

EUROTRAMP - KURT HACK GMBH

## GENERAL TERMS AND CONDITIONS (TAC)

### Section 1 | Sphere of validity

- 1.1 Only the following General Terms and Conditions of Business (hereinafter known as T&Cs) shall apply for all current and future goods, services and offers between Eurotramp-Trampoline Kurt Hack GmbH, Zeller Straße 17 / 1, 73235 Weilheim (Hereinafter also known as Seller) and the parties with which it enters into a contract (Hereinafter also known as Buyer). These T&Cs may be viewed on the Seller's home page, ([www.eurotramp.com](http://www.eurotramp.com)), printed out and archived.
- 1.2 The General Terms and Conditions of Business of the Buyer or third parties shall not apply.

### Section 2 | Conclusion of a contract

- 2.1 All agreements between Seller and Buyer must be made in writing. E-mails and fax messages shall be accepted as being in writing. This shall also apply for amendments and supplements to the agreements made or to these T&Cs. Only directors and authorised staff may make agreements otherwise.
- 2.2 The Seller may accept offers made by the Buyer such as orders and commissions within 14 working days of the receipt of the order or commission.
- 2.3 Leaflets, advertisements and documents such as drawings, diagrams, calculations, catalogues, specimen, and tools including the Seller's aids shall only apply as being approximations, unless they are expressly agreed as being binding for the contractual arrangements.
- 2.4 Tolerances normal within the trade and tolerances arising as a result of legal regulations or technical improvements as well as the replacement of sub-assemblies with equivalent parts shall be allowed, provided that they do not impair the fitness for the contractually intended use.

### Section 3 | Right of rescission

- 3.1 In so far as the Buyer is a Consumer, meaning that he has purchased the goods from the Seller for personal use, he shall no longer be obliged to abide by his declaration of his intention to enter into the contract if he has revoked it on time.
- 3.2 Reasons will not have to be given for this revocation. It is to be stated in writing (Letter, fax message, e-mail) or, if the thing is handed over to him prior to the expiry of the delivery period, by returning the thing.
- 3.3 The period shall amount to 14 days. It shall suffice for the revocation or thing to be dispatched on time for the period to have been observed.
- 3.4 Revocation is to be sent to:  
  
Firma  
Eurotramp-Trampoline Kurt Hack GmbH, Post- fach 11 46,  
73231 Weilheim,  
([eurotramp@eurotramp.com](mailto:eurotramp@eurotramp.com)).
- 3.5 The period shall begin when this advice has been received in writing, but not how- ever, prior to the receipt of the goods by the consignee (if the same type of goods are supplied on repeated occasions, not prior to the receipt of the first consignment) and not prior to the fulfilment of the Buyer's duty of information in accordance with Section 312 c, Para 2 of the German Civil Code [BGB] in conjunction with Section 1 Para 1, Sections 2 and 4 of the German Civil Code [BGB] - Information V as well as the Seller's duties in accordance with Section 312 e Para 1, P 1 of the German Civil Code [BGB] in conjunction with Section 3 BGB - Information V. The period shall be- gin on the first day after the day on which the last precondition has been fulfilled has expired.
- 3.6 In the event of effective revocation, the performances received by both parties are to be returned, and if applicable benefits obtained (e.g. interest) handed over. If the Buyer is only able to return part of the performance he has received or only return the performance in an inferior condition, given this, he shall be obliged to make good the loss in value, if applicable, to the Seller. This shall not apply when handing over things if the deterioration of the things is attributable to testing them – as would, for example have been possible in a shop. Moreover, the Buyer may circumvent this obligation to pay compensation for loss of value for deterioration in the condition of the thing caused by it after it has been used in accordance with the intended use, as a result of him not using it as if it was his property and refraining from doing anything which would impair its use. The Buyer shall have to bear the normal costs of return if the goods supplied are what he ordered. Obligations to reimburse payments have to be fulfilled within 30 days. The period shall begin for the Buyer when he sends his statement of revocation or the thing and for the Seller it shall begin with its receipt.

### Section 4 | Prices, Payment due dates

- 4.1 The Seller's price are net prices and do not include statutory value added tax.
- 4.2 Prices quotes shall be ex works.

- 4.3 The Buyer shall bear the cost of packing (Materials and time).
- 4.4 The Seller shall have to take out an insurance policy against transport damage or other risks as a matter of principle, unless the Buyer expressly objects to this. The costs of this type of insurance policy shall be borne by the Buyer.
- 4.5 A surcharge of € 33 per unit or € 49 per unit in an export consignment shall be invoiced for packing the large trampoline. A surcharge of € 29 will be invoiced for packing double mini-trampolines.
- 4.6 Invoices are to be paid within 30 days from the date of invoice.
- 4.7 If a payment is done within 10 days after invoice issue a payment discount can be negotiated. This shall, however, only apply if the Seller's preceding invoices have been settled in full.

## **Section 5 | Offsetting, Right of reservation**

- 5.1 The Buyer may only offset with his counter claims or withhold payments on account of such counter claims if his counter claims are not contested or if they have been declared final and absolute in a court of law.

## **Section 6 | Terms of delivery, Delivery period**

- 6.1 The terms of delivery are ex works.
- 6.2 In so far as a consignment of goods has been agreed with a registered business, delivery periods and dates shall apply to the point in time at which the goods are handed over to the haulier, freight forwarder or other third party appointed to deliver the goods.
- 6.3 In so far as the Seller does not comply with a delivery period, the Seller shall be obliged to inform the Buyer of this immediately in writing. In this case the Seller shall be set a reasonable period of grace in writing by the Buyer.

## **Section 7 | Place of fulfilment, Bearing of risk, Storage costs, Dispatch**

- 7.1 The place of fulfilment for all obligations created by the contractual relationship, shall, as far as is allowed by law, be Weilheim / Teck. In so far as the Seller is also responsible for installing the goods, the place of fulfilment shall be the place at which the goods have to be installed.
- 7.2 The method of dispatch and packing shall be subject to the dutiful discretion of the Seller.
- 7.3 If the Buyer is a registered business and the goods are sent to him at his request, the risk shall pass over to the Buyer when the goods are handed over (whereby the beginning of the loading procedure shall count) to the haulier, freight forwarder or other third party appointed to deliver the goods. This shall also apply in those cases in which consignments are supplied in part-deliveries or the Seller has also agreed to provide additional services (e.g. dispatch of installation).
- 7.4 If the dispatch or hand-over is delayed as a result of circumstances for which the Buyer is responsible, risk shall pass over to the Buyer on the day on which the Seller is ready to supply the goods.
- 7.5 Storage costs incurred after risk has passed over shall be borne by the Buyer. If the goods are stored by the Seller, the storage costs shall amount to 0.25 % of the sum invoiced for the goods to be put into store per week. The Seller shall reserve the right to assert and provide evidence of higher, and the Buyer, lower, storage costs.

## **Section 8 | Impossibility, Withdrawal**

- 8.1 Not only the Seller but also the Buyer may withdraw from the contract by making a written declaration to the other party to the contract if it is impossible for the Seller to fulfil the owed performance prior to the passing of risk. In this case the Seller shall notify the Buyer of this in writing straight away.
- 8.2 The Seller shall be entitled to withdraw from the contract if
- A. an application is made to instigate insolvency proceedings on the Buyer's assets or if these are rejected on account of insufficient assets;
  - B. the Buyer is more than 5 working days in arrears with payments due to the Seller in spite of being sent a written reminder;
  - C. after signing the contract the Seller becomes aware of circumstances which are capable of reducing the Buyer's creditworthiness significantly or as a result of which the payment of the Seller's outstanding accounts could be jeopardised.

## **Section 9 | Warranty**

- 9.1 Manifest defects are to be notified to the Seller in writing by the Buyer within 14 days at the latest from receipt of the goods.
- 9.2 The period covered by warranty for new moveable things is two years for consumers and one year for registered businesses from receipt of the goods.
- 9.3 No warranty of any kind shall be furnished when used moveable items are supplied to a registered business.
- 9.4 In so far as the supplied goods do have a defect, the Seller shall be entitled to make at least two attempts to carry out a repair within a reasonable period of time or else to supply a new item. The Buyer's right to assert a claim for a reduction in purchase price shall not be affected by this.

## Section 10 | Liability for compensation for damages

The following arrangements shall apply for the Seller's liability including that of his legal representatives, his employees and assistants:

- 10.1 The Seller shall be liable without limitation for death, personal injury or physical harm based upon a negligent or intentional breach of duty as well as for damage covered by liability under the German Product Liability Act. In addition to this, he shall be liable for all damages based upon intentional or grossly negligent breaches of duty as well as malice.
- 10.2 The Seller shall also be liable for damages caused as a result of ordinary negligence provided that this negligence concerns the breach of those regulations, compliance with which is of particular significance for achieving the contractual objective. He shall only be liable however, in so far as the damages are typically associated with the contract and are foreseeable. This liability for damages on account of ordinary negligence is limited to damages, which the Seller saw in advance when signing the contract as a possible consequence of breaching the contract or must have foreseen taking into account the circumstances of which he was aware of, or which he must have known had he applied due care and attention. Besides this, indirect damages and consequential damages resulting from defects in the goods can only be replaced provided that such damages are typically expected when using the goods as intended. The Seller shall not be liable for breaches of ancillary duties not of vital importance for the contract caused by ordinary negligence. In the event of liability on account of ordinary negligence, the Seller's obligation to pay compensation for personal injury or property damages shall be limited to the sum of € 1.0 million per claim, even if it is a duty vital for the contract which has been breached. The Seller can not be held liable for any liability over and above that described above regardless of the legal nature of the asserted claim.

## Section 11 | Reservation of title, Processing, Combining

- 11.1 The Seller shall reserve title to the sold goods until the purchase price and all the Buyer's other payment obligations to the Seller from invoices due for payment have been paid in full.
- 11.2 The Buyer shall undertake to notify the Seller immediately in writing if the supplied item is impounded or is at risk of other third party seizures for as long as the title has not passed over to the Buyer. Does the vendee behave contrary to agreement, particularly if the vendee does not meet payments in spite of dunning by the vendor, the vendor is allowed to rescind the contract and claim the surrender of contractual property after a prior, reasonable grace period. The withdrawal of the contractual property includes the withdrawal from the contract. The vendee has to bear the additional costs for transportation. The garnishment of contractual property through the vendor always includes the withdrawal from the contract. After withdrawal of the contractual property the vendor is legitimated to sale it. The proceeds of sale have to be credited to the engagement of the vendee after deduction of sale costs.
- 11.3 The purchased thing shall be handled, processed or transformed in the name, and on behalf, of the Seller until the title has passed over in full to the Buyer. In this case the Buyer's expectant right to the purchased thing / transformed thing shall continue. In so far as the purchased thing is processed together with other items not belonging to the Seller, the Seller shall acquire co-ownership to the new thing in proportion to the actual value of the purchased thing to the other processed items at the point in time of processing. In so far as the purchased thing has been combined with other items not belonging to the Seller in such a way so that the Buyer's thing is to be regarded as the main thing, it shall be regarded as agreed that the Buyer shall transfer a proportion of the co- ownership to the Seller and keep the sole title or co-ownership in safekeeping for the Seller.
- 11.4 Provided that the Buyer is a registered business, he shall be entitled to resell the purchased item in a normal commercial transaction even before he has paid for it in full. The Buyer's claims against his buyer created by a resale of the goods subject to reservation of title shall be assigned by the Buyer here and now to the Seller up to the amount of the agreed purchase price (including value added tax). The Seller accepts the assignment. The assignment shall apply regardless of whether the purchased thing has been resold having been processed or not.

## Section 12 | Data Protection

- 12.1 The Buyer is hereby notified in accordance with Section 28 Para 1 of the German Data Protection Act that the Seller shall save his full address and all the information required to raise an invoice and for operational reasons on his computer and process it in the computer. The data shall not be passed on to third parties without the Buyer's express consent. The Buyer shall be notified by Eurotramp-Trampoline Kurt Hack GmbH, Postfach 11 46, 73231 Weilheim (eurotramp@eurotramp.com) of all issues concerning personal data, information and corrections being collected, processed or used, and the blocking or deletion of data.

## Section 13 | Applicable law

- 13.1 As far as allowed by law, only the law of the Federal Republic of Germany shall apply for all contractual agreements between Buyer and Seller. As far as allowed by law, the United Nations Convention on the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.

## Section 14 | Place of jurisdiction

- 14.1 As far as allowed by law, the courts having jurisdiction for Weilheim / Teck shall be agreed between the Buyer and Seller as the place of jurisdiction for all disputes from and in connection with the contractual agreements.

## Section 15 | Partial validity clause

- 15.1 Should a provision in these General Terms and Conditions of Business be or become completely or partially invalid, the validity of the agreement of these General Terms and Conditions of Business shall not be affected by this as a result. The invalid provisions are to be replaced by the statutory provisions of the law of the Federal Republic of Germany. The same shall apply if there is a gap.