**CyanConnode India’s standard terms and conditions**

1. SCOPE

The Terms and Conditions (“Terms”) contained herein shall apply to all quotations and offers made by and purchase orders accepted by CyanConnode Limited and its affiliated companies (“CyanConnode” or “Seller”). These Terms apply to all sales made by CyanConnode except to the extent the Terms conflict with an existing individual customer contract where special terms and conditions (signed by CyanConnode and Buyer) may take precedence over this document. These Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry. These Terms may in some instances conflict with other terms and conditions referenced to. In such case, the Terms contained herein shall govern, and acceptance of Buyer’s order is conditioned upon Buyer’s acceptance of the terms and conditions herein, irrespective of whether the Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of products ordered hereunder. CyanConnode’s failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein. Any changes in the Terms contained herein must specifically be agreed to in writing signed by an officer of CyanConnode before becoming binding on either party.

1. PRICE AND QUOTATIONS

Prices are subject to change on thirty days’ notice to Buyer. Any order that can be cancelled and rescheduled is subject to a price change immediately. All prices are exclusive of any present or future sales, revenue or excise tax, value added tax, turnover tax, import duty (including brokerage fees) or other tax applicable to the manufacture or sale of any product. Unless otherwise agreed to in writing by the parties, prices quoted by CyanConnode are those current at the date of quotation and shall be subject to variation by CyanConnode.

1. DELIVERY

Unless otherwise agreed in writing, sales are EXW (Incoterms 2010) CyanConnode’s facility (delivery is ex works). CyanConnode may deliver products in one or more consignments and invoice each consignment separately. Unless otherwise agreed in writing, delivery time is not of the essence. CyanConnode does not accept liability for any loss arising from delay in delivery of products.

1. NON-CONFORMING DELIVERY AND RISK OF LOSS

Buyer shall notify CyanConnode of any visible defects, quantity shortages or incorrect product shipments within seven (7) days of receipt of the shipment. Failure to notify CyanConnode in writing of any visible defects in the products or of quantity shortages or incorrect shipments within such period shall be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments, subject to Buyer’s rights under Section 7. Seller shall retain a security interest in the products until Buyer’s final payment to CyanConnode for the products. Risk in the products shall pass to Buyer as soon as the products have been placed with a transport agent.

1. ORDER VARIATION
2. Buyer is allowed a quantity variation of up to +/-20%. Further, buyer shall be allowed to place a repeat order in case of urgency for part quantity in the Letter of Award for similar work on same prices, terms and conditions. However, any such quantity variation/ placement of Repeat Order shall need to be authorized through the issue of a contract amendment to the LOA to this effect.
3. CyanConnode may cancel all or any part of an order, without liability to Buyer, if CyanConnode determines that Buyer’s financial condition does not justify the payment terms extended by CyanConnode, or if Buyer defaults on any of these terms and conditions. Termination in accordance with this clause shall not affect CyanConnode’s right to pursue any other available remedies.
4. CONTINGENCIES
5. CyanConnode shall not be in breach of its obligations and shall not be liable in any way for any loss, damage or expense arising directly or indirectly from any non-performance or delay in performance if such non-performance or delay is due to a force majeure event or other circumstances beyond CyanConnode’s reasonable control, including but not limited to, shortages of labour, energy, fuel, machinery or materials, technical or yield failures, war, civil unrest, any government act, law or regulation, including any judicial order or decree, any communication or power failure, labour dispute, natural disaster, fire, flood, earthquake, explosion or terrorist act.
6. In the event of a shortage of products, CyanConnode may allocate at its sole discretion product production and deliveries.
7. WARRANTY

Except as specified below, products sold hereunder shall be free from defects in materials and workmanship and shall conform to CyanConnode’s published specifications or other specifications accepted in writing by CyanConnode for a period of one (1) year from the date of shipment of the products. The foregoing warranty does not apply to any products which have been subject to misuse, neglect, accident or modification or which have been soldered or altered or tampered such that they are not capable of being tested under normal test conditions. CyanConnode shall make the final determination as to whether its products are defective or whether they have been tampered with. CyanConnode’s sole obligation for products failing to comply with this warranty shall be, at its option, to either repair, replace or issue credit for the nonconforming product where, within fourteen (14) working days of the expiration of the warranty period, (i) CyanConnode has received written notice of any nonconformity; (ii) after CyanConnode’s written authorization, Buyer has returned the nonconforming product to CyanConnode; and (iii) CyanConnode has determined that the product is nonconforming and that such nonconformity is not the result of improper installation, repair or other misuse. THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CYANCONNODE DOES NOT ASSUME OR AUTHORIZE ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH ITS PRODUCTS. Buyer shall pass this warranty to any third-party purchaser of CyanConnode products.

1. INTELLECTUAL PROPERTY AND INDEMNITY

Indemnification: Subject to the limitations herein, CyanConnode shall indemnify the Buyer against all claims, demands, suits, liabilities, costs, expenses, (including reasonably incurred legal fees), damages and losses suffered directly or incurred directly by the Buyer, arising out of a third party claim against the Buyer in respect of infringement of a third party’s intellectual property rights ariding out of Party B’s use of CyanConnode’s technology This indemnity shall not apply to the extent that a claim under it results from the Buyer’s negligence or wilful misconduct.

CyanConnode must be notified immediately in writing and given full and complete authority, information and assistance for defence of the claim.In no event shall CyanConnode’s liability for any damages and costs (including legal costs) exceed the contractual value of the products or services that are the subject of the claim. CyanConnode’s indemnity does not extend to claims of infringement arising from CyanConnode’s compliance with Buyer’s design, specifications and/or instructions, or use of any product in combination with other products or in connection with a manufacturing or other process. In addition no indemnity is provided to the extent that the:

* product has been modified;
* product is used in combination with another product that has not been approved by the indemnifier;
* product is used otherwise than in accordance with the indemnifier’s instructions.

CyanConnode shall have no liability whatsoever for any claim of infringement based on: (a) CyanConnode’s use of the Buyer’s software, or the software provided by Buyer or by Buyer’s development partner, the related technical information or compliance with the Buyer’s or Buyer’s development partner designs, specifications or instructions; and/or (b) Use of the products (or any part thereof) otherwise than in accordance with CyanConnode’s datasheets, procedures, specifications and instructions; and/or (c) Use of the products (or any part thereof) in connection or combination with software, programs, data or equipment not supplied by CyanConnode, and/or (d) the adherence to published standards, such as by, but not limited to ETSI.

Buyer shall indemnify CyanConnode against any claim by a third party relating to the use of software, technical information, designs, specifications, programs, data or equipment supplied by or on behalf of the Buyer or by or on behalf of Buyer’s development partner.

IP Ownership: IP Ownership Between CyanConnode and Buyer, all patents, copyrights, mask works, trade secrets, trademarks and other proprietary rights in or related to any product, software or deliverable provided by CyanConnode pursuant to a contract / order are and will remain the exclusive property of CyanConnode. Any modification or improvement to a CyanConnode product or deliverable that is based on Buyer's feedback shall be the exclusive property of CyanConnode.Buyer will not take any action that jeopardizes CyanConnode's proprietary rights nor will it acquire any right in any such product, software or deliverable or CyanConnode's confidential information other than rights expressly granted by CyanConnode.

The sale of any products hereunder does not convey any license by implication, estoppel or otherwise covering combinations of the products with other equipment data or software programs. The copyright and all other intellectual and industrial property rights in the software (including “firmware”), databases, chips and other material (datasheets, documentation, catalogues, reports, quotations, plans etc.) supplied to the Buyer or to Buyer’s development partner by CyanConnode or made available in whatever way, shall remain exclusively with CyanConnode or its licensors. Licenses shall be granted by CyanConnode only when agreed and when CyanConnode has authority to do so from its licensors. In some cases, the licenses will be granted to the Buyer directly by CyanConnode or by CyanConnode’s suppliers or other proprietors. The Buyer shall be prohibited from removing or altering any proprietary notice concerning copyrights, trade-marks, trade names or other intellectual and industrial property rights from software, equipment or other materials. This shall also include any notices concerning the confidential and secret nature of (for example) firmware. Unless stated otherwise by CyanConnode, the Buyer may use the Products to the extent it is needed in order to use the Products in accordance with the specifications of the Products as stated in the applicable datasheet. Unless otherwise agreed in writing, Buyer shall obtain no interest in any mask or other tooling used in the production of any CyanConnode product. The Buyer may not maintain, correct, reverse engineer, decompile, or disassemble the Products, except to the extent CyanConnode cannot prohibit such acts by law and unless to the extent agreed upon explicitly otherwise.

1. LIMITED LIABILITY

Neither CyanConnode nor Buyer shall be liable for incidental or consequential damages, including but not limited to, the cost of labour, re-qualifications, rework charges, delay, lost profits, or loss of goodwill arising out of the sale, installation or use of any CyanConnode product. If CyanConnode has any liability for breach of contract, breach of any implied condition, warranty or representation, the aggregate liability of CyanConnode to Buyer shall be limited in respect of any occurrence or series of occurrences to the contractual value of the products or services that are the subject of the contract. Under no circumstances shall CyanConnode’s liabilities under any clause of these Terms be greater than the value paid by the Buyer for the Products.

1. SAFETY-CRITICAL APPLICATIONS

In some cases, CyanConnode may promote certain Products for use in safety-related applications. CyanConnode’s goal is to educate customers so that they can design their own end-product solutions to meet applicable functional safety standards and requirements. Buyer makes the ultimate design decisions regarding its products and is solely responsible for compliance with all legal, regulatory, safety, and security related requirements concerning its products, regardless of any information or support that may be provided by CyanConnode. Accordingly, Buyer will indemnify and hold CyanConnode harmless from any claims, liabilities, damages and associated costs and expenses (including attorneys’ fees) that CyanConnode may incur related to Buyer’s incorporation of any Product in a safety-critical application or system.

1. OTHER LICENSES OR RIGHTS TO USE
2. The sale of Products does not convey any license, other than those expressly granted herein, by implication, estoppel, or otherwise. Buyer, without the express prior written consent of CyanConnode, has no right to use CyanConnode’s trademarks, trade names, corporate slogans, corporate logos, or corporate designations in the sale, lease, or advertising of any products, or any product container, component part, business forms, sales, advertising, or promotional materials, or other business supplies or materials, whether in writing, orally or otherwise.
3. These Terms do not contain any license or authority to use or distribute CyanConnode software and these rights are subject to a separate software license agreement and payment of the applicable license fee.
4. CONFIDENTIAL INFORMATION
5. Definition of Confidential Information. For purposes of these Terms, “Confidential Information” shall mean any and all technical and commercial information disclosed in writing, orally or by demonstration or delivery of tangible items by the Disclosing Party (either CyanConnode or the Buyer) to the Receiving Party (either CyanConnode or the Buyer), including trade secret and proprietary information, techniques, sketches, drawings, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, product plans, designs, procurement requirements, purchasing information, manufacturing information, customer lists, product and service costs, prices and names, financial information, marketing plans, business opportunities, research, experimental work, development design details and specifications, and personnel information, including confidential information disclosed by third parties. Confidential Information shall not include information that (A) is now or subsequently becomes generally available to the industry through no fault or breach of the Receiving Party; (B) the Receiving Party had rightfully in its possession prior to disclosure to the Receiving Party by the Disclosing Party; (C) is independently developed by the Receiving Party by persons without access to any Confidential Information; or (D) the Receiving Party rightfully obtains without confidentiality restrictions from a third party who has the right to transfer or disclose it.
6. Non-Disclosure and Non-Use of Confidential Information. The Receiving Party shall hold and maintain the Confidential Information in strictest confidence and in trust for the sole and exclusive benefit of the Disclosing Party. The Receiving Party shall not, without the prior written approval of the Disclosing Party in each instance, use for its own benefit, publish or otherwise disclose to others, or permit others to use for their benefit or to the detriment of the Disclosing Party, any of the Confidential Information. Without limiting the generality of the foregoing, the Receiving Party shall not use the Confidential Information for any purpose other than the Purpose specified, and in particular not for any other commercial purpose. The Receiving Party shall keep separate all Confidential Information and all information generated by the Receiving Party based thereon from all documents and other records of the Receiving Party. Specifically, hard copies of Confidential Information shall be kept in separate, marked files and electronic copies of Confidential Information should be kept in separate marked parts of the electronic file system. The Receiving Party shall not reproduce Confidential Information, in whole or in part, except as necessary for internal use for evaluating or carrying out the Purpose, nor remove, or cause to be removed, any identification affixed to Confidential Information indicating its proprietary nature. The Receiving Party may disclose Confidential Information if required by any judicial or governmental requirement or order; provided that the Receiving Party will give the Disclosing Party sufficient prior notice of such request for the Disclosing Party to contest such requirement or order or to obtain confidential treatment of the Confidential Information by the court or government, as applicable.
7. No Modification. For the purpose of protecting trade secrets, the Receiving Party agrees that it will not modify, reverse engineer or create other works from any software programs contained in the Confidential Information or decompile or disassemble any such software programs or attempt to do any of the foregoing.
8. Ownership of Confidential Information. All Confidential Information and all intellectual property rights therein remain the property of the Disclosing Party, and no license or right to Confidential Information is granted or implied hereby, other than the limited right to use the Confidential Information for the Purpose under the terms of this Agreement. The Receiving Party understands and agrees that it is not permitted to sell, license, develop or otherwise exploit any parts, products, software, services, documents or information that embody in whole or in part any Confidential Information. The Disclosing Party shall have no obligation under this Agreement to supply Confidential Information to the Receiving Party. The Disclosing Party does not warrant or guarantee the accuracy or completeness of any information disclosed pursuant to this Agreement. Accordingly, the Disclosing Party shall have no liability with respect to the accuracy, completeness or non-realization of any information, including any estimates or projections, disclosed hereunder, nor for the use of, or any reliance on, such information.
9. Return of Confidential Information. The Receiving Party shall immediately return to the Disclosing Party, or certify in writing to the Disclosing Party that it has destroyed, all tangible Confidential Information and any and all records, notes and other written, printed, magnetic or other tangible materials pertaining to such Confidential Information upon receipt of a written request from the Disclosing Party and in any event within ten (10) days after expiration or other termination of this Agreement.
10. GENERAL
11. Entire Agreement; Amendment. This document constitutes the entire and final agreement and supersedes all other communications. No modifications will be binding unless made in a written amendment signed by both Buyer and CyanConnode.
12. Severability. If any provision is held invalid, all other provisions will remain valid.
13. Assignment. CyanConnode shall be entitled at all times to assign its rights under the contract (in whole or in part) or to subcontract any part of the work or services to be provided under the contract as it deems necessary or desirable.
14. Excusable Delay. CyanConnode will not be liable for any delay or failure to perform due to force majeure or any other cause beyond its control.
15. Notices. Any notice hereunder shall be deemed to have been given if sent by prepaid first class mail to the party concerned at its last known address. Notice to CyanConnode shall be to; Attn Company Secretary, CyanConnode Private Limited, 1st Floor, AIHP Tower, 249 G, Phase IV, Udyog Vihar, Sector 18, Gurugram, Haryana 122015, India
16. Applicable Law and Venue.

These terms and conditions shall be construed in accordance with the applicable laws of India. The Courts at New Delhi shall have exclusive jurisdiction in any proceedings arising out of this agreement.

Any dispute or difference either in interpretation or otherwise, of any terms between the parties hereto shall be referred to an independent arbitrator, who will be appointed jointly, and whose decision shall be final and binding on the parties hereto. The above arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time. The arbitration shall be held in New Delhi. The High Court of judicature at New Delhi alone shall have the jurisdiction and the Laws of India shall apply.