

# DERIVADOS ASFALTICOS NORMALIZADOS, S.A (DANOSA)

## Trading Terms & Conditions

### 1. DEFINITIONS

- 1.1. **Terms** refers to the latest edition of the DANOSA Trading Terms & Conditions.
- 1.2. **We, Us or Ourselves** means DANOSA.
- 1.3. **You, Your or Yourselves** means the customer who places an order for Goods.
- 1.4. **Goods** means any of the Goods we offer for sale, or, if the context requires, goods we sell to you.
- 1.5. **Service** means any Service we offer for purchase, or, if the context requires, services we provide to you.
- 1.6. **Order** means a written offer from you to us confirming your intent to or purchase Goods or Services.
- 1.7. **Quotation** means any offer of sale from us which includes a price for any Goods or Services.
- 1.8. **Business Customer** means any customer who uses Goods or Services purchased from us in the course of their business.
- 1.9. **Consumer Customer** means any customer who does not meet the definition of a Business Customer.

### 2. GENERAL

- 2.1. These terms apply to all supplies of Goods or Services by us to any customer and prevail over any terms proposed by you.
- 2.2. Any reference to an act or regulation includes new law of substantially the same intent as that act or regulation.
- 2.3. Any notice or communication served under these terms must be in writing, delivered by hand or sent by prepaid first-class tracked letter and:
  - 2.3.1. If delivered or sent to you, will be addressed to the last known address associated with your account with us.
  - 2.3.2. If delivered or sent to us, will be addressed to DANOSA, Calle La Granja nº3, 28108 Alcobendas, Madrid, Spain.
- 2.4. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail.
- 2.5. English law is applicable to any contract which is formed under these terms. The English courts have exclusive jurisdiction.
- 2.6. We may change these terms from time to time. The terms that apply shall be the latest published version which applied on the date you place your order for the Goods or Services.
- 2.7. If any of these terms are unenforceable as drafted:
  - 2.7.1. It will not affect the enforceability of any other terms that remain enforceable.
  - 2.7.2. If the term would be enforceable if amended, it the term will be treated as though it had been fairly and reasonably amended.
- 2.8. You agree to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly, including finance and or legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.
- 2.9. A person who is not party to these terms shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these terms. This clause does not affect any right or remedy of any person that exists or is available otherwise pursuant to that Act.
- 2.10. Nothing in these terms affects or limits our liability for fraudulent misrepresentation.

### 3. CONSUMER CUSTOMERS

- 3.1. Consumer Customers have certain statutory rights which are not affected by these terms.
- 3.2. You are liable to us for losses we incur as a direct result of you breaching any of your obligations under these terms. We reserve our right to claim those losses from you at any time and if we have to take legal action, we will ask the court to make you pay any legal costs incurred.

### 4. BUSINESS CUSTOMERS

- 4.1. If you are more than one person, each person acting upon your authority or in your employment as a representative of your business shares the obligations in these terms.
- 4.2. We may treat you as insolvent if:
  - 4.2.1. You are unable to pay your debts when they fall due or
  - 4.2.2. You (or any item of your property) become the subject of:
    - 4.2.2.1. Any formal insolvency procedure (receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy).
    - 4.2.2.2. Any application or proposal for any formal insolvency procedure.
    - 4.2.2.3. Any application, procedure, or proposal overseas with a similar effect or purpose.
- 4.3. You must inform us in writing immediately if you become insolvent.

### 5. CONFIDENTIALITY

- 5.1. All parties included within these terms agree to keep confidential all confidential information regarding their business and the affairs of the other which have been obtained.

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- 5.2. All parties included within these terms agree to take all necessary steps to ensure compliance with the terms relating to confidentiality.
6. **MARKETING LITERATURE**
- 6.1. All brochures, catalogues and other promotional materials should be treated as illustrative only for the purpose of providing an approximate idea of the Goods or Services represented or described by them.
- 6.2. Our marketing literature forms no part of any contract between us.
7. **TECHNICAL LITERATURE**
- 7.1. The technical properties and approved uses of our Goods are set out within our product data sheets and health and safety data sheets.
- 7.2. We may make any change to the specification, design, materials or finishes of the Goods which are required to comply with applicable safety, statutory or regulatory standards.
- 7.3. We also reserve the right to make any change to the Goods which does not adversely affect either their quality or performance.
8. **PRICE**
- 8.1. The price payable for the Goods or Services is clearly set out in the latest published edition of our pricelist, or otherwise provided on a quotation.
- 8.2. It is possible that the price of Goods or Services may have increased from that contained in Order. If that happens, we will not dispatch the Goods or provide the services until you have confirmed that you wish to purchase the Goods or Services at the new price.
- 8.3. If, by mistake, we have under-priced Goods or Services, we will not be liable to supply those Goods or Services to you at the incorrect price, provided that we notify you of the mistake before we accept your order. Your order is not accepted until we have issued you an order confirmation.
- 8.4. The price of Goods or Services may be changed by us at any time. We will never change a price so as to affect the price charged to you at the time when you purchase those Goods or Services unless it can be fairly and reasonably demonstrated that the price was a mistake.
- 8.5. The price of the Goods does not include applicable delivery charges which will be charged at the prevailing rates on the date you place your order.
- 8.6. Prices exclude added taxes.
9. **QUOTATIONS**
- 9.1. A quotation is an illustrative offer of sale. Your offer to purchase based on a quotation is only considered accepted on receipt of an order confirmation from us.
- 9.2. We reserve our right to make fair and reasonable amendments to any quotations issued before a contract of sale is formed.
- 9.3. Unless otherwise stated, quotations are valid for a maximum of 30 days.
10. **AMENDING YOUR ORDER**
- 10.1. It is possible to amend your order before your order has been accepted by us.
- 10.2. Any amendments must be received by us in writing.
11. **AVAILABILITY**
- 11.1. We do not guarantee that the Goods or Services advertised are available at the time of your order.
- 11.2. In the event that Goods or Services are not available, we will notify you and offer either:
- 11.2.1. Alternative Goods or Services for your consideration.
- 11.2.2. If applicable, an approximate timescale for when the Goods and Services in your order will be available.
- 11.3. In the event that Goods or Services are not available, you may withdraw your order for those Goods or Services. Other Goods or Services which remain available may only be withdrawn if you have not received an order confirmation for those Goods or Services or shall be treated as a cancelled order.
12. **ACCEPTANCE OF YOUR ORDER**
- 12.1. Your order is an offer to purchase from us. We shall accept your order by sending you an order confirmation. Only once an order confirmation is sent to you is the contract of purchase formed. Our order confirmation will confirm details of your purchase and where applicable, tell you when we shall dispatch your order.
13. **PAYMENT FOR YOUR ORDER**
- 13.1. You are to pay us in cash or in cleared funds prior to dispatch unless you have an active credit account facility with us with sufficient credit available to finance your order.
- 13.2. All payments must be made in Pounds Sterling.

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- 13.3. All payments must be made in full and you are not entitled to withhold any payment which would result in a breach of these terms.
- 13.4. Bank charges by the receiving bank on payments to us will be borne by us. All other charges relating to payment in a currency other than pounds Sterling will be borne by you.

#### 14. PRO-FORMA & CASH ACCOUNT CUSTOMERS

- 14.1. If you have a pro-forma or cash account with us, the due date for payment is immediately at the point of order before the contract of purchase is formed.
- 14.2. If the Goods you order are available in parts, you must pay us the full price of each part of your order before we dispatch it.
- 14.3. If you fail to pay us in full by the due date, we may at any time and without notice:
- 14.3.1. Suspend or cancel future deliveries.
- 14.3.2. Suspend or cancel any discounts offered to you.

#### 15. CREDIT ACCOUNT CUSTOMERS

- 15.1. If you have a credit account with us, the due date for payment is on the last day of the next calendar month from the date of invoice.
- 15.2. We may ask you to pay money in advance if you do not have enough credit remaining on your credit account with us.
- 15.3. Any invoice queries must be communicated to us in writing within 10 working days of receipt.
- 15.4. If you fail to pay us in full by the due date, we may at any time and without notice:
- 15.4.1. Suspend or cancel future deliveries.
- 15.4.2. Suspend or cancel any discounts offered to you.
- 15.4.3. Reduce your credit limit.
- 15.4.4. Reduce your payment terms.
- 15.4.5. Withdraw your credit account.
- 15.4.6. Withhold any outstanding warranties or guarantees.
- 15.4.6.1. Where warranties or guarantees are withheld, at your request we may at our discretion issue a letter to you in good faith that a warranty or guarantee will be issued once all outstanding payments have been received.
- 15.4.7. Charge you interest (currently 8.00% per year) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 15.4.7.1. Interest is calculated on a daily basis from the due date of any applicable invoices until payment is received as cleared funds.
- 15.4.7.2. Interest is compounded on the first day of each month.
- 15.4.8. Claim fixed sum compensation plus reasonable costs of recovering the debt.
- 15.4.9. Seek to recover the full costs incurred for any legal action required to make you pay.
- 15.4.10. Withdraw your right to use and sell the Goods.

#### 16. CREDIT CHECKS

- 16.1.1. We reserve the right to refuse any order if your arrangements for payment or credit appear to be or become unsatisfactory.
- 16.1.2. We reserve the right to reduce your credit limit and/or your payment terms without prior notice, should your ability to make payment appear to be or become unsatisfactory.
- 16.1.3. We reserve the right in the event that you are not a limited liability company, to make searches of your details, background and credit history with credit reference and fraud prevention agencies prior to carrying out any obligations within these terms.
- 16.1.4. Credit agencies may keep a record of searches and share that information with other businesses.

#### 17. POSTPONED ORDERS

- 17.1. Orders postponed before we have issued an order confirmation can be postponed free of charge.
- 17.2. Orders postponed after we have issued an order confirmation are treated as a cancelled order.

#### 18. CANCELLATION

- 18.1. If we are unable to schedule your delivery within a reasonable time, you may cancel the contract in writing. However:
- 18.1.1. You may not cancel the contract if we receive your notice after the goods have been dispatched; and
- 18.1.2. If you cancel the contract, you can have no further claim against us under that contract.
- 18.1.3. If you accept delivery of the goods after the estimated delivery time, it will be on the basis you have no claim against us for the delay (including indirect or consequential loss, or increase in the price of the goods).
- 18.2. Once a contract has been formed, you may not cancel an order unless we confirm our acceptance of your cancellation in writing.
- 18.3. If an order is cancelled (for any reason) you are to pay us for the all the stock that we may then hold (or to which we are committed) for the order.
- 18.4. Cancelled orders are subject to administration, carriage, and restocking fees where applicable.

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## 19. DELIVERY

- 19.1. All delivery times quoted as estimates only based on information provided by our transport partners. We provide these estimates in good faith, but without liability.
- 19.2. We cannot be held directly accountable by any failure on the part of our transport partners but agree to act as an agent to facilitate any dispute which arises.
- 19.3. We cannot be held accountable for delays which can be fairly or reasonably determined as out of our control, such as but not limited to, atypical levels of traffic or other roadway situations. For the avoidance of doubt, any fault or delay in deliveries by our delivery partners is considered a Force Majeure event.
- 19.4. We reserve the right to pass on any charges for excessive waiting times incurred by our delivery partners.
- 19.5. Unless otherwise arranged in writing and confirmed in your order confirmation, you shall provide adequate labour and offload facilities at the point of delivery to enable the Goods to be safely and properly unloaded.
- 19.6. Delivery takes place at our premises if you are collecting goods from or arranging your own carriage from our premises. Otherwise, delivery takes place once the Goods have been transported to the address set out in your order.
- 19.7. Goods may be delivered in instalments at our discretion.
- 19.8. If goods are delivered in instalments, each instalment is treated as a separate contract.
- 19.9. Goods in a single order may be delivered by separate delivery partners. In this instance, each delivery is considered a separate purchase contract.
- 19.10. We do not sell Goods in all countries. We may refuse to deliver the Goods if you live in a country we do not serve.
- 19.11. We reserve our right to decline delivery if:
  - 19.11.1. We believe that it would be unsafe, unlawful, or unreasonably difficult to do so.
  - 19.11.2. The premises (or access to them) are unsuitable for the delivery vehicle.

## 20. ACCEPTANCE OF GOODS

- 20.1. Excluding defective Goods which can only fairly or reasonably be identified upon opening, we consider that delivered Goods have been accepted by you if no claim to the contrary has been received in writing by us within 24 hours of receipt.
- 20.2. We strongly recommend that Goods are signed for upon receipt and that you print the recipient's name clearly. However, absence of a signed delivery note does not demonstrate that the delivery of Goods has not taken place.
- 20.3. Once Goods have been accepted by you, we are not liable for any loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of Goods or their use.

## 21. UNDELIVERED, DAMAGED OR DEFECTIVE GOODS

- 21.1. You must inspect Goods upon delivery. If any Goods are not delivered, you must report to us in writing within 24 hours of receipt.
- 21.2. Damaged Goods must be notified at the time of delivery in writing to us. Photographs of claimed damage must be provided to us within 24 hours of receipt.
- 21.3. Defective Goods must be notified at the time of discovery in writing to us before the Goods are used or installed. Photographs of the claimed defective Goods plus the specific batch label applicable to the defective Goods must be provided to us within 24 hours of you notifying us.
- 21.4. Defective Goods which can be fairly and reasonably identified as defective before installation should not be installed. Installing defective Goods is deemed as an acceptance of those Goods by you at your own risk. You agree that by installing Goods that are known at the time of installation to be defective, you are installing them at your own risk and are waiving our liability to you for those Goods.
- 21.5. A request for photographs illustrating claimed damage or defects does not constitute an acceptance of your claim by us. A minimum of 2 working days from receipt of the photographs is required for us to investigate your claim and our findings will be confirmed to you in writing.
- 21.6. Claims for undelivered, damaged, or defective Goods are not considered valid until we have confirmed our acceptance to you in writing.
- 21.7. If Goods are accepted as undelivered and you have complied with our terms, we will offer you the option of redelivery of the undelivered Goods at no additional charge. Alternatively, you may cancel this part of the contract and we will issue a refund or credit note (as applicable) for the undelivered Goods. By cancelling this part of the contract, you agree that you are waiving our liability to you.
- 21.8. If Goods are accepted as damaged, or defective and you have complied with our terms, we will at our discretion offer a refund or credit note (as applicable).

## 22. UNDELIVERABLE OR REFUSED DELIVERIES

- 22.1. When a delivery cannot be made at the address in your order due to circumstances outside of our control but subsequently rescheduled for delivery are charged at the cost from our delivery partners plus a processing fee. Undeliverable Goods which are not rescheduled for delivery are treated as cancelled orders.
- 22.2. Deliveries refused by you but subsequently rescheduled for reattempted delivery are charged at the cost from our delivery partners plus a processing fee. Refused deliveries which are not rescheduled for delivery are treated as cancelled orders.

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**23. DEDUCTING PAYMENTS DUE TO US**

- 23.1. You do not have the right to set off any money you may claim from us against any payments that are due unless specifically agreed by us in writing.
- 23.2. Unless otherwise specifically agreed in writing by us, you agree that any failure to pay us in full by the due date remains a failure to pay us in full by the due date and that the applicable terms apply.

**24. RETURN OF GOODS (EXCLUDING DAMAGED OR DEFECTIVE GOODS)**

- 24.1. We will accept the return of Goods from you only:
- 24.1.1. By prior arrangement (confirmed in writing).
- 24.1.2. Upon payment of agreed restocking fees, or
- 24.1.3. Upon acceptance in writing that the restocking fees are agreed and can be applied to your credit account (where applicable).
- 24.1.4. Where the Goods are fit for sale upon their return as they were on dispatch.

**25. TITLE OF GOODS**

- 25.1. Consumer Customer statutory rights are unaffected.
- 25.2. Business Customers: until the Goods are paid for in full:
- 25.2.1. All goods supplied by us remain our property and:
- 25.2.1.1. You must insure our Goods (against the risks for which a prudent owner would insure them) and hold the policy on trust for us.
- 25.2.1.2. You must store the Goods (at no cost to us) separately from other Goods or Goods of a third party so that they can be clearly identified as our property.
- 25.2.1.3. You must not destroy, deface, or obscure any identifying mark, logo, or packaging on or relating to the Goods.
- 25.2.1.4. You must maintain the Goods in a satisfactory condition.
- 25.2.1.5. You may use those Goods and sell them in the ordinary course of your business but not if:
- 25.2.1.5.1. We revoke that right by informing you in writing.
- 25.2.1.5.2. You become insolvent.
- 25.2.2. If you right to use and sell the Goods ends, you must allow us to remove the Goods. After your right to use and sell the Goods has ended:
- 25.2.2.1. We have your permission to enter any premises where the Goods may be stored.
- 25.2.2.2. We have your permission to remove the Goods, using reasonable force if necessary.
- 25.2.3. Despite our retention of title to the Goods, we reserve our right to take legal proceedings to recover the sale value of the Goods supplied, should you fail to pay by the due date.

**26. WARRANTIES / GUARANTEES**

- 26.1. We warrant / guarantee that the goods:
- 26.1.1. Comply with their description on our order confirmation.
- 26.1.2. Are to our knowledge, free of material defect at the time of delivery.
- 26.1.3. We give no other warranty as to the quality of the Goods or their fitness for your intended purpose.
- 26.2. We shall not be liable to you for any loss you may incur as a result of your failure to comply with any of our: technical, storage, safety or other applicable instructions and/or guidelines for use of the Goods.
- 26.3. If you purchase Goods and use them for a purpose for which they are not intended, you do so wholly at your own risk and must satisfy yourself that the Goods are suitable for that use.
- 26.4. If we supply you with Goods made to your specification, we have no liability whatsoever in regard to their fitness for any anticipated use or purpose.
- 26.5. Where applicable, warranties or guarantees raised by us can only be issued to you. Only once the warranty or guarantee has been handed over by you to the specified Building Owner can we issue revised documentation directly to them on request.
- 26.6. Where applicable, warranties and guarantees issued by us are only considered valid once the terms and conditions applicable to that document have been met.
- 26.7. If you sell the Goods, you shall grant no warranty or guarantee greater than the extent of the warranty or guarantee provided by us.

**27. LIMIT OF LIABILITY**

- 27.1. Our total liability to you (from one single cause) caused by our negligence is limited to € 3,000,000.
- 27.2. For all other liabilities not referred to elsewhere in these terms, the limit is set at the sales price of the Goods.

**28. WAIVER AND VARIATIONS**

- 28.1. Any waiver or variation of these terms is binding in honour only when the following conditions are met:
- 28.1.1. Made (or recorded) in writing.

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- 28.1.2. Signed on behalf of the customer.
- 28.1.3. Signed on behalf of a Director of DANOSA.
- 28.1.4. Expressly stated as an intended variation from our standard terms.

**29. FORCE MAJEURE (BUSINESS CUSTOMERS ONLY)**

- 29.1. If we are unable to perform our obligations to you (or are only able to perform them at an unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any or all of our obligations to you without liability.
- 29.2. Examples of those circumstances include an act of God, accident, pandemic, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes which include any difficulty in obtaining Goods, Services, or supplies.

**30. USE OF OUR BRANDING (BUSINESS CUSTOMERS ONLY)**

- 30.1. You are not our agent. You have no authority to make or enter into any contract on our behalf or in our name.
- 30.2. Our acceptance of you purchasing material from us is not an endorsement of your company by us. It remains your responsibility to comply with the applicable standards, practises and regulations that are relevant to your business and its operations.
- 30.3. Our logo, inserted on your business documentation, or on media published by us is not an endorsement by us of your business or its activities.
- 30.4. Our logo may only be used with express written permission.
  - 30.4.1. Permission to use our logo may be refused and you may be required to use a variant of our logo for your business purposes where applicable.

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