

Consolidated Metco, Inc.
Website & Mobile Application Terms
Effective April 22, 2019

Background. These Website & Mobile Application Terms (these “**Terms**”) form a legally binding agreement between Consolidated Metco, Inc. (“**ConMet**,” “**us**,” or “**we**”) and you, as an end user of certain features and functionality of the ConMet website (the “**Site**”) and of the iOS application or the Android application offered by ConMet (collectively with the Site features and functionality, the “**App**”) and any associated features, content, tools, products or services offered by ConMet or available through the App (collectively referred to as the “**Service**”).

By downloading or otherwise using the App (whether through the Site or on your mobile device), you agree, on behalf of yourself or, if applicable, your organization, effective as of such date (the “**Effective Date**”) to be bound by these Terms, our Privacy Policy and any other documents we reference in these Terms which are hereby incorporated into these Terms by this reference. If you are using the App and the Service on behalf of an entity, you represent and warrant that you are authorized to accept these Terms on the entity’s behalf, and that the entity agrees to be responsible if you violate these Terms.

Acceptance. YOU ARE ONLY AUTHORIZED TO USE THE APP IF YOU AGREE TO ABIDE BY ALL APPLICABLE LAWS AND THESE TERMS. YOU SHOULD READ THESE TERMS CAREFULLY AND SAVE THEM. IF YOU DO NOT AGREE WITH THEM, YOU SHOULD NOT INSTALL THE APP, AND SHOULD DISCONTINUE USE THEREOF IMMEDIATELY.

Intended Use of the App and Services. The App and the Services are designed as a tool to assist you in selecting ConMet parts and products, including as a replacement for third-party parts and products. You are solely responsible for your evaluation of, and your decisions based upon, the parts and product data and other information provided by the App (collectively “**Data**”) and the Services. ConMet does not warrant or guarantee that Data will be up to date or accurate. Further, ConMet does not warrant or guarantee that any replacement part or product listed in the App will function as intended, will be fully compatible and interoperable with any other parts or products, whether supplied by ConMet or a third party, or will be suitable for your particular needs. You are solely responsible for your evaluation of, and decisions based upon, the Data. Moreover, the App is designed to list only ConMet parts and products in response to a search query. In other words, the App will not display parts or products from any third party manufacturer or supplier, irrespective of whether you enter a ConMet or third-party part number in the search query. If there is not a compatible ConMet part or product for the part number you enter, the search function will not display a result. For clarity, the absence of a compatible ConMet part or product does not mean that there are no compatible third-party parts or products.

Communications. IF YOU HAVE AGREED THAT WE CAN SEND YOU MESSAGES, WE MAY FROM TIME TO TIME SEND YOU MESSAGES ABOUT THE SERVICE, AS WELL AS ADVERTISEMENTS OR OFFERS FOR GOODS AND SERVICES FROM CONMET OR OUR THIRD-PARTY PARTNERS, WE MAY DO SO FROM TIME TO TIME AND MAY SEND SUCH OFFERS VIA PUSH NOTIFICATION OR SMS (OR TEXT) MESSAGE TO THE MOBILE PHONE NUMBER YOU DESIGNATE FOR SUCH PURPOSE. Message and data rates for such SMS messages may apply. Your consent to receipt of such messages is not, and will not be, a condition to any purchase. If at any time you change your mind regarding your consent to such messages, you must [Contact Us](#).

Use on Your Mobile Device. To use the App on a mobile device, you must have a device that is compatible with the App. ConMet does not warrant that the App will be compatible with your mobile device. You may use mobile data in connection with the App and may incur additional charges from your wireless provider for these services. You agree that you are solely responsible for any such charges.

License Grant. Subject to these Terms, ConMet hereby grants you a limited, non-exclusive, revocable and nontransferable license to use the App on or through the Site and to download, install and use the

App on your mobile device, in each such case for your own personal or internal business use and to use the Data provided by the App in order to identify ConMet parts as replacements or substitutes for ConMet or third-party parts.

License Restrictions. Except as expressly permitted by these Terms, you shall not: (i) copy the App, the Data or the Service; (ii) modify, translate, adapt, or otherwise create derivative works or improvements of the App, the Data or the Service; (iii) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the App, or any part thereof; (iv) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notice from the App, the Data or the Service; (v) use the App, the Data or the Service for any purpose not expressly authorized by these Terms, including without limitation for benchmarking purposes or, to develop a similar or competitive database or collection of data, or otherwise to compete with ConMet or its affiliates; (vi) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the App, the Data or the Service or any features or functionality of the App, to any third party for any reason, including providing time sharing or similar services for any third party or making the App available on a network where it is capable of being accessed by more than one device at any time, (vii) utilize the Data to correct or modify other data; (viii) use the Data in a manner that may result in the publication of the Data on websites or in other products or services; or (ix) use the App, the Data or the Service in violation of any applicable law, rule, regulation. If for some reason these restrictions are prohibited by applicable law or by an agreement we have with one of our licensors, then the activities are permitted only to the extent necessary to comply with such law or license(s).

Reserved Rights. You acknowledge that the App, the Data and the Service are licensed, not sold, to you. You further acknowledge that the Data and the manner in which the App determines what Data to search and display to you (including the manner in which questions and information are presented and, more generally, the “flow” of the displayed questions and information in the App) are proprietary to ConMet. You acknowledge that ConMet has expended substantial time, effort and funds to develop, gather and/or compile the App, the Data and the Service and you agree not to challenge ConMet’s ownership of the App, the Data and the Service. Licensee further acknowledges that the Data and the manner in which the Data responds to queries submitted are proprietary to ConMet. ConMet reserves all rights not expressly granted to you under these Terms, including all right, title and interest in and to the App, the Data and the manner and flow of the displayed questions and information in the App, all of which may be subject to copyright and other intellectual property rights. Except as expressly granted to you in these Terms, ConMet and its licensors reserve and retain the entire right, title and interest in and to: (i) the Service and the App (including the underlying software code, the look and feel of the App and the questions and information flow), (ii) Data (including without limitation the order and style in which the Data is presented), and (iii) all copyrights, trademarks, trade secret rights, database rights, moral rights and other intellectual property rights in subsections (i) and (ii) above. If you submit comments, suggestions, or other feedback regarding the App, you agree that we will be free to use such feedback for any purpose. “ConMet,” “Consolidated MetCo” and all associated logos displayed within the App, the Data or the Service are our trademarks (unless otherwise noted).

Data. You acknowledge and agree that, as between you and ConMet, ConMet owns all right, title, and interest in and to the Data. In addition, we may collect certain Data and information from your use of the Service, including technical information about your device, system, software and peripherals (“**Usage Data**”). ConMet may use such Usage Data for any lawful purpose, including without limitation: (i) in order to provide the Service to you, (ii) as necessary to monitor and improve the Service, and (iii) to collect, develop, create, extract or otherwise generate statistics and other information and to otherwise compile, synthesize and analyze such Usage Data, provided that ConMet agrees that it shall not use the Data in any manner in which you would be identified. For information regarding our collection, use and practices regarding data and information you provide, please see our Privacy Policy. ConMet may collect information regarding your use of the App, the Data and the Service, including, without limitation, the part numbers searched and frequency of searches. You hereby agree that all such information will be owned by ConMet and you hereby assign to ConMet all right, title and interest therein and thereto.

Representations About You. You represent and warrant that (i) you have read and understand these Terms, (ii) you are 18 years of age or older; (iii) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; (iv) you are not listed on any U.S. Government list of prohibited or restricted parties; and (v) you will only use the App on devices that you own or control.

Apps from Apple App Store. The following applies to any App you acquire from the Apple App Store (“**Apple-Sourced Software**”): You acknowledge and agree that these Terms are solely between you and ConMet, not Apple, Inc. (“**Apple**”) and that Apple has no responsibility for the Apple-Sourced Software or content thereof. Your use of the Apple-Sourced Software must comply with the App Store Terms of Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Apple-Sourced Software. In the event of any failure of the Apple-Sourced Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Apple-Sourced Software to you; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Apple-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by these Terms and any law applicable to ConMet as a provider of the software. You acknowledge that Apple is not responsible for addressing any claims of you or any third party relating to the Apple-Sourced Software or your possession and/or use of the Apple-Sourced Software, including, but not limited to: (i) product liability claims; (ii) any claim that the Apple-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims are governed solely by these Terms and any law applicable to ConMet as provider of the software. You acknowledge that, in the event of any third-party claim that the Apple-Sourced Software or your possession and use of that Apple-Sourced Software infringes that third party’s intellectual property rights, ConMet, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by these Terms. You and ConMet acknowledge and agree that Apple, and Apple’s subsidiaries, are third-party beneficiaries of these Terms as relates to your license of the Apple-Sourced Software, and that, upon your acceptance of the terms and conditions of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms as relates to your license of the Apple-Sourced Software against you as a third-party beneficiary thereof.

Apps from Google Play Store. The following applies to any App you acquire from the Google Play Store (“**Google-Sourced Software**”): (i) You acknowledge that these Terms are between you and ConMet only, and not with Google, Inc. (“**Google**”); (ii) your use of Google-Sourced Software must comply with Google’s then-current Google Play Store Terms of Service; (iii) Google is only a provider of the Google Play Store where you obtained the Google-Sourced Software; (iv) ConMet, and not Google, is solely responsible for its Google-Sourced Software; (v) Google has no obligation or liability to you with respect to Google-Sourced Software or these Terms; and (vi) you acknowledge and agree that Google is a third-party beneficiary to these Terms as it relates to ConMet’s Google-Sourced Software.

Updates. ConMet may, but is not required to, develop and provide App updates from time to time, which may include upgrades, bug fixes, patches and other corrections or new features (collectively, “**Updates**”). Updates may also modify or delete in their entirety certain features or functionality. You agree that ConMet has not obligation to provide any Updates or to continue to provide or enable any particular features or functionality. If you use the App on a mobile device, based on the settings of your mobile device, when your device is connected to the Internet, the App may automatically download and install available Updates, or you will be prompted to download and install available Updates. You consent to such automatic updating on your mobile device. You acknowledge that the App or any of its features may not operate properly if you fail to install Updates. You further agree that all Updates will be deemed part of the App and subject to the terms of these Terms.

Third-Party Services and Materials. The App may enable access to ConMet’s and third-party services and websites (collectively and individually, “**Third-Party Services**” and together with the Service, the “**Services**”). Use of Third-Party Services may require Internet access and your acceptance of additional

terms of service. You agree to comply with any such terms. Further, information you make available to such Third Party Services is subject to the privacy policies of such third parties. Certain Services may display, include, or make available content, data, information, applications, or materials from third parties (“**Third-Party Materials**”) or provide links to certain third-party websites. By using the App, you acknowledge and agree that ConMet is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect of such Third-Party Materials or websites. ConMet does not warrant or endorse and will not have any liability or responsibility to you or any other person for any Third-Party Services, Third-Party Materials or websites, or any other materials, products, or services of third parties. Third-Party Materials and links to other websites are provided solely as a convenience to you.

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Term and Termination. The term of these Terms and the license and other rights granted herein commence on the Effective Date and continue until terminated by ConMet or you. You may terminate these Terms by, as applicable, deleting the App and all copies of it from your mobile device or by no longer using the App on or through the Site. ConMet may terminate these Terms at any time without notice if it ceases to support the App, which it may do in its sole discretion, or if you fail to comply with these Terms. Upon termination of these Terms: (i) the license and other rights granted to you under these Terms will terminate, and (ii) you must cease all use of the App and, if you downloaded the App, destroy all copies, full or partial, of the App. You acknowledge that ConMet may restrict, modify, or terminate these Terms, without liability, for its convenience, or if you violate these Terms or any law, rule, or regulation.

Disclaimer of Warranties. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE APP AND THE SERVICE ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND WE HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT THERETO, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND OF NONINFRINGEMENT OF THIRD-PARTY RIGHTS. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE APP AND THE SERVICE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF ANY SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN ANY SERVICE WILL BE CORRECTED. WE DO NOT PROVIDE ANY WARRANTY UNDER THESE TERMS WITH RESPECT TO ANY OTHER PRODUCTS, WHETHER PROVIDED BY CONMET OR A THIRD-PARTY, INCLUDING ANY AUTOMOTIVE, LOCOMOTIVE OR MACHINE PARTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE THAT WE GIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY.

Indemnification. You agree to indemnify, defend and hold ConMet and its employees, officers, directors, agents and affiliates harmless from and against any and all claims, actions or proceedings and pay and be responsible for all costs, liabilities and expenses (including attorneys’ fees) that arise out of or relate to your actual or alleged breach of these Terms or illegal or unauthorized use of the App or Data.

Limitation of Liability. IN NO EVENT SHALL CONMET OR ITS AFFILIATES BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM USE OF THE APP OR DATA OR FROM ANY INFORMATION, MATERIALS, PRODUCTS OR SERVICES INCLUDED ON OR AVAILABLE THROUGH OR IN CONNECTION WITH THE APP OR DATA, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, AND ANY OTHER DAMAGES OR LOSSES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY

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Export and Other Restrictions. You may not use or otherwise export or re-export the App, the Service or elements thereof except as authorized by United States law and the laws of the jurisdiction in which the App, the Data or the Service was accessed or obtained. In particular, but without limitation, the App, the Data or the Service may not be exported or re-exported (a) into any U.S.-embargoed countries or (b) to anyone on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Department of Commerce Denied Persons List or Entity List. You also agree that you will not use the App, the Data or the Service for any purposes prohibited by applicable law. If the App is being acquired on behalf of the United States Government, then the following provision applies. The App will be deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, reproduction, release, performance, display or disclosure of the Service and any accompanying documentation by the U.S. Government will be governed solely by these Terms and is prohibited except to the extent expressly permitted by these Terms.

Modifications. ConMet may modify these Terms at any time. When we make materials modifications to these Terms, we will provide a notice to you, whether in the App or via the Service or using contact information you choose to provide. Your continued use of the App, the Data or the Service after such date constitutes your acceptance of the revised Terms.

Miscellaneous. The laws of the State of Washington, excluding its conflicts of law rules, govern these Terms and your use of the App and the Service. The exclusive jurisdiction and venue of any action arising out of or related to these Terms will be either the state or federal courts in Clark County, WA, and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts. Your use of the App, the Data or the Service may also be subject to other local, state, national, or international laws. These Terms constitute the entire agreement between us regarding the App and the Service, including, but not limited to, your use of the App on or through the Site. The section titles in these Terms are for convenience only and have no legal or contractual effect. These Terms operates to the fullest extent permissible by law. You may not transfer or assign these Terms or any of your rights or obligations hereunder without our prior written consent, and any attempt to do so shall be null and void. If any provision of these Terms is unlawful, void or unenforceable, that provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions.

Contact Us. Please [Contact Us](#) if you have any questions regarding these Terms. ConMet can be reached at 800-547-9473 or at CorporateCS@conmet.com.