

MAKE-PARTS.COM™ Customer Agreement

This Agreement sets forth the terms and conditions on which digital manufacturing services, rapid prototyping services and/or quotations for such services (Services) are made available via this website. The Services available through this website are provided by MAKE-PARTS.COM, a division of Vanishing Point Design, LLC.

1. DIGITAL MANUFACTURING, RAPID PROTOTYPING AND FINISHING SERVICES.

1.1 MAKE-PARTS.COM QUOTATIONS. From time to time the Customer may request price quotations from MAKE-PARTS.COM for the production of; end use parts, a rapid prototype part (Parts) and/or provision of other Services by completing the MAKE-PARTS.COM Quote form on this website. The MAKE-PARTS.COM Quote requires the Customer to submit all of its desired specifications (Specifications) for the Part to MAKE-PARTS.COM, using 128-bit encryption. MAKE-PARTS.COM will provide all quotes promptly after receipt of the Customers request. Each MAKE-PARTS.COM Quote is only valid for 30 days from the time the quote is submitted. However, MAKE-PARTS.COM reserves the right to adjust any quote if the Customer makes changes to the applicable Quantity, Materials or Specifications.

1.2 ORDERS. Once the Customer has obtained a MAKE-PARTS.COM Quote, the Customer may accept the quote from MAKE-PARTS.COM and may submit an online order (an Order) requesting MAKE-PARTS.COM to produce the Part(s) quoted. The total fees for each Order shall include the applicable amount specified in the MAKE-PARTS.COM Quote for the Part(s), plus all applicable taxes and all shipping charges (collectively, the Fees). To submit an Order, the Customer must either pay the Fees in advance online by providing MAKE-PARTS.COM with valid credit card account information. Once an electronic Order confirmation has been delivered to the Customer, the Order is binding on both parties, and may not be cancelled/changed except by agreement. MAKE-PARTS.COM reserves the right to accept or reject any Order for any reason.

1.2.1 CANCELLATION/CHANGE ORDERS. Customer refunds for cancelled/changed orders based on the following:

- 75% credit on Product & Tax, 100% credit on Shipping for Orders cancelled/changed after order placement and before build start.
- 25% credit on Product & Tax, 100% credit on Shipping for Orders cancelled/changed after start of build and before part finishing.
- 0% credit on Product & Tax, 100% credit on Shipping for Orders cancelled/changed after start of finishing and before shipping.
- 0% credit on Product, Tax & Shipping for Orders cancelled/changed after shipping.

Orders can only be cancelled/changed by MAKE-PARTS.COM personnel. Please contact your account manager by telephone at: 1.877.MAK.PRTS (1.877.625.7787), or via email at customerservice@make-parts.com if you need to make changes to your order.

1.3 DELIVERY STANDARD. MAKE-PARTS.COM will use commercially reasonable efforts to provide all Parts to the Customer in accordance with this Agreement and within the timeframe provided by MAKE-PARTS.COM shortly after time of Order. Average delivery is 3 to 5 business days based on the MAKE-PARTS.COM Quote Specifications. Shorter lead-times may be available for smaller projects. Lead times will be longer for orders containing large quantities and/or large parts. Partial shipments allowed and may require additional charges. Please call 1.877.625.7787 for more information.

1.3.1 TRANSPORTATION: Shipments are F.O.B. shipping point. Any damage to product during transportation is the responsibility of the carrier and customer. Customer is responsible for submitting claims to the carrier for damages.

2. OWNERSHIP OF INTELLECTUAL PROPERTY.

3.1 CUSTOMER OWNERSHIP. The entire right, title and interest, including all copyright, patent, trade secret, mask work and trademark rights (Intellectual Property), in and pertaining to any Specifications and the applicable Part shall be owned solely by the Customer.

3.2 MAKE-PARTS.COM RIGHTS. Notwithstanding Section 3.1, MAKE-PARTS.COM shall retain all right, title and interest, including all Intellectual Property, in the website and in the underlying software, technology, methodologies and know-how used by MAKE-PARTS.COM in performing its Services and producing Parts.

4. LIMITED WARRANTIES.

4.1 NATURE OF PROTOTYPE MODELS. Customer acknowledges and agrees that all Parts are intended to be used for initial design analysis only, and that no warranties exist or are offered as to materials, strength, tolerances or other Part characteristics. All Parts are delivered and accepted in AS IS condition, and MAKE-PARTS.COM HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY MAKE-PARTS.COM PARTS OR SERVICES. Customer also acknowledges and agrees that in no event will MAKE-PARTS.COM be liable for any damages of any nature under any circumstances, including MAKE-PARTS.COM's alleged negligence, and that the aggregate liability for any claim(s) awarded by any court of competent jurisdiction will in no event exceed the limitations identified in Section 5 below. Customer further agrees that these disclaimers, exclusions and limitations of liability are a material and essential condition of this Agreement, and that the Website and Services would not be made available, or would be made available on materially different terms in the absence of these conditions.

4.2 CUSTOMER WARRANTIES. The Customer hereby warrants that (a) it has the right to provide the Specifications to MAKE-PARTS.COM; (b) the use of the Specifications and such other materials provided by the Customer to produce a Part will not violate or infringe any intellectual property or other legal rights of any third party; and (c) any software or Part files delivered by the Customer to MAKE-PARTS.COM will be free of any viruses, time bombs and other harmful programming routines.

5. LIABILITY.

5.1 LIMITATION OF LIABILITY. MAKE-PARTS.COM HEREBY DISCLAIMS AND EXCLUDES ALL LIABILITY FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT AND/OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, ARISING IN CONNECTION WITH THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER SUCH DAMAGES ARISE BY CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE.

5.2 LIMITATION OF AGGREGATE DAMAGES. MAKE-PARTS.COM'S AGGREGATE LIABILITY FOR ANY DAMAGES SUFFERED OR INCURRED IN CONNECTION WITH THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER ARISING BY CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID BY THE CUSTOMER FOR THE APPLICABLE PART ALLEGED TO HAVE CAUSED SUCH DAMAGE.

5.3 INDEMNITY. The Customer shall indemnify, defend and hold harmless MAKE-PARTS.COM and its directors, officers, employees and agents from all losses, liabilities, damages and expenses (including reasonable attorneys fees and costs) that they may suffer as a result of any claims, demands, actions or other proceedings made or instituted by any third party against any of them and arising out of: (i) any claim that any Specifications, Parts or any other materials provided to MAKE-PARTS.COM in connection with an Order violate or infringe the intellectual property or other legal rights of any third party; or (ii) any use of a Part by the Customer or its employees, agents or contractors.

6. ACCESS AND INTERFERENCE. The Customer will not use any robot, spider, other automatic device or manual process to monitor or copy MAKE-PARTS.COM's web pages or the content contained herein without the express written permission of MAKE-PARTS.COM. The Customer will not interfere or attempt to interfere with the proper working of the MAKE-PARTS.COM site or any activities conducted on the MAKE-PARTS.COM site. The Customer will not take any action that imposes an unreasonable or disproportionately large load on MAKE-PARTS.COM's infrastructure. The Customer will not copy, reproduce, alter, modify, create derivative works of, or reverse engineer the MAKE-PARTS.COM website or publicly display any content from the MAKE-PARTS.COM website without the prior express written consent of MAKE-PARTS.COM.

7. **TERMINATION.** Either the Customer or MAKE-PARTS.COM may terminate this Agreement at any time upon written notice to the other party, but all Orders previously submitted and confirmed shall remain binding upon the parties. Sections 3 thru 6 shall survive the termination of this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 **GOVERNING LAW.** This Agreement and all Orders shall be governed by and construed in accordance with the internal laws of the State of Nevada, applicable to contracts to be accepted and performed wholly within Nevada. By placing any Order, Customer irrevocably consents to the jurisdiction of the applicable federal or state courts located in Las Vegas, Minnesota, and agrees that such courts shall be the exclusive forums for the resolution of any disputes hereunder.

8.2 **FORCE MAJEURE.** Except for the courtesy discount to be offered to any Customer under Section 1.3(this has changed), neither party shall be liable for a breach of its obligations hereunder to the extent that such breach is caused by factors outside its reasonable ability to foresee and avoid (provided that such party makes diligent good faith efforts to remedy the breach as soon as possible), including without limitation war, acts of God, terrorism, natural disaster, or third party communications or encryption failure, and which continue for any 60 day period.

8.3 **ENTIRE AGREEMENT.** This Agreement and any accompanying Orders embody the entire agreement and understanding between the parties regarding the subject matter hereof, and supersede any prior understanding and agreements between and among them respecting the subject matter hereof. MAKE-PARTS.COM may at any time change or modify the terms of this Agreement by publishing such additional or replacement terms on the website at least five business days prior to implementation. If the Customer does not agree with any change or modification, the Customer may terminate this Agreement on notice to MAKE-PARTS.COM.

8.4 **INDEPENDENT CONTRACTORS.** The parties hereto are independent contractors and are not, and shall not represent themselves as, principal and agent, partners or joint venturers. No party shall attempt to act, or represent itself as having the power, to bind another party or create any obligation on behalf of another party. Each party shall be solely responsible for the employment, direction and control of its employees and their acts.

8.5 **SEVERABILITY.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. The parties agree that (a) the provisions of this Agreement shall be severable in the event that any of the provisions hereof are for any reason whatsoever invalid, void or otherwise unenforceable, (b) such invalid, void or otherwise unenforceable provisions shall be automatically replaced by other provisions which are as similar as possible in terms to such invalid, void or otherwise unenforceable provisions but are valid and enforceable,

and (c) the remaining provisions shall remain enforceable to the fullest extent permitted by law.

8.6 ASSIGNMENT. The Customer shall not assign the rights and obligations under this Agreement without the written consent of MAKE-PARTS.COM. Any assignment in breach of this provision shall be void ab initio.