

ANNEX C

SPARE PARTS GTC

July 2024

1 Scope and Validity

1.1 These General Terms and Conditions (hereinafter referred to as "SPARE PARTS GTC") shall apply exclusively in their respectively valid version (available under the following link: <https://www.bftpumps-usa.com/>) to all supplies of spare parts (hereinafter referred to as "URGENT ITEMS") by BFT Pumps USA Inc. (hereinafter referred to as "BFT") to a customer (hereinafter referred to as "CUSTOMER"). These SPARE PARTS GTC, together with the BFT's ORDER FORM (hereinafter referred to as "ORDER FORM") constitute the PURCHASE ORDER (hereinafter referred to as "PURCHASE ORDER").

1.2 In case of any evident conflict between the PURCHASE ORDER documents, they shall take precedence in the following order unless otherwise specified or the context requires otherwise:

- ORDER FORM signed by both parties;
- SPARE PARTS GTC;
- Dispositive standards of commercial law and civil law.

2 Orders

2.1 Orders by the CUSTOMER of URGENT ITEMS shall only be acceptable upon usage of the ORDER FORM provided by the BFT and based on these SPARE PARTS GTC. All orders of URGENT ITEMS received by the BFT that do not fulfil the above mentioned requirements will be refused.

2.2 Any general terms and conditions or purchase conditions of the CUSTOMER shall not apply, even without an explicit objection by the BFT, no matter the form in which such conditions become known to BFT.

2.3 Amendments of already existing PURCHASE ORDERS shall also be solely done by using the ORDER FORM and signing by both parties.

3 Prices and Terms of Payment

3.1 BFT's prices are inclusive of Indiana's sales tax in the amount prescribed by law. Any prices indicated are to be regarded *FCA Merrillville, Indiana, USA* pursuant to the INCOTERMS 2020 and solely include standard packaging of the URGENT ITEMS and their loading. Costs for transportation, transportation insurance, installation costs, etc. shall be borne by the CUSTOMER.

3.2 All payments shall be made within 30 (thirty) days upon receipt of the invoice without any deduction and free of charge in USD, if not otherwise agreed in the ORDER FORM. Payments by the CUSTOMER are only considered as debt discharging once the amount paid is credited to the BFT's bank account.

3.3 In the event of a default in payment by CUSTOMER, BFT is entitled to charge default interest in the amount of at least 12 % p.a., and to invoice all the reminder fees and collection expenses, pre-litigation costs and attorney's fees as well as any costs related to the collection of the accounts receivable outstanding. Furthermore, in case of a payment delay by the CUSTOMER, BFT is entitled suspend all outstanding supplies covered by any PURCHASE ORDER received from the CUSTOMER.

4 Delivery and Fulfilment

4.1 All deliveries will be made *FCA Merrillville, Indiana, USA* pursuant to the INCOTERMS 2020, unless stated otherwise in the ORDER FORM. Partial shipments are allowed. The transfer of risk is made in accordance with the above mentioned INCOTERM at the time the CUSTOMER picks-up the URGENT ITEMS at BFT's warehouse. Notwithstanding any provisions to the contrary, in case the INCOTERM agreed in the ORDER FORM is not FCA and the CUSTOMER is in default of acceptance or if delivery is delayed because of other reasons resting with the CUSTOMER, the risk shall pass to the CUSTOMER 30 (thirty) days after the BFT has notified the CUSTOMER that the URGENT ITEMS are ready for dispatch.

4.2 Defined delivery deadlines and delivery dates are only approximate and exceeding or falling short of these dates by up to 10 (ten) working days is,

however, deemed to be on time. BFT is obliged to inform the CUSTOMER immediately upon learning of a delay in delivery by giving the expected term of the delay in delivery. If a PURCHASE ORDER includes an advance payment to be made by the CUSTOMER, defined delivery deadlines begin to run from the date of receipt of the advance payment on BFT's bank account.

4.3 In all other cases and in the absence of any written agreement to the contrary, delivery deadlines are calculated from the date the ORDER FORM is signed by both parties.

4.4 If, for whatever reason, the pick-up of the URGENT ITEMS by the CUSTOMER will not take place on the agreed delivery date, CUSTOMER must inform the BFT immediately, providing the reasons and the expected duration of the delay. In case of a delay of more than 2 (two) calendar weeks, BFT is entitled to invoice storage expenses with an amount of 0.2 % of the total PURCHASE ORDER value per week, but at least USD 500.00 per week.

5 Reservation of Title

5.1 The URGENT ITEMS will remain the property of BFT until full payment of the PURCHASE ORDER price, including default interest, reminder fees, collection expenses and litigation costs which incurred up to that point in time. CUSTOMER is obliged to assign all claims arising out of a resale of the URGENT ITEMS, whereby any resale requires the express written consent of BFT. The consent to a resale is revoked without prior notice as soon as insolvency proceedings are opened on CUSTOMER's assets.

5.2 In the event of claims by third parties on the URGENT ITEMS subject to retention of title, in particular in the case of pledge, CUSTOMER shall state that such URGENT ITEMS are property of BFT and notify BFT without delay. CUSTOMER shall take the full risk for the retained URGENT ITEMS, in particular for its destruction, loss or deterioration.

6 Warranty

6.1 BFT is obliged to repair every defect affecting the usability of the URGENT ITEMS, provided such defect already existed at the time of delivery (transfer of risk according to the agreed INCOTERM 2020) and that is the result of defective materials or manufacturing.

6.2 The warranty period shall be 12 (twelve) months from the date of delivery (transfer of risk according to the agreed INCOTERM 2020). BFT's obligations under warranty shall expire in any case after elapse of the warranty period; a special recourse of CUSTOMER extending beyond this period because of obligations fulfilled by the CUSTOMER under warranty shall be expressly excluded.

6.3 CUSTOMER is obliged to inspect the URGENT ITEMS immediately upon receipt and to provide any notice of defects immediately, in any event within 14 (fourteen) days after delivery of the URGENT ITEMS in writing and with detailed information on the alleged defect. Failing such notice, the URGENT ITEMS are to be considered approved. In case of hidden defects, the notice of defects is to be made within a period of 14 (fourteen) days after their detection. CUSTOMER shall prove that the defect already existed at the time of the transfer of risk pursuant to provision 4.1.

6.4 BFT MAKES NO OTHER WARRANTY WITH REGARDS TO THE URGENT ITEMS OTHER THAN AS SPECIFIED IN THE PURCHASE ORDER. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED. BFT'S WARRANTY OBLIGATIONS DO NOT INCLUDE NORMAL WEAR AND TEAR, IMPROPER HANDLING OR STORAGE, FAULTY MAINTENANCE, FORCE MAJEURE EVENTS. IN ANY EVENT, THE OBLIGATION FOR A WARRANTY EXPIRES AT THE END OF THE WARRANTY PERIOD. ANY UNAPPROVED CHANGES OR ALTERATIONS MADE BY THE CUSTOMER TO THE URGENT ITEMS DELIVERED, LEAD TO THE TERMINATION OF BFT'S WARRANTY OBLIGATIONS.

6.5 Unless inconsistent with mandatory legal provisions, warranty claims are limited at BFT's option to correction of the deficiency defect or replacement of the URGENT ITEMS within a reasonable period or the reduction of the PURCHASE ORDER price.

7 GENERAL LIMITATION OF LIABILITY

7.1 BFT'S LIABILITY FOR DAMAGES, APART FROM PERSONAL INJURIES, IS EXPRESSLY LIMITED TO THOSE CASES THAT ARE CAUSED IN THE SPHERE OF RESPONSIBILITY OF THE BFT BY GROSS NEGLIGENCE OR WILFUL MISCONDUCT. THE BURDEN OF PROOF FOR THE EXISTENCE OF SUCH BEHAVIOUR LIES WITH THE CUSTOMER.

7.2 CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS BFT FROM AND AGAINST ANY AND ALL LOSSES, EXPENSES, DEMANDS, AND CLAIMS MADE AGAINST BFT BY CUSTOMER, ITS AGENTS, SERVANTS, OR EMPLOYEES BECAUSE OF INJURY OR ILLNESS OR ALLEGED INJURY OR ILLNESS (INCLUDING DEATH) ACTUAL OR ALLEGED WHETHER CAUSED BY THE SOLE NEGLIGENCE OF BFT, THE CONCURRENT NEGLIGENCE OF BFT WITH CUSTOMER, ITS AGENTS, SERVANTS, OR EMPLOYEES OR ANY OTHER PERSON OR OTHERWISE ARISING OUT OF, RESULTING FROM, OR IN ANY WAY CONNECTED WITH THE OPERATION, MAINTENANCE, POSSESSION, USE, TRANSPORTATION, OR DISPOSITION OF URGENT ITEMS. CUSTOMER AGREES TO DEFEND ANY SUIT ACTION OR CAUSE OF ACTION BROUGHT AGAINST BFT, ITS AGENTS, SERVANTS, OR EMPLOYEES BASED ON ANY SUCH ALLEGED INJURY, ILLNESS, OR DAMAGE AND TO PAY ALL DAMAGES, COSTS, AND EXPENSES INCLUDING ATTORNEY'S FEES, IN CONNECTION THEREWITH OR RESULTING THEREFROM.

7.3 BFT SHALL NOT BE LIABLE TO THE CUSTOMER WHETHER BY WAY OF INDEMNITY OR BREACH OF STATUTORY DUTY OR IN PURCHASE ORDER OR IN TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER LEGAL THEORY FOR LOSS OF PROFIT, LOSS OF USE, LOSS OF PRODUCTION, LOSS OF PURCHASE ORDER, COST OF CAPITAL, OR FOR ANY FINANCIAL OR ECONOMIC LOSS OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGE WHATSOEVER, PROVIDED THAT THIS SHALL NOT APPLY TO OR IN ANY WAY LIMIT A BFT'S LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF OR CONNECTED WITH GROSS NEGLIGENCE OR WILFUL MISCONDUCT AS WELL AS IN CASES OF PERSONAL INJURIES.

7.4 BFT'S OVERALL LIABILITY TO THE CUSTOMER OR ANY THIRD PARTY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE ORDER SHALL BE LIMITED TO 100 % OF THE TOTAL PURCHASE ORDER PRICE, EXCEPT IN CASES OF GROSS NEGLIGENCE AND WILLFUL MISCONDUCT AS WELL AS IN CASES OF PERSONAL INJURIES.

7.5 DAMAGE COMPENSATION CLAIMS SHALL LAPSE WITHIN 6 (SIX) MONTHS AFTER HAVING OBTAINED KNOWLEDGE OF THE DAMAGE AND THE DAMAGING PARTY, HOWEVER IN ANY CASE NOT LATER THAN 2 (TWO) YEARS AFTER THE TRANSFER OF RISK PURSUANT TO PROVISION 4.1.

7.6 THE LIMITATION AND EXCLUSION OF LIABILITY IN THESE GENERAL TERMS AND CONDITIONS OF SALE ONLY APPLY TO THE MAXIMUM EXTEND PERMISSIBLE UNDER APPLICABLE LAW.

8 Force Majeure

8.1 The parties shall be released either fully or partially from its obligations to meet deadlines in fulfilment of the PURCHASE ORDER if they are hindered by an event of force majeure.

8.2 Events which are to be considered a result of force majeure include, without limitation, the following events listed:

- a. strikes authorized by trade unions, disruptions to transport, closed borders, import, export and transit constrictions, governmental decrees, export embargos/trade embargos or other circumstances that impede delivery;
- b. forces of nature, such as earthquakes, lightning strikes, frost, storms, floods, as well as warlike actions, uprisings/revolutions, terrorism, sabotage, arson, fires, natural disasters as well as pandemics (e. g. COVID 19) and epidemics;
- c. delays in delivery or delivery failures on the part of suppliers to the BFT.

8.3 The party hindered by an event of force majeure has to inform the other party immediately, however not later than 10 (ten) calendar days after the occurrence of the event of force majeure, as to the beginning and expected duration of the delay. If an event of force majeure lasts longer than 4 (four)

calendar weeks, the parties shall seek for a solution for handling the technicalities of its effects by means of negotiations. If an event of force majeure lasts longer than 3 (three) calendar months, and no amicable solution can be reached, each party has the right to withdraw from the PURCHASE ORDER completely or partially.

9 Confidentiality

CUSTOMER shall keep all PURCHASE ORDER related information made privy to him by BFT strictly confidential, particularly all technical, commercial and/or business information, including pricing conditions and payment terms, formulas and product configurations, ideas, designs, electronically stored data and product samples, etc., whether in verbal, written, electronic or any other form (hereinafter referred to as "Information"). Such Information shall not be made available fully, partially nor in any manner to a third party without the previous written consent of the BFT and shall not be used in full or in part for any purpose other than the fulfilment of CUSTOMER'S obligations as set out hereunder.

10 Compliance

The principles and guidelines for a sustainable, ethical/moral and legally compliant behaviour in business defined in the Code of Conduct of the Dr. Aichhorn Group (accessible at: <https://www.bftpumps-usa.com/>) shall be explicitly accepted and approved by the CUSTOMER. In the case of a clear and severe violation of the underlying principles and regulatory contents of the Code of Conduct on the part of the CUSTOMER, which would make any continuation of the business relationship unconscionable, the BFT, on a case-by-case basis, is entitled to terminate the contractual relationship with immediate effect for good cause. In these cases, the CUSTOMER shall indemnify and hold the BFT free and harmless in the event of any damages and detriments arising.

11 Governing Law and Jurisdiction

11.1 All disputes arising out of or in connection with the PURCHASE ORDER shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in Paris (ICC Rules) by three arbitrators appointed in accordance with the said rules. Place of arbitration is Vienna, Austria. The language to be used in the arbitration proceedings is English.

11.2 The PURCHASE ORDER is exclusively subject to the substantive Austrian Law without regard to its conflict of laws and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) dated April 11, 1980.

12 Miscellaneous

12.1 CUSTOMER is not entitled to set off their receivables against the BFT's receivables. Amounts assigned by court decision and debts recognized expressly and in written form by the BFT are excluded from this.

12.2 A party shall only be entitled to assign any rights and obligations under the PURCHASE ORDER, provided that the other party gives its written consent. This shall not be applicable in case of assignment of receivables.

12.3 If any one or more of the provisions or terms or part of this SPARE PARTS GTC shall be invalid, void, illegal or unenforceable in any respect by operation of law or otherwise, the validity, legality or enforceability of the remaining provisions or terms or part thereof shall not in any way whatsoever be affected or impaired thereby and the parties shall make good faith efforts to reform the PURCHASE ORDER to give effect to their original intent.

12.4 Failure of any party at any time to take action against the other party provided herein shall not affect the other party's right to require full performance under the PURCHASE ORDER at any time thereafter and the waiver by any party of a breach of any provision of the PURCHASE ORDER shall not constitute a waiver of any subsequent breach thereof or nullify the effectiveness of such provision or the right of the other party to demand redress for the respective losses, damages and prejudices.