

TERMS AND CONDITIONS AND SECURITY AGREEMENT

The labor and materials contemplated between the parties hereto will be provided conditioned on and in accordance with the terms and conditions contained below.

1. "Seller", when used herein means Accurate, Inc. "Purchaser" when used herein means in the Application for Credit Account and "goods" means those articles, materials, supplies, technical services, data, labor or other property or services provided hereunder by Seller. "Agreement" shall mean this Terms And Conditions And Security Agreement. All accounts hereunder are due and payable to Accurate, Inc., at its office at 207 Allison Drive, P. O. Box 1296, Taylor, Williamson County, Texas 76574. The definition of terms used in this Agreement and the rights of the parties hereto shall be construed under and governed by the laws of the State of Texas. Venue for any action arising under this Agreement shall be in Williamson County, Texas.
2. Unless otherwise provided expressly on the Invoice, prices invoiced will be those in effect on the date of shipment. Any prices quoted are F.O.B. Seller's point of shipment and do not include sales, use, excise, or similar taxes. Seller reserves the right to correct the price on any order or quotation due to typographical or mathematical errors, and Purchaser agrees to pay the corrected price.
3. Delivery dates if shown are approximate and are based on prompt receipt at the Seller's office of a firm order, full information and all parts required to fulfill the order. It is expressly agreed that time is not of the essence. In case of delay by Purchaser in furnishing complete information or parts, delivery dates may be extended for a reasonable time depending on factory conditions. Seller shall not be responsible for reasonable or excusable delays, nor shall Purchaser refuse to accept delivery because of any such delays. "Excusable delays" include, but are not limited to, delays resulting from accidents, acts of God, strike, or other labor difficulties, Government controls, or other forms of intervention, inability to obtain labor, materials, or services and other causes beyond Seller's control.
4. IT IS EXPRESSLY AGREED THAT THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY, NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, NOR ANY AFFIRMATION OF FACT OR PROMISE BY THE SELLER WITH REFERENCE TO THE GOODS, PARTS, SERVICES OR OTHERWISE WHICH EXTENDS BEYOND THE DESCRIPTION OF THE GOODS, PARTS OR SERVICES SET FORTH IN THE APPLICABLE INVOICE THEREFOR, INCLUDING BUT NOT LIMITED TO A WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND PURCHASER ACKNOWLEDGES THAT IT IS PURCHASING THE GOODS, PARTS OR SERVICES SOLELY ON THE BASIS OF ANY WRITTEN COMMITMENTS OF THE SELLER EXPRESSLY SET FORTH HEREIN.
5. IN NO EVENT SHALL THE SELLER BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL OR OTHER DAMAGES OR FOR LOSS OF PROFITS, (WHETHER ANTICIPATED OR UNANTICIPATED), NOR SHALL SELLER BE LIABLE FOR LOSS OF USE OF ANY EQUIPMENT, INSTALLATION, SYSTEM, OPERATION, OR SERVICE INTO WHICH THE GOODS, PARTS OR MATERIALS FOR THE BENEFIT OF WHICH THE SERVICES ARE PERFORMED MAY BE PUT. THIS LIMITATION ON SELLER'S LIABILITY SHALL APPLY TO ANY LIABILITY FOR DEFAULT UNDER OR IN CONNECTION WITH THE GOODS, PARTS OR SERVICES, AS WELL AS GOODS OR SERVICES DELIVERED OR PROVIDED HEREUNDER, WHETHER BASED ON FAILURE OF OR DELAY IN DELIVERY OR OTHERWISE.
6. ANY ACTION BY PURCHASER FOR BREACH OF CONTRACT HEREUNDER MUST BE COMMENCED WITHIN ONE YEAR FROM THE DATE THE GOODS ARE DELIVERED TO PURCHASER OR THE AGENT OF PURCHASER. THE TOTAL LIABILITY OF SELLER TO PURCHASER FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, CAUSES, EXPENSES OR DAMAGES ARISING OUT OF THESE TERMS AND CONDITIONS OR THE GOODS AND/OR SERVICES PROVIDED HEREUNDER BY SELLER SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY PURCHASER TO SELLER, EXCLUDING ANY SALES OR OTHER TAX, FOR THE GOODS AND/OR SERVICES PROVIDED HEREUNDER BY SELLER.
7. Purchaser hereby grants to Seller a security interest in all goods (including but not limited to all equipment) fabricated, repaired, improved, and/or supplied by Seller to Purchaser, and further grants to Seller a security interest in all accessions to said goods, and in all other goods to which any of said goods accede. The parties expressly agree that this Agreement constitutes a security agreement as contemplated by Article 9 of the Uniform Commercial Code. SAID SECURITY AGREEMENT SHALL CONTINUE UNTIL SELLER RECEIVES FULL PAYMENT FOR ALL DELIVERED GOODS AND RENDERED SERVICES SECURED HEREBY.
8. The Seller's services are highly engineered and constantly subject to engineering refinement and improvement. Of necessity, therefore, the Seller reserves the right to change any aspect of the services and prices therefor at any time.
9. Payment terms are Net 30 days on approved accounts. Past due accounts will bear interest at the lesser of eighteen (18%) per year or the highest rate allowed by law from the date due until paid. Seller may consider the Purchaser's failure to timely pay any invoice a material breach of this Agreement, and may immediately thereupon stop any further work.

10. If Seller employs an attorney to enforce or defend any of its rights hereunder, Purchaser agrees to pay Seller its reasonable attorney's fees and costs arising out of or related to said enforcement or defense, regardless of whether a lawsuit is filed.

11. The terms and conditions herein constitute the sole agreement between Seller and Purchaser regarding the subject matter herein and can only be varied by written agreement signed by both parties hereto. In the event of conflict between these terms and conditions and those of any purchase order issued, these terms and conditions shall govern.