

RENTAL TERMS

These Terms and Conditions ("Terms") set forth the terms on which Ithaca Big Red Beds LLC (the "Company") will provide certain products and services offered via its website at bigredbeds.com (the "Website").

1. PRODUCTS AND SERVICES

1.1 General

Certain products, including mattresses, ("Rental Products") are available to rent from the Company during the academic year, typically on a per semester or per academic year basis. The period from delivery to the end of such semester or academic year, or to the agreed upon collection date, if earlier, is referred to herein as the "Rental Term". Each order placed for any Rental Products is referred to as an "Order".

For each Order, the Company will: (a) ensure that the Rental Products are clean and in good working order; (b) deliver and install the Rental Products at the designated address set forth in the Order or otherwise communicated to the Company; and (c) collect the Rental Products from the designated address at the end of the Rental Term ((a), (b) and (c) collectively are referred to as the "Services").

1.2 Delivery and Collection

The Rental Products shall be delivered to, and collected from, the address specified by you, and at the time agreed upon between you and the Company. For delivery, you agree to provide the Company with access to your accommodation by either (a) being present for delivery; (b) designating someone to be present for delivery; or (c) providing the Company with specific instructions on how to gain access to your accommodations in a manner that does not violate any university Community Guidelines or the rules of any other landlord or housing authority. The Company will not be liable for any violation of such Community Guidelines or rules.

Any change of delivery or collection time shall be made at least 48 hours in advance of the agreed upon time (unless a shorter period is mutually agreed) and is subject to you and the Company agreeing on a new date and time for delivery or collection. If the Company fails to deliver or collect the Rental Products within 20 minutes of the agreed upon time, you shall be entitled to a refund of \$10 upon request. If the Company is unable to gain access to your accommodations within 20 minutes following the agreed upon delivery or collection time, the Company shall have the right to charge a \$30 missed delivery fee or missed collection fee, as the case may be.

If you fail to facilitate collection of the Rental Products at the end of the Rental Term, you may be subject, at the discretion of the Company, to a maximum product replacement fee of \$400 and will be liable for any fees or charges imposed by university housing or any other landlord or housing authority. You agree to settle any fees within two weeks of such fees being levied, after which interest will accrue at a rate of 15% APY.

1.3 Cancellation

To cancel your order after delivery, please email support@bigredbeds.com to schedule a time for the Company to collect the Rental Products. If you are required to cancel or terminate your Order due to a request from campus housing, with proof of the request, and if the Rental

Products are in substantially the same condition as when delivered, the payment you made for your Order will be refunded on a pro-rata basis (after deducting 5% from the Order amount). If your cancellation is due to your departure from your campus housing or your other accommodation for any reason, the payment you made for your Order will not be refunded.

1.4 Damage and Defects

If you discover that any part of the Rental Products is damaged or defective upon delivery, you must promptly notify the Company within 30 days, and the damaged or defective Rental Products will be replaced at the Company's expense. After 30 days following delivery, the Rental Products are presumed to have been delivered free of damage or defect, and you are thereafter responsible for any loss or damage to any part of the Rental Products (normal wear and tear excepted). If any Rental Products are in a damaged condition upon collection, the Company reserves the right to charge a replacement fee, which may be up to \$400 per Rental Product. This Section 1.4 states your sole and exclusive remedy for any damaged or defective Rental Products.

2. LIMITED WARRANTY; DISCLAIMER.

2.1 Limited Warranty

The Company warrants that the Services are and will be performed in a thorough and professional manner in substantial compliance with applicable laws and regulations of the State of New York.

2.2 Disclaimer

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 1 HEREOF ("PRODUCTS AND SERVICES") AND SECTION 2.1 ("LIMITED WARRANTY"), ALL SERVICES ARE PROVIDED "AS IS". THE COMPANY MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

3. LIMITATIONS OF LIABILITY

3.1 Waivers

You forever waive any claim or cause of action that may accrue or that you may have or assert against the Company or your University, whether in contract, tort, or otherwise, for any personal injury (including without limitation wrongful death) or property damage caused or alleged to be caused in any way by any Rental Products. This waiver includes without limitation any claim of injury or damages arising in whole or in part out of the presence of any Rental Products on any premises, any use of any Rental Products, the removal or relocation of any property to or within any premises, infestation, damage or destruction of real or personal property, or otherwise. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE COMPANY BE LIABLE TO YOU FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF REVENUE, ANTICIPATED PROFITS, LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE COMPANY WERE ADVISED OF THE POSSIBILITY OF DAMAGES.

3.2 Liability Cap

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY'S TOTAL LIABILITY TO YOU UNDER THESE TERMS ARISING OUT OF OR RELATED TO ANY PRODUCTS

OR SERVICES PROVIDED PURSUANT TO AN ORDER, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT PAID BY YOU PURSUANT TO THE APPLICABLE ORDER GIVING RISE TO THE LIABILITY.

4. GOVERNING LAW AND DISPUTE RESOLUTION

The commercial relationship between you and the Company is governed in all respects by the laws of the State of New York, without giving effect to principles of conflicts of law. Any dispute arising out of or relating to this commercial relationship, including the Rental Products or the Services, shall be resolved exclusively by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). Either party may send a notice to the other party of its intention to file a case with the AAA (an "Arbitration Notice"). The arbitration will be conducted in Ithaca, New York by a single arbitrator knowledgeable in rental products and related services. The parties will mutually appoint an arbitrator within 30 days of the Arbitration Notice. If the parties are unable to agree on an arbitrator, then the AAA will appoint an arbitrator who meets the foregoing knowledge requirements. The arbitration hearing will commence within 30 days after the appointment of the arbitrator, and the hearing will be completed and an award rendered in writing within 30 days after the commencement of the hearing. Prior to the hearing, each party will have the right to take up to two evidentiary depositions, and exchange one set of document production requests, and two sets of not more than 10 interrogatories. The arbitration award will be final and binding and may be enforced in any court of competent jurisdiction.

5. MISCELLANEOUS

If any provision of these Terms is declared invalid, illegal or unenforceable, such provision shall be severed and all remaining provisions shall continue in full force and effect.

If you or the Company fails to enforce a provision of the Order or these Terms, you or the Company, as the case may be, is not precluded from enforcing the same provision at another time.

Neither party may assign or delegate its obligations under the Order or these Terms, either in whole or in part, without the prior written consent of the other party, which consent may not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the Company may assign its rights and obligations under the Order or these Terms, in whole or in part, without the other party's consent, in any of the following enumerated circumstances: (a) to any entity that is an affiliate of the Company; (b) to any successor in interest to the Company, whether by merger, acquisition, asset purchase, or otherwise; or (c) to any entity that acquires all or substantially all of the business to which the Order and these Terms relate. No assignment permitted under this clause shall relieve the Company of its obligations under the Order or these Terms unless the assignee expressly assumes such obligations in writing.