

TERMS & CONDITIONS

1. Definitions

You: the person or firm who purchases the Goods from Us.

We, Us or Our: Savoir Beds USA LLC, a New York Limited Liability Company.

2. **Basis of contract:** These **Conditions** (being the terms & conditions set out in this document) apply to the **Contract** (being the contract between Us & You for the sale & purchase of the Goods in accordance with these Conditions) to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The **Order** (being Your order for the Goods, as set out in Your purchase order form, Your written acceptance of Our quotation) constitutes an offer by You to buy the **Goods** (being the goods (or any part of them) set out in the Order) in accordance with these Conditions. You are responsible for ensuring that the **Order & Specification** (being the specification for the Goods, including any related plans & drawings) are complete & accurate. These conditions apply to non-online purchased Goods.
3. **Goods:** The Goods are described in the Specification. We reserve the right to amend the Specification if required by any applicable statutory or regulatory requirements. To the extent that the Goods are to be manufactured in accordance with a Specification supplied by You, You shall indemnify Us against all liabilities, costs, expenses, damages & losses suffered or incurred by Us for actual or alleged infringement of a third party's intellectual property. This clause shall survive termination of the Contract.
4. **Delivery:** Delivery is completed on the completion of unloading of the Goods at the Delivery Location (being to the location set out in the Order or such other location as the parties may agree). Any dates quoted for delivery are approximate only, & the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by a force majeure event or Your failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. It is Your responsibility to ensure that the relevant Goods will pass freely through into the room of choice at the Delivery Location. If You fail to take delivery of the Goods within ten business days of Our notifying You that the Goods are ready, then, except where such failure or delay is caused by a force majeure event or We fail to comply with Our obligations under the Contract: (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the tenth Business Day after the day on which We notified You that the Goods were ready; & (b) We shall store the Goods until delivery takes place, & may charge You for all related costs & expenses (including insurance) (Storage Charges). If after the twelve month anniversary of the date on which We notified You that the Goods were ready for delivery You have not taken delivery of them, We may resell or otherwise dispose of part or all of the Goods &, after deducting the **Deposit** (being 50% of the price of the Goods (as at the date of the Order)), storage & selling costs, account to You for any excess over the price of the Goods or charge You for any shortfall.
5. **Quality:** In addition to our 25 Year Guarantee (as set out in the accompanying documentation) we warrant that on delivery the Goods shall: (a) conform in all material respects with the Specification; & (b) be free from material defects in design, material & workmanship; & (c) be of satisfactory quality; & (d) be fit for any purpose held out by Us. Subject to the provisions in this clause, if: (a) You give notice in writing to Us within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5; (b) We are given a reasonable opportunity of examining such Goods; & (c) You (if asked to do so by Us) return such Goods to Our place of business at Your cost, We shall, at Our option, repair or replace the defective Goods, or refund the price of the defective Goods in full. We shall not be liable for the Goods' failure to comply with the warranty set out in this clause in any of the following events: (a) You make any further use of such Goods after giving notice in accordance with clause; (b) the defect arises because You failed to follow Our oral or written instructions as to the storage, commissioning, installation, use & maintenance of the Goods or (if there are none) good trade practice regarding the same; (c) the defect arises as a result of Our following any drawing, design or Specification supplied by You; (d) You alter or repair such Goods without Our written consent; (e) the defect arises as a result of fair wear & tear, wilful damage, negligence, or abnormal storage or working conditions; or (f) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements. Except as provided in this clause, We shall have no liability to You in respect of the Goods' failure to comply with the warranty set out above. These Conditions shall apply to any repaired or replacement Goods supplied by Us. We cannot accept responsibility for any damage caused by Your failure to follow "The Company Bed Care Instructions" or relevant accessory care instructions.
6. **Comfort Guarantee (Savoir No1 bed & Savoir No2 bed):** This clause applies to the Savoir No1 bed & Savoir No2 bed only (but does not apply to the Savoir No3 bed or Savoir No4 bed). If, within six weeks of delivery, You notify Us that you would prefer your mattress to be altered to be made softer or firmer, We will replace the mattress free of charge, although We will make a charge of \$2,500 for delivery from the UK and the collection and return of the existing mattress, plus an additional delivery charge if the mattress is more than 10 miles from the showroom. We will schedule for the work as soon as is reasonably possible based on Our production schedule. You accept that a new mattress needs to settle in, & that You should sleep on it for four weeks after delivery before making the decision to effect alterations.
7. **Title & risk:** The risk in the Goods shall pass to You on completion of delivery. Title to the Goods shall not pass to You until the earlier of: (a) We receive payment in full (in cash or cleared funds) for the Goods, in which case title to the Goods shall pass at the time of payment; & (b) You resell the Goods, in which case title to the Goods shall pass to You at the time specified below. Until title to the Goods has passed to You, You shall: (a) store the Goods separately from all other goods held by You so that they remain readily identifiable as Our property; (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; (c) maintain the Goods in satisfactory condition & keep them insured against all risks for their full price from the date of delivery; (d) notify Us immediately if it becomes subject to any of the events listed in the Termination clause; & (e) give Us such information relating to the Goods as We may require from time to time. Subject to following provisions in this clause, You may resell or use the Goods in the ordinary course of Your business (but not otherwise) before We receive payment for the Goods. However, if You resell the Goods before that time: (a) You do so as principal & not as Our agent; & (b) title to the Goods shall pass from Us to You immediately before the time at which resale by You occurs. If before title to the Goods passes to You becomes subject to any of the events listed in the Termination clause, then, without limiting any other right or remedy We may have: (a) Your right to resell the Goods or use them in the ordinary course of Your business ceases immediately; & (b) We may at any time: (i) require You to deliver up all Goods in Your possession that have not been resold, or irrevocably incorporated into another product; & (ii) if You fail to do so promptly, enter any premises of Your or of any third party where the Goods are stored in order to recover them.
8. **Price, Deposit & payment:** The price of the Goods shall be the price set out in the Order. We may, by giving notice to You at any time up to 10 business days before delivery, increase the price of the Goods to reflect any reasonable increase in the cost of the Goods. The Deposit is payable (in full & in cleared funds at the time the Order is placed) for Orders: (i) due in more than 4 weeks &/or (ii) of over £500 in total value. You shall pay the balancing invoice or balance price of the Goods in full & in cleared funds 10 business days prior to the estimated delivery date. Payment shall (at our discretion) be made to the bank account nominated in writing by Us or by credit card. Time for payment is of the essence. Storage Charges shall be paid to Us on a monthly basis. The Deposit & any additional sums paid by You are not refundable where: (i) materials have been cut, finished, processed or otherwise converted to Your Specifications &/or (ii) the payment of all sums due to Us under the Contract remain unpaid on the twelve month anniversary of the date that the Order is placed. If You fail to make any payment due to Us under the Contract by the due date for payment, then You shall pay interest on the overdue amount at the rate of [4]% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount. You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by You against any amount payable by Us to You.
9. **Termination:** Without limiting Our other rights or remedies, We may terminate this Contract with immediate effect by giving written notice to You if: (a) You commit a material breach of any term of the Contract & (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so; (b) You take any step or action in connection with Your entering administration, provisional liquidation or any composition or arrangement with Your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of Your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (c) You suspend, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of Your business; or (d) Your financial position deteriorates to such an extent that in Our opinion Your capability to adequately fulfil Your obligations under the Contract has been placed in jeopardy. Without limiting Our other rights or remedies, We may suspend provision of the Goods under the Contract or any other contract between You & Us if You become subject to any of the events listed above in this clause, or We reasonably believe that You are about to become subject to any of them, or if You fail to pay any amount due under this Contract on the due date for payment. Without limiting Our other rights or remedies, We may terminate the Contract with immediate effect by giving written notice to You if You fails to pay any amount due under the Contract on the due date for payment. On termination of the Contract for any reason You shall immediately pay to Us all of Our outstanding unpaid invoices & interest. Termination of the Contract shall not affect any of the parties' rights & remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force & effect.
10. **Limitation of liability:** Nothing in these Conditions shall limit or exclude Our liability for: (a) death or personal injury caused by Our negligence, or the negligence of Our employees, agents or subcontractors (as applicable); (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by law (legislation, statutory, regulatory or other); or (d) defective products (under any consumer protection legislation); or (e) any matter in respect of which it would be unlawful for Us to exclude or restrict liability. Subject to the above: We shall under no circumstances whatsoever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; & Our total liability to You in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the invoiced & paid price of the Goods. We do not warrant or guarantee that our Goods are suitable for any person's medical condition.
11. **Force majeure:** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a force majeure event.
12. **Assignment & other dealings:** You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of Your rights or obligations under the Contract without Our prior written consent.
13. **Entire agreement:** This Contract constitutes the entire agreement between the parties & supersedes & extinguishes all previous agreements, promises, assurances, warranties, representations & understandings between them, whether written or oral, relating to its subject matter.
14. **Enforcement:** You agree to indemnify & keep Us indemnified against all reasonable fees, costs & other expenses incurred by Us in enforcing these Conditions or any of its terms.
15. **Variation:** No variation of this Contract shall be effective unless it is in writing & signed by the parties (or their authorised representatives).
16. **Waiver:** No failure or delay to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
17. **Severance:** If any provision or part-provision is invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal & enforceable.
18. **Third party rights:** No one other than a party to this Contract shall have any right to enforce any of its terms.
19. **Governing law:** The Contract, & any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by & construed in accordance with the law of the State of New York or, if available, of the United States District Court for the Southern District of New York. **Jurisdiction:** Each party irrevocably agrees that the courts of the State of New York or, if available, of the United States District Court for the Southern District of New York shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.