

MATTRESSMAN ON-LINE TERMS AND CONDITIONS

Valid until May 2010

These terms and conditions of sale constitute a binding agreement between Mattressman (us/we/our) and its customers (you/your) which applies to all purchases of products by you from our website.

1. CONDITIONS APPLICABLE

- 1.1 These terms and conditions shall apply to the contract to the exclusion of all other terms and conditions including any terms or conditions which you may purport to apply under your purchase order confirmation of order or similar document.
- 1.2 Any typographical clerical or other error or omission in any sales literature shall be subject to correction without any liability on our part.
- 1.3 Any variation to these terms and conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by us.
- 1.4 Any representations made by our employees or agents (including customer services) concerning the products shall not be incorporated into the contract unless confirmed by us in writing and in entering into the contract you acknowledge that you do not rely on and waive any claim for breach of such representations which are not so confirmed.
- 1.5 You are provided with access to this website in accordance with these terms and conditions and any orders placed by you must be placed strictly in accordance with these terms and conditions.
- 1.6 We reserve the right to modify or withdraw, temporarily or permanently, this website (or any part thereof including these terms and conditions) with or without notice to you and you confirm that we shall not be liable to you or any third party for any modification to or withdrawal of the website.

2. ORDERS OF MATTRESSES (“PRODUCT(S)”)

- 2.1 All orders are subject to acceptance in accordance with our order acceptance policy set out at clause 3 below.

3. FORMATION OF CONTRACT AND ORDER ACCEPTANCE POLICY

- 3.1 You can place your order for our products:-
 - 3.1.1 by telephoning customer services on the number set out at clause 14 below; or
 - 3.1.2 on our website by pressing the confirm order button at the end of the check-out process. You will be guided through the process of placing an order by a series of simple instructions on the website.

3.2 We will send to you an order acknowledgement email detailing the products you have ordered. This is not an order confirmation or order acceptance from us.

3.3 Order acceptance will take place once you have received an order confirmation from us, unless prior to your receipt of our order confirmation, we have notified you that we do not accept your order.

3.4 Non-acceptance of an order may be a result of one of the following:

- 3.4.1 Our inability to obtain authorisation for your payment
- 3.4.2 The identification of a pricing or product description error
- 3.4.3 Our inability to process your order as a consequence of our failure to receive your online or telephone order before 15.00hrs Monday to Friday inclusive (excluding statutory bank holidays);
- 3.4.4 The delivery address is in an area of inaccessibility;
- 3.4.5 The product(s) you have ordered are out of stock (whether temporarily or otherwise);
- 3.4.6 Delivery is delayed for reasons beyond our control, including (but without limitation to) the reasons set out at clause 5.3 below;
- 3.4.7 Your failure to :-
 - (a) be over 18 years of age;
 - (b) stipulate a delivery address in the United Kingdom or Europe including a postcode or equivalent;
 - (c) to possess a valid credit or debit card issued by a bank acceptable to us;
 - (d) comply with and consent to clause 3.5 below and generally the terms of our website [privacy policy](#)

3.5 By making an offer to buy a product(s), you specifically consent to our (in accordance with our website [privacy policy](#)) transmitting personal information (including any updated personal information) or to obtain personal information about you from third parties from time to time, including but not limited to your debit or credit card number or credit reports, to authenticate your identity, to validate your credit card, to obtain an initial credit card authorisation and to authorise individual purchase transactions. We will take all reasonable care, in so far as it is within our power to do so, to keep the details of your order and payment secure, but in the absence of negligence on our part we cannot be held liable for any loss you may suffer if a third party procures unauthorised access to any data you provide when accessing or ordering from the website.

3.6 If there are any problems with your order, you will be contacted by customer services.

3.7 Prior to acceptance by us, we reserve the right at any time and at our sole discretion to:-

- 3.7.1 withdraw any product(s) from this website; and/or
- 3.7.2 remove or edit any materials or content on this website; and/or
- 3.7.3 reject any order.

4. DELIVERY

- 4.1 We aim to deliver on the date requested by you using your selected delivery options. Further information about deliveries can be viewed on our [delivery map](#).

4.2 Whilst we aim to deliver all products on the next working day, we cannot guarantee delivery on the next working day and any date quoted for delivery of the products is approximate only. Further, we shall not be liable for any loss suffered by you arising from any delay in the delivery of the product(s).

4.3 Reasons for delay or non-delivery could be:

- 4.3.1 During holiday periods eg: Christmas, Easter.
- 4.3.2 The delivery area is in an area of inaccessibility. Inaccessible delivery areas can be viewed on our [delivery map](#). For deliveries in these districts you should allow an extra 3 working days for delivery.
- 4.3.3 Unforeseen circumstances, such as but not limited to lock-outs, strikes, riots, malicious damage, labour disturbances, trade disputes, government action, (including action by any local or statutory authority), fire, floods, vehicle breakdown, acts of God, delays by suppliers or any other cause whatsoever beyond our control.
- 4.3.4 The product(s) that you have ordered are not in stock.

4.4 If we cannot deliver on the next working day for any reason, we will update you by e-mail or telephone as to the progress of your order, advising you of the anticipated delivery date, and contact you by email or telephone once your product(s) is (are) ready for dispatch. We will offer you a choice of either accepting with the revised estimated delivery date or cancellation with a full refund.

4.6 We offer FREE delivery on all products to Wales, Scotland, Northern Ireland, mainland England and mainland Scotland on orders over £45. Deliveries to the Isle of Man, the Isle of Wight, the Channel Islands, the Scottish Islands and the Republic of Ireland or elsewhere in Europe can be arranged but at an additional cost. We can deliver before Midday on Saturdays but at an additional cost. We cannot deliver on Sundays.

4.7 We have broken down our delivery procedure into 3 steps, which should ensure a smooth, and efficient delivery service:-

STEP 1. Order acknowledgement: On receipt of your order, we will send you an order acknowledgement by email. The acknowledgement will give you full details of the product(s) you have purchased, delivery address, and financial details of the transaction. Please take time to carefully check:-

5. Your name, delivery address, telephone numbers and postcode are correct.
6. The products are correct, (including, colours, quantities required etc.)
7. The financial details total correctly

If you do not receive an acknowledgement or if you find any errors, phone or e-mail customer services using the contact details set out below at clause 14.

STEP 2. Order confirmation: Prior to dispatch of your product(s), we will send you an order confirmation by e-mail, giving you full details of the product(s) you have purchased, delivery address, financial details of the transaction and an anticipated delivery day.

If you do not receive an order confirmation, or if you find any errors, phone or e-mail customer services using the contact details set out below at clause 14.

If the anticipated delivery day is not convenient or if you find any errors, please phone or e-mail customer services using the contact details set out below at clause 14 and quote your personal order/reference number provided on the order confirmation.

PLEASE NOTE DISPATCH WILL NOT TAKE PLACE UNLESS YOU HAVE RECEIVED AN ORDER CONFIRMATION.

STEP 3. Delivery of your product(s): Following successful completion of steps 1 and 2, delivery will take place on the confirmed day.

- 4.8 Delivery is generally carried out by national carrier and their experienced delivery drivers, who will deliver your new products to the most easily accessible ground floor door to your premises. Please note that if you live in a block of flats or in a basement premises, your product(s) will only be delivered to the most easily accessible ground floor door of the building, and will not be delivered to your specific door of your premises within the building or basement. Please also note that national carrier personnel cannot and will not enter any your premises or any building leading to your premises, assemble your new products or dispose of your old products.

5. FAILED DELIVERY ATTEMPT

- 5.1 If, contrary to clause 4.7 above, and otherwise than by reason of our fault:-
 - 5.1.1 you fail give us adequate delivery instructions and/or fail to inform us that there are errors in the order acknowledgement and/or order confirmation relating to your delivery address details;
 - 5.1.2 you fail to inform us that the anticipated delivery day is not convenient and/or that there are errors in your order confirmation relating to your delivery address details

and as a consequence you fail to take delivery of the product(s) whenever they are tendered for delivery, then without prejudice to any other right or remedy available to us, we reserve our right to and will generally seek to recover transportation costs for the return trip. As an alternative, you may arrange carriage at your expense for the return of the product(s) to us. Please ensure that these product(s) are wrapped well and in their original wrappings. Product(s) will remain the responsibility of you the customer until they return on to our property. Once in our possession we will issue the necessary refund, subject to condition of product(s).

6. RETURNS & CANCELLATION POLICY

- 6.1 You shall inspect your product(s) on delivery and if you find your products to be faulty or damaged and within 24 hours of receipt (or the next working day if delivered on a Friday) you report the alleged fault or damage, then we will either exchange the product(s) or issue a full refund within 14 days of delivery. In such circumstances,

provided that the product(s) are adequately wrapped, we will meet all delivery and return costs. This does not affect your statutory rights.

6.2 If you are unhappy with your purchase for any other reason, or change your mind, and notify us within 7 working days of delivery, we will offer you a choice of:-

- 6.2.1 a replacement product(s); or
- 6.2.2 Cancellation and refund of the product(s).

However, on REPLACEMENTS and CANCELLATIONS we reserve our right to and will generally seek to recover the cost of return, which would be deducted from the refund amount or added to any upgrade. The charges for collection are as follows:

Single sized item [£50] (per item)
Double sized item [£55] (per item)
King sized item [£55] (per item)
Super King sized item [£60] (per item); or

- 6.2.3 your making arrangements at your expense for the carriage and the return of the product(s) to us. Please ensure that these product(s) are wrapped well and in their original wrappings. Product(s) will remain the responsibility of you until they are received by us, following which we will refund payment, provided always that the product(s) are received by us undamaged.

6.3 You need to ensure that all reasonable care is taken of the product(s) whilst in your possession, and original wrappings must be retained and used for collection.

6.4 The collection of cancelled product(s) will be completed by national carrier, who will liaise with you to arrange a mutually convenient day for collection. Please ensure that these product(s) are wrapped well and in their original wrappings prior to collection by national carrier. Product(s) will remain the responsibility of you until they are received by us, following which we will refund payment, provided always that the product(s) are received by us undamaged.

7. PRICE & PAYMENT

- 7.1 Except as otherwise provided in these terms and conditions or unless otherwise agreed in writing by us, in accordance with clause 4.6 above, the price is inclusive of delivery costs to the delivery address notified by you.
- 7.2 We reserve the right to increase the price to reflect any taxes or duties which are or may from time to time be levied by any governmental statutory or local authority upon the sale of the product(s) and any necessary additions shall be charged at the rates prevailing at the date of invoice.
- 7.3 The price listed includes VAT (Value Added Tax) at the UK standard rate of 17.5%. If at any time we deem it necessary to decrease the price, we shall have the right to give written notice of such decrease to you decreasing the price following

which such decrease shall be subtracted from the price accordingly. The correct price you will pay will be on your printed order confirmation.

- 7.4 All orders are payable in full before delivery. Interest (before and after judgment) on any unpaid balances is chargeable at the rate of 4% per annum above Barclays Bank Plc base rate from time to time until payment in full is made.
- 7.5 We accept all major credit cards/debit cards VISA, Delta, Mastercard & Switch. We use secure webpages and offer the use of our secure realtime credit card transaction server.
- 7.6 You must confirm that the credit or debit card that is being used is yours in order to purchase product(s) on our website or over the telephone.
- 7.7 All credit/debit card holders are subject to validation checks and authorisation by the card issuer. If the issuer of your payment card refuses to or does not, for any reason, authorise payment to us, without prejudice to clause 6 above, we shall be permitted to cancel our contract with you.

8.1 GUARANTEE

- 8.1.1 The manufacturer(s) of your particular product(s) may offer a guarantee(s) of various periods on the product(s) from the date of delivery of the product(s). Please note that the terms of any manufacturer's guarantee shall be attached to your product(s) on delivery and is offered as an extra benefit and does not affect your statutory rights as a consumer. The manufacturer's guarantee terms will contain warranties relating to the quality of their product(s).
- 8.1.2 In the unlikely event that any breach of warranty should arise due to either faulty material or poor workmanship, during the first year, in accordance with clause 8.1.1 above, the manufacturer promises to replace any part or all of the product that is defective and ensure delivery completely free of charge.
- 8.1.3 Any complaints made by you in the first year should be made initially by e-mail to us, quoting your order reference number and outlining the nature of your complaint. We shall then liaise with the manufacturer on your behalf and keep you fully informed of how the matter is progressing.
- 8.1.4 In subsequent years, we offer as an extra benefit to you an additional guarantee, separate from and extending the manufacturer's guarantee (where applicable) to 5 years, depending on the length of the manufacturer's guarantee. We will levy a charge for the replacement of the faulty item. The charges are based on a sliding scale, the older the item is, the more you will need to contribute towards the replacement (including delivery costs) which would be calculated as follows (please note that the periods set out below are defined with reference to the date from delivery):-

12-23 months 20% charge of replacement (calculated by reference to new price);

24-35 months 40% charge of replacement (calculated by reference to new price);

36-47 months 60% charge of replacement (calculated by reference to new price);

48-60 months 80% charge of replacement (calculated by reference to the new price).

- 8.1.5 In order to be entitled to a replacement product in accordance with our additional guarantee, referred to at clause 8.1.4 above, you would need to comply with our additional guarantee conditions, set out at clause 8.2 below.

8.2 OUR ADDITIONAL GUARANTEE CONDITIONS

- 8.2.1 The product(s) must be turned regularly, as per the instructions, thereby minimising the settlement of the cushioning layers. The exception is a no turn product, which will be clearly specified on the label.

8.2.2 We are unable to accept items that are either soiled or un-hygienic. Therefore, please ensure that you use a mattress protector/cover from the first day of use.

8.2.3 The additional guarantee is void and you will not be entitled to a replacement product if a fault results from misuse of the product. Examples of misuse would include:-

1. Use without bed linen;
2. Subjecting the product(s) to excessive wear and tear, e.g. jumping up and down on the mattress(es);
3. Using the product(s) with a base for which it was not designed (e.g. an old sprung base);
4. Rolling or bending the product(s);
5. Overloading any drawers and causing distortion of the base.

8.2.4 Wherever possible, any replacement will be made of identical material. However, if no longer available, we reserve the right to substitute appropriately with a similar material or one of higher quality.

9. INTELLECTUAL PROPERTY AND RIGHT TO USE

- 9.1 You acknowledge and agree that all current and future copyright, trademarks and all other intellectual property rights in all material or content supplied as part of the website shall remain at all times vested in us or our licensors. You are permitted to use this material only as expressly authorised by us or our licensors.
- 9.2 You acknowledge and agree that the material and content contained within the website is made available for your personal non-commercial use only and that you may (if necessary to make a purchase) download such material and content onto only one computer hard drive for such purpose. Any other use of the material and content of the website is strictly prohibited. You agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, transmit, publish, display, distribute, commercially exploit or create derivative works of such material and content.

10. TITLE AND RISK

- 10.1 Risk of damage to the products shall pass to you upon delivery of the products. However, property in the products shall not pass to you until we have received in actual cleared funds payment in full of the price and the price of all other goods (if any) agreed to be sold by us to you for which payment is then due.
- 10.2 Until such time as the property in the products passes to you, you shall hold the products as our fiduciary, agent and bailee and shall keep the products separate from those belonging to you and third parties and properly stored in the original wrappings, protected, insured and identified as owned by us.
- 10.3 Until such time as the property in the products passes to you, we shall be entitled at anytime to require you to deliver up the products to us and if you fail to do so

immediately to enter your premises or premises of any third party where the products are stored and repossess the products.

- 10.4 You shall not be entitled to pledge for any indebtedness any of the products which remain our property but if you do so, all monies owing to us by you shall (without prejudice to any other right or remedy available to us) immediately become due and payable.

11. FORCE MAJEURE

We shall not be liable for delay or non-delivery by reason of but not limited to lock-outs, strikes, riots, malicious damage, labour disturbances, trade disputes, government action, (including action by any local or statutory authority), fire, floods, vehicle breakdown, acts of God, delays by suppliers or any other cause whatsoever beyond our control.

12. LIMITATION OF LIABILITY

- 12.1 We make no warranty that the website will meet your requirements or will be uninterrupted, timely or error-free, that defects will be corrected, or that the site or the server that makes it available are free of viruses or bugs or represents the full functionality, accuracy, reliability of the website. We will not be responsible or liable to you for any loss of content or material uploaded or transmitted through the website. This does not affect your statutory rights as a consumer, nor does it affect your contract cancellation rights.

12.2 We will not be liable, in contract, (including, without limitation, negligence [whether caused by us or our servants, agents or employees] or any other duty at common law), pre-contract or other representations (other than fraudulent or negligent misrepresentations) or any implied warranty condition or under the express warranty terms of the contract or otherwise out of or in connection with the conditions for:

- 12.2.1 any economic (including consequential) losses or damage (including without limitation loss of revenues, profits, contracts, business or anticipated savings); or
- 12.2.2 any costs, expenses or other claims for compensation whatsoever
- 12.2.3 any loss of goodwill or reputation; or
- 12.2.4 any special or indirect losses suffered or incurred by you or any third party arising out of or in connection with the provisions of any matter under these terms and conditions.

12.3 Nothing in the conditions shall exclude or limit our liability for death or personal injury resulting from our negligence or that of our servants, agents or employees.

12.4 Our liability hereunder for any delay in performing or any failure to perform any of our obligations in relation to the product(s) shall be limited to the excess (if any) over the price of the cost to you in the cheapest available market of similar goods to replace those not supplied.

12.5 You shall indemnify us against all claims losses costs and expenses made against or suffered by us arising from or incurred by reason of any loss injury of damage suffered by a third party and arising out of your use of the product(s).

13. GENERAL

- 13.1 We may perform any of our obligations or exercise any of our rights hereunder by ourselves or through our servants, agents, employees or any other person so nominated by us.
- 13.2 Any reference in the terms and conditions to any provisions of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.
- 13.3 The headings in these terms and conditions are for convenience only and shall not affect the interpretation.
- 13.4 No waiver by us of any breach of the contract by you shall be considered as a waiver of any subsequent breach of the same or other provision.
- 13.5 No failure by us to exercise any power given to us or to insist upon the strict compliance by you with any obligation hereunder and no custom or practice of the parties at variance with the terms and conditions hereof shall constitute any waiver of any of our rights under the contract.
- 13.6 If any provisions of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provisions in question shall not be affected thereby.
- 13.7 Any notice given hereunder must be given in writing and delivered or sent by post or facsimile transmission to the residence or principal place of business of the party to whom it is addressed.
- 13.8 Except as otherwise provided nothing in the contract shall confer on any third party any benefit or the right to enforce any terms of the contract.
- 13.9 The contract shall be governed by the Laws of England and subject to the jurisdiction of the English Courts.

14. CUSTOMER SERVICES CONTACT DETAILS

Phone: 0800 0433443 (open Monday to Friday 0900-1700hrs, calls charged at normal rates)

E-mail: sales@mattressman.co.uk

Registered Office:
Mattressman Limited
Unit 12A
Avian Way
Norwich
Norfolk
NR7 9AJ

Company Registration Number: 5015448

Company VAT Number: 846551606