Regulations of Use for European Union certification trademark „DOWNPASS“

§1 Trademark owner, European Union certification trademark, Goods

Traumpass e.V., Thomas-Mann-Straße 9, 55122 Mainz (hereinafter referred to as „Association“) is the owner of European Union Certification Trademark No. 017874082 „DOWNPASS“ (word mark)

- hereinafter referred to as DOWNPASS-mark -

which claims the following goods:

Class 20:
Cushions filled with bed feathers and/or down; bolsters.
Class 22:
Feathers for bedding; down.
Class 24:
Blankets; quilted blankets; bedding made from down-proof textiles filled with bed feathers and/or down, including duvets and mattress toppers; sleeping bags [sheeting].
Class 25:
Clothing, footwear, headgear.

- hereinafter referred to as DOWNPASS-products -

§2 Declaration

It is herewith confirmed that the Association does not operate a business directed to selling the DOWNPASS-products.

§3 Persons authorized to use

The members of the Association as well as possible licensees of the DOWNPASS-mark are entitled to use the DOWNPASS-mark in the European Union for designating the DOWNPASS-products according to the conditions of use as set forth in § 4 and for certifying the characteristics of the DOWNPASS-products determined in § 4. Licensees can be any natural persons or legal entity who sells the DOWNPASS-products.

§ 4 Conditions of use of the DOWNPASS-mark, Certification

(1) The persons entitled to use according to § 3 are entitled to use the DOWNPASS-mark in the European Union for designating DOWNPASS-products, as far as the following conditions are fulfilled, the fulfillment of which being certified by the DOWNPASS-mark:

(i) The feathers and down which are used for filling DOWNPASS-products or which are as such DOWNPASS-products may not be obtained from living animals and not from animals which are kept for the production of Foie gras.

(ii) The origin of the down and feathers must be traceable through the entire production and delivery chain back to the place of breading. Eiderdown is excepted of this condition.
(iii) The down and/or feather filling of the DOWNPASS-products has to comply with the stipulations of DIN EN 12934 class I or class II, which is attached.
(iv) Sleeping bags for indoor or outdoor use, clothing articles, headgear, shoes and/or transport containers for down or feathers have to comply with the legal stipulations of the German Textile Labelling Act, provided that it is applicable for the respective goods. The German Textile Labelling Act is attached.
(v) Further details of the use requirements according to items (1) to (4) are set forth in the „DOWNPASS-Standard“, the „Implementation rules DOWNPASS-Standard“ and the “Special terms and conditions“ in the current versions, which are all attached.

(2) Additionally, the following conditions have to be fulfilled, which are not certified through the use of the DOWNPASS-mark:

(i) In the event of using the DOWNPASS-mark for DOWNPASS-products that are bedding, the mark must be affixed firmly to the product. In the case of the use of the DOWNPASS-mark for other DOWNPASS-products than bedding the mark should be affixed firmly on the product.
(ii) When affixed permanently to the product, the DOWNPASS-mark must be used with the control number assigned by the association.
(iii) The DOWNPASS-mark may be used on letterheads for promotional purposes and for packaging of DOWNPASS-products labeled with the DOWNPASS-mark. In such cases, the mark may be used without an assigned control number.
(iv) Except in cases of above item (iii), the DOWNPASS-mark may only be used in the graphical form which is prescribed by the Association, whereas in doing so the distinctive character of the mark may not be changed.

(3) The use of the DOWNPASS mark for pillows with multiple chambers (multi-chamber pillows) that contain other filling materials in addition to down and/or feathers is only permitted under the following cumulative conditions:

(i) All chambers of the product must be separated from each other in such a way that the respective filling materials cannot mix.
(ii) At least one chamber must be filled exclusively with down and/or feathers that meet the requirements of § 4 (1) (i) to (iii).
(iii) No chamber may contain down and/or feathers as filling material that do not meet the requirements of § 4 (1) (i) to (iii).
(iv) Chambers filled with down and/or feathers must not contain any additional filling material.
(v) The usage requirements of § 4 (2) (i) to (iv) must be met.
(vi) A clear indication must be given on the product and/or packaging that not all of the filling material consists of down and/or feathers. All filling materials must be indicated on the product.

§5 Supervision of the conditions of use and sanctions

The Association is obliged to monitor the fulfillment of the provisions of these regulations of use, to sanction violations of these conditions of use and to see that these conditions of use are always fulfilled. The Association will act against any inadmissible use of the DOWNPASS-mark by the persons entitled to use or by third parties. Additionally, each member of the Association is obliged to inform the Office of the Association or the Board of Executives of the Association on any infringements of the conditions of use of which it has taken notice.

The Association checks the fulfillment of the conditions of use according to § 4 (1) through initial and continued audits in the form of preannounced and non-announced inspection visits, inspection of businesses and checking of documents as well as by mystery shopping through all levels of the production and delivery chain as well as by checking the characteristics and quality of down and feathers in the course of inspections and mystery shopping. The audits as well as the checking of characteristics and quality of down and feathers is effected by acknowledged and independent testing institutes.

The details of the audits, inspections and mystery shoppings are stipulated in the "DOWNPASS-Standard", the „Implementation Regulations DOWNPASS-Standard", in the „Special terms and conditions" as well as in the „Schedule of Penalties" of the Association.

In the event of inadmissible use of the DOWNPASS-mark through third parties which are not entitled persons of use, the Association initiates legal steps against these third parties.

§6 Termination of the use rights

The right to use the DOWNPASS-mark ends:
(1) through termination of the membership in TRAUMPASS e.V.,
(2) in the event of a withdrawal of the right to use the DOWNPASS-mark or
(3) in the case of holders of an individual license based on an individual license agreement if this license agreement has been terminated or ended in other ways.

§7 Right to Assign

The right to use the DOWNPASS-mark according to these regulations of use may not be assigned.

§8 Relation with trademark rules "TRAUMPASS" and „DOWNPASS"

The present regulations of use are applicable next to the trademark rules „TRAUMPASS" and „DOWNPASS", which stipulate the worldwide conditions of using the mark „DOWNPASS". For the use of the European Union Certification Trademark No. 017874082 „DOWNPASS" (word mark) in the European Union, the present regulations of use have priority in case of possible discrepancies.

Enclosures:
DIN EN 12934

German Textile Labelling Act
DOWNPASS-Standard
Implementation rules DOWNPASS-Standard
Code of Conduct
Special terms and conditions
Schedule of penalties