

MTN SYSTEMS, LLC'S TERMS AND CONDITIONS OF SALE & SERVICE

These Terms and Conditions of Sale and Service (the "Agreement") shall govern all sales of services and products by MTN Systems, LLC, an Oklahoma limited liability company, d/b/a MTN Automotive Training Systems ("Consultant") to its customers (hereinafter "Customer") whether resulting from a Consulting Agreement, quotation, estimate, written purchase orders, phone orders, electronic data interchange, or any other means (collectively, the "Order" and/or "Service"). Please read these terms and conditions carefully. These terms and conditions materially affect the parties' obligations. Consultant will do business only on the terms and conditions set forth herein.

1. **Acceptance; Contrary Terms; Agreement of Sale.** The Terms and Conditions set forth herein shall become part of any offer to sell goods, materials, and/or services. Any term and/or condition of an Order, that is different from, in addition to, or inconsistent with the terms and conditions contained in this Agreement shall not be binding on Consultant or applicable to the metal processing or shipment of material which is the subject of this Agreement, is expressly rejected and shall not become a part of the Order. Consultant makes sales of its services, materials and products only under the terms and conditions of the Consulting Agreement unless otherwise agreed to in writing by a duly authorized representative of Consultant. Consultant's receipt of Customer's conflicting form or any document related to an Order which contains terms and conditions different from or additional to those in this Agreement or the Consulting Agreement by Consultant irrespective of materiality is hereby objected to and shall be excluded from the agreement between Consultant and Customer unless Consultant agrees to such changes in writing.

2. **Payment Terms.** Customer will pay one-half (1/2) of Consultant's fee upon signing of the Consulting Agreement. The balance of Consultant's fee shall be due and payable on the last day of Consultant's onsite training. Customer shall reimburse Consultant for transportation costs, food and lodging and the cost of printed materials. Customer shall reimburse Consultant within fifteen (15) days of receipt of Consultant's reimbursement invoice.

3. **Late Fees/Costs of Collection.** All invoices unpaid beyond terms of sale are subject to an interest charge of 1.5% per month or the maximum interest rate permitted by applicable law. Customer agrees to all costs of collection, including Consultant's reasonable attorney fees and cost if referred to an attorney for collection.

4. **Intellectual Property; Work Product.**

(a) **Defined.** The term "Work Product" shall mean all work product generated by Consultant solely or jointly with others in the performance of the Services, including, but not limited to, any and all information, notes, material, drawings, records, diagrams, formulae, processes, technology, firmware, software, know-how, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks and trade secrets.

(b) **Ownership.** Customer agrees to assign and does hereby assign to Consultant all right, title and interest in and to the Work Product. All Work Product shall be the sole and exclusive property of the Consultant and Customer will not have any rights of any kind whatsoever in such Work Product. Customer agrees, at the request and cost of Consultant, to promptly sign, execute, make and do all such deeds, documents, acts and things as Consultant may reasonably require or desire to perfect Consultant's entire right, title, and interest in and to any Work Product. Customer will not make any use of any of the Work Product that is in violation of the rights of Consultant. Customer will not reproduce, reverse engineer, or otherwise take actions to devise its own ways to make use of

Consultant's Work Product in violation of Consultant's rights. Customer will not circulate any Work Product or other materials of Consultant in violation of the Consultant's rights. Consultant will retain all interest in and to the Services, including all documentation, modifications, improvements, upgrades, derivative works, and all other intellectual property rights in connection with the Services, including Consultant's name, logos, and trademarks reproduced through the Services.

5. Waiver of Warranties; Disclaimer and Limitation of Liability.

CONSULTANT SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY REGARDING AN ECONOMIC OR OTHER BENEFIT THAT MIGHT BE GENERATED AS A RESULT OF THE TRANSACTIONS CONTEMPLATED HEREBY. CONSULTANT SHALL NOT BE LIABLE TO CUSTOMER IN TORT, STRICT LIABILITY, CONTRACT, OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR REVENUES, LOSS OF GOODWILL OR BUSINESS INTERRUPTION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS AND CONDITIONS, THE ABOVE LIMITATIONS SHALL NOT APPLY TO THE EXTENT DAMAGES ARISE AS A RESULT OF THE OTHER PARTY'S GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR MALICE.

6. The Consultant agrees that all Services will be rendered by it as an independent contractor and that this Agreement does not create an employer-employee relationship between the Consultant and the Customer. The Consultant shall have no right to receive any employee benefits provided by the Customer to its employees. Consultant agrees to pay all taxes due in respect of the Consultancy Fee and to indemnify the Customer in respect of any obligation that may be imposed on the Customer to pay any such taxes or resulting from Consultant's being determined not to be an independent contractor. This Agreement does not authorize the Consultant to act for the Customer as its agent or to make commitments on behalf of the Customer.

7. **Dispute Resolution.** Except as otherwise detailed herein, specifically with reference to intellectual property rights, any dispute, controversy or claim arising out of or relating to the Consulting Agreement or services provided by Consultant ("Dispute"), shall be negotiated in good faith between the Chief Executive Officer of Consultant (or to such other person of equivalent or superior position) and the Customer within ten (10) days of receiving notice of such Dispute. Such persons shall negotiate in good faith to resolve the Dispute. If the parties are unable to resolve any Dispute within ten (10) days, then the Dispute shall proceed in accordance with the below:

(a). **Mediation.** If the Dispute cannot be resolved by negotiation, the Parties agree to submit the Dispute to mediation by a mediator mutually selected by the parties. If the parties are unable to agree upon a mediator, the Mediator shall be appointed by a Tulsa County District Judge upon petition by either party to the appropriate court. In any event, the mediation shall take place within thirty (30) days of the date that a party gives the other party written notice of its desire to mediate the Dispute.

(b). **Arbitration.** If the Dispute is not resolved by mediation, the Parties shall resolve the Dispute by arbitration in accordance with mutually agreed upon arbitration rules or in accordance with the then-current rules of the American Arbitration Association (AAA).

8. Governing Law , Jurisdiction and Venue. All agreements between Consultant and any customer shall be deemed to have been entered into in the State of Oklahoma. The laws of the State of Oklahoma, U.S.A. shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Parties hereto, without regard to the conflicts of laws provisions thereof. Each party hereby submits to the exclusive jurisdiction and venue of the District Court of Tulsa County, State of Oklahoma and the United States District Court of the Northern District of Oklahoma.

9. Waiver of Jury Trial. Each Party acknowledges and agrees that any controversy that may arise under the Consulting Agreement or between the parties, including any addendums, exhibits, schedules, attachments and appendices attached to this Agreement, is likely to involve complicated and difficult issues and, therefore, each such Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement, including any addendums, exhibits, schedules, attachments and appendices attached to this Agreement, or the transactions contemplated hereby.

10. Force Majeure. Either Party shall be excused from any delay or failure in performance required under any Consulting Agreement if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, virus, pandemics, governmental restrictions, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the Party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the Parties' respective obligations hereunder shall resume. In the event the interruption of the excused Party's obligations continues for a period in excess of thirty (30) calendar days, either Party shall have the right to terminate this Agreement upon thirty (30) calendar days' prior written notice to the other Party.

11. Limited Liability. Customer's exclusive remedy for breach of contract, breach of warranty or any other claim is limited to a refund of processing charges or replacement of product, as the Consultant shall elect. Consultant shall not be liable for any other damages, whether direct, indirect, incidental, or consequential, including but not limited to, loss of profits, loss of production, sorting or containment costs, recall or any other losses, expenses or liabilities allegedly occasioned by the goods or materials provided or work performed by Consultant. Consultant and Customer agree that no third party beneficiaries are created by the Consulting Agreement.

12. INDEMNITY. **Customer assumes all responsibility and sole liability for any claims or actions based upon or arising out of (i) injuries, including but not limited to death, to persons, or (ii) property damages to, or destruction of property sustained or alleged to have been sustained in connection with or arising out of, or incidental to, or in any way connected with, the goods, materials or services provided by Consultant, Consultant's agents, employees and representatives (the "Indemnified Claims"). To the maximum extent allowed by applicable laws, Customer agrees to and does hereby indemnify, defend and hold harmless Consultant, its directors, members, officers, employees, agents, servants and affiliates from and against the Indemnified Claims when any claim or suit or action is brought against Consultant or any person so indemnified and to pay all damages, losses, costs and expenses of every kind and description including reasonable attorneys' fees incurred by Consultant as a result of the claim or institution of any suit or action or the defense thereof, as well as any judgment or settlements thereof.**