

Sales Terms and Conditions

These terms and conditions govern the sale of all products and services ("Products"), including both hardware and associated software, by Mosaic Industries, Inc. ("Mosaic") to its customers ("Buyer"), and apply notwithstanding any conflicting, contrary or additional terms and conditions in any Purchase Order or other document or communication ("Purchase Order") from Buyer. These terms and conditions may only be waived or modified in a written agreement signed by an authorized representative of Mosaic. Neither Mosaic's acknowledgment of a Purchase Order nor Mosaic's failure to object to conflicting, contrary or additional terms and conditions in a Purchase Order shall be deemed an acceptance of such terms and conditions or a waiver of the provisions hereof.

1. Orders: Orders are initiated by Buyer issuing a Purchase Order or otherwise placing an order by electronic or written means acceptable to Mosaic. Orders must identify the Products, unit quantities, part numbers, descriptions, applicable prices and requested delivery dates. All orders are subject to acceptance by Mosaic. No orders for standard Products ("Standard Products") may be cancelled or rescheduled without Mosaic's consent, which may be given by Mosaic in its sole discretion. Mosaic reserves the right to allocate sales of Products among its customers at its discretion. **Notwithstanding any provision of these Terms and Conditions to the contrary, orders for special, custom, value-added and other non-standard Products, including Products to be assembled in custom configurations, Products which do not appear on Mosaic's price sheet, Products under development, works-in-progress and Products otherwise identified by Mosaic as "NCNR" or "Non-Cancelable and Non-Returnable", (all designated "Non-Standard Products"), shall be non-cancelable and non-returnable.**

2. Order Scheduling: Orders are to be scheduled for delivery within one (1) year from order date. Orders may be rescheduled only with written approval by Mosaic.

3. Prices: Product prices and configuration are subject to change without prior notice. Prices are specified by Mosaic on its price sheet or as a quote to Buyer, and are applicable for the period specified in Mosaic's quote. If no period is specified, quoted prices are applicable for thirty (30) days. Notwithstanding the foregoing, prices are subject to increase in the event of an increase in Mosaic's costs or other circumstances beyond Mosaic's reasonable control. Prices are exclusive of shipping costs, handling fees, charges for special packaging, marking, testing, taxes, impositions and other charges, including: sales, use, excise, value added and similar taxes or charges imposed by any government authority, international shipping charges, forwarding agent's and broker's fees, consular fees, document fees and import duties. If Mosaic is liable for or pays any of the foregoing, Buyer will pay same to Mosaic in addition to the price of the Products. Mosaic may also charge Buyer a handling fee commensurate with its costs for handling, packaging, and package pickup.

4. Quantity Discounts: When quantity price discounts are quoted, they are computed separately for each type of product (part number), and are based on the quantity ordered at any one time for immediate delivery, unless otherwise quoted. If any order is reduced or cancelled, Buyer agrees that prices will be adjusted upward to the greater prices quoted for the uncanceled quantity.

Change orders or additions of identical items received within five (5) days of the original order, but before shipment of the original order, may be combined for quantity price advantage.

Quantity discounts quoted and granted by Mosaic require delivery of the full quantity within the period and on the schedule set forth in the purchase order and evenly distributed throughout the period on a monthly or quarterly delivery basis. If at the end of the purchase period full delivery of product has not been taken by buyer, Mosaic shall be entitled to retroactive recovery of any unearned discounts which had been granted. In such case, the recovered value shall be based on the applicable discount quantity of Mosaic's quote to Buyer, or should there be no applicable quote, on Mosaic's price schedule in effect on the date of the Purchase Order.

Unless otherwise provided in written contract, volume discounts are calculated on a per-shipment basis. Discounts do not apply to documentation and manuals, and quantity orders of Product do not include duplicate documentation.

Quantity discounts are not granted for orders paid by credit card.

5. Terms of Payment: Buyer agrees to submit such financial information ("Credit Application") as may be reasonably requested by Mosaic for the establishment or continuation of credit terms. Orders are subject to credit approval by Mosaic, which may in its sole discretion at any time change the terms of Buyer's credit, require payment in cash, bank wire transfer or by official bank check or require payment of any or all amounts due or to become due for Buyer's order before shipment of Products.

Payment may be made by Visa, MasterCard, Cash on Delivery (COD), check or wire transfer. Payments made by credit card incur an additional 3% charge. Checks are accepted subject to collection and the date of collection is deemed the date of payment. Any check received from Buyer may be applied by Mosaic against any obligation owing from Buyer to Mosaic, regardless of any statement appearing on or referring to such check, without discharging Buyer's liability for any additional amounts owing from Buyer to Mosaic, and the acceptance by Mosaic of such check shall not constitute a waiver of Mosaic's right to pursue the collection of any remaining balance.

Payment must be made net thirty (30) days from the date of invoice or as otherwise specified by Mosaic, subject to approval of Buyer's Credit Application. Buyer agrees to pay the entire amount of each invoice pursuant to the terms of the invoice without offset or deduction.

Buyer shall pay interest on any invoice not paid when due from the due date to the date of payment at the rate of one and one-half (1½ %) percent per month or such lower rate as may be the maximum allowable by law. If Buyer fails to make payment when due, Mosaic may pursue any legal or equitable remedies, in which event Mosaic shall be entitled to reimbursement for costs of collection and reasonable attorneys fees.

All orders not originating in the United States or Canada must be prepaid by wire transfer. All payments must be in US dollars and be drawn on a US bank.

If Mosaic believes in good faith that Buyer's ability to make payments may be impaired or if Buyer fails to pay any invoice when due, Mosaic may cancel or suspend delivery of any order or any remaining balance thereof until such payment is made, without incurring any liability to Buyer, and Buyer shall remain liable to pay for any Products already shipped and all Non-Standard Products ordered by Buyer whether shipped or not.

6. Delivery and Title: All shipments by Mosaic are FCA (INCOTERMS 2000) point of origin and all transportation charges shall be paid by Buyer. Subject to Mosaic's right of stoppage in transit, delivery of the Products to the carrier shall constitute delivery to Buyer and title and risk of loss shall thereupon pass to Buyer. Selection of the carrier is made by Mosaic unless specified by Buyer. Mosaic will use reasonable efforts to initiate shipment and schedule delivery as close as possible to requested delivery dates. Buyer acknowledges that delivery dates provided by Mosaic are estimates only and that Mosaic is not liable for failure to deliver on those dates. Mosaic reserves the right to make deliveries in installments. Delivery of a quantity which varies from that specified by Buyer does not relieve Buyer of the obligation to accept delivery and pay for the Products delivered. Delay in delivery of one installment does not entitle Buyer to cancel other installments.

7. Acceptance of Products and Product Returns: Inspection and acceptance of the Products is Buyer's responsibility. Buyer is deemed to have accepted the Products unless written notice of rejection is received by Mosaic within ten (10) days after delivery of the Products, or unless prior approval had been obtained from Mosaic in writing for an evaluation period. Buyer waives any right to revoke acceptance thereafter. Buyer must report any discrepancy in shipment quantity or damage within ten (10) days after delivery.

8. Product Return and Repair: No return of Products will be accepted by Mosaic without a Return Material Authorization ("RMA") Number, which may be issued by Mosaic in its sole discretion. Returned Products must be in original packing materials or must be packaged with sufficient care to prevent damage in shipment. All Products for return must be returned freight prepaid in the manner specified in the RMA. If returned Products are claimed to be defective, a complete description of the nature of the defect must be included with the returned Products. Products not eligible for return will be returned to Buyer, with Buyer paying shipping charges.

Buyer may return product that is not under warranty for a complete diagnostic test. Buyer will be charged a \$50. fee per board-level product for the test. The fee is waived if the Buyer decides to have the product brought up to full functionality, in which case the non-functioning board will be repaired or replaced for the full purchase price.

9. Product Evaluation: Upon prior written approval by Mosaic, Product may be evaluated for a 30 day period. In that case buyer shall place a purchase order for the goods with net 30 terms (subject to approval of credit). During the 30 day period Buyer is encouraged to take advantage of Mosaic's free technical support. At the end of 30 days, Buyer may either pay the original invoice and keep the Product, or return Product and pay only the invoiced shipping and handling charge. Product return requires a Return Material Authorization ("RMA") Number, from Mosaic. Returned Products must be in original packing materials or must be packaged with sufficient care to prevent damage in shipment. Buyer shall be charged a 15% restocking fee for Product returned after 30 days from the date of purchase. In all cases, returned Product must be fully functional and in saleable condition.

10. Circumstances Beyond Mosaic's Control: Mosaic shall not be liable for failure to fulfill its obligations herein or for delays in delivery due to causes beyond its reasonable control, including, but not limited to, acts of God, natural disasters, acts or omissions of civil or military authority or other parties, mail stoppages, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, riots, war, acts of terrorism, delays in transportation or inability to obtain labor or materials from its regular vendors. Mosaic's time for performance of any such obligation shall be extended for the time period of such delay or Mosaic may, at its option, cancel any order or remaining part thereof without liability by giving notice of cancellation to Buyer.

11. Mosaic's Limited Warranty: Mosaic warrants to Buyer that the Products purchased shall conform to applicable specifications and that any customization performed by Mosaic on such Products shall conform to applicable Buyer's specifications relating to such work. With respect to Products which do not meet Mosaic's specifications owing to defects in material and workmanship, and with respect to customization or value-added work by Mosaic which does not meet applicable Buyer's specifications, Mosaic's liability is limited, at Mosaic's election, to 1) refund of Buyer's purchase price for such Products without interest, 2) repair of such Products, or 3) replacement of such Products; provided, however, that such Products must be returned to Mosaic within ninety (90) days from date of shipment to Buyer, transportation charges prepaid by Buyer.

This warranty does not extend to Products that have suffered damage inflicted by Buyer through misuse, careless handling, neglect, accident, improper installation, removal or modification of components, soldering, exposure to damaging voltages or temperatures, exposure to water, cleaning agents or other chemical agents, or any use in violation of Mosaic's instructions. Any Product returned for repair under warranty or otherwise must have a valid RMA Number issued by Mosaic at Mosaic's discretion.

MOSAIC PROVIDES ALL PRODUCT SOFTWARE "AS IS" WITHOUT WARRANTY OF ANY KIND, AND PROVIDES HARDWARE WITHOUT ANY WARRANTY BEYOND THAT DESCRIBED IN "11. MOSAIC'S LIMITED WARRANTY" OF THIS AGREEMENT. MOSAIC MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS. IN PARTICULAR, MOSAIC MAKES NO WARRANTY RESPECTING THE MERCHANTABILITY OF PRODUCT OR ITS SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR RESPECTING INFRINGEMENT. MOSAIC DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PURCHASED PRODUCTS WILL MEET BUYER'S REQUIREMENTS OR THAT THE PRODUCT'S OPERATION WILL BE UNINTERRUPTED OR ERROR FREE OR THAT DEFECTS WILL BE CORRECTED. BUYER ASSUMES THE ENTIRE RISK OF USING THE PRODUCT.

12. Limitation of Liabilities: Buyer shall not in any event be entitled to, and Mosaic shall not be liable for indirect, special, incidental or consequential damages of any nature including, without limitation, business interruption costs, removal and/or reinstallation costs, procurement costs, loss of profit or revenue, loss of data, promotional or manufacturing expenses, overhead, injury to reputation or loss of customers, even if Mosaic has been advised of the possibility of such damages. Buyer's recovery from Mosaic for any claim shall not exceed Buyer's purchase price for the Product giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty, or otherwise. Mosaic shall not be liable for and Buyer shall indemnify, defend and hold Mosaic harmless from any claims based on Mosaic's compliance with Buyer's designs, specifications or instructions, or modification of any Products by parties other than Mosaic, or use in combination with other products not manufactured by Mosaic.

13. Modifications: Unless otherwise provided in written contract, Mosaic reserves the right to modify documentation, software or Product specifications without notice.

14. Products NOT Authorized in Life Support and Certain Other Applications: Mosaic Products are not designed, intended or authorized for use in life support, life sustaining, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or property damage. If Buyer uses or resells the Products for use in any such applications: 1) Buyer acknowledges that such use or sale is at Buyer's sole risk; 2) Buyer agrees that Mosaic is not liable, in whole or in part, for any claim or damage arising from such use; and 3) Buyer agrees to indemnify, defend and hold Mosaic harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

15. Export Control: The sale, resale or other disposition of Products and any related technology or documentation are subject to the export control laws, regulations and orders (Export Laws) of the United States and may be subject to the Export Laws of other countries. Buyer agrees to comply with all such Export Laws and acknowledges that it shall not directly or indirectly export any Products to any country to which such export or transmission is restricted or prohibited. Buyer acknowledges its responsibility to obtain any license to export, re-export or import as may be required by law.

16. Statements, Technical Support and Advice: If Mosaic offers or gives to Buyer any statements, programming assistance, software, technical support or advice, of any nature, by any means including orally, in writing, by email or through Mosaic's web site, such statements, assistance or advice shall be deemed to be given as an accommodation to Buyer and without charge, and Mosaic shall have no responsibility or liability for the content or use of such assistance, statements or advice.

17. Intellectual Property: If a Purchase Order includes software or other intellectual property, such software or other intellectual property is provided by Mosaic to Buyer subject to copyright law and the user license, the terms and conditions of which are set forth in the license agreement accompanying such software or other intellectual property. Nothing herein shall be construed to grant any rights or license to use any software or other intellectual property in any manner or for any purpose not expressly permitted by such license agreement.

18. General: As used herein, terms appearing in the singular shall include the plural and terms appearing in the plural shall include the singular. No rights, duties, agreements or obligations hereunder may be assigned or transferred by either party, by operation of law, merger or otherwise, without the prior written consent of the other. Any attempted or purported assignment shall be void. Notwithstanding the foregoing, Mosaic's obligations under these Terms and Conditions may be performed by subcontractors of Mosaic at Mosaic's sole discretion. This agreement shall be binding on the parties and their respective successors and assigns. The waiver of any provision or of any breach or default shall not be deemed a waiver of any other provision or breach or default. Any provision which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction. These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of California excluding any law or principle which would apply the law of any other jurisdiction.