1. Scope of Application
1.1 The Terms and Conditions of Purchase of Pierburg Mikuni Pump Technology Corporation (hereinafter referred to as the “Buyer”) shall apply exclusively. Opposing terms of the Seller or terms that deviate from these Terms and Conditions of Purchase are not valid unless the Buyer has expressly agreed in writing to such terms or the Seller has explicitly acknowledged the Buyer’s terms and Conditions of Purchase in the contract document.

2. Offers – Contractual Documents
2.1 Offers by the Seller shall be submitted in writing. Cost estimates shall not be subject to a change.

2.2 The Buyer shall reserve property rights and copyright to all illustrations, drawings, calculations, models, equipment, samples, and case studies. The Buyer may use or reproduce these documents for the purposes of creating the offer or fulfillment of the contract. These documents can be requested in full or part of all orders by the Buyer. They shall also apply to follow-up orders without the Buyer having again to refer to these terms.

3. The Terms and Conditions of Purchase of the Seller shall only apply in B2B-relations.

4. Offers – Conditions of Payment
4.1 Where no deviating written agreement exists, the price shall include delivery “DAP Buyer’s plant” (Incoterms 2010), packaging included. Inter alia, the Seller delivers when the goods are placed at the disposal of the Buyer on the amnonicking means of transport in the place of destination. The Seller bears all risks involved in transporting the goods to the named place.

4.2 Where confirmation by the Buyer deviates from the order, the Buyer shall be expressly informed in this regard. In such cases, a contract shall only come into effect once the Buyer has approved the deviations in writing. Silence on the part of the Buyer shall not be deemed to have constituted approval.

4.3 Orders shall only become binding on the Buyer once they have been placed or confirmed by the Buyer in writing. This shall also apply to additions and modifications. In case of deliveries that are not based on a proper written order, the Buyer may refuse acceptance of the goods.

4.4 Where this has not been specified, all prices are given ex-warehouse, all duties and taxes included. Forwards and freight charges are not included. The Buyer shall be entitled to withdraw in case of any mistakes or cancellations in the invoicing documents unless the errors can be corrected within a reasonable time.

5. Prices – Conditions of Payment
5.1 Price lists and special price lists may only be scrapped after a period of 15 years

6. Delivery – Delay
6.1 The delivery date specified in the order shall be binding. Receipt of the goods at the designated place shall be decisive for the Buyer’s rights.

6.2 The Seller shall be entitled to inform the Buyer immediately in writing where circumstances arise or come to its attention which indicate that compliance with the agreed delivery time may not be possible. Where the Seller violates this notification, the Buyer may rescind the contract after reasonable grace period. Silence to this notification shall be deemed to imply acceptance of a new delivery date indicated by the Seller.

6.3 The Buyer is entitled to demand a pro rata amount of 0.5% of the contract amount for the outstanding delivery portion for each commenced week as liquidated damages for delayed performance, but not more than a total of 5%. The Seller shall have the right to prove that damages or significantly lower damages were incurred as a result of delayed delivery (delay damages).

6.4 The Buyer is entitled to demand further compensation for damages incurred during delivery. The Buyer is entitled to demand for the goods delivered prematurely at the risk and cost of the Seller.

6.5 The free of charge and the Seller is responsible for ensuring that the goods delivered to it are not in breach of any national or international or other property rights. The Seller shall indemnify the Buyer against all claims for compensation and other claims asserted against the Seller in this regard due to breach of this obligation upon first request.

6.6 The Buyer shall guarantee to comply fully with all environmental regulations of the countries in which the goods are manufactured, as well as in the countries in which the Buyer has its registered office and the Buyer’s plant is located in terms of manufacturing the goods provided by the Seller.

7. Manufacturing Equipment
7.1 The Seller shall bear the costs incurred for the manufacturing equipment

8. Manufacturing Materials Provided
8.1 The Supplier shall undertake to comply with the requirements of the EU regulation concerning the registration, evaluation, authorization, and restriction of chemicals (Regulation [EC] No. 1907/2006; “REACH” Guideline), the EU directive on the restriction of use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU; “RoHS” Directive), the EU directive on end-of-life vehicles (Directive 2000/53/EC), and the Chemicals Prohibition Orders. Goods that do not fully comply with these regulations shall not be supplied to the Buyer.

9. Intellectual Property Rights
9.1 The Manufacturer shall be responsible for ensuring that the goods delivered are not in breach of any national or international or other property rights. The Seller shall indemnify the Buyer against all claims for compensation and other claims asserted against the Seller in this regard due to breach of this obligation upon first request.

10. Withdrawal from the Contract – Damages
10.1 Where the Buyer does not fulfill the obligations assumed or does not fulfill these according to the contract, the Buyer may refuse performance or withdraw from the contract. The Buyer is entitled to rescind the contract if it is in breach of essential obligations. In the event of a breach of essential obligations by the Seller, the Buyer may be entitled to demand the payment of damages, including the costs of legal proceedings. This also applies to further claims for damages.

11. Prohibition of Assignment – Subcontractors
11.1 Rights and obligations of the Seller arising from the contract may not be assigned or transferred without the consent of the Buyer.

12. Infringement of Industrial Property Rights
12.1 The Buyer may assume the risk of infringement rights. The Buyer’s rights are limited to the use of the goods. The Buyer may refuse acceptance of the goods.

13. Quality
13.1 The Buyer shall have the right to decide whether to have a defect remedied or new goods supplied. The place of cure shall be the place of performance.

14. Manufacturing Provided Materials
14.1 The manufacturing materials provided by the Buyer shall remain the property of the Buyer. The Seller shall be entitled to request a sample part before the start of the production.

15. Confidentiality
15.1 The Seller shall undertake to treat as a trade secret all commercial and technical details not commonly known that it obtains as a result of its business dealings with the Buyer.

15.2 The Buyer shall reserve property rights and copyright to all illustrations, drawings, calculations, samples, models, and similar documents furnished by the Seller. The Seller shall not be entitled to reproduce or use such documents without the Buyer’s express written consent.

15.3 The Seller shall undertake to comply with the requirements of the EU directive on the restriction of use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU; “RoHS” Directive), the EU directive on end-of-life vehicles (Directive 2000/53/EC), and the Chemicals Prohibition Orders. Goods that do not fully comply with these regulations shall not be supplied to the Buyer.

16. Management of Manufacturing Provided Materials
16.1 The manufacturing materials provided by the Buyer shall remain the property of the Buyer. The Buyer shall be entitled to request a sample part before the start of the production.

16.2 The Buyer shall be entitled to use the manufacturing materials provided and to mark such materials as property of the Buyer. The Seller shall undertake to treat the manufacturing materials provided with care, and in particular to ensure that such materials are not subject to theft, fire, lightning, explosion, storm, mains failure, or other types of damage.

16.3 The Buyer shall undertake to comply with the requirements of the EU regulation concerning the registration, evaluation, authorization, and restriction of chemicals (Regulation [EC] No. 1907/2006; “REACH” Guideline), the EU directive on the restriction of use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU; “RoHS” Directive), the EU directive on end-of-life vehicles (Directive 2000/53/EC), and the Chemicals Prohibition Orders. Goods that do not fully comply with these regulations shall not be supplied to the Buyer.

16.4 The manufacturing materials provided may not be modified, disposed of, transferred by way of security, pledged, or forwarded in any other way without the express, written consent of the Buyer. In the event of pledge, confiscation, or other dispositions or interventions by third parties, the Seller shall immediately notify the Buyer.

16.5 The Seller shall pursue all legal means against third parties who violate the intellectual property rights of the Buyer.

16.6 The Buyer shall have the right to withdraw from the contract, suspend performance, or have defective or non-conformity goods remedied. In the event of delay, the Buyer shall be entitled to demand compensation for damages incurred as a result of the delay. The Buyer may also rescind the contract if it is in breach of essential obligations. In the event of a breach of essential obligations by the Seller, the Buyer may be entitled to demand the payment of damages, including the costs of legal proceedings. This also applies to further claims for damages.

16.7 The Buyer may be entitled to demand the payment of damages for any delay in delivery or for the failure to meet the delivery time.

16.8 The Seller shall take all possible measures to cure defects and to remedy defects promptly and at no charge. The Buyer shall be entitled to withdraw from the contract if the Seller fails to cure defects promptly or at no charge.

16.9 The Buyer shall be entitled to withdraw in case of any mistakes or cancellations in the invoicing documents unless the errors can be corrected within a reasonable time.

16.10 The Buyer shall have the right to refuse to accept the goods delivered prematurely and to demand the return of the goods delivered prematurely at the risk and cost of the Seller.

16.11 The Buyer shall have the right to withdraw at any time following a period of 15 years following end of production and to order an option for subsequent production in this regard.

16.12 The Buyer shall have the right to decide whether to have a defect remedied or new goods supplied. The place of cure shall be the place of performance.