



# CARPET SMART

## *Terms & Conditions*

### AGREEMENT BETWEEN CARPET SMART & CUSTOMER:

Customer understands this is a Contract for flooring services and flooring products between the "Customer" and Carpet Smart of 710 S. 17th Street, Wilmington, NC 28401.

I am a Carpet Smart "Customer" and by clicking "**Accept**" on the Estimate email or signing an Estimate, I agree the Estimate is complete and accurate, and accepts the Terms & Conditions and Customer Installation Preparation Guide as set forth in this Contract. This action serves as the Customer's electronic signature and verification the Customer accepts these terms and conditions.

**DESCRIPTION & SCOPE:** Beginning on the date of acceptance of the Estimate, Carpet Smart will provide to the Customer the floor covering product and services as described in the Estimate. Customer understands the date of installation will be scheduled upon confirmation of the flooring materials being received by Carpet Smart.

**SCHEDULING:** Carpet Smart will schedule the Customer's installation date only after the purchased product has arrived into our warehouse, or arrangements made for pre-installation delivery, in certain circumstances. Carpet Smart will consider customer requests for specific dates, and installation crews but does not guarantee either of these. The Customer understands these are requests and there is no guarantee as to a certain date or installation crew.

**UNFORESEEN CIRCUMSTANCES:** On any installation, circumstances can arise which were not evident at the time of measurement. Carpet Smart reserves the right to stop the installation process in the event any unforeseen circumstance arises that would hinder or impede the proper installation of a product. Carpet Smart also reserves the right to add or change the Customer Estimate and Installer Work Order, when necessary, to complete the installation. Carpet Smart will make every effort to contact the Customer to inform them of the add or change when it results in additional charges. It is understood the installation will complete with the required changes even if the Customer was unable to be reached. The Customer will be responsible for the associated charges for additional product, material or installation work. The Customer shall sign an Add/Change Work Order.

**PRODUCT DEFECTS & SHORTAGES:** Carpet Smart is not responsible for any product defects that may result in installation delays. In the event the product is discovered to be defective, the installation will be delayed and the replacement product will be ordered. Although Carpet Smart makes every best effort to ensure product measurements, and orders are accurate, in the event of product shortages, it is understood the installation may be delayed, and additional product may be required to be purchased by the Customer to complete the installation.

**CUSTOMER PRESENCE:** The Customer understands the Customer is expected to be at the job site upon commencement of the installation, and the preparations are complete as outlined in the Estimate and the Customer Installation Preparation Guide. The Customer is expected to be at the job site upon job completion and will walk through the completed job to notate any areas of concern for correction. The Customer will be asked to sign the Carpet Smart "Job Completion Form" notating any issues, concerns, incomplete areas, etc.

**PAYMENT:** Payment shall be made to Carpet Smart. Customer agrees to pay the sum as indicated on the Estimate and associated Invoice, plus any additional amounts as required for job completion. An initial deposit of 50% of the Estimate Total is required. The balance and total of original Estimate, plus any additional charges for changes, is due upon job completion.

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**FAILURE TO PAY:** Unless sufficient payment arrangements are made and agreed to by both parties, the Estimate and final Invoice amount, plus additional charges in the event of “Change Orders” is expected no later than 1 week from the time of the completed installation. In the event the payment is not received by Carpet Smart, within the 7 days, Carpet Smart has the right to commence “Collection” activities, as well as access finance charges for any accounts over 30 days. The percentage rate for such charges will be 20% of the outstanding balance and can be added to the invoice after 30 days.

**COLLECTIONS:** Carpet Smart reserves the right to commence “Collections Actions” for any unpaid invoice over 30 days old. “Collections Actions” include filing appropriate documents necessary within the small claims court of the appropriate jurisdiction.

**TERM:** The Term of this Contract will terminate upon completion by Carpet Smart of the services agreed to in this contract, and the Customer remitting the invoiced amount in full.

**INSURANCE:** Carpet Smart maintains general liability and workers compensation insurances. A Certificate of Insurance can be furnished upon request.

**WARRANTY:** Carpet Smart warrants it shall provide its services and products and meet its obligations under this contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in Carpet Smart's community and region. Carpet Smart will provide a standard of care equal to, or superior to, care used by service providers similar to Carpet Smart on similar projects. Installations are warranted for 12 months after the date of completion. Product warranties are not offered by Carpet Smart and vary by manufacturer and product type. Product warranty details can be furnished by request, and are available at the manufacture website.

**DEFAULT:** The occurrence of any of the following shall constitute a material default under this contract:

- a.) The failure to make a required payment when due.
- b.) The insolvency or bankruptcy of either party.
- c.) The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d.) The failure to make available or deliver the Services in the time and manner provided in this Contract.

**REMEDIES:** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Contract (including without limitation failure to make a monetary payment when due), the other party may terminate the Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 30 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such a time period shall result in the termination of this contract.

**FORCE MAJEURE:** If performance of this Contract or any obligation under this contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control (“Force Majeure”), and if the party unable to carry out its obligations gives the other party prompt notice of such event, then the obligations of the party invoking his provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm, or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lockouts, work stoppages, or supplier failures. The accused party shall use reasonable efforts under the circumstances to avoid or remove such causes of

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non-performance and shall proceed to perform with reasonable dispatch whenever the reasonable control of a party is committed, omitted, or caused by such party or its employees, officers, agents, or affiliates.

**ENTIRE AGREEMENT:** This Contract consists of this document, the document entitled Customer Installation Preparation Guide, Estimate, and also any Change Orders issued during the service period of this contract, and there are no other promises or conditions in any other agreement whether written or oral concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreement between the parties.

**SEVERABILITY:** If any provision of the Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**AMENDMENT:** This Contract may be modified or amended orally or in writing, if the writing is signed by the party obligated under this Contract or communicated and accepted orally on the day of installation, when a written signature is unobtainable. (ex; waiving or reducing a customer deposit requirement, discounting a job, issuing Change Work Orders) 18.)

**GOVERNING LAW:** This Contract shall be construed in accordance with the laws of the State of North Carolina. In the event of a dispute, resulting in collection fees, and legal fees associated with collecting an unpaid balance due by the customer, Carpet Smart reserves the right under applicable law to add interest to the balance due, and recoup attorney, and court fees related to collection of the monetary amounts due to Carpet Smart by the Customer for the product and services described in this Contract.

**NOTICE:** Any notice of communication required or permitted under this Contract shall be sufficiently given or delivered in person or by certified mail, return receipt requested, to the address set for in the Estimate "Customer" Bill To Address and Contact, or to such other address as one party may have furnished to the other in writing.

**WAIVER OF CONTRACTUAL RIGHT:** Failure of either party to enforce any provision of this Contract shall not be construed as waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

**ASSIGNMENT:** Neither party may assign or transfer this Contract without prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

**SIGNATORIES:** This Contract shall be executed by an "Accepted" Estimate with a Customer Signature or by clicking "Accept" via the Estimate email.