

## **TERMS AND CONDITIONS OF SALE**

### **1. INTERPRETATION**

In these Conditions:-

“Buyer”	means you the customer;
“Contract”	means the contract for the purchase and sale of the Goods subject to these Conditions;
“Conditions”	means the terms and conditions set out below;
“Goods”	means the goods (including any instalments or parts) which the Seller is to supply; and
“Seller”	means Carpet Line Direct Limited (registered in the United Kingdom under number 03120403).

### **2. BASIS OF THE SALE**

- 2.1 The Seller shall sell and the Buyer shall buy the Goods subject to these Conditions, which supersede any other terms and which govern the Contract to the exclusion of any terms and conditions which the Buyer purports to apply or which are implied by trade, custom or course of dealing.
- 2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer’s order or other document will form part of the Contract simply as a result of such document being delivered to the Seller or referred to in the Contract.
- 2.3 Any variation to these Conditions is of no effect unless agreed in writing by an authorised representative of the Seller.
- 2.4 These Conditions constitute the entire agreement between Buyer and Seller for the supply of the Goods.
- 2.5 The Seller’s employees or agents are not authorised to make any representation concerning the Goods unless confirmed by the Seller in writing, and the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).
- 2.6 Any advice or recommendation given by the Seller or its employees or agents to the Buyer as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer’s own risk.

### **3. DESCRIPTION**

- 3.1 All descriptions, specifications, roll lengths, roll widths, samples and illustrations issued by the Seller are approximate only and are intended merely to present a general idea of the Goods described and do not form part of the Contract.
- 3.2 Orders for specific roll lengths cannot be made or accepted. Roll lengths are supplied in multiples of 10cms. Widths quoted will be within 1.25% of the advertised width in accordance with clause 3 of the British Standard 3655 (1974).

3.3 Some Goods are custom made to order which means that they cannot be returned unless they are defective. If the Goods the Buyer wishes to purchase are custom made the Seller will inform the Buyer of this before the order is accepted. Full payment of the price of the Goods will be required on placing an order for custom made Goods to cover the Seller's costs incurred manufacturing the Goods.

#### 3.4 **Shading**

All carpets are liable to shading, in order to show light and dark patches arising from unequal crushing of the surface pile. The amount a carpet shades is in the main determined by its colour and design. No amount of care during manufacture can completely eliminate shading but the effect can be minimised by regular vacuuming. Light and delicate carpets are liable to become soiled with wear. The Seller accepts no liability whatsoever for shading in the Goods.

#### 3.5 **Pile Reversal**

All pile carpets can suffer from pile reversal. This is a phenomena that may occur only in certain areas and for no apparent reason. Present research has identified no cause. It may show as areas of dark and light patches. This may occur on certain colours and styles of designs and is not a manufacturing defect. The Seller accepts no liability whatsoever for pile reversal in the Goods.

#### 3.6 **Fading**

The ultraviolet rays of the sun can be very damaging to a carpet and, in the event of a carpet being fitted up to large window areas or in direct sunlight, the carpet must be adequately shielded to prevent fading. Light and delicate shades may bleach out in ordinary daylight. The Seller accepts no liability whatsoever for fading in or to the Goods.

#### 3.7 **Stairs**

Local conditions generally dominate the performance of a carpet on stairs. However, periodical moving of the carpet over nosings is strongly recommended in order to spread with wear. A short length will be required turned under at the top and bottom of the stairs to allow movement at least once a year. If this is impractical, an extra length should be retained to cover areas of high wear. High Performance, low crush underlay is recommended over stair nosings to cushion descending traffic. Fittings should be in line with BS5325. The Seller accepts no liability whatsoever for the performance of the Goods on stairs.

### 4. **CANCELLATION AND DELAY**

4.1 No order may be cancelled by the Buyer except with the Seller's written agreement and on terms that the Buyer shall indemnify the Seller against all loss (including loss of profit), costs, (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation and no order may be cancelled by the Buyer after despatch of the Goods under that Order.

4.2 If the Buyer cancels an order after the Goods have been cut by the Seller the Buyer shall be subject to a charge of 25% of the price of the Goods under the order.

4.3 If the Buyer extends or delays the Contract or fails to take delivery of any Goods at the agreed time or (if no time is agreed) within a reasonable time then the Buyer shall indemnify the Seller against all loss (including loss of profit), costs (including the cost of

storage and all labour and materials used), damages, charges or expense incurred by the Seller as a result of such extension, delay or failure.

- 4.4 The Seller reserves the right to defer the date of delivery or performance, to cancel the Contract or reduce the volume of Goods ordered without liability to the Buyer if the Seller is prevented from or delayed in carrying on its business by any cause beyond the Seller's reasonable control (which includes Act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary, local or other authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery).

## 5. **PRICE**

- 5.1 The price of the Goods is the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of delivery or supply.
- 5.2 The Seller reserves the right to amend the price of the Goods to take into account any variation in cost to the Seller however so arising.
- 5.3 Any price quoted by the Seller for the Goods is inclusive of the cost of delivery to the Buyer's business address (including transport, packaging, insurance and any taxes, duties or surcharges) in respect of orders in excess of £100. A surcharge of £20 will be levied on all orders below this value.
- 5.4 The price is exclusive of any applicable VAT.

## 6. **PAYMENT**

- 6.1 Payment for the price for the Goods shall be made in Pounds Sterling or in Euros, whichever is applicable to the set up of the Buyer's account. All prices shall be quoted in Pounds Sterling or Euros as applicable.
- 6.2 Payment of the price for the Goods is due 20 days following the end of the month that the date of invoice is dated.
- 6.3 Time of payment is of the essence.
- 6.4 For the purposes of these Conditions, payment is received when the Seller receives it in cleared funds.
- 6.5 Payment by the Buyer shall be made without any deduction or set off.
- 6.6 Interest at an annual rate of 4% above Barclays Bank plc base rate from time to time will accrue daily (both before and after judgement) and be calculated on a daily basis on overdue accounts from the date of invoice until payment. Any fees or charges which may be incurred in the collection of overdue accounts by the Seller will be payable by the Buyer.
- 6.7 Despite any provision allowing credit, payment is due and payable to the Seller immediately upon cancellation or termination of the Contract.

- 6.8 If the Buyer fails to make any payment on the due date then the whole price of all Goods bought or agreed to be bought by the Buyer shall be immediately due and payable without demand and the Seller may:-
- 6.8.1 cancel the Contract or suspend deliveries or performance to the Buyer; and/or
  - 6.8.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller thinks fit.
- 6.9 The Seller is entitled to set off sums owed by the Seller to the Buyer against sums owed by the Buyer to the Seller.

## 7. DELIVERY

- 7.1 Delivery of the Goods shall be within the time agreed and if no time is agreed, within a reasonable time by the Seller delivering the Goods at the Buyer's business address. If the Buyer requests special delivery arrangements, this must be notified to the Seller in writing at the time of placing the order. Any additional costs incurred as a result of special delivery arrangements will be payable by the Buyer.
- 7.2 Any dates for delivery and/or performance are approximate only and time of delivery and/or performance is not of the essence.
- 7.3 The Buyer shall make all such necessary arrangements to take delivery of the Goods whenever they are tendered for delivery.
- 7.4 On delivery of the Goods, the Buyer shall sign a delivery note to acknowledge receipt.
- 7.5 If the Buyer fails to take delivery of the Goods or the Seller is unable to deliver the Goods on time because the Buyer has not provided adequate instructions, documents, licences or authorisations, then the Goods are deemed delivered and the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance and transportation costs) of storage.

## 8. RISK AND PROPERTY

- 8.1 **The Goods remain the property of the Seller until:-**
- 8.1.1 **their full price has been received by the Seller; and**
  - 8.1.2 **all other sums which are or which become due from the Buyer on any account with the Seller have been received by the Seller.**
- 8.2 The Goods are at the risk of the Buyer from the time of delivery.
- 8.3 Until ownership of the Goods passes to the Buyer, the Buyer must:-
- 8.3.1 store them at its own cost on its premises separately from any other goods and in a manner which makes them readily identifiable as the goods of the Seller;
  - 8.3.2 not destroy, deface or obscure any identifying mark or packaging of the Goods;
  - 8.3.3 maintain the Goods in a satisfactory condition insured on the Seller's behalf for their full price against all risks; and

- 8.3.4 hold the proceeds of insurance referred to in condition 8.3.3 on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn account.
- 8.4 The Seller may, so as to discharge any overdue payment under the Contract, recover or resell the Goods.
- 8.5 In order to verify the Buyer's compliance with its obligations under condition 8.3 and to exercise its rights under condition 8.4, the Seller shall be entitled by its employees or agents without notice to enter the Buyer's premises or such other premises where the Goods are stored.
- 8.6 The Buyer's right to possession of the Goods terminates immediately if any of the events set out in condition 11 occurs.
- 8.7 If the Goods shall be sold by the Buyer before payment for them has been made, that part of the proceeds of sale which represents or is equivalent to the amount owed by the Buyer to the Seller shall be held by the Buyer upon trust for the Seller and shall be paid into a separate bank account designated for that purpose. The Seller shall be entitled to trace the proceeds of any such sale(s) into such bank account (or wherever such proceeds may in fact be located) and the Buyer authorises the Seller to make enquiries of its bankers (or otherwise as appropriate) relating to such proceeds.

## 9. **CLAIMS**

- 9.1 **The colour, design, dimensions and quality of the Goods must be inspected by the Buyer before installation or cutting. Any claim by the Buyer which is based on the quality, condition, colour, design and dimensions of the Goods cannot be made after the whole or part of the Goods has been cut, laid or installed.**
- 9.2 Where Goods are described, ordered or delivered as "clearance/second quality" and/or "Sub-standard" then no liability whatsoever shall be accepted by the Seller as to the quality, condition or fitness for purpose of those Goods.
- 9.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods must (whether or not delivery is refused by the Buyer) be notified to the Seller within seven days from the date of delivery or performance or, where the defect or failure was not apparent on reasonable inspection, within a reasonable time after discovery of the defect or failure.
- 9.4 In no event shall the Buyer be entitled to reject the Goods on the basis of any defect or failure which is so slight that it would be unreasonable for the Buyer to reject them.
- 9.5 The Seller may at its discretion instruct an independent expert to test the Goods.
- 9.6 If the Buyer does not notify claims in accordance with condition 9.3 then:-
- 9.6.1 the Buyer shall not be entitled to reject the Goods; and
- 9.6.2 the Seller shall have no liability for such defect or failure; and
- 9.6.3 the Buyer shall be bound to pay the full price for the Goods.
- 9.7 In the event that the Buyer has a valid claim which has been notified to the Seller pursuant to condition 9.3, the Seller shall be entitled to repair or replace the Goods (or

the part in question) free of charge or, at the Seller's option, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.8 If the Seller elects to replace the Goods, it shall issue to the Buyer a new invoice in respect of the replacement goods supplied and on return of the defective Goods by the Buyer to the Seller, the Seller shall issue a credit note in respect of the invoice for the defective Goods.

9.9 Authority for the return of any Goods must be obtained from the Seller by the Buyer. Where such authority is given the cost of returning Goods will be the responsibility of the Seller. The Seller reserves the right to reduce the amount of credit issued where the Buyer has failed to provide adequate packaging of Goods returned.

9.10 The Seller reserves the right to withhold credit for unauthorised returns.

## 10. **LIMITATION OF LIABILITY**

### **THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

10.1 Subject to condition 9, the following sets out the entire liability of the Seller (including any liability for the acts or omissions of its employees, agents or subcontractors) to the Buyer in respect of any breach of these Conditions, any representation or statement made or act or omission relating to or done in connection with the Contract including negligence and other tortious liability.

10.2 All warranties, conditions or other terms implied by statute, common law, trade usage or otherwise are excluded to the fullest extent permitted by law but this exclusion does not apply to any implied condition that the Seller has or will have the right to sell the Goods when the property is to pass.

10.3 Nothing in these Conditions excludes or limits the Seller's liability for death or personal injury caused by the Seller's negligence or for fraudulent misrepresentation or excludes or limits any other liability to the extent such liability may not be excluded or limited as a matter of law.

10.4 Subject to conditions 10.2 and 10.3:-

10.4.1 the Seller shall not be liable to the Buyer for:-

(a) any loss of profit, loss of production, financial loss, depletion of goodwill;  
and

(b) any indirect loss, damage, costs or expenses whatsoever

in each case which arise out of or in connection with the Contract or its contemplated performance of lack of performance; and

10.4.2 subject to condition 10.4.1, the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance or lack of performance of the Contract shall be limited to the price of the Goods received by the Seller.

## 11. **TERMINATION**

- 11.1 The Contract shall terminate immediately upon service of written notice of termination by the Seller on the Buyer on the happening of any one or more of the following:-
- 11.1.1 the Buyer commits a material breach of any of its material obligations under the Contract or under any other contract with the Seller;
  - 11.1.2 the Buyer is dissolved;
  - 11.1.3 the Buyer makes an arrangement or composition with his creditors;
  - 11.1.4 the Buyer convenes a meeting of creditors or enters into liquidation (voluntary or compulsory);
  - 11.1.5 the Buyer has a receiver, manager or administrative receiver appointed of the whole or any part of its undertaking, property or assets;
  - 11.1.6 a resolution is passed or a petition presented to any court for the winding-up of the Buyer or any person takes any step to appoint an administrator of the Buyer;
  - 11.1.7 the Buyer has a bankruptcy order made against him;
  - 11.1.8 the Buyer ceases or threatens to cease to trade; or
  - 11.1.9 any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer in any jurisdiction to which the Buyer or any of its assets is subject.
- 11.2 Termination of the Contract shall not affect rights and duties accrued before termination and in particular shall not affect the Seller's rights contained in condition 8. However, the Buyer's rights contained in that condition shall immediately terminate.

## 12. **HEALTH AND SAFETY**

The Buyer agrees to:-

- 12.1 pay due regard to all information supplied by the Seller relating to the use of the Goods necessary to ensure the Goods will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work;
- 12.2 comply with the General Product Safety Regulations 2005 if and to the extent that they are applicable to the Goods;
- 12.3 indemnify the Seller in respect of any and all claims arising from the Goods being unsafe as a result of the Buyer's activities;
- 12.4 monitor the safety of the Goods, to pass on to the Seller information as to the risks of the Goods and to co-operate in any action the Seller decides to take to avoid those risks; and
- 12.5 to keep records of the customers to whom the Goods are sold and to provide the Seller with copies of them as and when requested.

### 13. **GENERAL**

- 13.1 If any provision of the Contract (including any provision of condition 8) is found by any competent authority to be invalid, unenforceable or unreasonable, it shall be severed from the remainder of the Contract which shall continue in full force and effect.
- 13.2 Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract is not a waiver of any of its rights under the Contract. Any waiver by the Seller of any breach by the Buyer is not a waiver of any subsequent breach.
- 13.3 Any notice to be given by either party to the other under these Conditions must be in writing addressed to that other party at its registered office or principal place of business or such other address as may have been notified for these purposes.
- 13.4 The Seller may assign or subcontract the Contract or any part of it and may dispose of or deal in any manner with any of its rights or beneficial interests under it. The Buyer may not assign the Contract or dispose of or deal in any manner with any of its rights or beneficial interests under it.
- 13.5 The Contract shall be governed by English law, and the parties submit to the exclusive jurisdiction of the English courts.