



Accurate Thermal Systems LLC  
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## **CONDITIONS OF SALE**

- 1) **Definitions.** "Company" means Accurate Thermal Systems. "Customer" or "Buyer" means the legal entity purchasing Goods from the Company. "Goods" means the products offered by the Company and/or purchased by Customer or Buyer from the Company. "Offer" means any quote, proposal, or offer to sell Goods provided by the Company to Customer or Buyer. "Order" means any purchase order or similar instrument issued by Customer or Buyer to purchase Goods.
- 2) **Specifications.** Illustrations in the Company's sales literature is a guide only. The Company reserves the right to withdraw patterns, drawings or models.
- 3) **Prices and Payments.** Unless stated otherwise in writing by the Company, all prices are stated in U.S. Dollars. Orders are accepted subject to prices in effect at date of shipment. The prices offered apply only to the specific quantities, specifications and delivery schedules set forth in the Company's Offer. Any variation in quantity, specifications, or delivery schedules may necessitate a price and/or delivery schedule adjustment.. Standard payment terms are Net 30 Days from date of shipment of the Goods, unless otherwise noted (with approved credit references) for orders within the United States and Canada. The Company reserves the right to charge interest on overdue invoices at the rate of 1.5% per month, but not higher than the highest rate permitted by law. If Customer fails to make any payment as required, Customer shall indemnify the Company for all costs and expenses, including reasonable attorney fees, court costs, and associated expenses incurred by the Company. All Orders outside the United States and Canada require prepayment.
- 4) **Title.** The legal title to the Goods shall not pass to the Customer until all sums due or payable by the Customer to the Company whether in respect of the Goods or otherwise shall have been received by the Company, and until full payment is made the Company shall retain a purchase money security interest in the Goods and any and all equipment, parts, accessories, attachments, additions and other Goods, and all replacements of them, installed in, affixed to or used in connection with the Goods and, if Customer sells or otherwise disposes of the Goods in violation of the terms of this agreement, in the proceeds of such sale or disposition. Customer will, until payment in full, keep any Goods delivered by the Company to Customer as a fiduciary bailee for the Company and store the Goods in a manner that clearly shows the ownership of the Company, and Customer shall deliver said Goods to the Company upon demand. Customer shall not sell, dispose of, process or use such Goods, except with express written permission of the Company.
- 5) **Delivery Dates.** Delivery dates, although given in good faith, are approximate and require prompt receipt of all necessary Customer-furnished information and material, if applicable, and shall not be considered binding.
- 6) **Partial shipment.** If deliveries are made in installments, each installment shall be separately invoiced and paid when due without regard to other deliveries.
- 7) **Shipping Costs.** Unless otherwise arranged, the cost of shipping is prepaid and added to the Customer's invoice.
- 8) **Non Delivery.** The Company must be notified within 15 days of the date of the invoice of non-delivery, otherwise no responsibility can be accepted.
- 9) **Shortages or Incorrect Shipments.** The Company must be notified within 15 days of the date of the invoice of shortages or incorrect shipments, otherwise no responsibility can be accepted.
- 10) **Damage in Transit.** Customer shall assume all risk and liability for loss, damage, or destruction of the Goods upon delivery to the carrier. The Company is not responsible for loss, damage, or destruction of the Goods while in transit. Customer shall inspect all packages, both inside and out, immediately upon receipt. In the event of damage, Customer shall contact the carrier immediately to file a claim. In addition to the product, all packing material must be retained for inspection. Note that the carrier is responsible for visible and concealed damage.
- 11) **Defects.** If upon receipt, the Goods are found to be defective in materials or workmanship, the Company agrees to repair or replace (at the Company's discretion) such Goods free of charge during the specified warranty period, provided the defect is not the result of misuse, accident or negligence. If Customer fails to provide Company with notice of nonconformity within the specified warranty period, Customer shall be deemed to have accepted the Goods. Customer will have no right to return the Goods without the Company's prior written authorization. Any return authorized

by the Company must be made in accordance with the Company's return policies then in effect and must be accompanied by a Return of Materials Authorization ("RMA") number from the Company.

12) Return of Goods. The Company reserves the right not to accept the return of Goods. In particular, Goods made to customer's specifications, consumables, software, electronics, spare parts, obsolete parts, used and demonstration equipment are non-returnable. Goods may only be returned to the Company within 90 days from date of delivery and after having requested and received a RGA Number. A restocking charge of 20% or \$50, whichever is higher, is levied on all returns. Returns are subject to inspection and may be rejected for credit by the Company's quality control department. Damaged or missing items are subject to additional charge or refusal and returned to Customer freight charges collect. Returns for rebox and pack as new by resellers and dealers are subject to any applicable labor charges plus costs for any missing items and packaging.

13) Customer and Company Designs. Unless otherwise agreed in writing, the Company reserves the rights to any inventions or designs originated by it in fulfilling the contract.

14) Termination. No termination by Customer shall be effective unless and until the Company shall have failed to correct such alleged default within 30 days after receipt by Company of a written notice specifying such defaults. Buyer may terminate this order, other than for default, but only upon payment of cancellation charges to be determined by the Company.

16) Customer Conditions. If the Customer order contains special printed conditions, such conditions are binding only as far as they are not at a variance with the terms and conditions stated herein, unless agreed otherwise in writing by the Company.

17) Force Majeure. The Company shall not be liable for failure to perform or delay in performance or delivery of any Goods due to (a) fires, floods, strikes, or other labor disputes, accidents, sabotage, terrorism, war, riots, acts of precedence or priorities granted at the request or for the benefit, directly or indirectly, of any federal, state or local government or any subdivision or agency thereof, delays in transportation or lack of transportation facilities, restrictions imposed by federal, state or local laws, rules or regulations; or (b) any other cause beyond the control of the Company.

18) Integration Clause. These terms and conditions, together with the Company's Offer and invoice constitute the entire contract of sale and purchase between the Company and Customer with respect to the Goods covered by this Agreement and supersede any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof shall be of any force or effect unless in writing and signed by the party claiming to be bound thereby.

19) Warranty. EXCEPT AS OTHERWISE PROVIDED IN WRITING, THE COMPANY MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE) WITH RESPECT TO ITS PRODUCTS OR SERVICES.

20) LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, UNDER NO CIRCUMSTANCES IS EITHER PARTY LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, MULTIPLE, ADMINISTRATIVE, OR PUNITIVE DAMAGES, OR ANY DAMAGE OF AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE, WHETHER BASED UPON BREACH OF AGREEMENT, WARRANTY, OR NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW, OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. THE COMPANY'S TOTAL LIABILITY INCLUDING, BUT NOT LIMITED TO, LIABILITY FOR INDEMNITY, DEFENSE, AND HOLD HARMLESS OBLIGATIONS IS LIMITED TO NO MORE THAN THE AMOUNT PAID TO THE COMPANY UNDER THE CUSTOMER'S ORDER AND THE CUSTOMER AGREES TO INDEMNIFY THE COMPANY FOR ANY EXCESS AMOUNTS. TO THE EXTENT THAT THIS LIMITATION OF LIABILITY CONFLICTS WITH ANY OTHER PROVISION(S) OF THIS AGREEMENT, SUCH PROVISION(S) WILL BE REGARDED AS AMENDED TO WHATEVER EXTENT REQUIRED TO MAKE SUCH PROVISION(S) CONSISTENT WITH THIS PROVISION.

21) Choice of Laws. Any dispute arising out of or related to this Agreement, shall be governed by and construed according to the laws of the State of New Jersey and litigated in a state or federal court located in Burlington County, New Jersey. The parties hereby agree to the exclusive jurisdiction and venue of such courts.

22) Notices. Any notice hereunder shall be deemed to have been given if sent by prepaid first class mail, certified return receipt requested, to the party concerned at its last known address.

\* Accurate Thermal Systems cannot warrant instruments used in conjunction with: hazardous environments and/or hazardous materials.

\* Accurate Thermal Systems cannot accept returned items for credit or repair used in these conditions.