

# GERMANRUGS

## carpet couture

Our General Terms and Conditions ("GTCs") apply only to entrepreneurs, legal persons governed by public law and special funds under public law (§§ 14, 310 German Civil Code (BGB)). Solely these GTCs apply. Any deviating terms and conditions or terms and conditions of purchase of our customers will not be binding even if we do not expressly object to them. Our GTCs will also apply to future agreements even if an order, a confirmation or a delivery note does not explicitly make reference to them.

### I. CONCLUSION AND CONTENT OF THE AGREEMENT

1. The agreement will be concluded as a result of our order confirmation in writing. Our previous quotes are subject to change without notice and are non-binding.
2. The descriptions, diagrams and illustrations, etc. included in catalogues, price lists or other promotional material are intended only to convey a general idea of the goods described therein. They do not constitute a guarantee or commitment or indication of the quality of the goods, unless we expressly confirm such information in writing.
3. Minor deviations from the quality information confirmed in writing will be deemed approved if such are not unreasonable for the customer.
4. Customary deviations, particularly with respect to quality, thickness, width, weight, etc., are inevitable and do not constitute a defect in the legal sense. Dimension, weight and performance information, particularly regarding physical properties, chemical resistance and the like, involves only approximate values. Such information will only be deemed agreed as a quality property of the goods if we expressly confirm as such in writing.
5. Any ancillary agreements, amendments and modifications of the agreement will require our written confirmation. The requirement of the written form will also apply to the revocation of the written form requirement.

### II. PRICES, TERMS OF PAYMENT

1. The price indicated by us is a net price unless it is explicitly designated as a gross price. The customer will also owe value added tax, in the amount determined by law as per the date of performance, as well as shipping charges. Price information refers only to the specified number of units.
2. For goods that are to be delivered more than four months after the conclusion of an agreement, we will be entitled to make price adjustments accordingly that are also due to changes in the prices of materials, wages, exchange rates, taxes, duties and other costs. If the price increases by more than 10 %, the customer may rescind the agreement.
3. The customer can only exercise a right of retention due to counterclaims which are based on the same contractual relationship and have either been finally adjudicated by a competent court or recognised by us. In ongoing business relationships, each individual order will constitute a separate contractual relationship. It will be permissible to offset our claims only with claims that have been finally adjudicated by a competent court or that are undisputed.

### III. DELIVERY, PASSING OF RISK

1. Delivery dates or periods will only be binding if they have been expressly agreed in writing. The confirmation will in each case be subject to the punctual delivery to ourselves.
2. The compliance with such dates and periods will require all technical and commercial issues to have been resolved and that the customer should have fulfilled all its required obligations to cooperate. If the customer is in default of doing so, delivery periods will first begin when the act of cooperation is carried out.
3. In case of delays in performance due to unforeseeable hindrances and operational disruptions for which we are not responsible and which have a significant impact on the production or delivery of the subject matter of the agreement, the performance period will be extended by the duration of such delays up to the date on which they are remedied. The same will also apply if such circumstances occur with sub-suppliers and we are not at fault.



# GERMANRUGS

## carpet couture

4. The time period will be deemed met if the operational goods, on the customer's request, are either shipped or picked up within the agreed delivery or performance period. If the delivery is delayed for reasons for which the customer is responsible, the time period will be deemed complied with upon our notification of readiness for shipment.
5. If the non-compliance with the time period for deliveries or performances is verifiably attributable to mobilisation, war, revolt, strike, lockout or other event that is outside our reasonable control, the time period will be extended accordingly. We will notify the customer of the beginning and anticipated end of such circumstances as soon as possible. The statutory regulations regarding rescission due to unreasonableness for the customer will remain unaffected.
6. In cases of non-compliance with the time period for reasons other than those mentioned in sections 3 and 5, the customer can – if demonstrating that damage has been incurred as a result of the delay – demand compensation for delay for each completed week of delay amounting to 0.5 % or up to a maximum of 5 % of the value of that portion of the delivery that cannot be used in due time, or cannot be used as agreed by contract, due to the delay. The customer may demand the payment of compensation for delay also if the circumstances mentioned in sections 3 and 5 only occur after the time period originally agreed has been culpably exceeded.
7. The customer will be entitled to rescind the agreement due to non-compliance with a delivery period only if the implementation of the agreement becomes unreasonable for it in full or in part, or if the customer, after the lapse of the delivery period, set a reasonable grace period in writing. Reminders and the setting of grace periods must be in writing to be effective.
8. We will be entitled to make partial deliveries, as far as such is reasonable for the customer. The buyer will be obliged to accept any partial deliveries without delay.
9. Unless otherwise agreed, the risk of damage to or loss of the goods will pass to the customer upon leaving the warehouse.

#### IV. WARRANTY

1. We warrant that the goods will be free from material and workmanship defects that fully or significantly reduce the goods' fitness for regular use. "Goods" within the meaning of this provision does not mean the entire delivery, but only the individual defective object.
2. The customer, if a merchant, must check the delivered goods to a reasonable extent immediately upon receiving them, prior to processing the goods. The customer must notify us in writing and without delay, within two weeks at the latest, of any identifiable defects. Hidden defects must be reported in writing, without delay upon being discovered. This will not apply to cases in which a defect is fraudulently concealed. The use of the disputed goods without our written consent will be deemed approval of the goods. If the customer learns of defects in the goods after processing them, it is obliged to notify us accordingly, in writing and without delay.
3. We are entitled to verify the alleged defect. If the customer refuses to allow us to inspect, we will be released from our warranty obligation.
4. If a defect actually exists, we will be entitled first to provide remedy or subsequent delivery, at our option. Only after a second failed attempt to remedy the defect will the customer be entitled to rescind the agreement or demand a reduction of the price.
5. In the case of justified complaints, the liability of GermanRugs will be limited solely to third parties' costs of material and, if applicable, subsequent costs. In this respect, section V will apply.
6. In particular, we will not assume any liability for the following acts on the part of the customer or its end customers: inappropriate or improper use, incorrect installation, incorrect storage, natural wear and tear, incorrect maintenance, unsuitable operating equipment and chemical, electrochemical or electrical influences, unless such have been caused by us. The guarantee will likewise be excluded for such damage which is due to a failure to follow instructions or advice, non-compliance with the maintenance instructions available on the Internet or non-compliance with the specifications of the flooring. We will also not be liable for improper rectifications or changes made / disassembly of the goods on the part of the customer, its end customers or a third



# GERMANRUGS

## carpet couture

party commissioned by any of these. We will likewise not be liable for defects due to the customer's failure to pass on to its end customers the specifications of the goods delivered or maintenance instructions.

7. Customised rugs are subject to the statutory provisions of the statute of limitations.

### V. LIMITATION OF LIABILITY

For damage resulting from injury to life, body or health that is due to a culpable breach of obligations on our part or that of our legal representatives or vicarious agents, we will be liable in accordance with the statutory provisions. For other damage caused by us, our legal representatives or vicarious agents, the following will apply:

- For damage caused by an intentional or grossly negligent breach of obligations, we will be liable in accordance with the statutory provisions.
- For damage caused by the breach of material contractual obligations due to slight negligence, our liability will be limited to the foreseeable damage that is typical of the agreement in question.
- For damage caused by a grossly negligent breach of a non-material contractual obligation, our liability will be limited to the foreseeable damage that is typical of the agreement in question.
- We will not be liable for any damage caused by the breach of a non-material contractual obligation due to slight negligence.
- Material contractual obligations are those of which the fulfilment is a fundamental prerequisite for the proper implementation of the agreement and where the customer can normally expect such obligation to be fulfilled. The customer's rights under the law to rescind the agreement will remain unaffected by the limitation of liability and the exclusion of liability. The exclusion and limitation of liability will not apply to claims under the Product Liability Act, or if we have fraudulently concealed a defect or have assumed a guarantee. The customer must maintain its own insurance to the extent common in its respective industry. The customer must allow any contributory negligence to be taken into account. In the case of a limitation of liability to the foreseeable damage typical of the agreement in question, the liability will be limited per case of damage to three times the respective agreement value. Furthermore, we will also be liable to the extent to which our insurer accepts the claim and pays for the damage. This will include the statutory liability for costs of replacing defective products and for fitting, mounting, installing or applying defective third-party products or third-party products which are free of defects.

### VI. RESERVATION OF TITLE

1. All deliveries will be carried out subject to reservation of title. The ownership of the goods delivered will only pass to the customer upon the payment in full of all accounts payable arising from the business relationship.
2. Prior to the transfer of ownership, the customer will not be entitled to pledge the goods, transfer title by way of security, adapt or redesign them. The customer is entitled only to resell the goods delivered in the normal course of business. If reselling the goods, the customer hereby assigns any resulting claims that are asserted against it, in the full amount, as security for the purchase price claim. The customer will be authorised to collect the receivables on our behalf; this authorisation may be revoked without restrictions, at any time. If such authorisation is revoked, we will be entitled to notify the customer's end customer of the assignment and collect the receivable ourselves. The customer will be obliged to provide us with complete information regarding the reselling activity and the customer's end customer. The customer will be obliged, on our request, to notify its customers or other third parties of our retention of title and, if applicable, the assignment.
3. If the value of the goods subject to the retention of title or of the assigned claims of the customer exceeds our claims against the customer by more than 10 %, we will release the securities exceeding the 10 %, on request and at our option.
4. The customer must inform us in writing and without delay of any seizures or enforcement measures pertaining to the assigned claims or the retention of title to allow us to take appropriate legal action in good time.



# GERMANRUGS

## carpet couture

### VII. RESCISSION

We will be entitled to rescind the agreement for cause. In particular, "cause" refers to the financial collapse of the customer, its cessation of business or the filing for insolvency or composition proceedings against the assets of the customer. Termination for cause will also be possible in particular if we are under obligation to provide an advance performance but it becomes clear to us after the conclusion of the agreement that our claim to consideration is at risk due to the customer's inability to pay and the customer fails to make an advance payment or provide security at our request within a reasonable period of time, or seriously and decisively refuses to effect the advance payment or provide security. The statutory regulations regarding rescission will remain unaffected.

### VIII. PLACE OF PERFORMANCE, VENUE, APPLICABLE LAW, MISCELLANEOUS

1. The customer is not entitled to transfer rights under this agreement to third parties without our consent. Section 354a German Commercial Code (HGB) will remain unaffected.
2. German law will apply. The applicability of the UN Sales Convention (cISG) will be excluded.
3. Unless otherwise agreed, our registered office in 72119 Ammerbuch will be the place of performance. If the customer is a merchant, the exclusive venue will be our registered office. However, we will also be entitled to sue the customer at its registered office.
4. Modifications of and amendments to this agreement that are not based on an individual agreement must be in writing to be effective. The same will also apply to any waiver of the written form requirement.
5. If a provision of these General Terms and Conditions should be invalid, unenforceable or void, in full or in part, the remaining provisions will remain unaffected. The invalid provision will be replaced with a provision which reflects the Parties' economic intention.

January 2018

