed incorporated into any purchase agreement or other instrument whereby CRAIC agrees to deliver products or services to Buyer.

**QUOTATIONS** Quotations for possible Buyer orders to CRAIC are based on, and orders, if accepted by CRAIC, will be subject to these Terms. Any other terms or conditions (however communicated) which conflict with these Terms with respect to any order are hereby rejected, shall be void and without effect, and in lieu thereof, the terms and conditions herein set forth in these Terms, together with those appearing on any CRAIC order acknowledgment, shall be the sole governing terms and conditions applicable to Buyer's purchase of CRAIC equipment or services. All quotes are exclusive of shipping and handling unless otherwise stated.

**PRICES** CRAIC price quotations shall remain in force for thirty (30) calendar days from the date set forth on CRAIC's written price quotation. All CRAIC price quotes are thereafter subject to change without notice. CRAIC may grant extensions of price quotes, in its sole discretion, if requested and agreed to in writing. All applicable federal, state and local sales, excise, use or other taxes, charges, insurance or export fees or charges levied on the equipment subject to these Terms shall be paid by Buyer.

**TRADEMARKS** Except as expressly stated in writing by CRAIC on CRAIC equipment as delivered to Buyer, no license or right is granted by CRAIC to Buyer to use or display any CRAIC trademarks for any purpose without the prior written consent of CRAIC.

**COPYRIGHTS** All CRAIC materials provided by CRAIC to Buyer are copyright protected works of CRAIC, including, but not limited to, all manuals, sales specification sheets, applications notes, technical bulletins, and any documents with CRAIC's logo. Any copying or distributing of these materials without the prior written consent of CRAIC is strictly prohibited.

**CONFIDENTIAL INFORMATION, PROPRIETARY RIGHTS** All CRAIC equipment and services are confidential and proprietary information and trade secrets of CRAIC ("Confidential Information"). By offering to purchase or purchasing equipment or services from CRAIC, Buyer is not granted any right in any CRAIC Confidential Information. All CRAIC Confidential Information is subject to CRAIC's the terms and conditions of CRAIC's non-disclosure agreement, which is made a part of these Terms by this reference. Buyer further agrees not to reverse engineer, disassemble, decompile, study, decode or attempt to derive the operation of any CRAIC software or any other CRAIC technology.

**ERRORS** We reserve the right to correct clerical or stenographic errors or omissions.

**PURCHASE ORDERS** If shipping costs are not specified on CRAIC's purchase order, CRAIC may prepay shipping and handling, in its sole discretion, and add the cost of shipping and handling to CRAIC's invoice. CRAIC may, in its sole discretion, charge Buyer a handling fee, even if Buyer has notified CRAIC that Buyer will pay for shipping at its sole expense.

**SPECIAL ENGINEERING** CRAIC shall not be obligated to cancel any order for special engineering submitted by Buyer if special engineering work ordered by Buyer has begun or if five (5) calendar days have expired from the date an order for special engineering was submitted by Buyer to CRAIC. CRAIC shall not be bound by any special engineering needs not fully detailed in writing by Buyer agreed to in writing and signed by both Buyer and CRAIC. After details of an order for special engineering have been submitted by Buyer to CRAIC, CRAIC will inform Buyer of CRAIC's estimated delivery date. No changes may be made to special engineering orders without a purchase order modification and CRAIC's written agreement. Order confirmation date and delivery terms of special engineering may be modified to the date of the revised purchase order or date specified on the written agreement between Buyer and CRAIC. All special engineering is the sole intellectual property of CRAIC. Buyer hereby agrees to accept special engineering "as is" upon delivery.

**CUSTOM SOFTWARE** CRAIC shall not be obligated to cancel any order for custom software submitted by Buyer if custom software work has begun or if cancellation of an order is requested five (5) or more calendar days after an order has been submitted to CRAIC. All specifications of customer software must be detailed in writing and agreed to by CRAIC. CRAIC shall not be obligated to make any changes to a custom software order without a purchase order modification, unless CRAIC has agreed to the changes in writing. Order confirmation date and delivery terms of custom software development will be modified to the date of the revised purchase order or date specified on the written agreement between Buyer and CRAIC if Buyer has requested a modification to previously agreed terms. Buyer does not own custom software packages, and cannot distribute such packages. Custom software is a "use" only software license and is strictly subject to these Terms and any other terms and conditions stated by CRAIC. CRAIC has the option to sell custom software to other customers without notice to Buyer. Custom software (including source code and related documentation) are the intellectual property of CRAIC. Unless rejected immediately upon delivery, Buyer shall be deemed to accept custom software upon delivery. Additional terms and conditions may be provided with custom software.

**SOFTWARE** CRAIC issues only one single-user license per instrument. Software licenses are not granted as a site license. Subject to CRAIC's prior written approval, a software license can transfer with ownership of instrument; however, such sublicense

will not transfer to a different instrument except in the case of an upgrade of a legacy system. CRAIC shall provide one back-up copy of the software upon delivery. Buyer at its option may back-up all relevant data. At no time, may Buyer use the software to operate a different instrument or use the software as an alternative instrument workstation. Backing-up shall only be performed by Buyer to re-construct current instrument software. Additional terms and conditions may be provided with software.

Any upgrades of the version of CRAIC software licensed by Buyer with an instrument shall be provided free of additional charge for the first year following purchase. Operating system software may only be upgraded by purchasing an upgrade package. It is the Buyer's sole responsibility to inquire if software upgrades are available for buyer's software package(s).

**OPERATING SOFTWARE** CRAIC guarantees that all computers are shipped with a then current operating software license. All licenses are valid for a single computer use. Full terms and conditions of the operating software should be obtained from the operating software manufacturer. CRAIC assumes no obligation to provide the terms and conditions of the operating software to any party.

**VIRUSES** CRAIC use reasonable efforts to ship its software and related products virus free, but disclaims responsibility for any viruses. CRAIC shall not be responsible for prior, pending or future loss of business or data; related actions; or downtime due to viruses on Buyer's system.

**CALIBRATION** It is Buyer's sole responsibility to maintain proper instrument calibration. If calibration standards are purchased, calibration certificates are valid for two (2) years. Calibration filters may be re-certified after two years, at CRAIC's standard charges for such recalibration as then in effect. CRAIC shall not be responsible for instrument calibration maintenance.

**TERMS** All purchases are subject to approval of CRAIC's Credit Department. CRAIC's Credit Department reserves the right to change payment terms at any time.

**PARTIAL SHIPMENT** Partial shipments will be invoiced as shipped. Payments are due and payable on CRAIC's invoice date.

**DELIVERIES** Deliveries are subject to confirmation at the time the firm (hard copy) purchase order is received by CRAIC.

**SHIPMENT** All shipments and deliveries, and CRAIC's decision of whether to accept any purchase order, are subject to the approval of CRAIC's Credit Department. All shipments are F.O.B. CRAIC's loading dock in San Dimas, California. Title and Risk of Loss shall pass to Buyer at the point of shipment unless CRAIC agrees otherwise in writing. At CRAIC's sole discretion, freight charges will be either may be added to CRAIC's invoice or shall be due and payable upon delivery of an invoice therefore. CRAIC is not responsible for any loss, damage or delay that may occur after goods have been accepted for shipment by the transportation company. Claims for shipping damages must be made with the carriers and Buyer irrevocably waives any right to bring a claim against CRAIC for shipping damages. CRAIC's listed packing prices are for products having standard domestic packing only and are subject to change without notice. Different packing prices may apply for overseas shipment, so please contact CRAIC for overseas shipping costs.

**SHIPMENT DELAY** If the requested or promised shipment date is delayed through no fault of CRAIC, CRAIC reserves the right, in its sole discretion, to invoice Buyer in advance of shipment under regular terms of payment. CRAIC may, in its sole discretion, invoice Buyer for shipments delayed because the Buyer indicates that it has not received or forwarded to CRAIC shipping releases and instructions.

**DELIVERY** CRAIC strives to make delivery within the time estimated by CRAIC, but failure to make delivery as estimated by CRAIC will not be considered cause for cancellation or for claims arising from such delay. The fulfillment of Buyer's order is contingent upon strikes, fires, shortages of raw material, delays of carriers or other delays or causes either unavoidable or beyond our control.

**RETAINED OWNERSHIP OF INSTRUMENTS.** All CRAIC products delivered to Buyer, even after installation at Buyer's facility, shall remain the sole and exclusive personal property of CRAIC until the full amount of CRAIC's invoice for such products has been paid by Buyer to CRAIC. Until such payment in full, Buyer shall hold such products in trust for CRAIC and shall have no power or authority whatsoever to sell, lease, mortgage, pledge, create any lien upon, hypothecate or otherwise dispose of in any manner, or encumber CRAIC's title to, any such products, or any proceeds thereof. If CRAIC's invoice is not paid in full within ten (10) business day after written notice from CRAIC to Buyer that payment on such invoice is overdue, CRAIC has the right and power to enter Buyer's facility and remove CRAIC's installed instrument(s) without any liability to CRAIC. Notwithstanding CRAIC's retention of title to such products, Buyer shall bear all risk of loss, and be fully responsible, for any damage or injury to such products after shipment to Buyer (unless and until such products are returned to or removed by CRAIC). The provisions of this section shall survive expiration or termination of this Agreement.

**GRANT OF SECURITY INTEREST.** To further secure its timely payment of all amounts owed to CRAIC, Buyer hereby grants a security interest to CRAIC in all products delivered by CRAIC to Buyer, even after installation at Buyer's facility, and all proceeds thereof. Buyer hereby authorizes CRAIC, which authorization shall remain effective and irrevocable until all amounts due from

Buyer to CRAIC have been paid in full, to prepare and file in all appropriate state and county offices, UCC Financing Statements necessary to perfect and maintain CRAIC's security interest in all such products and proceeds. The provisions of this section shall survive expiration or termination of this Agreement.

**CANCELLATION** Buyer's attempted cancellation of orders are subject to the other terms and conditions state in these Terms and will be accepted by CRAIC only upon receipt of written notice by CRAIC and upon payment to CRAIC of reasonable and proper termination charges, as determined by CRAIC in its sole discretion.

**RETURNS** CRAIC does not accept product returns.

**APPROVAL** All contracts, agreements and proposals must be approved by CRAIC officers in writing.

**PAYMENTS** All equipment, tools and other facilities together with designs, inventions, and patents acquired, produced or used by CRAIC for the purpose of filling any order are and shall remain the property of CRAIC.

**MINIMUM BILLING** The minimum billing charge for all orders is \$100.00 plus transportation charges as indicated under "shipment."

**INDEMNIFICATIONS** Buyer shall be solely responsible for applying for and obtaining any permits and inspections required for the installation and/or use of the products. CRAIC EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE PRODUCTS OR SERVICES WILL COMPLY WITH ANY FEDERAL, STATE OR LOCAL LAWS, ORDINANCES, REGULATIONS, CODES OR STANDARDS, EXCEPT AS PARTICULARLY SPECIFIED AND AGREED UPON IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF CRAIC.

CRAIC shall not be responsible for any losses or damages sustained by Buyer or any other party as a result of improper installation, misapplication, or user misinterpretation of data of the products. Buyer shall defend, indemnify and hold harmless CRAIC and its directors, officers, employees, independent contractors, agents, licensors, vendors, or suppliers against any loss, damage, claim, suit, liability, judgment or expense (including, without limitation, attorney's fees) arising out of or in connection with any injury, disease or death of persons (including, without limitation, Buyer's employees, independent contractors, agents or customers) or damage to or loss of any property or the environment, or violation of any applicable laws or regulations resulting from or in connection with the sale, transportation, installation, use, or repair of the products by Buyer or of the information, designs, services or other work supplied to Buyer, whether caused by the concurrent and/or contributory negligence of Buyer, Seller, or any of their directors, officers, employees, independent contractors, agents, licensors, vendors, or suppliers.

**BANKRUPTCY** Neither bankruptcy nor insolvency shall release Buyer from any payment obligation to CRAIC.

**WARRANTY** PLEASE SEE CRAIC'S ONE-YEAR LIMITED WARRANTY STATEMENT FOR FULL DESCRIPTION OF COVERAGE, AND THE TERMS AND CONDITIONS THEREOF.

**TECHNICAL SUPPORT** CRAIC shall provide free technical support by telephone or electronic communication to the original Buyer during the warranty period. All warranties are for a period of one (1) year unless otherwise indicated by CRAIC. The warranty period shall commence on shipping date. CRAIC shall use reasonable efforts to respond to inquiries during normal business hours. When CRAIC's warranty period expires, Buyer may purchase a service contract to maintain technical support. Please contact CRAIC for more details.

**DISCLAIMER OF WARRANTIES** EXCEPT AS EXPRESSLY PROVIDED IN CRAIC'S STANDARD ONE-YEAR LIMITED WARRANTY (AS IN EFFECT FROM TIME TO TIME), TO THE FULLEST EXTENT PERMITTED BY LAW, CRAIC DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS) AS TO THE INSTRUMENT AND CRAIC'S SERVICES AND ALL EQUIPMENT, INFORMATION AND PRODUCTS PROVIDED BY CRAIC.

**LIABILITIES DISCLAIMER** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL CRAIC OR ITS AFFILIATES BE LIABLE TO BUYER (OR ANY THIRD PARTY MAKING CLAIMS THROUGH BUYER) FOR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOSS OF USE, PROFITS, DATA OR OTHER INTANGIBLES, OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THE USE, INABILITY TO USE, UNAUTHORIZED USE, PERFORMANCE OR NON-PERFORMANCE OF THE INSTRUMENT OR THE SERVICES, EVEN IF CRAIC HAS BEEN ADVISED PREVIOUSLY OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER SUCH DAMAGES ARISE IN CONTRACT, NEGLIGENCE, TORT, UNDER STATUTE, IN EQUITY, AT LAW OR OTHERWISE. THE BUYER'S SOLE AND EXCLUSIVE REMEDY IS FOR REPAIR OR REPLACEMENT OF THE NON-CONFORMING PRODUCT OR PART THEREOF IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF CRAIC'S STANDARD ONE-YEAR LIMITED WARRANTY (AS IN EFFECT FROM TIME TO TIME) AND THESE TERMS.

REPRESENTATIONS AND WARRANTIES MADE BY ANY PERSON, INCLUDING ITS AUTHORIZED DEALERS, REPRESENTATIVES AND EMPLOYEES OF CRAIC WHICH ALTER OR ARE IN ADDITION TO THESE TERMS SHALL NOT BE BINDING UPON CRAIC UNLESS IN WRITING AND SIGNED BY ONE OF ITS OFFICERS.

**MISCELLANEOUS** This Contract is the entire agreement between Customer and CRAIC with respect to the subject matter hereof. This Contract supersedes any and all prior or contemporaneous agreements between Customer and CRAIC with respect to the subject matter hereof. If any part of this Contract is determined to be invalid or unenforceable, it will not impact any other provision of this Contract, all of which will remain in full force and effect. This Contract is governed by, and will be interpreted in accordance with, the laws of the State of California, without regard to any choice of law provisions that would cause the laws of any other jurisdiction to apply. Customer agrees that, with the exception of injunctive relief sought by CRAIC for any violation of CRAIC's proprietary or other rights, any and all disputes relating to this Contract or Customer's use of the instrument shall be resolved by arbitration in accordance with the then-current rules of the American Arbitration Association (the "AAA") before an independent arbitrator designated by the AAA. The location of arbitration shall be Los Angeles, California, USA. The prevailing party in any such arbitration shall be entitled to the award of reasonable outside attorneys' fees and costs of arbitration from the non-prevailing party.

**CUSTOMER RESPONSIBILITIES** It is the customer's responsibility to maintain a current copy of the general terms and conditions of sale. The most current copy will always be available on our website, [www.microspectra.com](http://www.microspectra.com).

\*The terms of this contract are subject to change without notice.

## One-Year Limited Warranty Statement

CRAIC Technologies INC. ("CRAIC") manufactures its hardware products from parts and components that are new in accordance with industry-standard practices. CRAIC warrants that the hardware products it manufactures will be free from defects in materials and workmanship, for a limited warranty term of one year beginning on the date of shipment, as further described in the following text.

This limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by CRAIC, usage not in accordance with product instructions, failure to perform required preventive maintenance, modification of CRAIC's equipment by customer or any third party, and problems caused by use of software, parts and components not supplied by CRAIC.

This limited warranty does not cover any items that are in one or more of the following categories: consumables (such as lamps, bulbs, filters, etc.); software; external devices (except as specifically noted); accessories or parts added to a CRAIC system after the system is shipped from CRAIC; accessories or parts added to a CRAIC system through CRAIC's system integration department; or accessories or parts that are not installed in the CRAIC factory. Monitors, keyboards, and mice that are included on CRAIC's standard kits or price list are covered under this limited warranty; all other monitors, keyboards, mice or other peripherals are not covered.

During the one-year period beginning on the ship date, CRAIC will repair or replace products, at CRAIC's sole discretion, either on-site or when returned to CRAIC's facility. To request limited warranty service, you must contact CRAIC's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Contacting CRAIC" in your documentation to find the appropriate telephone number for obtaining customer assistance. If limited warranty service is required, CRAIC will either schedule a Service Call or issue a Return Material Authorization Number. If issued a Return Material Authorization Number, you must ship the products back to CRAIC properly packed in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. CRAIC will ship the repaired or replacement products to you freight prepaid if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to CRAIC, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. CRAIC disclaims liability for lost data or software.*

CRAIC owns all parts removed from repaired products. CRAIC uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If CRAIC repairs or replaces a product, its limited warranty term is not extended.

THE WARRANTIES DESCRIBED ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AND ALL WARRANTIES ARISING FROM THE COURSE OF DEALING OR USAGE OF TRADE. THE BUYER'S SOLE AND EXCLUSIVE REMEDY IS FOR REPAIR OR REPLACEMENT OF THE NON-CONFORMING PRODUCT OR PART THEREOF. IN NO EVENT SHALL CRAIC BE LIABLE TO THE BUYER OR ANY PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF USE, PROFITS, DATA OR OTHER INTANGIBLES, OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THE USE, INABILITY TO USE, UNAUTHORIZED USE, PERFORMANCE OR NON-PERFORMANCE OF ANY PRODUCT, WHETHER THE CLAIMS ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE), OR OTHERWISE WITH RESPECT TO OR ARISING OUT OF THE PRODUCT FURNISHED HEREUNDER EVEN IF CRAIC HAS BEEN ADVISED PREVIOUSLY OF THE POSSIBILITY OF SUCH DAMAGES.

REPRESENTATION AND WARRANTIES MADE BY ANY PERSON, INCLUDING ITS AUTHORIZED DEALERS, REPRESENTATIVES AND EMPLOYEES OF CRAIC WHICH ALTER OR ARE IN ADDITION TO THE TERMS OF THIS WARRANTY SHALL NOT BE BINDING UPON CRAIC UNLESS IN WRITING AND SIGNED BY ONE OF ITS OFFICERS.

These provisions apply to CRAIC's one-year limited warranty only. For provisions of any service contract covering your system, refer to the separate service contract that you will receive.