
PURPOSE

To articulate the standard commercial terms and conditions for Betts Company.

VALUE

Clarity on important terms of sale enables ease of doing business without confusion or ambiguity for the distributor. Betts promotes such clarity to maximize the productivity of the supply chain.

TERMS AND CONDITIONS OF SALE

All sales by Betts Company and subsidiaries. ("Betts") are made subject to the following terms and conditions. Betts expressly rejects any different or additional terms or conditions contained in any documents submitted by Buyer. Betts' provision of credit, acceptance of any purchase order and/or sale of any goods are expressly made conditional on Buyer's assent to these terms and conditions.

1. Except as otherwise agreed in a writing signed by Buyer and Betts, these terms and conditions constitute the entire agreement between Betts and Buyer relating to the sale of such goods by Betts. Terms or conditions contained in any document issued by Buyer that in any manner purport to alter, modify, change, suspend, or add to any term or condition contained herein shall be deemed excluded from such Buyer document and waived by Buyer. Betts and Buyer expressly agree that Betts may modify these terms and conditions from time to time, and such modifications shall be binding upon Buyer.

2. The purchase price of the goods shall be as stated on the face of the applicable Betts sales invoice; provided, however, that Betts may in its sole discretion add a surcharge to the price of goods predicated upon increases in the cost of raw materials or energy. Such surcharge may be adjusted by Betts periodically to reflect a change in such costs.

3. Buyer cannot modify, cancel, or otherwise alter orders after goods are in process without Betts' written consent. Any such cancellation, modification, or alteration shall be subject to conditions as negotiated at such time, which shall include protection of Betts against loss.

4. All continental U.S. shipments are F.O.B. Betts' shipping facility, freight paid, freight prepaid and add or freight collect to destination. If shipped freight prepaid and add the charge for freight will be added to the invoice. Neither freight charges nor tax is subject to any discount. Risk of loss or damage in transit shall be borne by Buyer, and claims shall be made directly with carrier. Buyer may pick up the goods at Betts' shipping facility provided Buyer does so within ten (10) days after the date Buyer is notified of the availability of goods. Betts reserves the right to ship without further notification at any time after the ten (10) day period.

5. Delivery dates are approximate, Betts shall not be responsible for non-shipment of goods or delays in delivery or performance due to causes beyond its reasonable control, including, but not limited to, acts of God; acts of Buyer; strikes or other labor disturbances; Betts' inability to obtain, or material increases in the cost of, fuel, raw materials or parts; delays in transportation; repairs to equipment; fires; or accidents. Acceptance of goods upon delivery shall constitute a waiver by Buyer of any claim for damages on account of non-shipment or delays in delivery or performance.

6. Components manufactured by Betts are warranted to be free from defects in material and workmanship under normal use. Select fenders manufactured by Betts, including stainless steel and poly fenders, are specifically warranted to be free from rust and cracking for their normal useful life. Such warranties do not cover parts damage resulting from misuse, accident, or neglect or from improper operation, maintenance, installation, modification or adjustment, nor damage caused by decomposition from chemical action or wear caused by abrasive materials. Such warranties do not apply to components repaired by Buyer or such others that may be directed by Buyer in such a way as to adversely affect the performance of such components. Routine maintenance necessitated by normal use is not covered by such warranties. Subject to the other warranty limitations described in this Agreement, Betts shall pass through the manufacturer's warranty or guaranty on a component purchased from a third party manufacturer. Other than the third party manufacturer's warranty, Betts does not offer any additional, extended or different warranties or guarantees for components purchased from third party manufacturers where the third party manufacturer's warranty or guaranty applies. The general term of this limited warranty will be the lesser of two thousand and eighty (2,080) hours of operation or twelve (12) months. The warranty period will commence, in the case of components manufactured by Betts, on the Delivery Date or, in the case of replacement parts, from the date of installation of such part. The period described in this paragraph is referred to herein as the "Warranty Period".

In the event that a component manufactured by Betts shall prove to be defective in materials, design or workmanship during the Warranty Period, Betts shall, at its sole discretion, (i) repair the defective component at Betts' expense or (ii) replace the defective component at its expense. Buyer shall, only on Betts' authorization, return the defective components to Betts. Unauthorized return of manufactured components to Betts by Buyer may be refused and returned to Buyer at Buyer's expense. In the event that a component purchased by Betts for resale to Buyer shall prove to be defective in materials, design or workmanship during the manufacturers' Warranty Period, Betts shall, at its sole discretion, (i) replace the defective component at Betts' expense or (ii) advise Buyer of the appropriate procedures to return the defective component directly to the manufacturer for replacement. Unauthorized return of purchased components to Betts by Buyer may be refused and returned to Buyer at Buyer's expense.

BETTS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDES ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. No claim for damages for goods that do not conform to specifications will be allowed unless Betts is given immediate notice after delivery of goods to the first destination to which they are shipped and allowed an opportunity to inspect them. Goods for which damages are claimed shall not be returned, repaired, or discarded without Betts' written consent. **BUYER'S EXCLUSIVE REMEDY AGAINST BETTS, AND BETTS' SOLE OBLIGATION, FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO BETTS' REPLACING GOODS THAT DO NOT CONFORM TO SPECIFICATIONS OR, AT BETTS' OPTION, REFUNDING THE PURCHASE PRICE. IN NO EVENT SHALL BETTS HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE GOODS SOLD HEREUNDER, NOR SHALL BETTS HAVE ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES**

8. If, in Betts' opinion, Buyer's credit becomes impaired, Betts may suspend performance until such time as Betts has received full payment for any goods already delivered or in process and is satisfied (in its sole discretion) as to Buyer's credit for future deliveries. If Betts suspends performance and later proceeds with such order, Betts shall be entitled to such extension of time for performance as is necessitated by the suspension. Payment terms are net thirty (30) days from Invoice Date unless otherwise agreed with Buyer and specified on the face of the invoice.



9. All taxes of any kind levied by any federal, state, municipal or other governmental authority, which tax Betts is required to collect or pay with respect to the production, sale, or shipment of goods sold to Buyer shall be the responsibility of Buyer. Buyer agrees to pay all such taxes and further agrees to reimburse Betts for any such payments made by Betts.

10. Checks or payments, whether full or partial, received from or for the account of Buyer, regardless of writings, legends, or notations upon such checks or payments, or regardless of other writings, statements, or documents, shall be applied by Betts against any amount owing by Buyer with full reservation of all of Betts' rights, without an accord and satisfaction of Buyer's liability.

11. In the event Buyer fails to make payment to Betts, or any affiliate of Betts, of any amounts due and owing to Betts or such affiliate (including any applicable surcharge or freight charge), Betts shall have the right to terminate any Buyer order or any unfulfilled portion thereof, and Betts or any affiliate thereof may terminate any other agreement between Betts or such affiliate and Buyer. Betts may charge interest on the outstanding balance at an annual rate of 12% or the highest rate allowed by law (whichever is less). Betts shall have the right to employ an attorney to collect the balance due, and Buyer agrees to pay all collection costs incurred by Betts, including its reasonable attorneys' fees.

12. This agreement shall be governed by the laws of the state of California. Buyer, acting for itself and its successors and assigns, hereby expressly and irrevocably consents to the exclusive jurisdiction of the state and federal courts of that state for any litigation which may arise out of or be related to this agreement. Buyer waives any objection based on *forum non conveniens* or any objection to venue of any such action.

13. Betts reserves the right to enforce these terms and conditions at any time and none shall be deemed waived unless such waiver is in writing signed by a duly authorized officer of Betts. All rights and remedies granted herein are in addition to all remedies available at law or in equity.

END OF DOCUMENT