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Captain Bounce, Inc. Terms and Conditions

1) **ORDERS:** Upon receipt of an executed and signed Credit Authorization Form, Captain Bounce, Inc. (CB) will accept the order for the product(s) listed on said form. When you execute and sign the Credit Authorization Form, you confirm that you have read and completely understand and agree to the terms described herein. Additions, deletions or any other modifications of terms described herein will not be accepted by CB without the express written consent of an authorized CB representative. CB is not responsible for clerical or typographical errors made on any of its quotations, literature, documents, and/or other relevant material.

2) **PRELIMINARY NEGOTIATION:** CB offers a wide variety of inflatable products.

CB invites interested buyers to visit its website at www.captainbounce.com and/or contact a CB representative via telephone to obtain information regarding CB's full product line. Potential buyers are welcome to place an order upon having chosen the specific product of interest. Any and all verbal or written communication prior to execution of a Credit Authorization Form shall constitute preliminary negotiation. Such preliminary negotiations shall not be binding nor constitute a contract for the sale of goods.

3) **PAYMENT TERMS:** Payment to CB shall be made as follows: Initial payment equal to 50% of the total price for all products ordered must be paid to CB at the time of order when a Credit Authorization Form is executed, to ensure a space on the production schedule. If the Initial Payment is not received by CB, the order for products will not be placed.

The shipping date listed on the Credit Authorization Form will be based upon the date the initial payment is received. Consequently, additional day(s) may be added to the shipping date for each day(s) initial payment has not been received. The final balance for the order must be received no more than 48 hours prior to the listed shipping date on the Credit Authorization Form. CB will not be responsible for tracking final payment(s), thus responsibility falls on the customer to keep track of shipping date(s) and make arrangements with CB for final payment(s) receipt 48 hours prior to the product being shipped. All funds for payment shall be in U.S. dollars in the form of cash, cashier's check, money order, wire transfer, or credit card.

a. The initial payment is non-refundable. Any attempt by buyer, to rescind the executory contract shall be treated by CB as an anticipatory breach and shall entitle CB to retain the fifty percent (50%) initial payment.

4) **SHIPPING AND HANDLING:** The shipping date indicated on the Credit Authorization Form is only an estimate for the time it takes for the product to be shipped to the customer. In the event where initial payment is delayed, completion of your order may be adjusted accordingly. CB cannot be held responsible for delays in shipping due to unforeseen circumstances such as, but not limited to, weather, fire, flood, earthquake, union strikes, freight embargoes and/or acts of governments. Shipments requiring special handling such as a lift gate style truck for unloading CB products may be subject to additional charges. In cases where the buyer chooses to pick up product at the CB warehouse, buyer must do so during regular business hours, after inspection and signing for receipt. CB will not be liable for any damages incurred by customer, including any consequential damages, for late delivery of products.

5) **FAILURE TO MAKE FINAL PAYMENT:** If Buyer fails to perform on its obligation to make the final payment of the balance remaining after initial payment, as stated above in Section 3, Buyer shall incur storage fees at the rate of \$7.00 (USD) per unit, per day. Said storage fees will accrue commencing on the third (3rd) day after the "shipping date." If Buyer's failure to perform continues for thirty (30) days after the "shipping date" it will be treated by CB as an anticipatory breach, and it shall entitle CB to: (a) retain the fifty percent (50%) initial payment, and (b) resell the ordered inflatable.

6) **LIMITED WARRANTY:** CB warrants that its supplied products are free from:

1. Defects in the materials and the workmanship.
2. Defects developing from the selection of materials or the process of manufacturing.
3. Defects in the design.

The warranty applies not only to your inflatable unit but also to all equipment, accessories, and parts distributed by CB. The air blower is covered by the manufacturer's warranty. In cases of defects in materials, workmanship or defects arising from the selection of material or processes of manufacture, such defects must become apparent in the inflatable unit, equipment or part within 12 months of shipping date. The extent of seller's liability under this warranty is to defects in material or workmanship and defects arising from the selection of material or the processes of manufacture. CB's liability is limited to the repair of the aforementioned defects or to the repair or replacement (with item free from the defect in question) of any accessory, equipment, or part which is defective in any of such respects with the exception of color fading. The extent of seller's liability under this warranty as to defects inherent in design is limited to the correction at our expense of all such defects becoming apparent in the inflatable unit, accessory, equipment or part purchased here within one year of use. Seller shall make all such repairs, replacements and corrections with care. This warranty shall become void if inflatable is wet or repaired by any other repair agency not approved by CB. Customer shall be responsible, at its discretion, for freight to and from CB production facility for the duration of the entire 24 months after the date of delivery using its own approved freight carrier. Units are covered by a 2 year manufacturer's warranty; water units come with 1 year manufacturer warranty. Specifically excluded from warranty coverage are soaker hoses, water misters, and zippers.

7) **MODIFICATIONS:** The "Terms and Conditions" shall constitute the entire agreement between buyer and seller. Any and all modifications to the "Terms and Conditions" must be made in writing with the consent of an authorized CB representative.

a) **Mutual Assent to Modifications:** Prices are subject to adjustment if the buyer requests changes in specifications, quantities, or delivery requirements.

All of the paragraphs of this document shall apply to the goods to which such changes apply and no modification of the terms and conditions herein shall be binding on CB, unless it is contained in a writing signed by an authorized CB representative and expressly stating that such terms are being modified and the nature of such modification.

Notice: Any changes requested are subject to re-quotation of the final cost of the item purchased and shall conform to the "no oral modification" clause stated above.

8) **INSPECTION: IT IS IMPORTANT TO CHECK ALL ORDERS IMMEDIATELY WHEN RECEIVED BECAUSE ALL SALES ARE FINAL.** Buyer shall inspect the product(s) on the same day as receipt date and shall notify CB in writing of any claims, including claims of breach of warranty, within three (3) business days, using certified mail, after buyer discovers facts upon which the claim is based. Failure of buyer to give written notice of a claim for a patent defect within the inspection time period shall be deemed to be a waiver of a claim for defective products and conclusive proof that buyer received the product(s) without defect(s).

9) **TAXES:** All charges are subject to federal, state and local taxes if applicable at the point of delivery. Customer shall pay such taxes imposed on this order, and all penalties and interest, if any, accrued therewith.

10) **DISCLAIMER:** CB denies or renounces any responsibility whatsoever to CUSTOMER or any other person(s) for any type of injury to person(s) or damage to or loss of property or value caused by any product which has been subjected to misuse, negligence, accident, misapplication, unauthorized modification, improper maintenance and/or installation. CB shall not be responsible for any clerical or typographical errors made on any of its documents, quotations or literature.

11) **PRODUCT TOLERANCES:** All weights and dimensions, with regard to products sold by CB, are stated in the literature or instruction material. These figures are approximate and within industry tolerances.

12) **TRADEMARKS AND COPYRIGHTS:** Trademarks, logos, product names, literature, artwork, designs, and photographs are solely used for the purpose of creating products and are exclusively owned and part of CB. Any illegal use of any of these items constitute a copyright infringement and is punishable by law.

13) **PRODUCT VARIATION:** In the event where customer requests any changes in design, manufacturing, order quantity, delivery terms, and/or other matters, prices are subject to reflect those variations. All variations must be disclosed at time of order placement and are subject to approval by an authorized CB representative.

14) **CANCELLATION:** The contract shall be binding immediately, upon acceptance by buyer. The act of entering the contract shall create legally enforceable rights and obligations, however as a courtesy to its clients, CB, may, in its discretion agree to cancel an order if a request for said cancellation is made within twenty four (24) hours of the execution of the Credit Authorization Form. If, in its discretion, CB chooses to extend such a courtesy to a client, it shall be entitled to retain the initial payment of fifty percent (50%) to cover expenses for restocking the inflatable.

15) **ALL SALES ARE FINAL:** All sales are final except where warranty issues should arise as outlined in provision 4. There are absolutely no exchanges or refunds once final payment is received and product has been sent to customer.

16) **INDEMNIFICATION AND USE:**

"CUSTOMER" (person, company or entity buying the inflatable product or device), is solely responsible for the manner of use of the products and other equipment purchased from CB. "CUSTOMER" is solely responsible for all warnings, signs, and labels to consumers or other users of the products and equipment, and for any and all other acts necessary, including user warnings and limitations (e.g., weight, height, age, number of participants and medical condition limitations), to ensure the safety of the users. "CUSTOMER" acknowledges that they have received, read and fully understand all necessary instructions for the safe setup and operation of their CB product or device. "CUSTOMER" agrees to operate their CB product or device according to the instructions established by CB. "CUSTOMER" agrees to operate their product or device according to all state and local government requirements. "CUSTOMER" agrees to train any person(s) operating the product or device in the safe operation of the product or device including safe handling of emergency situations. "CUSTOMER" shall use proper stakes, tie-downs, and other applicable devices necessary to ensure the safety of users and the general public. "CUSTOMER" agrees to indemnify, defend and hold harmless CB and its insurers from actions and claims of third parties, including customers of "CUSTOMER" and users of the goods and products sold to "CUSTOMER", arising out of or in connection with the use of the goods and products herein described or resulting from the breach of the provisions in this Confirmation of Order by "CUSTOMER". In the event CB is required to commence an action to enforce this provision, "CUSTOMER" shall pay all of CB legal costs and expenses.

17) **GOVERNING LAW, JURISDICTION, AND VENUE:**

These terms shall be governed by, and construed in accordance with, the laws of the State of California. The CUSTOMER agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding these terms and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

18) **BINDING ARBITRATION:** In the event a dispute shall arise between Buyer and CB, it is hereby agreed that the dispute shall be referred to an arbitrator to be designated by the Buyer and CB jointly, for final and binding arbitration under the applicable Arbitration Rules of the American Arbitration Association.

The arbitrator's decision shall be final and legally binding and judgment may be entered thereon.

a) **Arbitration Costs and Fees:** Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration.

In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including reasonable attorney's fees for having to compel arbitration or defend or enforce the award.