

Solmet Terms & Conditions

1. SCOPE. These terms ("Terms") are incorporated in any purchase order("Order") for goods and other deliverables (referred to as "Goods") and services ("Services") issued by Solmet Group, and/or its predecessors, successors (by merger or otherwise), parents, subsidiaries, affiliates and assigns, including but not limited to Solmet Technologies, Inc., Solmet Services, Inc., Solman, Inc., Forged Accents, LLC, Canton Acme Properties, Inc., Portec Holdings LLC, Solmet Metallurgical Services, Inc., and Solmet Drilling Solutions LLC together with each and every one of their present, past and future owners, officers, managers, directors, members, employees, agents, and the heirs and executors of same ("Solmet") to the supplier ("Seller") providing the Goods and/or Services identified in that Order, except to the extent any Terms conflict with a written agreement between Solmet and Seller (individually referred to as a "Party" and collectively referred to as the "Parties"), or other written terms Solmet has provided to Seller, that specifically cover that transaction. Seller has accepted an Order (including these Terms) if Seller gives a verbal, written or electronic acknowledgement of, or initiates performance under, that Order. By accepting an Order, Seller's acceptance is limited to the Order's terms (which include these Terms). No additional or conflicting term in any Seller acknowledgement, invoice, bid, proposal, or other documentation is binding on Solmet, unless Solmet specifically agreed to it in writing. All Goods and Services will be delivered to Solmet in strict conformance with any packaging, product and/or service standards, specifications, and other requirements provided by Solmet or approved in writing by Solmet (the "Requirements").

2. DELIVERY. Unless otherwise stated in the Order, if Seller is responsible for shipping Goods, Seller will ship Goods via the most economical route and in a single shipment. Seller shall require explicit delivery timing for each Order and will deliver all Goods and Services within the time period stated in the Order, unless Solmet specifies a longer, or the Parties agree to a shorter, time period. Seller will make no charge for any packing, crating, storage, insurance, shipping, fuel surcharge, handling, or delivery expense, unless authorized in the Order. Seller will pay any excess costs due to failure to follow Solmet's shipping instructions. If Seller delivers any Goods in a quantity other than that stated in the Order without Solmet's prior written consent, Solmet may return any of that delivery, at Seller's expense. Solmet's determination of the Goods' count and weight is conclusive, unless Seller encloses a packing slip stating a different amount. **TIME IS OF THE ESSENCE FOR ALL ORDERS.** Unless otherwise specified in the Order, Solmet accepts risk of loss when Goods or Services are delivered and unloaded by Seller to the specified delivery location.

3. PRICES AND PAYMENT. Goods and Services will be delivered to Solmet for the price stated in the Order. Unless the Order states different payment terms, payments are net 60 to be paid in United States dollars. Solmet's payments may be adjusted for Seller's errors, defects or non-compliance with the Order (including these Terms). Each invoice must relate to only one Order and be issued and dated no earlier than the date on the Goods' and/or Services' delivery date. Each Seller invoice and all related documents (such as packaging lists, bills of lading, freight bills and correspondence) must include: (a) Order number; (b) applicable Order line item number(s) and unit of measure; and (c) Solmet's identification number (if provided by Solmet). Seller warrants that the prices being paid by Solmet are not affected by collusion or any other anti-competitive activity. Seller must cause all invoices to be delivered to Solmet no later than 60 days after shipment of Goods or performance of Services.

4. ORDER CHANGE, SUSPENSION OR CANCELLATION.

4.1 Solmet may change an Order by giving electronic or verbal notice to Seller prior to shipment of the applicable Goods or performance of the Services. If any Order change causes an adjustment in price or delivery date, the Parties will make an equitable adjustment and modify an Order, accordingly, if Seller gives Solmet notice of that adjustment claim within three business days after receipt of Solmet's Order change notice.

4.2 Solmet may cancel an Order, without cause, at any time by electronic or written notice to Seller, but if Solmet's notice of cancellation is issued less than five days prior to a scheduled Goods delivery date or Services performance date, then Seller will be entitled to reimbursement for: (a) if

Goods, any unique raw materials that cannot be returned to Seller's supplier or sold to other Seller customer(s) and are necessary to provide those Goods due on that delivery date; or (b) if Services, the fees for those Services completed prior to the termination and Seller's actual, out-of-pocket expenses paid to third parties that are not refundable and were reasonably necessary to provide those Services. If Seller fails to comply with all an Order's Terms or admits its inability to meet its financial obligations, or it otherwise becomes apparent that Seller will not be able to fulfill its obligations under that Order due to unavoidable delay or other cause, then Solmet may cancel an Order at any time by electronic or written notice to Seller without any liability of any kind to Seller, in addition to any other legal or equitable remedies Solmet may have.

5. SOLMET MATERIAL & SOLMET EQUIPMENT. Solmet owns any material Solmet provides to Seller, including, without limitation, raw material, databases, or documents ("Solmet Material") and any tooling or other equipment that Solmet provides to Seller or for which Solmet reimburses Seller ("Solmet Equipment"). Seller authorizes Solmet to file UCC financing statements and other documentation without Seller's signature to acknowledge Solmet's ownership of these items. Seller will not sell, pledge, transfer or remove from Seller's facility any Solmet Material or Solmet Equipment. Seller will use all Solmet Material and Solmet Equipment solely to perform its obligations under Orders and for no other purpose. Seller will not alter any Solmet Equipment without prior written consent. Seller will use its best efforts to maintain the security and confidentiality of all Solmet Material and Solmet Equipment. Seller has all risk of loss or damage to Solmet Equipment and Solmet Material, and will, at Solmet's request, immediately restore or replace any damaged or lost Solmet Equipment or Solmet Material with an equivalent item, subject to Solmet's approval. Promptly on Solmet's request, Seller will return to Solmet all Solmet Equipment and unused Solmet Material in their original condition, except for reasonable wear, with Solmet liable only for crating and shipping costs. Seller will maintain all Solmet Equipment in a safe and proper condition and indemnify Solmet for, and defend it against, all claims arising out of Seller's use of Solmet Equipment.

6. WARRANTIES & REMEDIES.

6.1 In addition to all implied and express warranties available under the Uniform Commercial Code ("UCC") and/or these Terms, Seller warrants that: (a) all Goods and Services will be free from any encumbrance and conform to all requirements and the applicable Order; (b) all Goods will be without any defect in design (except to the extent designed by Solmet), manufacture, processing, materials and workmanship; (c) all Goods will be made or processed, and all Services will be performed, in compliance with all applicable international, national, state and local statutes, regulations, rules, government directives, and rulings ("Laws") and with sound environmental, health and safety practices. Seller also warrants that: (x) Seller the expertise, and resources to perform its obligations under any Order (including these Terms); (y) no Good or Service infringes on any third party's intellectual property rights; and (z) Seller has no third-party obligations that conflict in any way with Seller's obligations under these Terms.

6.2 In addition to all available remedies, Solmet may reject any Goods or Services not meeting Seller's warranties, and: (a) obtain substitutes and offset, or require Seller to reimburse Solmet for, all additional costs associated with the substitutes; or (b) require Seller, at Solmet's option, to either replace the affected Goods or re-perform the affected Services without charge, or to reimburse Solmet that Good's price, plus any Solmet Material's delivered cost, or that Service's price. Solmet may, but is not obligated to, inspect or test Goods and Services at Solmet's premises, Seller's premises or those of any Seller subcontractor performing under an Order. Solmet's acceptance of delivery, inspection, or payment for any Good or Service does not waive any of Seller's warranties or other obligations. Seller will use its best efforts to assist Solmet in investigation of, and corrective action for, Solmet customer complaints related to the Goods and/or Services.

6.3 Seller shall provide a Certificate of Compliance and any and all material test reports, the forms of which are dictated by Seller, with each delivery of Goods, executed by an authorized representative of Seller, certifying that Goods conform to relevant drawings and specifications.

6.4 As appropriate, Orders shall include details relating to quality requirements when referred to on the face of said document with which Seller shall comply.

7. COMPLIANCE WITH LAWS & PRODUCT CONTENT. Before or at shipment of any Good that requires a Material Safety Data Sheet ("MSDS"), Seller will

("Chemical Control Laws"), including, without limitation, the United States Chemical Control Law known as "TSCA" and any other Chemical Control Law(s) referenced in an Order. Seller will promptly inform Solmet in writing of any change in a Good's regulatory status under any Chemical Control Law.

10. GIFTS AND CONSIDERATIONS. Seller warrants that it has not made and will not offer to make any gift to any employee of Solmet or any of its agents for doing or forbearing to do any act, or for showing any favor or disfavor to any person, with respect to the award of this Order, or any Goods provided, or Services performed hereunder. Seller agrees that Solmet shall have the right to deduct from the Order price the full amount of any such gift made by Seller in breach of this warranty or may back charge Seller for same and may also terminate any Order for default for breach of this warranty by Seller.

11. PROPRIETARY INFORMATION.

11.1 The term: (a) "products" as used only in this Section 11 means all products manufactured or sold by or for Solmet or services performed for Solmet, including the Goods and Services; and (b) "Solmet Proprietary Information" means information or tangible materials, whether designated by Solmet as confidential, pertaining to: (i) product development, design, formulations, composition, research and development, or specifications; (ii) product manufacturing techniques, rates or quantities; (iii) equipment used to make products; (iv) any other aspects of Solmet's business relating to products and services, including without limitation marketing, sales, customers and non-public financial data; (v) all Orders placed by Solmet; and (vi) the Parties' relationship.

11.2 Seller will: (a) keep all Solmet Proprietary Information confidential; (b) use Solmet Proprietary Information only as necessary to perform Seller's obligations under the Agreement; (c) expressly limit the use of Solmet Proprietary Information for purposes specified on Solmet Orders; and (c) assure that its employees, agents, and Solmet- approved subcontractors abide by these confidentiality obligations. If Seller receives any tangible materials constituting Solmet Proprietary Information, then Seller will return those to Solmet, on Solmet's request or at the end of the applicable Order. Solmet Proprietary Information does not include information that is: (x) available to the public in any publication; (y) known to Seller prior to its receipt from Solmet as evidenced by Seller's written records; or (z) available to Seller from another source without breach of any agreement or violation of law.

12. UNAVOIDABLE DELAY. If a Party cannot perform its obligations, in whole or in part, under an Order as a result of civil or military authority, war, flood, fire, epidemic, or other condition or cause beyond its reasonable control and not related to its fault or negligence (an "Unavoidable Delay"), that Party will be excused from that performance during the Unavoidable Delay to the extent that performance is prevented or delayed. If Seller has an Unavoidable Delay, Solmet may modify or terminate any Orders on notice to Seller without liability to Seller. During a Seller Unavoidable Delay period, Seller will allocate any available Goods as is fair and reasonable. Unavoidable Delay will not include: (a) any labor dispute; (b) non-performance by Seller's supplier, unless the goods or services were unobtainable from another Solmet- approved source in a reasonable time; or (c) any delay preventable by Seller moving the affected Goods to an alternate Solmet-approved Seller facility.

13. SELLER WAIVER OF DAMAGES. SOLMET WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SELLER FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS) IN ANY WAY RELATED TO (x) GOODS, (y) SERVICES, OR (z) AN ORDER, (OR AN ORDER'S TERMINATION), REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE DAMAGES ARE SOUGHT.

14. DISPUTE RESOLUTION. Any claim or dispute arising from, or relating to, a Good, Service, or an Order (including these Terms) will be: (a) governed by the laws of the State of Ohio, without regard to its conflicts of law provisions; and (b) must only be litigated in a federal or state court of competent jurisdiction in Stark County, Ohio. Each Party consents to the Ohio courts' personal jurisdiction. Each Party will bear its own costs in dispute resolution, except that if a Party commences litigation, the losing Party in that litigation will pay all the prevailing Party's attorneys' fees, court costs, and other expenses related to that litigation. If any portion of these Terms is deemed to be invalid for any reason, the remaining portion shall remain in full force and effect, notwithstanding the invalidity of said portion

15. NOTICES. Unless otherwise stated in these Terms, any permitted or required notice must be in writing and delivered via courier: (a) to Solmet at: Solmet Technologies Inc., 2716 Shepler Church Ave SW, Canton, Ohio 44706,

Attention: Office of the President; and (b) to Seller at the address to which the applicable Order was sent.

16. GENERAL TERMS. Each Order (including these Terms) is the Parties' final and complete agreement, and it terminates all their prior written or oral agreements and understandings as to that Order's subject matter. A Party's failure(s) to insist on strict performance, or to exercise its rights, under an Order, does not waive subsequent compliance with that Order. All Solmet rights and remedies under an Order are cumulative, and in addition to any other rights and remedies provided in law or equity. Seller may not assign an Order or any of its rights or obligations under an Order, including, without limitation, any subcontracting ("Assignment"), without Solmet's prior written consent. No purported Assignment by Seller is binding on Solmet without its written consent. No Solmet consent to a Seller Assignment relieves Seller of any obligations under an Order, and Seller will ensure that any full assignee assumes all of Seller's obligations under these Terms and that any subcontractor is bound by terms as stringent as these Terms. Except as otherwise provided in these Terms, an Order may only be modified by a written document signed by the Parties' authorized representative.

17. INDEMNIFICATION & INSURANCE. Seller will indemnify, defend, and hold harmless Solmet (as defined above) for, from and against any claim, liability, loss, damage, lien, judgment, duty, fine, civil penalty and cost, including attorneys' fees and litigation expenses, arising out of: (a) Seller's failure to comply with any of its obligations under an Order (including these Terms), which may include, without limitation, those relating to a resulting Good recall or other reasonable action Solmet takes regarding any such failure; and (b) claims arising out of handling, packaging, labeling, storage, treatment, removal, transportation, and disposal of any waste material at any Seller site or related to the Goods under any Laws. These indemnities do not affect any other Solmet remedies. Seller shall carry the following insurance, at its own cost, with limits as indicated, provided under blanket policies to cover all Seller operations. The insurance policies must be with insurance carriers with an AM Best Rating of A or better.

1. Workers Compensation Insurance (at statutory limits) for all its employees and subcontracted employees to the full extent required by law including employer's liability protection subject to a minimum limit of \$100,000.
2. General Liability Insurance at a minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage claims including products and completed operations (the aggregate limit may be met with an excess or umbrella policy).
3. Commercial Auto Liability Insurance including hired and non-owned autos with a combined single limit of \$1,000,000 for bodily injury and property damage claims per accident.

Seller shall furnish a certificate of insurance with evidence of the above in effect during the term of the Agreement and shall name Solmet Technologies, Inc. (or any entity requested by Solmet) as Additional Insured on a primary and noncontributory basis (including ongoing and completed operations for contractors) and waiver of subrogation will apply. Policy endorsements providing additional insured status, primary and noncontributory, and waiver of subrogation shall be attached to the certificate of insurance provided. In addition, Seller shall provide satisfactory proof of compliance with all terms of the applicable Workers' Compensation Law, including payment of all premiums, as it affects Seller's employees prior to commencing any work hereunder. The acceptance or approval of any certificate shall not be construed as a waiver or relinquishment of any of Solmet's rights or any of Seller's obligations hereunder.