



TERMS OF USE for access to the Total Parts Plus SERVICES CENTER™ (TPPSC)

IMPORTANT – READ CAREFULLY

This Site is owned and operated by Total Parts Plus, Inc. ("TPP").

These Terms of Use are a legal agreement ("Terms of Use" or "Agreement") between you (either as an individual or any other legal entity, (referred to as "Subscriber," "Access Holder" "you," "your" or "user") and TPP. Access and use of the TPP website ("TPPSC") is subject to, and governed by, this Agreement. By accessing or using the TPPSC or by accessing, downloading and/or using any TPP Products, you confirm your agreement to and acceptance of these terms. TPP reserves the right to update the Agreement at any time without notice to you.

2. DEFINITIONS:

"Access-Holder" means each end user that the Subscriber, identify as authorized to use the TPPSC web site as a user of the subscription. Each Access-Holder must be a current employee of Subscriber's organization.

"Intellectual Property" means all intellectual property and all rights thereto, including, without limitation, trademarks, service marks, trade names, trade dress, inventions, developments, improvements, patents, trade secrets, copyrights, database rights, design rights, Database(s) and Data (and all portions thereof), know-how, domain names, computer code, computer software programs and applications, and any other intellectual property right, and including all issued patents or registrations or applications for patents or registration of the foregoing and all documentation and files relating to the foregoing.

"Subscriber" means the customer appointed point of contact with authority over the use and access to the Total Parts Plus' web site.

"Total Parts Plus Services Center" ("TPPSC") is Total Parts Plus' web site that is dedicated to providing data and services to electronic designers, engineers, manufacturers, purchasing staff, and maintenance personnel who are responsible for electronic systems. At the TPPSC, the Access Holders may access information on individual components, or conduct analysis on their bills of material.

3. TOTAL PARTS PLUS' RESPONSIBILITY:

TPP shall provide the TPPSC 24 hours per day, 7 days per week, 365 days per year, except for maintenance and repairs. TPP shall provide Subscriber with a username and password which shall be used by: a) all of Subscriber's authorized Access-Holders or b) Subscriber only. If TPP believes that the username and password is being used in an unauthorized manner, TPP may cancel or suspend the username and password until further notice.

TPP shall provide a Customer Service department that is capable of providing assistance to Subscribers regarding connection to the TPPSC and operating instructions for access to and use of the TPPSC. This assistance shall be available from 7:30 a.m. to 4:30 p.m. Central time, Monday through Friday, except for Federal Holidays.

3. SUBSCRIBER'S RESPONSIBILITY:

Subscriber shall receive an invoice that lists the starting date of the subscription, the total amount of the subscription, and the name and address for payment of the subscription fees. Subscriber shall make payment of the full amount of the annual subscription within thirty (30) days after the date of the invoice, unless otherwise agreed upon by both parties indicated in writing.

TPP and/or its third-party suppliers shall be the sole owner(s) of the data and software programs from the TPPSC, including any adaptations or copies thereof, and including associated intellectual property rights provided to the Access-Holders pursuant to this Agreement. Copies are provided and may be made only to allow Subscriber and/or Access-Holders to exercise Subscriber's rights under this Agreement. TPP and/or its third-party providers claim U.S. and foreign copyright ownership with respect to the data contained in the TPPSC as compilations and expressions of distinctive and creative formats. It is TPP's practice to place copyright notices and/or other proprietary legends in report forms and data provided to Access-Holders. Subscriber and each Access-Holder shall provide for the reproduction of such notices and legends in the form and manner in which they appear. In the event any printout page or other tangible form of retrieved data does not contain the full text of such notices and legends, Subscriber and each Access-Holder agree to stamp or otherwise affix on each such copy of the data, including any subsequent adaptation thereof, a TPP copyright notice. Unless otherwise notified, the TPP copyright notice required shall be the following (including the current calendar year): Copyright, Total Parts Plus, 2000, All Rights Reserved.

Subscriber may not submit any data, record or other communication to or through the TPPSC that contains any viruses, Trojan Horses, worms, time bombs, cancelbots, or other computer programming routines intended or designed to delete, damage or disrupt data or to otherwise detrimentally interfere with the functions and operations of the TPPSC or of the computer systems and networks that access the TPPSC. Subscriber shall ensure that only authorized Access-Holders are allowed access to the username and password that is assigned to the Subscriber. Subscriber agrees to inform TPP when any Access Holder (a) is no longer employed with the company; or (b) is no longer an authorized user. If Subscriber believes that the username and password is being used by someone other than an authorized Access-Holder, Subscriber must notify TPP immediately so that a new password may be issued.

4. TERM AND TERMINATION:



TERMS OF USE for access to the Total Parts Plus SERVICES CENTER™ (TPPSC)

This Agreement shall become effective upon date of signature in the TPP Subscription Order Form and shall remain in force as long as Subscriber has access to the TPPSC. The term of a paid subscription shall be for one (1) year unless otherwise specified or as mutually agreed by the TPP and the Subscriber. Thereafter, this Agreement shall automatically renew for successive terms of 12 months each, unless and until either TPP or the Subscriber gives the other party at least 30 days advance written notice of termination.

Upon termination of this Agreement by TPP or Subscriber, Subscriber shall (1) discontinue all use of the subscription service and (2) destroy any items relating to the subscription service (including but not limited to software and user documentation). Upon such termination, the rights and obligations of the parties shall cease, except for the obligation to make any payment that was due at the date of termination and Subscriber's obligations with respect to protecting TPP's proprietary rights in the data and the software.

Should Subscriber fail to pay fees or charges due hereunder or fail to carry out any other obligation under this Agreement, TPP may, at its option, in addition to other available remedies, terminate this Agreement provided that it first gives Subscriber fifteen (15) days prior notice to permit cure of the default. TPP reserves the right, with or without notice, to suspend access to or use of the TPPSC in the event of any delinquency. TPP reserves the right to discontinue distribution of the TPPSC for any reason.

5. LIMITATIONS:

TPP and/or its third-party licensors shall employ due care and attention to obtaining and maintaining the data and services in the TPPSC. However, Subscriber acknowledges that any collection and compilation of data includes the possibility of some human and machine errors, omissions, delays, interruptions, and losses, including inadvertent loss of data or damage to media, which may give rise to loss or damage. TPP shall not be liable or be deemed to be in default for any delay or failure in performance or interruption resulting directly or indirectly from any cause or circumstance beyond the reasonable control of TPP, including, but not limited to, equipment failure, telecommunications failure, labor dispute, or failure of any third party to perform any agreement with TPP that adversely affects TPP's ability to perform its obligations hereunder.

ACCORDINGLY SUBSCRIBER AGREES THAT THE DATA IS PROVIDED ON AN "AS IS AS AVAILABLE" BASIS; TPP MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THEIR ACCURACY, COMPLETENESS, OR CURRENTNESS; AND TPP SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TPP SHALL NOT BE LIABLE ON ACCOUNT OF ANY SUCH ERRORS, OMISSIONS, DELAYS, OR LOSSES UNLESS CAUSED BY WILLFUL MISCONDUCT. SUBSCRIBER AGREES THAT IN NO EVENT WILL TPP BE LIABLE FOR THE RESULTS OF SUBSCRIBER'S USE OF THE DATA, SUBSCRIBER'S INABILITY OR FAILURE TO CONDUCT SUBSCRIBER'S BUSINESS, OR FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES. SUBSCRIBER FURTHER AGREES THAT IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF TPP FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING UNDER THIS AGREEMENT AND SERVICES PERFORMED HEREUNDER, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO TPP DURING THE PRECEDING TWELVE (12) MONTH PERIOD, EVEN IF TPP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL CLAIM, LOSS, OR DAMAGE. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES.

Oral or written information or advice given by TPP, its representatives, dealers, distributors, or agents, shall not create any warranty beyond that which is expressly contained herein and Subscriber may not rely on any such information or advice. The TPP website may contain links to other Internet sites, resources, and/or sponsors. TPP does not verify, warrant, endorse or take responsibility for the availability, accuracy, completeness or quality of the content contained in these outside sites.

TPP does not warrant that Subscriber's use of the TPPSC, including without limitation, the databases and/or software, and communications lines will be uninterrupted or error-free, or that the results obtained will be successful or will satisfy Subscriber's requirements.

6. GENERAL TERMS AND CONDITIONS:

These Terms and Conditions in conjunction with the TPP Subscription Order Form represents the complete and exclusive statement of the understanding between the parties and supersedes all prior proposals and understandings, oral or written, relating to the subject matter of subscription. In the event Subscriber issues a purchase order or other instrument concerning the TPPSC, it is specifically agreed and understood that such purchase order or other instrument is for Subscriber's internal purposes only and any and all terms contained therein, whether printed or written, shall be subordinate to the terms and conditions contained herein. This Agreement may not be modified except by (a) a written document that is signed by authorized representatives of both parties and referencing this Agreement or (b) TPP posting revisions and notice to the TPPSC. Subscriber understands and agrees that by accessing and using the TPPSC after TPP posts such notice, the Subscriber agrees to be bound by each such posting revision.

Subscriber agrees that Parts Plus and Parts Plus Content Tracker subscription fees are non-refundable for the first six (6) months. All other subscription services are minimum one (1) year subscriptions, non-refundable.

Failure by either party to enforce any provision of this Agreement shall not be deemed a waiver of that provision or of any other provision of this Agreement.



TERMS OF USE for access to the Total Parts Plus SERVICES CENTER™ (TPPSC)

Neither party hereto may assign this Agreement, or the rights or duties hereunder, without the prior written consent of the other, except that TPP may assign this Agreement or subscription service to any company which directly or indirectly controls, or is controlled by or is under common control with TPP or to any successor to TPP's assets and business relating to the subscription service provided that the assignee assumes all of TPP's obligations of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, personal representatives, and assigns.

The TPPSC may contain information and software that is controlled for export under applicable United States laws and regulations. TPP does not warrant that the information contained in the TPPSC may be accessed by non-U.S., citizens or downloaded to points outside of the United States without the prior approval of the United States Government. Subscriber is responsible for compliance with applicable laws and regulations.

This Agreement shall be governed by the laws of the State of Florida and the rules of the American Arbitration Association, and all issues shall be resolved by binding arbitration taking place in Fort Walton Beach, Florida. Both parties agree that e-mail transmissions that contain the writer's name or initials at the bottom shall be considered to be "a signed writing" according to Florida law.

Subscriber further agrees that a breach or threatened breach by Subscriber would irreparably harm TPP in a way that could not be adequately and compensated for by damages. Consequently, TPP shall have the right, in addition to any other rights or remedies it may have arising out of the breach, to obtain temporary, preliminary and permanent injunctive relief without the necessity of proving actual damages and without any bond or other security being required.

7. GRANT OF LICENSE AND RIGHTS:

TPP grants Subscriber, subject to the terms of this Agreement, a nonexclusive, nontransferable right and license as follows:

The right to permit the number of Access-Holders to simultaneously access the TPPSC from the sites, and with the number of simultaneous users, agreed upon in the TPP Subscription Order Form.

The right to create on-line or off-line printouts of insubstantial portions of the data contained in the TPPSC, and reproduce, reformat, analyze, print and display such printouts in connection with Subscriber's normal business activities.

Subscriber may not, however, engage in such activity if it is for commercial sale, redistribution, broadcast or transfer such as from a Service Bureau. Subscriber expressly agrees not to rent, lease, sublicense, distribute, transfer, copy, reproduce, display, modify, store, time-share, or in any other manner commercially exploit the software, data or services of the TPPSC. Subscriber shall not use the software or data of the TPPSC to develop any competing product. Subscriber agrees to take all reasonable steps to protect the data of the TPPSC from unauthorized access, copying, or use.

TPP reserves the right to change the content, presentation, format, performance, facilities and availability of all or any part of the TPPSC. TPP reserves the right to supplement the TPPSC with additional services, and the terms and conditions of use, which will be posted on the TPPSC at the time such additional services are available. TPP reserves all rights not expressly granted to Subscriber.

BY COMPLETING THE CONNECTION PROCESS, ACCESSING AND/OR USING A TOTAL PARTS PLUS PRODUCT, YOU ARE OBLIGATING YOUR COMPANY AND YOURSELF TO BE BOUND BY THIS TERMS OF USE AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, A PARTICULAR LICENSE OR TERMS, YOU ARE NOT AUTHORIZED TO ACCESS AND/OR USE THE TOTAL PARTS PLUS PRODUCTS.