**CyanConnode’s standard terms and conditions – all territories besides India**

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. PAYMENT TERMS

Unless otherwise agreed in writing, Payment terms shall be net thirty (30) days from the date of invoice. Buyer agrees to pay interest on any unpaid balance at a rate of five percentage points above the official LIBOR rate on the day the balance becomes due. Unless otherwise agreed in writing, all payments are to be in United States dollars. For India contracts, CyanConnode may require payment to be secured by an irrevocable letter of credit or a bank guarantee acceptable to CyanConnode. Where payment is made by letter of credit, all costs of collection shall be for Buyer’s account. In the event that CyanConnode is required to bring legal action to collect delinquent accounts, Buyer agrees to pay reasonable attorney fees and costs of suit.

1. TAXATION
2. All sums payable by the Buyer to CyanConnode (“Charges”) shall be exclusive of any applicable VAT (or any analogous tax in any relevant jurisdiction) but shall be inclusive of all duties, levies or any similar charges.
3. If VAT (or any analogous tax in any relevant jurisdiction) is chargeable in respect of any amount payable hereunder, the concerned party shall, upon receipt of an appropriate tax invoice, pay to the other party such VAT (or any analogous tax in the relevant jurisdiction) at the rate for the time being and from time to time properly chargeable, in respect of that payment.
4. Each party agrees to provide its VAT registration number and such other further information as the other party may reasonably request in relation to any supply hereunder.
5. All Charges payable shall be paid without set-off, counterclaim, or required withholding or deduction unless prohibited by any applicable law. In the event that withholding tax or deduction is payable by the either party (“Paying Party”) in respect of the Charges, the Paying Party will, simultaneously with making the Charges payment hereunder, pay to the other party (“Payee Party”) such additional amount as will result in the receipt by the Payee Party of the full amount which would otherwise have been receivable had no withholding tax or deduction been payable and will supply to the Payee Party evidence satisfactory to the Payee Party that the Paying Party has accounted to the relevant authority for the sum withheld or deducted. Any sums subsequently recovered by the Payee Party in respect of amounts withheld or deducted by the Paying Party which have previously been paid to the Payee Party in accordance with the preceding sentence of this clause shall be reimbursed by the Payee Party to the Paying Party within 30 days following receipt of such amounts by the Payee Party. In the event that the Paying Party is obliged by applicable law to deduct withholding tax from the Charges, Paying Party and Payee Party shall co-operate to make all necessary filings in order to ensure, so far as Paying Party and Payee Party are reasonably able, that the provisions of the relevant tax treaty applies to the Charges.
6. Each party (the indemnifying party) shall indemnify, defend and hold harmless the other party and its respective officers, directors, employees, agents, successors and assigns against any loss, liability, cost, charge, fine or expense arising from any taxes, assessments or penalties that are the responsibility of the indemnifying party including without limitation VAT, corporation tax, income tax or employment tax arising from the conduct of the indemnifying party’s business in any territory.
7. 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 CANCELLATION; RESCHEDULED SHIPMENT
2. Buyer may cancel orders for Products from CyanConnode’s standard products offerings (“Standard Product”) only if CyanConnode receives a written cancellation notice no less than 90 days prior to the current CyanConnode planned shipment date.
3. Buyer may cancel orders for non-standard, custom, semi-custom, special product, or product unique to a customer, as such categories are defined by CyanConnode (collectively “Special Product”), only if CyanConnode receives a written cancellation notice no less than 180 days prior to the current CyanConnode planned shipment date, except that Buyer must reimburse CyanConnode for all non-recoverable costs incurred. Buyer will not be entitled to any work in process.
4. Cancellation of orders for Standard Product or Special Product on less than the required notice period will be at CyanConnode’s sole discretion.
5. Buyer may reschedule the shipment date only if written notice is provided to CyanConnode no less than 30 days prior to the current CyanConnode planned shipment date as of the date of the notice. The rescheduled shipment date must be within the calendar quarter of the current CyanConnode planned shipment date.
6. 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.
7. CONTINGENCIES
8. 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.
9. In the event of a shortage of products, CyanConnode may allocate at its sole discretion product production and deliveries.
10. 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 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. 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) 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 INDEMNITY

Indemnification: Subject to the limitations herein, CyanConnode will defend any suit or proceeding brought against Buyer if it is based on a claim that any product furnished hereunder constitutes an infringement of any U.S. intellectual property rights. CyanConnode must be notified promptly in writing and given full and complete authority, information and assistance (at CyanConnode’s expense) for defence of the suit. CyanConnode will pay damages and costs therein awarded against Buyer but shall not be responsible for any compromise made without its consent. In no event shall CyanConnode’s liability for such damages and costs (including legal costs) exceed the contractual value of the products or services that are the subject of the lawsuit. In providing such defence, or in the event that such product is held to constitute infringement and the use of the product is enjoined, CyanConnode, in its discretion, shall procure the right to continue using such product, or modify it so that it becomes non-infringing, or remove it and grant Buyer a credit for the depreciated value thereof. 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. CyanConnode makes and gives no express or implied condition, warranty or representation that any products (or part thereof) supplied hereunder will not infringe any intellectual property rights or copyrights of any third party whether the products (or part thereof) are taken alone or in conjunction or in combination with any other goods or when used in conjunction with any data or software program. The foregoing remedy is exclusive and constitutes CyanConnode’s sole obligation for any claim of intellectual property infringement.

Additionally, 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.

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 on the part 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. If the Receiving Party claims that Confidential Information received by it is subject to any of the exclusions contained in clauses (A) through (D) above, it shall have the burden of establishing the applicability of such exclusion by clear and convincing documentary evidence.
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, 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; CyanConnode Limited, Attn. Company Secretary, Merlin Place, Milton Road, Cambridge, CB4 0DP UK.
16. Applicable Law and Venue. Unless otherwise agreed in writing, the terms and conditions contained herein shall be governed by and construed under the laws of England. Any dispute arising from or in connection with these Standard Terms and Conditions will be brought before the competent court in the United Kingdom.