

General Terms of Service – BD Water

[last updated 10 August 2021]

Our contact details:

Name:	BD Water Pty Ltd ABN 86 642 510 334
Address:	Level 2, 11 Mounts Bay Road, Perth WA 6000, Australia
Email:	contact@bdwater.com.au
Website:	www.bdwater.com.au

These are the terms and conditions ('terms') for delivery of our services. Please read these terms together with any quote or account/deposit information we have given you.

You will become bound by these terms when you agree to our quote, give us the go ahead to start our services or order items in for you or make any payment or deposit for the quoted services.

1. Our obligations

We may use contractors to deliver part of the services and if we do, the contractor will be bound by the obligations set out in this agreement.

We will complete the services in a competent and professional manner.

2. Your obligations

You agree you will:

- Make clear access available for our contractor or staff to safely access the property, including any areas they will be working
- Be available for instructions when we are completing work at your property
- 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 an unexpected problem with access to the site). Particularly for irrigation planning, we rely on you to provide accurate information about your desired outcomes. If we do not have all the information we need, we may not be able to deliver your desired outcome.
- Where we are completing maintenance or repair on existing infrastructure, provide us with any information you have in relation to installation and problems.
- Arrange additional support if we request you to do so. For example, if we need to access areas where there is livestock, we may need someone on site to assist us.
- Pay our invoice(s) in full in accordance with our terms of trade

3. What we are not responsible for

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

Provided we have not been negligent, we are not responsible for:

- 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

- Accidental damage caused to adjoining crops, fences, buildings, trees, walls or other property or machinery either in or around the area we need to work or during entry to or exit from the work site. It is the customers responsibility to ensure the entrance, exit and site are safe and clear.
- Accidental damage caused to an existing system that we have been engaged to maintain or repair the system. Sometimes with older equipment, even with care and skill, damage can be caused to another area or motor when repairing or maintaining another part.
- Consequential or indirect damages caused by our delivery of services

4. 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 5.

5. 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 5(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 5(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.

6. General

Where we install a product that comes with a warranty, we will comply with relevant consumer laws in relation to that warranty.

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 may also be liable for 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).

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 was 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 or afterward 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.