GENERAL CONDITIONS OF SALE WUPPELMANN GROUP

I. Applicability / offers

1. These general conditions of sale apply to all – including future – business relationships of companies of the WUPPELMANN GROUP with creditors (hereinafter referred to as the “Vendor”), unless a deviation is made in writing or the buyer has another purchase agreement with the WUPPELMANN GROUP, also referred to as the “Buyer”). The WUPPELMANN GROUP does not recognize the Buyer’s terms of business. Business relationships are based on the terms of trade applicable at the time of order placement, unless otherwise stated, and the items listed under public law and special public articles (“Buyer”). The conditions of purchase of the Buyer are not recognized.

2. Offers made by the Vendor are subject to change and are non-binding. Only when the goods are ordered by the Buyer is this valid as a binding contractual offer. The Vendor can accept this contractual offer within 2 weeks after being received by him. The acceptance can be declared to the Buyer in writing (e.g. through a letter, email or by fax). If the Buyer does not order or order the entirety of the goods to the Buyer. For the subject matter of the contract, in particular for the scope of services, the Buyer’s obligations of acceptance (e.g. drawings and diagrams) the Vendor reserves the right to make changes, provided the contract is substantially modified or by this its quality is improved or the alterations and variations are reasonable for the Buyer.

II. Prices / delivery conditions

1. Provided nothing else has been agreed, the prices and the prices of the price list of the Vendor which are valid at the time of the conclusion of the contract shall apply, plus the respective applicable rate of VAT. Delivery shall take place ex works, the conditions “EXW” of the respective delivery location. The contract conditions of the WUPPELMANN GROUP in this context, such as transportation, service, transportation and packaging, customs duties in the case of export deliveries, as well as fees and other public charges are to be borne by the Buyer. Transportation packaging and all other packaging, the aggregations of the Packaging Ordinances shall not be taken back by the Vendor; they shall remain the property of the Buyer.

2. Should the specified information change later than four weeks after the conclusion of the contract or contract conditions, which are not under the influence of the Vendor are included in the agreed price or occur anew, then the Vendor has the right to alter the price to the corresponding extent.

III. Payment and settlement

1. Provided nothing else has been agreed or specified in the invoice, the sale price is payable immediately after delivery without a prompt payment discount and is to be paid in a manner such that the Vendor receives the agreed amount of payment immediately after the goods are transferred to the Buyer by the Vendor. The Vendor is automatically in default (“Verzug”) 7 days after delivery of the goods and receipt of the accounting invoice. Independent of other claims for compensation, the Buyer has the right, for which the Vendor is automatically in default, to defer, to „zurückbehalten“ its own contractual obligations until the outstanding payments have been effected. The Buyer has the rights of retention („Zurechtbehaltungsrecht“) and offsetting with other claims. The Buyer is entitled to offset or preclude partial payment or preclude by procedure, provided the Buyer has the opportunity to request payment in a manner such that the payment is actually transferred to the Vendor. In a case of a payment deadline being exceeded or in the case of default, interest amounting to 9 percentage points above the ECB base rate shall be payable, unless a higher rate of interest has been agreed. Regardless of this, the Buyer is entitled to make claims for damages resulting from the delay.

2. If, after the contract has been concluded, the Buyer enters into default for a non insignificant amount or he does not honour a bill upon the due date or other circumstances occur which suggest a warranty claim or inability to pay, the payment deadline is extended. The Buyer has the right to make due all amounts receivable arising from the ongoing business relationship which are not yet due at that point in time, as well as to demand security or prepayment or to demand the outstanding services arising from the business relationship, unless the Buyer has provided sufficient security.

3. An agreed prompt payment discount always relates solely to the invoice value excluding carriage charges. The fulfillment of the Buyer’s due accounts payable at the time the prompt payment discount is being ascertained.

4. With deliveries which take place as part-deliveries as per agreement or due to the nature of the materials, the Vendor has the right to demand a part payment for each part-delivery in proportion to the total order value.

IV. Execution of the delivery, delivery deadlines and times

1. Provided nothing else has been explicitly agreed, all statements of delivery times are non-binding.

2. Delivery deadline periods begin with the date of the order confirmation and apply subject to the condition that all details of the order are clarified in due time and all of the obligations of the Buyer, or of other third parties acting on behalf of the Buyer, are fulfilled (e.g. payment, prepayment, delivery of credits, necessary consents, etc.). Making down payments, are punctually fulfilled. If this is not the case, then the delivery time shall increase appropriately. This does not apply if the Vendor is responsible for the delay.

3. For the delivery, the Buyer may only take the delivery subject to reasonable discretion and with reasonable consideration of the interests of the Vendor. In case of a penalty is being aserted. Provided nothing else has been explicitly agreed, all statements of delivery times are non-binding.

4. The Buyer does not incur considerable overheads or additional costs.

5. If the Buyer enters into default of acceptance (“Annahmeverzug”) or culpably inflicts other duties to cooperate, then the Vendor, notwithstanding the assertion of further rights, has the right to withdraw from the contract and/or due to non-performance to assert a blanket rate of compensation which is generally determined by the Vendor and to demand damages fixed in a minimum of 5% of the net amount. Both contractual parties have the right to prove higher or lower damages.

Reserves

1. All goods delivered remain the property of the Vendor (goods subject to reservation of title) until the settlement of all claims to which he is due in the context of the business relationship (extended reservation).

2. The Buyer is obligated to carefully keep safe all goods delivered which are subject to reservation of title, to keep them in good condition and to repair them and to keep them safe from fire, water damage, theft.

3. Adaptation and processing (“Rechts-Veränderung”) of the goods subject to reservation of title taken place for the Vendor as the manufacturer in terms of paragraph 950 German Civil Code (BGB) without creating any obligations for the Vendor, either for the Vendor or for third persons. The Buyer is to be regarded as being items subject to reservation of title in terms of no. V. 1. Upon the processing, combination (“Verbundung”) and mixing (“Vermischung”) by the Buyer of the item subject to reservation of title, the Vendor and his co-ownership rights are transformed. The Buyer is always privilieged in the ratio of the invoice value of the item subject to reservation of title and keeps the new item without charge for the Vendor. These co-ownership rights are considered as goods that are subject to reservation of title in terms of no. V. 1.

4. The Buyer may only sell the goods subject to reservation of title in the usual course of business under its normal terms and conditions of business and provided he is not in default, providing that the amount of the goods sold is allocated to the reserved objects are transferred to the Buyer in the usual manner under public law and special public articles (“Buyer”).

5. The accounts receivable which arise out of the resale or another legal basis (in particular transfer of title to the end customer, insurance claims, tort etc.) with regard to the goods subject to reserva-
1. Unless otherwise agreed, the place of fulfilment for all obligations of both contractual parties is the headquarters of the Vendor.
2. Place of jurisdiction is Cologne/Germany. Additionally, the Vendor has the right to sue the Buyer in the jurisdiction of the headquarters of the Buyer.