

Bore Drilling Terms of Service – BD Water

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Our contact details:

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These are the terms and conditions ('terms') for delivery of our bore drilling services. Please read these terms together with any quote or account/deposit information we have given you. We have found that some common misunderstandings arise with bore drilling, so please carefully read our terms.

You will become bound by these terms when you agree to our quote, give us the go ahead to arrange the drilling or make any payment or deposit for the drilling.

1. Drilling depth

Unless you have set a limit on the drilling depth, the depth indicated in our quote is an estimate only. The estimate is based on the depth we reasonably believe that we will need to drill to meet your desired outcome. On the day, the drill operator may need to drill further if they believe they will achieve a better outcome for you. Any additional depth will be at your additional cost ie more than the amount in our quote.

By agreeing to these terms, you authorise the driller to use their judgement on the day even if this results in a higher cost to you.

If you have set a limit on the drill depth or let us know that we must not proceed any deeper without your verbal instructions, you must be available by phone on the day.

2. Our obligations

We may use contractors to deliver part of the services and if we do, the contractor will be bound by our obligations as set out in this agreement. We will arrange for a contractor or employee to arrive at your property with an appropriate drill rig to complete the proposed drilling. We will make sure:

- The operator and drilling rig are appropriately insured
- The operator completes the drilling in accordance with the Minimum Requirements for Construction of Water Bores (version 4, 2020)
- That we keep you up to date during the drilling process, let you know as soon as possible if we need to change any times or dates for the drilling and let you know of any tasks we require you to complete

You agree we may take verbal instructions from any person we reasonably believe has the authority to give instructions on your behalf without first needing to contact you to check (for example an on-site manager)

3. Your obligations

You agree you will:

- Make clear access available for the drilling rig to safely access the proposed drilling site including entering and exiting the property and reaching the drilling site
- Pay our invoice in full in accordance with the payment terms on our invoice, regardless of the outcome of drilling

- Be available on the day of drilling by phone where possible. Be aware that sometimes unexpected events happen during drilling and the drill operator may use their best judgement without contacting you
- Immediately tell us about any information (existing or new) that could have an impact on the services we provide so that rapid action can be considered (for example, if there is a problem with access to the site on the planned drilling day, we need to know this early in the day. If our drilling rig is on route or arrives and is unable to access the site, you may be charged an additional fee)
- Advising us well prior to the drilling date if you have any requirements for the drill site location. Generally, our team or the drill operator will select the drill site based on industry knowledge. By accepting these terms, you agree to this approach

You warrant that:

- You are either the owner of the land where the bore is to be drilled, or you have the appropriate authority from the owner of the land, and
- You have the authority and capacity to enter into this agreement and are entitled to have a bore drilled on the land

You understand that we are relying on the above warranty and you agree to indemnify us from any loss or damages we suffer if your warranty is not true.

4. What we are not responsible for

We are only providing the services we have quoted on. If we become aware of other services that may apply to you or be required for your situation, we have no obligation to tell you about them.

Even with care, situations can arise during drilling that were not anticipated. We find it is best to let you know some of the possibilities.

We are not responsible for:

- The validity of your water licence, or your ability to obtain a suitable water licence, to enable you to lawfully draw and use water from the bore once drilled or any consequence to you or any third party if your water licence is not suitable or you are unable to obtain a new or amended water licence in order to utilise the bore.
- Rectification and cleaning of the drill site. A large amount of soil can be created from drilling. This will be left on-site for removal or other use by you. If it is raining or water comes from the drill site, there may be a lot of mud. Clearing the drill site from soil, mud, contaminants and debris is your responsibility
- Contamination arising from drilling. This could be contaminated soil that is brought to the surface or finding contaminated water
- Not finding water at all, finding water with a less than desired flow rate or pressure or finding contaminated water. It happens. We always recommend water be tested for contaminants prior to use
- Finding too much water. This does not happen as often however there is a possibility with some aquifers that free flowing water is unexpectedly drilled. Usually this can be controlled however sometimes a substantial amount of water can flow above ground and it may take some time to control the water flow. We are not responsible for any damage or rectification in this scenario
- Drilling to a deeper than quoted depth (at additional cost to you) and still not achieving your desired outcome
- Causing damage to underground structures, services or general damage due to obstructions. This could be due to undisclosed issues under the ground, service locations being inaccurately described or obstructions like large rocks causing problems
- Having to stop drilling part way through or move off-site and then re-enter, due to weather or property features or for some other reason beyond our control (for example if livestock unexpectedly need the area or a dispute arises). You may incur additional costs in these scenarios

- Accidental damage caused to adjoining crops, fences, buildings, trees, walls or other property or machinery either in or around the drill site or during entry to or exit from the drill site. Drill rigs are large and unforgiving. It is your responsibility to ensure entrance, exit and site clearance

5. Authority to complete works

You warrant that the person providing the approval or 'go-ahead' for our services has the authority to do so. We have no obligation to make enquiries about their authority or to ensure they have correctly completed any processes internal to the organisation or business they represent. Upon approval of our services, we are deemed to be entitled to proceed with our services and/or installations as approved by that person.

Any 'hold' or 'stop-work' request we are given, or any other delay that arises from concerns within an organisation or business about authority to approve works (eg the incorrect internal procedure for authorising works not being followed), will be considered by us to be a cancellation or delay of services and dealt with under clause 6.

6. Cancellation or delay policy

We understand that circumstances arise where a customer may need to delay or cancel services and we balance this against the costs we incur as a business if scheduled work is cancelled or delayed.

(a) Cancellation or delay with appropriate notice

Any cancellation or delay to scheduled services must be made by contacting us by phone on 1300 239 283 at least 3 clear business days (72 business hours) prior to the scheduled start time of the services.

Email or other forms of communication of a delay or cancellation are not acceptable and may not be relied on by a customer.

If you request to delay or cancel our services and have provided appropriate notice, we will issue an invoice for the materials we have ordered for your work. This invoice is payable within 7 days.

If you subsequently proceed with the services, you will have already paid for the materials, and we will invoice you for the agreed quoted labour and other costs at the time of completing the services.

If you decide to cancel the services, the material costs are non-refundable. We custom order most of our materials however where we can re-use materials you have ordered, we may offer to re-stock these items (less a re-stocking fee).

(b) Cancellation or delay without appropriate notice

If you delay or cancel our services without appropriate notice but do so prior to our crew travelling to or arriving at site, we will invoice for materials (similar to the process in clause 6(a) above) plus we will also invoice you for our standard travelling fee for the proposed crew to arrive on site (this varies depending on what services you had ordered and can be significant for example where a drilling rig was to mobilise to site).

If you delay or cancel our services without appropriate notice and our crew is already travelling to site or has arrived on site, we will invoice for materials (similar to the process in clause 6(a) above) plus we will also invoice you for our actual costs for the proposed crew to arrive on site (this varies depending on what services you had ordered and can be significant for example where a drilling rig has mobilised to site) plus we will also invoice for our hourly rate for any time spent on site.

7. General

Any timeframes or proposed dates we provide are estimates only. Time frames and dates may change. We will provide you with as much notice as possible if this happens.

Interest may be charged on any overdue payment, accruing daily from the date when payment becomes due, until the date of payment, at a rate of 3% per annum (interest may compound monthly). This rate applies after as well as before any judgment.

If any payment is dishonoured for any reason, you may be liable for any dishonour fees incurred by us.

If money remains unpaid, you agree to pay any costs and disbursements incurred by us in pursuing the debt (including legal costs on a solicitor and own client basis and debt collection costs as applicable).

While we will use reasonable skill and care in delivering the services, no warranty or guarantee is given that delivery of the services will result in your desired outcome. Unless we are negligent, we are not responsible for any damage caused to structures or fixtures or any part of the property, livestock or person.

To the fullest extent permitted by law, and without limiting the application of the Australian Consumer Law, you agree:

- (a) The total aggregate liability to us for any claim(s) by you in respect of any service we provide to you is limited to the amount actually paid by you to us.
- (b) If there is any fault in the services, our liability will be limited (at our choice) to:
 - (i) the supplying of the services again; or
 - (ii) the repair of any fault in the services caused by us.

These limitations of liability survive any termination or expiration of this agreement, or your use of our services.

Relationship – We are providing services to you as an independent contractor and nothing in this agreement should be interpreted to suggest otherwise.

Assignment – The services are personal to you and this agreement, and the services provided under it, cannot be assigned to any other person.

No Waiver – Any time or other indulgence granted by us will not in any way amount to a waiver of any of our rights or remedies under this agreement.

Governing law – This agreement is governed by the laws of Western Australia, Australia, and you agree to be subject to the jurisdiction of the courts of Western Australia, Australia if there is ever a serious dispute between you and us.

Severability – If any of these terms and conditions are determined to be invalid or unenforceable, then the invalid or unenforceable provision will be deemed replaced by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the terms and conditions will continue in effect.

Entire agreement – The terms of this agreement and our quote form the agreement between us and anything else discussed beforehand is not part of our agreement or fees charged unless it recorded in writing. Any customer terms are expressly excluded unless we have agreed to them in writing.

End.