

PACER USA LLC, DBA Solsta - SALES TERMS AND CONDITIONS

1. LIMITS OF AGREEMENT.

The terms and conditions as set forth herein as well as any additional terms and conditions that may appear on the face hereof shall constitute the entire agreement between Pacer USA LLC, DBA Solsta ("Seller") and the buyer ("Buyer") set forth on the face hereof, invoice or order acknowledgement (the "Agreement"). Seller will not be bound by any terms of Buyer's order that are inconsistent with the terms herein. Acceptance by Buyer of these terms and conditions may be made either (a) by Buyer's order accepted by Seller, (b) by receipt by Buyer of delivery of any products described on the face of the order or this form (the "Products"), or (c) the initiation of performance under the Agreement. The initiation of performance under the Agreement shall indicate Buyer's acceptance of the Seller's terms and conditions. Seller reserves the right to reject any order for any reason, or no reason at all, in its sole discretion. The Agreement shall not be modified except in writing, signed by the parties hereto. No waiver by Seller of any default or provision hereof shall be deemed a waiver of any subsequent default or provision.

2. PRICE.

(a) The Seller reserves the right to amend pricing at any time before or after order placement to reflect prevailing import tariffs and/or other ancillary charges.

(b) The price of all Products unless otherwise specifically stated on the face hereof is F.O.B. carrier, at the place of manufacture or warehouse location, which is the address set forth on the face hereof, exclusive of insurance cost. The cost of packaging for normal domestic shipment is included in the invoiced price. Where special domestic or export packaging is specified, involving greater expense, a charge will be made to cover such extra expense.

(c) Prices and orders do not include Federal, State or local excise, sales, use or other taxes now or hereinafter enacted, which are applicable to the Products sold hereunder or this transaction (excluding only taxes based on Seller's income), which tax or taxes will be added by Seller to the sales price when Seller has the legal obligation to collect the same and will be invoiced to and paid by Buyer, unless Buyer provides Seller with a proper tax exemption certificate. In the event Seller is required to pay any such tax, fee or charge at the time of sale or thereafter, the Buyer shall reimburse Seller therefor.

(d) Prices quoted are for the Products and services described on the face hereof only and do not include technical data, proprietary rights of any kind, patent rights, qualification, environmental or other than Seller's standard tests unless expressly agreed to in writing by Seller.

(e) Unless otherwise stated by Seller in writing, all quotations are firm for, and expire, thirty (30) calendar days after date thereof and constitute offers. However, no Agreement shall arise until a written acknowledgment from Seller accepting Buyer's order is sent by Seller to Buyer. Seller will be entitled to adjust agreed prices on the basis of the average change in the cost price of the Products or services to be delivered and/or activities to be performed by Seller. The weights, dimensions, capacities, performance ratings, characteristics and other data on Seller's catalogs, prospectus, circulars, advertisements, price lists, instructions sheets and website are mentioned only as general information. They are only approximate and shall not bind Seller.

3. PAYMENT TERMS.

(a) Unless otherwise stated on the front of this form, the terms of the sale are net thirty (30) calendar days from date of invoice. Seller reserves the right to require alternative payment terms, including, without limitation, sight draft, letter of credit or payment in advance. All payments shall be made to Seller at its principal office in Palm Beach Gardens, Florida, or such other office as designated on the face hereof. Interest accrues on overdue invoices at the rate of one and one-half percent (1 1/2%) per month, but not more than the amount allowed by law, on the unpaid balance from the original due date of the invoice. Payment shall not be withheld for delay in installation if at Buyer's request nor for delay in delivery of required documentation unless a separate price is stated therefor, and only to the extent of the prices stated. Buyer shall pay, and Seller must receive, the full invoice value in payment without regard to any commissions, charges, fees, discounts or similar deductions that Seller may suffer or incur as a result of the payment method used by Buyer. Accordingly, Buyer agrees to pay Seller any commissions, charges, fees, discounts or similar deductions that Seller suffers or incurs as a result of the payment method used by the Buyer to purchase the Products.

(b) All orders are subject to, and the obligation of Seller to make deliveries is subject to, the right of Seller as provided in Section 10, to require of Buyer payment of all or any part of the purchase price in advance of delivery or to make shipment C.O.D. If Buyer fails to make advance payment when requested by Seller, or if Buyer is, or becomes delinquent in the payment of any sum due, Seller (whether or not arising out of this order) or refuses to accept C.O.D. shipment, then Seller shall have the right, in addition to any other remedy to which it may be entitled in law or equity, to cancel the sales order, refuse to make further deliveries, and declare immediately due and payable all unpaid amounts for goods previously delivered to Buyer. Partial shipments made under any order shall be treated as a separate transaction and payment thereof shall be made accordingly. However, in the event of any default by Buyer, Seller may decline to make further shipments without in any way affecting its rights under such order.

(c) Seller reserves a purchase money security interest in the Products sold hereunder and the proceeds thereof, in the amount of the purchase price. In the event of default by Buyer on any of its obligations to Seller, Seller will have the right to repossess the goods sold hereunder without liability to Buyer. In such event, Buyer agrees to make the Products available to Seller so that Seller can repossess them without a breach of the peace. This security interest will be satisfied by payment in full. A copy of the invoice may be filed with appropriate authorities at any time as a financing statement and/or chattel mortgage to perfect Seller's security interest. Buyer shall cooperate fully with Seller to execute such other documents and to accomplish such filings and/or recordings thereof as Seller may deem necessary for the protection of Seller's interests in the Products furnished hereunder. The security interest granted under this provision constitutes a purchase money security interest under the Florida Uniform Commercial Code. Until Buyer has paid for the Products in full, Buyer shall not pledge, mortgage, encumber, or create or suffer to exist a security interest in the Products in favor of any person other than Seller unless written approval of such other security interest is given by Seller. Additionally, Buyer agrees to keep the Products insured to their full value until payment is received by Seller. In the event Buyer sells the Products to a third party before payment in full is received by Seller, Buyer agrees to secure its security interest in the Products at the time of sale to its customer in order to protect Seller's interests to the greatest extent possible.

4. TRANSPORTATION AND RISK OF LOSS.

Unless otherwise agreed to in writing by Seller, all transportation shall be at the expense of Buyer, Seller reserving the right to ship Products freight collect and to select the means of transportation and routing. Unless otherwise advised, Seller may insure to full value of the Products or declare full value thereof to the transportation company at the time of delivery and all such freight and insurance costs shall be for Buyer's account. Risk of loss or damage shall pass to Buyer upon delivery of the Products to the transportation company at the FOB point, whether or not installation is provided by or under supervision of Seller.

Seller may at its option obtain insurance for its Products covering their delivery to Buyer and Buyer agrees to reimburse Seller for the cost of providing such insurance. If Buyer has not been notified of the existence of insurance coverage and provides its own insurance for such shipment Seller will waive its insurance charge.

Confiscation or destruction of, or damage to Products shall not release, reduce or in any way affect the liability of Buyer therefor. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss shall remain in Buyer until the Products are returned at Buyer's expense to such places as Seller may designate in writing. Buyer, at its expense, shall fully insure Products against all loss or damage until Seller has been paid in full therefor, or the Products have been returned, for whatever reason, to Seller.

5. SHIPMENT.

Seller will attempt to meet shipment schedules. However, any specific shipping date designated in writing signed by Seller shall be interpreted as estimated and in no event shall dates be construed as falling within the meaning of "time is of the essence". Seller shall not be responsible for any delays in filling orders, nor shall it be liable for any loss or damages resulting from such delays regardless of whether such delays are due to force majeure or otherwise. Under no circumstances shall Buyer or Buyer's customers be entitled to any damages for Seller's failure to ship on time, and Buyer therefore agrees to indemnify, defend and hold Seller harmless against any costs and expenses related to any claims for lost profits or other consequential damages based on Seller's failure to deliver timely. Seller reserves the right to allocate inventories and current production in any way it deems desirable.

6. INSPECTION AND ACCEPTANCE.

Buyer shall have the right to inspect the Products upon tender of delivery. Failure of Buyer to inspect the Products and give written notice to Seller of any alleged defect or nonconformity within thirty (30) calendar days after tender of delivery shall constitute an irrevocable acceptance by Buyer of the Products delivered to him. Notwithstanding the foregoing, use of any such Products by Buyer, its agents, employees or licensees, for any purpose after delivery thereof, shall constitute acceptance of the Products by Buyer.

7. RETURNS.

The Products may not be returned to Seller without first obtaining Seller's consent. The request for return and credit must be filed with Seller and shall include purchase order number, approximate date shipped and any and all other identifying numbers (such as invoice number, date of invoice, P.O. numbers, etc.). Each request for return of Products for credit should state the type and quantity of goods, the part numbers and the reasons for the return. If return authorization is granted, Products shall be returned in a clean, well packaged condition. No credit allowance on defectives will be made and no replacement for defectives will be shipped in any event, unless the alleged defectives are, among other things, established to Seller's satisfaction after suitable testing and inspection by Seller. The Products returned by Buyer to Seller will remain at Buyer's risk and Buyer will owe the agreed amounts until Seller has credited Buyer for these Products.

8. TERMINATIONS.

No order for Products may be terminated or cancelled by Buyer except by mutual agreement in writing. Terminations by mutual agreement are subject to the following conditions:

(a) Buyer will indemnify the Seller from all costs, expenses, liabilities, claims, damages and losses resulting from, or relating to, such termination, order, Seller's work-in-progress, and/or Seller rights and obligations hereunder. Buyer will pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Buyer at the time of Seller's receipt of notice of termination and their mutual agreement to terminate;

(b) Buyer will pay all costs, direct and indirect, which have been incurred by Seller with regard to Products which have not been completely manufactured at the time of Seller's receipt of notice of termination and their mutual agreement to terminate, plus a pro rata portion of the normal profit on the contract;

(c) Buyer will pay a termination charge on all other Products affected by the termination. Seller's normal accounting practices shall be used to determine costs and other charges. To reduce termination charges, Seller will divert completed parts, material or work-in-progress from terminated contracts to other customers whenever, in the Seller's sole discretion, it is practicable to do so. In the event of a termination, Buyer will have no rights in partially completed Products.

In addition, Seller may unilaterally terminate or suspend any contract if Buyer is in default of the payment of any obligations pursuant to or any contract between the parties, or if in the sole judgment of Seller, Buyer's financial condition and responsibility has become materially impaired, including but not limited to: (i) Buyer has suspended payments or has sought the protection of the Bankruptcy Courts, (ii) a petition for the involuntary bankruptcy of Buyer has been filed, (iii) Buyer's property on Seller's premises has been attached in execution, and/or (iv) a resolution for the dissolution and/or winding up of Buyer has been adopted. Seller will also be entitled to suspend or terminate any contract unilaterally, with immediate effect, fully or in part if the enterprise operated by Buyer has been fully or partly transferred to a third party without consent of Seller, and if Buyer disregards any applicable statute, law, ordinance, code, order, rule, regulation, proclamation or other governmental requirement.

Furthermore, Seller shall have the right to recover damages for non-performance, and any unpaid installments due on account of this or any other contract between the parties shall become immediately due and payable.

In case of termination or suspension due to force majeure, Seller reserves the right to demand immediate payment for the Products and any raw materials, materials, parts and other goods it purchased, reserved, processed or produced for the performance of an order. Buyer is bound to accept delivery of the Products and such materials, parts, or goods. Failure to accept delivery will give Seller the right to store, sell, or scrap the products or such materials, parts or goods at Buyer's expense and risk.

Seller shall not be liable with respect to Buyer for any damages arising from suspension or termination of the Agreement for the aforementioned reasons.

If the Agreement is suspended or terminated unilaterally by Seller, performance of the Agreement already received by Buyer and the payment obligations of Buyer in connection with it will remain. The amounts invoiced by Seller for work actually performed prior to or upon termination of the contract will be immediately due and payable after termination. Buyer agrees to pay any of Seller's costs, damages, attorneys' fees and other expenses associated with Seller's termination of any contract with Buyer pursuant to the terms of this section. Seller's right of termination shall be without prejudice to any claims or other rights or remedies which Seller may have against Buyer by operation of law or otherwise.

9. LIMITED WARRANTY — LIMITATION OF REMEDIES.

(a) Except as otherwise specified herein, Seller warrants the Products to be free from defects in material and workmanship for a period of twelve (12) months from shipment, and to repair and replace the individual Product for twelve (12) months from shipment if a warranty for an individual product is not specified.

(b) This warranty is limited to repair and replacement of the individual Product for the time period set forth in Section 9(a), and is the only warranty made by Seller with respect to the Products and no representative or person is authorized to bind Seller for any obligations or liabilities beyond the warranty in connection with the sale of Seller's Products. This warranty is made to the original purchaser only at the original location and is non-transferable and may only be modified or amended by a written instrument signed by a duly authorized officer of Seller. This limited warrant does cover any modifications, revisions or changes that are made to the Products by Buyer or any other third party, and Seller makes no warranty, express or implied regarding the Products in the event of modifications, revisions or changes thereto. Products or parts which are replaced or repaired under this warranty are warranted only for the remaining unexpired portion of the original warranty period applicable to the specific product.

(c) These remedies are available only if Seller is notified in writing by Buyer promptly upon discovery of the defect, and in any event within the warranty period for the individual Product, Seller's examination of such Product discloses to Seller's satisfaction that such defects actually exist and the Product has not been (i) repaired, worked on, or altered by persons not authorized by Seller so as, in Seller's sole judgment, to injure the stability reliability, or proper operation of such Product; (ii) subject to misuse, negligence or accident; or (iii) connected, installed, used or adjusted otherwise that in accordance with the instructions furnished by Seller.

(d) All Products which Buyer considers defective shall be returned to Seller's office as designated on the face hereof transportation costs prepaid and borne by Buyer (unless otherwise provided on the face hereof). The risk of loss of the Products shipped or delivered to Seller's plant for repair or replacement will be borne by Buyer.

(e) If it is found that any Product has been returned without cause and is still serviceable, Buyer will be notified and the Product returned at Buyer's expense. In addition, a charge for testing and examination may, in Seller's sole discretion, be made on Products so returned.

(f) THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES (EXCEPT FOR SPECIFIC WRITTEN PRODUCT PERFORMANCE GUARANTEES) WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND SHALL BE THE BUYER'S SOLE REMEDY AND SELLER'S SOLE LIABILITY ON CONTRACT OR WARRANTY OR OTHERWISE FOR THE PRODUCT.

10. BANKRUPTCY OR INSOLVENCY OF BUYER.

If the financial conditions of the Buyer at any time is such as to give Seller, in its judgment, reasonable grounds for insecurity concerning Buyer's ability to perform its obligations under this Agreement, Seller may (a) by notice in writing to Buyer, cancel this Agreement, without judicial intervention or declaration of default of Buyer and without prejudice to any right or remedy which may have accrued or may accrue thereafter to Seller, (b) require full or partial payment in advance and suspend any further deliveries for continuance of the work to be performed by Seller until such payment has been received, as stated in Section 8 hereto, or (c) make shipments C.O.D.

11. INTELLECTUAL PROPERTY RIGHTS.

All intellectual property rights to, ownership of, and interest in all the Products, goods, trademarks, copyrights, patents, trade names, logos, distinctive marks, designs, and other materials created and/or made available by Seller hereunder or within the framework of the relationship between Buyer and Seller (the "Intellectual Property") are vested exclusively in Seller. Buyer shall not reproduce, modify, transfer, grant, assign, license or use the Intellectual Property, except in accordance with this Agreement.

Buyer shall not remove or alter indications concerning intellectual property rights and concerning the confidential nature of information from the Products, goods, services, programs, works, distinctive marks, inventions, designs, models and other materials created and/or made available by Seller and the Products delivered.

In the event the Products are produced by Seller in accordance with specifications submitted by Buyer, Buyer shall indemnify Seller against all loss, damages, costs and expenses awarded against or incurred by Seller in connection with or paid or agreed to be paid by Seller in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from Seller's use of Buyer's specifications.

Seller makes no warranty concerning the appropriateness of the Products or services to the purposes for which Buyer or its customers are acquiring same. Moreover, Seller makes no warranty that the Products or services or other intellectual property of Seller does not infringe the rights of third parties. If Seller infringes the intellectual property rights of such third parties, provided that Seller is promptly notified in writing by Buyer, Seller, at its option, shall:

- (a) procure the right of Buyer to continue to use the Products or services,
- (b) modify the Products or services so that it becomes non-infringing,
- (c) replace the Products or services with non-infringing Products or services, or
- (d) remove the Products or cease providing the services and refund the purchase price.

12. ERRORS.

Stenographic and clerical errors are subject to correction.

13. APPLICABLE LAW; JURISDICTION AND VENUE.

This Agreement will be governed by the laws of the State of Florida, without reference to conflict of laws principles. The application of the United Nations Convention on the International Sale of Goods is expressly excluded. The state courts of Palm Beach County, Florida (or if there is exclusive federal jurisdiction, the United States District Court for the Southern District of Florida) will have exclusive jurisdiction and venue over any dispute arising out of this Agreement, and Buyer hereby consents to the jurisdiction of such courts.

14. LIMITATION OF LIABILITY.

(a) Seller will not be liable for any loss, damages or penalty resulting from delay in delivery of the Products when such delay is due to causes beyond the reasonable control of Seller, including without limitation, supplier delay, force majeure, act of God, labor unrest, fire, explosion or earthquake. In any such event, the delivery date will be deemed extended for a period equal to the delay.

(b) SELLER'S LIABILITY UNDER, FOR BREACH OF, OR ARISING OUT OF THIS AGREEMENT AND/OR SALE WILL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR A REFUND OF THE PURCHASE PRICE OF THE PRODUCTS, AT SELLER'S SOLE OPTION, AS SET FORTH IN SECTION 9 ABOVE. IN NO EVENT WILL SELLER BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTED PRODUCTS BY BUYER, NOR WILL SELLER BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES INCLUDING WITHOUT LIMITATION LOSS OF PROFIT WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY,

NEGLECTANCE OR OTHERWISE. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD PARTY CLAIMS AGAINST BUYER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF SELLER ARISING OUT OF THIS AGREEMENT AND/OR SALE.

15. FORCE MAJEURE.

Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from events, circumstances or causes beyond its reasonable control including but not limited to, Acts of God, flood, drought, earthquake or other natural disaster; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations; nuclear, chemical, biological contamination or sonic boom, epidemic or pandemic; any law or any action taken by a Government or a public authority including without limitation imposing an export or import restriction, quota or prohibition, and the collapse of buildings, fire, explosion or accident ("force Majeure Event").

Buyer shall use all reasonable effort to mitigate the effect of a Force Majeure Event on the performance of its obligations. If a Force Majeure Event prevents, hinders or delays Seller's performance of its obligations for a continuous period of more than six (6) months, Seller may terminate the Agreement immediately by giving written notice to Buyer.

16. SUBSTITUTIONS AND MODIFICATIONS.

Seller will have the right to make substitutions and modifications at the specifications of Products sold by Seller, provided that such substitutions or modifications will not materially affect overall Product performance. Buyer shall not make substitutions and modifications without the prior written consent of Seller.

17. ATTORNEY'S FEES AND COSTS.

Reasonable attorney's fees and costs will be awarded to the prevailing party in the event of litigation involving the enforcement or interpretation of this Agreement.

18. RIGHT OF ACCESS.

The external provider will permit Seller and Seller's customers, and cognizant Government agencies, access to conduct such inspections and audits at Seller's external suppliers' facilities as may be required to verify compliance with its purchase order requirements. Such facilities and assistance as may be reasonably required to accomplish these inspections will be furnished by the external provider without cost to Seller or Seller's customers.

19. RECORD RETENTION.

Supplier will retain all records pertaining to any order for a period of seven (7) years. If the supplier cannot do this for any reason, the supplier is to forward all records to Seller. If Seller's customers require records to be retained longer than seven (7) years, it will be stated on the purchase order. The supplier will contact Seller's purchasing department before destroying any records for approval.

20. EXPORT CONTROL RESTRICTIONS.

Buyer warrants that it will not export the Products in contravention of the United States export control laws, nor will it sell or transfer the Products to any person or entity whether in the United States or not that appears on any of the United States banned persons and entities lists.

21. ENTIRE AGREEMENT.

This Agreement constitute the sole terms and conditions of the contract between Buyer and Seller. No other terms, conditions, or understanding, whether oral or written, shall be binding upon Seller, unless hereafter made in writing and signed by Seller's authorized representative and, in the case of printed matter, also initialed by such representative next to such printed term or condition.

22. SEVERABILITY.

Should any provision of this Agreement be judicially declared unenforceable, that provision shall be deemed stricken and the remainder shall continue in full force and effect *insofar as* it remains a workable instrument for effectuating the intents and purposes of the parties. The parties further agree to renegotiate any so severed provision to bring the same within applicable legal requirements to the greatest extent possible.

23. ASSIGNMENT.

Buyer shall not assign or transfer this Agreement or any related contract or purchase order without the prior written consent of Seller. Seller shall expressly be permitted to assign or transfer, without the prior written consent of Buyer, Seller's right to receive any or all of the payment due from Buyer under this Agreement.

24. NOTICES.

Any writing or notice required or provided for herein shall be emailed, with confirmation of receipt, sent by international air courier, or otherwise delivered to the appropriate party at its respective address as follows:

To Seller:

With a copy to:
Mr. Thomas H. Thorelli
Thorelli & Associates
70 West Madison Street, Suite 5750
Chicago, IL 60602 USA
Tel: 312-357-0300
Fax: 312-357-0328
Email: lawfirm@thorelli.com

To Buyer: