

# HD SUPPLY CONTRACTOR LABOR BACKGROUND CHECK PROGRAM

In order to get started, please complete and sign this Service Agreement required under the Fair Credit Reporting Act.

Once complete, please scan and email to:

[vendorprograms@accurate.com](mailto:vendorprograms@accurate.com)

or

[HDSupplyContractor@accurate.com](mailto:HDSupplyContractor@accurate.com)

If you have any questions, please call 847-637-0554 and reference HD Supply Contractor Labor.

[www.accurate.com/hd-supply-contractor-background-check-program](http://www.accurate.com/hd-supply-contractor-background-check-program)

Please read the Service Agreement on the following pages, complete the information below and sign.

#### CUSTOMER INFORMATION

Legal Entity Name: \_\_\_\_\_

D/B/A (if different): \_\_\_\_\_ Years in Business: \_\_\_\_\_

Nature of Business: \_\_\_\_\_

Business Contact: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Ext: \_\_\_\_\_ Industry: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_ State of: \_\_\_\_\_ Website URL: \_\_\_\_\_

By signing this agreement electronically, I agree that my electronic signature is the legally binding equivalent to my handwritten signature. I will not, at any time in the future, repudiate the meaning of my electronic signature or claim that my electronic signature is not legally binding.

_____ Customer Authorized Signature	_____ Accurate Background, LLC
_____ Title	_____ Title
_____ Date	_____ Date

**Accurate Office Use Only**    Approved by: \_\_\_\_\_    Date: \_\_\_\_\_

#### SERVICE AGREEMENT

THIS AGREEMENT is between Accurate Background, LLC, together with its affiliates, ("Provider") and  
(Customer).

This agreement is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. (Effective Date)

#### 1. General

Provider strives to deliver accurate and timely information products to assist your company (hereinafter "Customer") in making intelligent and informed decisions for a permissible purpose under applicable law.

The Parties will describe the services in the form of Exhibit A attached hereto. Provider will provide the services as described in this Agreement and Exhibit A in accordance with the terms and conditions of this Agreement. The parties may agree to make changes upon mutual signed, written agreement.

#### 2. Term and Termination

- 2.1 This Agreement shall commence on Effective Date and continue for an Initial Term of three (3) years (the "Initial Term"). Provider will be the exclusive provider to the Customer except for services not delivered hereunder. Exclusivity is not applicable during the implementation phase. Customer and provider agree to make good faith effort to expedite implementation.
- 2.2 Either party may terminate this Agreement for cause in the event the other party fails to cure a material breach of this Agreement within thirty (30) days of receipt of formal written notice of such breach from the non-breaching party.
- 2.3 Upon termination, Customer remains responsible for payment of any outstanding balance for services rendered in accordance with this Agreement.
- 2.4 After the Initial Term, this Agreement shall be automatically renewed for successive one-year periods, unless the Customer provides Provider with written notice of its intention not to renew this Agreement at least thirty (30) days prior to the expiration of the Initial Term or the then-current term.

### 3. **Customer's Certification of Fair Credit Reporting Act (FCRA) Permissible Purpose**

Customer represents that it will order reports only for the permissible purpose of employment under the Fair Credit Reporting Act, 15 U.S.C. 1681 et. Seq. ("FCRA"), Customer specifically represents that reports will only be obtained for its own one time use and Customer is the end user of reports. Customer acknowledges receipt of the "Notice to Users" by the federal Consumer Financial Protection Bureau ("CFPB") and Summary of Rights (16 C.F.R. Part 601, Appendix A) provided as exhibits to the Provider Welcome Packet. **The FCRA prohibits the obtaining of information from a consumer reporting agency for an impermissible purpose, i.e. reasons other than those listed in this paragraph. Customer or an employee of Customer may not misrepresent to Provider the reason for permissible purpose for a report, or request a report for an impermissible purpose, or make an unauthorized release of information in a consumer report to a third party, or directly or indirectly resell any report.**

### 4. **FCRA representations and responsibilities when ordering a report for "Employment purposes" including Employment/Contractor/Volunteer/ Franchisee relationships.** The FCRA requires that users of consumer reports must certify they will take specific actions and use specific forms in order to protect consumers. Customer must advise Provider when to send such forms to a particular consumer by initiating such request through WebACE®. Provider will maintain the required documents for Customer for five (5) years. Notwithstanding the above, Provider must receive the following certifications:

#### 4.1 Prior to Customer requesting a report for such employment purposes:

- (a) Certifies that in every case, a legally compliant, clear and conspicuous disclosure, in a document consisting solely of the disclosure, has been made in writing to the consumer explaining that a consumer report or investigative consumer report may be obtained for employment purposes;
- (b) Prior to requesting a consumer report, Customer will also obtain the written authorization of the consumer to obtain consumer reports and provide a copy of the Summary of Rights. Customer certifies that each time it orders a report; it is reaffirming certifications in (a) and (b).
- (c) Shall not utilize any information in violation of any applicable federal, state or local equal opportunity law or regulation.
- (d) Shall not order a criminal report prior to the time allowed by any applicable federal, state or local restriction, commonly referred to as "ban-the-box".

#### 4.2 Customer represents that prior to taking adverse employment action against an individual who is the subject of a report, when such action will be based in whole or in part upon the information contained in the report furnished by Provider, Customer will prior to initiating Pre-Adverse Action, review the entire report.

- (a) Provide a Pre-Adverse Action Notice
- (b) Provide a copy of the report to the individual who is the subject of the report,
- (c) Provide a copy of the Summary of Rights
- (d) After an appropriate waiting period, Customer will issue to the consumer a notice if adverse action taken. Such notice shall provide Provider's name, address and telephone number; that the consumer is entitled to a free copy of the report and a right to dispute the record through Provider and that Provider is unable to provide the consumer the specific reason why adverse action was taken by you.
- (e) Customer represents that the Customer is maintaining a copy of the disclosure and authorization, the Pre-Adverse/Adverse Action letters for a period of five years

#### 4.3 In addition, if Customer orders investigative consumer reports (interviews) Customer certifies, if the consumer makes a written request, within a reasonable amount of time, Customer will provide: (1) information about whether an investigative consumer report has been requested; (2) if an investigative consumer report has been requested, written disclosure of the nature and scope of the investigation requested; and (3) Provider's contact information, including complete address and toll-free telephone number. This information will be provided to the consumer no later than five (5) days after the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

### 5. **Compliance with Applicable Law**

#### 5.1 Customer agrees to become knowledgeable and to abide by all applicable federal, state and local laws, including but not limited to consumer reporting laws that impact Customer's right to request, receive and use information obtained from Provider. Customer accepts full responsibility for complying with all such laws and using the information products it receives from Provider, in a legally acceptable fashion and the consequences of use and/or dissemination of those products. Customer acknowledges that guidance from Provider is Provider's business judgment and not legal advice. Provider is not legal counsel and does not provide legal advice. Provider recommends that Customer seek advice from their own legal counsel.

#### 5.2 Customer agrees to promptly execute and return to Provider all documentation required, now or in the future, by any government agency, and to permit Provider to release information necessary to ensure compliance with applicable laws or regulations. The failure to execute and return such documentation may result in Customer being blocked from receiving the information relating to the documentation and, in some circumstances; all service may be terminated without additional notice.

#### 5.3 Customer hereby certifies that Driving Records (MVRs) shall only be ordered in strict compliance with the Driver Privacy Protection Act, at 18 U.S.C. § 2721 et seq. ("DPPA") and any related state laws. Customer further certifies that no MVRs shall be ordered without first obtaining the written consent of the consumer to obtain MVRs

#### 5.4 See Schedule "A" in Customer Welcome Packet for California Certification which is incorporated herein as set forth in full.

#### 5.5 See Schedule "B" in Customer Welcome Packet for Vermont Certification which is incorporated herein as set forth in full.

#### 5.6 As a participant in the US-EU Privacy Shield Framework, Provider agrees that it shall:

- (a) Devise appropriate systems and procedures to ensure that its processing of the personal information is protected against unlawful destruction or accidental loss, alteration, unauthorized disclosure or access;

- (b) Promptly refer to Customer any requests, notices or other communication from data subjects, the national data protection authority established in the jurisdiction of the Customer, or any other law enforcement authority, for such Customer to resolve;
- (c) Provide such information to Customer and take such action as Customer may reasonably require, and within the timeframes reasonably specified by Customer, to allow Customer to:
  - (i) Comply with the rights of data subjects in relation to the personal information, as required by law, including (where applicable) subject-access rights and rights of rectification, or with notices served by a national data protection authority; and gain access to information enabling Customer to supervise the processing of the personal information by Provider; and
  - (ii) Take all reasonable steps to ensure the reliability of any Provider employees, or other personnel, who have access to personal information.
- (d) Not transfer any personal information from the EU to any country outside of the EU (nor to any subcontractor located outside of the EU) without putting in place appropriate legal safeguards for the protection of such personal information; and
- (e) Only collect, use, disclose, or otherwise process personal information upon instruction of the Customer.

## **6. Protecting Consumer Information**

- 6.1 Both Parties agree to abide by all federal, state, local and international laws that regulate privacy and the collection, use, processing and disclosure of personal information.
  - (a) Both parties understand and agree that each must protect consumer information (PII) from unauthorized access/disclosure, to meet these requirements, the Parties will: maintain appropriate software to protect PII, protect account numbers and passwords; keep terminals connected to secure networks and not easily viewed by unauthorized persons; and will maintain hard copies in locked facilities; turn off all computer terminals with access to PII at the end of the work day and keep the office locked and secured during non-work hours.
  - (b) Both parties will shred and/or destroy all hard copy consumer reports and erase and overwrite or scramble electronic files containing consumer information when no longer needed so that the information becomes unreadable in accordance with FTC regulations.
- 6.2 All information stored or reports furnished by Provider are confidential and will not be disclosed to any party, except as stated herein. Information may be disclosed to:
  - (a) Designated employees or agents of Customer who will use the information for Employment purposes; Provider, its Parent, its employees, agents and attorneys; the subject of the report; governmental agencies exercising a right to review files for legal compliance; and authorized by law.

## **7. Independent Contractor**

The parties agree that the relationship of the parties created by this Agreement is that of independent contractor and not that of employer/employee, principal/agent, partnership, joint venture or representative of the other. Except as authorized hereunder, neither party shall represent to third parties that it is the employer, employee, principal, agent, joint venture or partner with, or representative of the other party.

## **8. Warranties, Remedies and Limitation of Liability**

- 8.1 Customer understands that Provider obtains the information reported in its information products from various third-party sources, which are not maintained by Provider, and therefore is providing the information to Customer "AS IS" such that Provider cannot be a guarantor that the information provided from these sources is absolutely accurate or current. However, Provider believes that these sources are reliable. In addition, Customer understands that searches of international background screening will be conducted through the services of a third-party independent contractor. Because of differences in foreign laws, language, and the manner in which foreign records are maintained and reported, Provider cannot be either an insurer or a guarantor of the accuracy of the information received. Customer also hereby confirms that Provider has advised Customer of the different types of criminal background checks available to Customer, including county, statewide, and database searches. Customer should not assume criminal history background checks provide a complete history. Provider agrees to maintain procedures to provide maximum accuracy of the information and Provider has in place procedures designed to respond promptly to claims of incorrect or inaccurate information in accordance with applicable law.
- 8.2 Provider will not be liable to Customer for damages, and Customer hereby releases Provider from any liability for damages arising out of the use of any of the technologies in WebACE®, and its products or services or under any theory of legal liability to the fullest extent permitted under applicable law, provided Customer does not release Provider from any liability arising solely from the intentional misconduct or gross negligence of Provider. In addition, Provider fully disclaims, and Customer hereby releases Provider from, any and all liability relating to the content, compliance, method of delivery or effectiveness of any such disclosures, notices, pre-adverse or adverse action letters to which Customer made no objection. In the event Provider is determined by a court of competent jurisdiction to be liable to Customer for any matter arising under or relating to this Agreement, whether arising in contract, equity, tort or otherwise (including without limitation any claim for negligence), the amount of damages for all such matters will not exceed, in the aggregate, the amount paid to Provider by Customer for the service to which a given claim relates that was provided pursuant to this Agreement and recovery of the amount is Customer's sole and exclusive remedy hereunder.
- 8.3 Neither Party shall be liable to the other for indirect, incidental, consequential, or special damages, including loss of profits lost income or lost savings, whether incurred as a result of negligence or any other theory of legal liability, even if the other Party has been advised of the possibility of such damages. Customer agrees that provider is not liable for any damages arising from the inaccuracy of the report unless Provider was aware of the inaccuracy prior to providing the report to Customer and failed to correct it, if it could be corrected.

- 8.4 Customer agrees to indemnify and hold harmless Provider, its successors and assigns, officers, directors, employees, agents, vendors, and Credit Bureau suppliers, from any and all claims, actions or liabilities brought or suffered by any third party arising from or with respect to any information products provided by Provider including any decisions made based upon the information contained therein, use of Customer's Policy Setting, Customer's breach of this Agreement, gross negligence or willful misconduct, failure to comply applicable law, data breach or unauthorized disclosure of personally identifiable information or such information products provided by Provider to Customer.
- 8.5 Provider shall indemnify and hold harmless Customer, its successors and assigns, officers, directors, employees and agents, from any and all claims, actions or liabilities brought by third parties and arising from or with respect to Provider's gross negligence, intentional misconduct, failure to comply with data security laws, data breach or unauthorized disclosure of personally identifiable information or information provided by Customer to Provider.

## **9. WebACE® Software**

Provider hereby grants Customer a non-exclusive, royalty free, non-transferable license to use the WebACE® software. Customer acknowledges that the Software may be used to upload files relative to the customers own screening practices and it is Customer's sole responsibility to monitor its compliance with all applicable laws and regulations. Customer agrees that it is solely responsible for all content and/or any information uploaded to WebACE®, and Provider disclaims all liability for storage of documents customer uploads to WebACE®. Customer is responsible for Customer's forms, disclosures, authorizations and other notices and Provider disclaims all liability for to the hiring practices and forms, regardless of whether Customer utilizes WebACE®. Customer acknowledges and agrees that Provider exercises no control over any Customer specific hiring practices, or its staffing practices implemented using the WebACE® platform or Customer's decision as to employment, promotion, advancement, training, certification, termination or compensation of any job candidate and/or employee ("Customer Use Decisions"). Customer is responsible for Customer Use Decisions, including use of WebACE® Select Action status updates. Provider agrees to store documents uploaded by Customer for seven (7) years from the date of the order was created in WebACE® and Customer acknowledges that Provider has the right to destroy files in compliance with data destruction laws any time after seven (7) years from the date the order was created in WebACE®.

## **10. General Provisions**

- 10.1 Customer agrees not to resell, sub-license, deliver, display or otherwise distribute to any third party any of the information products addressed herein, except as required by law. Due to FCRA restrictions, Customer may not assign or transfer this Agreement without the prior written consent of Provider.
- 10.2 If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be impacted. By agreement of the parties, Illinois law, without reference to its conflict of laws, shall guide the interpretation of this Agreement, if such interpretation is required.
- 10.3 All litigation arising out of this Agreement shall be commenced in Illinois and the parties hereby consent to such jurisdiction and the venue for any action shall be in any federal or state court having jurisdiction over Cook County.
- 10.4 Any written notice by either party shall be delivered personally by messenger, private mail courier service, or sent by registered or certified mail, return receipt requested, postage prepaid to the addresses listed below.
- 10.5 This Agreement shall be construed as if it were jointly prepared. Both parties agree that this Agreement, including any exhibits, user documentation or Welcome Packet constitutes all conditions of service, present and future and collectively sets forth the entire agreement between the parties hereto regarding the subject matter hereof and supersedes any and all prior agreements, negotiations and understandings. Changes to these conditions may be made only in writing by mutual written consent of an authorized representative of Customer and an officer of Provider.
- 10.6 The headings of each section shall have no effect upon the construction or interpretation of any part of this Agreement.
- 10.7 If Customer is permitted to request consumer reports for employment purposes via Provider's website, then, in addition to all other obligations, Customer agrees to provide all required certifications electronically, to maintain complete and accurate files containing all required consent, authorization and disclosure forms with regard to each consumer for whom a report has been requested, and maintain security in accordance with Section 6 to assure that its personnel are not able to use Customer's Internet access to obtain reports for improper, illegal or unauthorized purposes. Customer agrees to allow Provider to review its records relating to the obligations of Customer under this Agreement at any time, upon reasonable notice given. Breaches of this Agreement and/or violations of applicable law discovered by Provider may result in immediate suspension and/or termination of the account.
- 10.8 Neither party is responsible for any events or circumstances beyond its control (e.g. including but not limited to war, riots, embargoes, strikes, interruptions in communications or availability of records and/or Acts of God) that prevent either Party from meeting its obligations under this Agreement.

## **11. Waiver**

The failure of either party to insist in any one or more cases upon the strict performance of any term, covenant, or condition of this Agreement will not be construed as a waiver of subsequent breach of the same or any other covenant, term, or condition; nor shall any delay or omission by either party to seek a remedy for any breach of this Agreement be deemed a waiver by either party of its remedies or rights with respect to such a breach.

## **12. Severability**

If any provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable under any applicable law, such invalidity or unenforceability shall not affect any other provision of this Agreement that can be given effect without the invalid or unenforceable provision, or the application of such provision to other persons or circumstances, and, to this end, the provisions hereof are severable.

## **13. Payment Terms**

Payment terms are Net 30 Days – all payments are due thirty (30) days from the date of invoice.

## EXHIBIT A

Package	Price	AKAs
<b>I. Installer</b>	\$26.50	Unlimited, Names & Dates of Birth - Included in Package Price
Social Security Trace		
County Criminal Search - All Lived - 7 Year History		
Multi-Jurisdictional National Criminal Index Search with County Verification included		
<b>II. Installer - New York</b>	\$26.50	Unlimited, Names & Dates of Birth - Included in Package Price
Social Security Trace		
County Criminal Search - All Lived - 7 Year History		
Multi-Jurisdictional National Criminal Index Search with County Verification included		
<b>III. Subcontractor Package</b>	\$26.50	Unlimited, Names & Dates of Birth - Included in Package Price
Social Security Trace		
County Criminal Search - All Lived - 7 Year History		
Multi-Jurisdictional National Criminal Index Search with County Verification included		
<b>IV. Subcontractor Package - New York</b>	\$26.50	Unlimited, Names & Dates of Birth - Included in Package Price
Social Security Trace		
County Criminal Search - All Lived - 7 Year History		
Multi-Jurisdictional National Criminal Index Search with County Verification included		

**Background Screening Pricing Notes**

- I. Federal, state, county, motor vehicle, and other governmental agencies fees for searches will be charged, if incurred.
- II. Access fees for any product, including but not limited to educational institutions, employer fees, Work Number, workers compensation, fingerprinting, and screening will be charged, if incurred.
- III. Global search pricing is based on vendor availability and is subject to change without notice. If a US domestic report has an international component, we will bill this at a la carte rates.
- IV. All database searches, including but not limited to Multi-Jurisdictional National Criminal Index reports, statewide criminal reports, arrest records, which generate "possible records" will be confirmed at the source county or state repository. County or state a la carte fees are included in the package price.
- V. Faxed, e-mailed and mailed order submissions will incur a \$5.00 key entry processing fee.
- VI. Order submissions which require "reprocessing" will incur a \$5.00 fee.
- VII. Mailing services, including Adverse Action management, will incur a \$2.50 fee per transaction.
- VIII. HD Supply reserves the right to make changes to package pricing and protocol without notice.