

DAN'S EXCAVATING SERVICE, INC.
TERMS & CONDITIONS

Thank you for considering Dan's Excavating Service, Inc. ("Dan's") for your project needs. Please review the following terms and conditions before accepting our estimate. By accepting the estimate, you are also agreeing to these terms and conditions:

Standard of Care

Dan's represents and warrants it will perform all work in a workmanlike manner in accordance with standard practices in the location where the work is being performed ("Workmanship Warranty"). Unless excluded in Dan's provided Estimate, Dan's provides Customer the Workmanship Warranty for a one-year period for maintenance and/or repair work performed by Dan's, **but expressly disclaims any and all other warranties, whether express or implied in nature, including any warranty of merchantability and/or fitness for a particular purpose.** All warranty claims must be submitted to Dan's in writing within the one-year period or are waived by Customer. Dan's hereby assigns to Customer any warranties furnished by material manufacturers to the extent Dan's is permitted to assign such warranties, but the Parties acknowledge and agree that Dan's does not owe a warranty to Customer concerning material. Customer's sole and exclusive right to recover against Dan's for any workmanship issue is limited to the Workmanship Warranty, and Customer otherwise releases and waives any other claims, damages, or rights to recover against Dan's for workmanship issues, whether in contract, tort, or otherwise. Customer acknowledges despite Dan's performing work in accordance with the Workmanship Warranty, material washout and temporary flooding may occur for which Dan's is not responsible. Customer hereby waives any claim against Dan's in any way related to material displacement.

Scope of Work

Dan's scope of work is fully set forth in it's Estimate and will be performed within a reasonable amount of time. Should Dan's perform any extra work, should there be any changes to the work, should there be an increase in material costs, and/or should there be a differing site condition (including unanticipated concealed conditions or conditions of an unusual nature), Dan's shall be entitled to an equitable adjustment to the contract sum and time from Customer.

Permits & Approvals

Unless otherwise provided in the Estimate, Customer shall be responsible for all obtaining required miss dig notifications, project permits, and required project approvals.

Payment Terms

Customer agrees to pay in full within 15 days of receiving an invoice for the work, unless otherwise agreed on in writing. Late payments shall be subject to a time-price differential of 1.5% per month. Should Dan's have to initiate any action or claims to collect overdue payments from Customer, Dan's shall be entitled to recover from Customer all collection costs and fees, including attorney fees, incurred to obtain payment.

Insurance

Dan's represents it maintains commercial general liability insurance and worker's compensation insurance. Customer shall maintain property insurance, including, but not limited to, coverage for fire, tornado, and other necessary insurance. Should any damages be covered by Customer's property insurance, Customer waives any rights to subrogation against Dan's and its employees, contractors, and agents.

Governing Law & Forum

This agreement shall be interpreted under and governed by Michigan law. Any claims Customer has against Dan's, whether in contract, warranty, tort, or otherwise, shall be filed in court no later than two years after Dan's completes work on the project, otherwise such claims are hereby waived. Any dispute between the Parties shall exclusively be in local, state, or federal court in Michigan. The Parties agree to a bench trial, and hereby waive any right to a jury.

Inspection

Prior to its work, Dan's will visually inspect Customer's project area, but is not obligated to perform any further inspections. The Parties agree Dan's inspection is limited to Dan's effort to identify obvious defects, estimate material quantities, and provide proposed resolutions for Customers project needs. Dan's is not responsible for the quality of work completed by others.

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Force Majeure

Dan's shall have no liability for failure or delay in performing work, and Dan's shall not be deemed in breach, if such failure or delay is due to natural disasters, strike, lockout, other industrial or transportation disturbances, pandemic or epidemic, law, regulation, or ordinance, riot or public disturbance, or any causes beyond Dan's reasonable control.

Indemnity

Customer shall defend and indemnify Dan's for any claim, liability, damages, losses, or expenses arising in any way out of Customer's negligence, fault, or breach of contract duties.

Consequential Damages

Dan's shall not be liable to Customer for any consequential or other indirect damages.

Integration

The agreement, including Dan's Estimate and Warranty Provisions, constitutes the entire agreement between the parties and supersedes any and all other agreements, either oral or written.

By accepting our project estimate, you acknowledge you have read, understand, and agree to these terms and conditions. If you have any questions or concerns, please feel free to contact your project manager.