

## The Carpet Company Terms & Conditions

These terms and conditions (Terms & Conditions) apply to all sales of floor coverings and other goods and all floor covering installations and other services by The Carpet Company.

**Offer.** The Carpet Company offers all products and services for sale on the terms set out in these *Terms & Conditions*. Other terms such as products purchased, quantity, price and delivery date shall be as agreed between The Carpet Company and the buyer.

**Acceptance.** The Carpet Company expressly conditions acceptance of its offer to sell on acceptance of these *Terms & Conditions*. The Carpet Company hereby objects to any different or additional terms contained in any response to this offer. By accepting products and services sold by The Carpet Company, the buyer accepts these *Terms & Conditions*.

**Payment.** Payment is due upon delivery or, if agreed in writing by The Carpet Company, on the 10<sup>th</sup> day of the month following the invoice date. Past due invoices are subject to a minimum monthly service charge of \$1 or 2% of the past due balance, whichever is greater. Any check returned for nonsufficient funds (NSF) will be subject to a \$35 handling charge. All claims for corrections and deductions must be made within 10 days of receipt of goods.

**Prices & Quotations.** All prices quoted by The Carpet Company are in United States Dollars (USD) and are subject to change at any time without notice.

**Delay.** The Carpet Company shall not be liable for failure to deliver or delays in delivery caused by events or conditions beyond The Carpet Company's control. This includes, without limitation, supplier delays, carrier delays, installer delays, casualty loss, acts of God, etc... In the event of any delay in delivery due to a cause beyond The Carpet Company's control, the time for delivery shall be extended for a period of 60 days. If delivery is not made within this 60-day period, the contract shall be deemed cancelled without liability to either party. Buyer will pay for all goods received and costs incurred prior to cancellation.

**Waiver.** All buyer claims shall be deemed waived unless made in writing, delivered to The Carpet Company within ten (10) days after the buyer's receipt of goods.

**Errors & Omissions.** The Carpet Company reserves the right to correct clerical or stenographic errors or omissions in any sales transaction.

**Cancellation & Return.** Orders which have been sent to a floor covering manufacturer cannot be canceled or returned.

**Limited Warranty.** This limited warranty (Limited Warranty) covers all defects in workmanship by The Carpet Company and our third party installers. The Carpet Company warrants for a period of two years from the date of completion of work (Warranty Date), that its labor was performed in substantial accordance with the standards and requirements set out in the applicable guidelines published by the Carpet and Rug Institute or, if not applicable, in the floor covering manufacturer's installation guidelines and all applicable building codes.

**Maintenance.** The Carpet Company has provided maintenance instructions or applicable manufacturer's maintenance instructions can be found online. You must perform the routine maintenance set out in the maintenance instructions. Failure to perform the maintenance set out in the maintenance instructions will invalidate the Limited Warranty.

**Exclusions.** The Limited Warranty does not cover any problems or conditions beyond The Carpet Company's control. Examples of problems and conditions not covered include damage or defects caused by: 1) Defects in



products manufactured by others (Manufactured Products). 2) Acts of God (such as hail, rain, ice, snow, freezing rain, wind, lightning, etc...). 3) Objects landing on or falling on the floor covering. 4) Discoloration. 5) Moisture, water leaks or inadequate ventilation. 6) Settlement or movement of the building. 7) Settlement or failure of any objects on or near the floor covering, including windows, pipes, vents, etc... 8) Settlement or failure of structural components such as floors, subfloors, beams, joists, rafters, framing, sheathing, siding, plaster, wallboard, etc... 9) Cigarette smoke. 10) Application of cleaning solutions. 11) Alterations to the building after floor covering installation, including structural changes, equipment installation or any other modification.

**Consequential Damages.** The Carpet Company will not be responsible for any consequential damages arising out of any defects in materials or workmanship, whether such liability arises out of contract, tort (including negligence), strict liability, products liability or otherwise. As an example, without limitation, The Carpet Company will not be responsible for any damage to furnishings, alternate lodging, meals, personal injury or any other expense.

**Warranty Disclaimer & Limitation.** Except for the Limited Warranty provided above, The Carpet Company makes no warranties, expressed or implied, relating in any way to the floor covering or the building and specifically DOES NOT WARRANT MANUFACTURED PRODUCTS, WORKMANLIKE PERFORMANCE, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The entire risk as to quality and performance of the floor covering is with the manufacturer and the buyer. Also, the building is located in a moist, humid climate that is ideal for mold growth. The Carpet Company IS NOT RESPONSIBLE FOR ANY DAMAGE TO THE FLOOR COVERING, THE BUILDING OR ITS CONTENTS OR ANY PERSONAL INJURY RELATING IN ANY WAY TO MOLD, MOLD SPORES OR ANY OTHER KIND OF FUNGI OR ORGANIC GROWTHS. There are no warranties which extend beyond the description on the face of these *Terms & Conditions*. In no event shall The Carpet Company's liability to a party exceed the amount paid to The Carpet Company by the party.

**Construction Lien.** In the event the buyer fails to make prompt payment, The Carpet Company has a lien pursuant to ORS 87.010 on the real property on which the floor covering is installed for all charges for labor, transportation, materials and equipment rented, together with all service charges, attorney fees and costs and disbursements.

**Uniform Commercial Code.** This transaction may be covered by ORS 72.1010 through 72.7250 (ORS Chapter 72) as modified by these *Terms & Conditions*. In the event of conflict between these *Terms & Conditions* and ORS Chapter 72, these *Terms & Conditions* shall control.

**Mediation & Arbitration.** In the event of a warranty or other claim, except claims for collecting a past due account or foreclosing a lien, the parties shall first attempt to resolve the claim by direct, personal negotiations between the parties within 30 days of the notice of claim or any mutually agreed extension time. If the claim is not resolved by negotiation, the claim shall be settled by arbitration before a single arbitrator in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction of the dispute. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The arbitrator will have no authority to rescind or reform the Limited Warranty. Notice of the demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association, Seattle, Washington office within 90 days of the notice of claim. The arbitration hearing shall be conducted in Eugene, Oregon. The award rendered by the arbitrator, without opinion, shall be final and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction. All claims which are related to or dependant upon each other shall be heard by the same arbitrator, even though the parties are not the same, unless a specific contract prohibits consolidation.

**Warranty Claims.** In the event of any warranty claims, notice of the claim must be given to The Carpet Company in writing by U.S. Mail, registered or certified, return receipt requested, postage prepaid and addressed to The Carpet Company at its then current business location within two years of the Warranty Date.



**Time Limits.** Any arbitration proceeding must be instituted within one year after the occurrence of the first event giving rise to the dispute or to the demanding party's actual knowledge or reasonable knowledge of the occurrence, whichever is later, but in any event not later than 24 months after the Warranty Date. The failure to institute arbitrations proceedings within this period shall constitute an absolute bar to the institution of any proceeding and a waiver of all claims.

**Attorney Fees.** In the event any arbitration or other proceeding is commenced to enforce or interpret any provision of these *Terms & Conditions* or the Limited Warranty, the prevailing party, shall be entitled to recover in the proceeding, or any appeal, a reasonable attorney's fee to be set by the trier of fact, including a reasonable sum for collection, in addition to costs and disbursements.

**Partial Invalidity & Binding Effect.** If any provision of these *Terms & Conditions* or the Limited Warranty is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect. These *Terms & Conditions* and the Limited Warranty shall be binding upon the current and all subsequent owners of the property.

**Waiver.** No agent, employee or representative of The Carpet Company, nor any other person, is authorized to waive or modify any term or provision of these *Terms & Conditions* or the Limited Warranty except in writing signed by the President of The Carpet Company.

**Entire Agreement.** These *Terms & Conditions* and The Carpet Company's *Limited Warranty* constitute a final and complete statement of the agreement between the parties and fully supersede all prior agreements or negotiations, written or oral.