

The terms of service upon which Agri-Drainage (Pty) Ltd, Registration Number: 2012/06771/07 (hereinafter "AD"), provides its specialized services to its clients are set out and contained here-below. Please ensure that you thoroughly peruse and understand the contents prior to accepting the quotation sent to you.

Installation services and duties/responsibilities of AD and client:

1. Upon acceptance of the quotation for the installation, a deposit is payable by the client (which amount will be provided on the quotation) before the order will be processed by AD. AD reserves the right to, in its sole discretion, waive any deposit requirement in a particular case.
2. All required material and equipment for installation will be arranged, ordered and prepared by AD once the deposit amount reflects in its bank account.
3. After 1. and 2. above have been completed, a date and time for the commencement of the installation will be arranged with the client.
4. The client is liable for all costs of transportation of machinery/equipment and the delivery of material to the installation site, which costs will be billed to the client on the final invoice. Should the installation process be cancelled by the client prior to finalization for any reason whatsoever, the client remains liable for these transportation costs. Transportation costs may vary from time to time due to fuel increases or any other reasonable external circumstance.
5. Should the installation process be cancelled by the client prior to its finalization, the client remains fully liable for any wasted costs and all work done to date of cancellation by AD.
6. With payment of the deposit the client confirms and agrees to make available and immediately ready for use the following machinery/equipment to AD on the date of installation:
 1. a tractor capable of towing the 'pipe-cart' utilized by AD during installation;
 2. a TLB or excavator as required for any necessary excavations such as inter alia connection-trenches, preparation for water outlets and/or opening up rocky areas should the tractor not be able to simply install the drainage pipe in such areas.
7. AD will not be liable for any damage to the client's property, nor any injury/death of any of the client's personnel/employees, and the client fully indemnifies AD from any damage to the client's property, or for any injury/death caused.
8. It is the sole responsibility of the client to provide AD in writing of any and all information, documentation, maps, diagrams and/or plans indicating the precise location of any and

all underground installations/services, cables/wiring of any nature, pumps of any nature, pipelines of any nature, servitudes registered over the client's property or areas upon which no underground drainage installation may be conducted by law, court order or other reason, prior to the acceptance of the final drainage plans or payment of the required deposit. The client fully indemnifies AD for any damage caused (directly or indirectly/incidental) to any property of the client or third party for which no prior written notice was given by the client to AD.

9. Should any installation be conducted by AD near any indicated underground installations/services, cable/wiring, pump, pipeline, servitude or other, it is the duty and responsibility of the client to ensure the presence of any person associated with the client to indicate and to open the precise location and directions/depth thereof so as to avoid any damage.
10. It is the responsibility of the client to remove any obstructions of whatsoever nature such as, but not limited to boundary walls, boundary fences, trees etc. where the installation requires such removal, immediately and upon request of AD's installation team to do so. Should AD effect any such removal on the client's behalf, the client accepts full liability for any damages caused. The client also accepts full responsibility for the payment of any additional costs incurred by AD and to immediately pay the invoice provided by AD therefore.
11. Should the final quantity of materials or installed meters vary from the initial quotation provided, the client remains liable for payment of the additional meters and any additional costs incurred and services rendered by AD. The quotation provided does not include any other fittings that may be required during the installation of the drainage and/or irrigation system, if irrigation is applicable, and AD will only be able to invoice the client therefore once the installation process has been finalized.
12. The final invoice provided to the client by AD is payable immediately upon presentation thereof to the client, AD reserves the right to charge interest on any arrear accounts or any part thereof which remain unpaid after 7 days of delivery of the invoice, at a rate of 17.5% per annum compounded monthly in advance.
13. There are a number of external and unforeseen factors (excluding the design and installation work of the sub-surface drainage system which carries a warranty from AD) which could vary and influence the performance, effectiveness and/or expected result of sub-surface drainage installations on saline soils (such as soil compound or condition, irrigation, water quality, rainfall, farming practices, fertilizing, liming practices, other soil chemical properties) and AD cannot and does not take responsibility for or guarantee the expected result of sub-surface drainage under these factors. A proper management plan should be followed to initiate the leaching process of salts and the process can take up to

3 years to show the desired/expected results. However AD will always commit to assist the client in an attempt to resolve any problems which occur with any installation where the factors referred to in 13 above causes any problems and if is at all possible or reasonable for AD to so assist, however the risk remains that of the client and the client shall be liable for any additional work, time and/or costs incurred by AD to remedy or resolve any such problems which may occur.

14. AD reserves the right to amend, vary or change any quotation on the final invoice once the installation process has commenced on site and AD becomes aware of any sub-surface conditions which may adversely affect the installation process or effectiveness of the sub-surface drainage or irrigation system, if irrigation is applicable. AD will do so in prior consultation and agreement with the client to ensure the effective functioning and installation of the drainage system.
15. AD does not guarantee or take any liability for the effective performance of any installation of which the client's selection/instruction deviated in any manner from the recommended optimal installation specifications provided by AD on the planning and cost-estimation documentation.
16. AD warrants and guarantees for a period of 2 years the accurate and correct installation (not the drainage result) of the sub-surface drainage installation. The client consents and agrees irrevocably to have AD conduct any tests and apply any possible solutions to any unforeseen complications/problems which arise or are experienced in the installation process.
17. Any delays caused by the client or any person associated with the client during installations by the client of whatsoever nature, is penalize-able at a rate of USD \$110.00 per hour and USD \$900.00 per day. Delays may include, but is not limited to improper site preparation, removal of obstacles, payment by client, availability of a tractor, excavator and/or TLB as required, the unearthing of underground installations or pipelines, pumps, cables/wiring which are damaged and for which no prior indication was given by the client and which causes the installation process to halt temporarily. The indicated USD amount will be calculated and changed to an equal value in the same currency as that in which the initial quotation document was provided.
18. It is the client's responsibility to, as soon as possible after the finalization of the sub-surface drainage installation process, to close the trench left by the drainage plough by straddling the trench with a tractor and tine or disc implement to prevent erosion or damage to the installation. It is very important to straddle the trench and to not drive with the wheels of a tractor or other heavy machinery/equipment in the open trench (driving across the trench is acceptable but not following down the trench-line).

Payment, legal and termination:

19. By signing the quotation document you consent to and agree not to do any of the following things:
1. to abuse, harass, threaten, impersonate or intimidate any person associated with or employed by AD;
 2. to post, transmit, or cause to be posted or transmitted, any content that is libelous, defamatory, obscene, abusive, offensive, profane, or infringes on AD's rights or the rights of any other person associated with or employed by AD;
 3. to communicate with AD or any person associated with or employed by AD in an abusive or offensive manner;
 4. to utilize, distribute, disclose, replicate or use the contents of the website, quotation documentation, design drawings and communication with clients in any improper manner which has not been consented to in writing by AD.
20. AD will not be responsible for any links to other third party websites from our website or the terms of use of such other third party websites. The responsibility remains that of the client to acquaint yourself fully with the terms and conditions of any links prior to accepting the same.
21. The contents contained on quotation documentation, design drawings and communication with clients or otherwise, and/or any other information/documentation which are not circulated freely by AD within the public domain, are strictly private and confidential and remain the property of AD and the client is not allowed to distribute, disclose, replicate or use the contents thereof, AD's logo or other visual media without the express prior written consent of AD.
22. Any and all equipment and material will remain the property of AD until full payment has been made by the client of the final invoice provided by AD to the client.
23. The risk of and duty to make any and all payments which become due and payable to AD shall remain that of the client until the said payment reflects in the indicated bank account of AD. The banking details of AD are herewith confirmed as NB Cheque 62388292410 250053 and any payment into any other bank account by the client shall not be accepted as proper payment to AD. It remains the responsibility of the client to ensure that the banking details have been fully confirmed by the client (in writing and telephonically) prior to any payments being made to AD.
24. Any and all risk of loss, damage or other of any and all machinery, equipment, material, drainage pipe or other property of AD shall pass to the client once transported/delivered to the installation site of the client and the client shall be liable for replacement or damage of any such property of AD.

25. The client may not move, transport, take possession of or in any manner whatsoever hinder or obstruct access to any and all machinery/equipment, drainage pipe, drainage designs and material brought to an installation site without the express prior written consent of AD, unless the client so moves or transports the same in an emergency or attempt to avoid damage thereto (for example in case of a fire etc.).
26. AD will at all times have the right to enter upon the clients premises and remove any of its property for any reason whatsoever and neither the client nor any other person associated with the client may restrict access to AD to do so.
27. Should AD not require a deposit to be paid prior to the commencement of any work (for example if the client works on an order system), the client shall remain fully liable for any and all costs incurred and fees of AD should an order be cancelled by the client at any stage prior to its completion. An invoice submitted to the client by AD in this regard reflecting any and all such costs and fees shall be sufficient proof of the amount payable by the client and AD will not be required to further substantiate the amounts in any manner.
28. Should payment from a client not be received on the due date for such payment, any discount/reduction afforded to such client or any part thereof (if applicable), will be forfeited by the client and full payment will be claimed and an invoice will be sent to the client therefore. The application and enforcement of this clause vest within the sole discretion of AD.
29. The client accepts a certificate of indebtedness/invoice of any amount due which has been issued by any director of AD for any services rendered, transportation, costs incurred or installation of the sub-surface drainage or irrigation system, or any part thereof, as accurate and a true and correct reflection of such amount due and indebtedness.
30. No payment of any nature may be withheld by the client for any reason whatsoever at any stage, the client remains liable for full payment of any and all invoices of AD on the due date for payment thereof without exception. No extension of payment of any nature be applicable or enforceable unless agreed to by AD, reduced to writing and signed by the client and a duly authorised director of AD. The client is not entitled to set off any amount due to the client for any reason whatsoever by AD against this debt.
31. Any communication, invoice, notice or legal proceedings sent to the email address/es of the client through which any communication has been received by AD from the client at any stage shall serve as and be regarded as sufficient and effective notice or service of such communication or notice or legal proceedings if sent to such email address.
32. The terms and conditions of service is governed by the laws of the Republic of South Africa and by your acceptance of these terms and conditions you specifically and

irrevocably consent to and submit to the jurisdiction of the High Court of South Africa, Gauteng Division, Pretoria for any and all proceedings referred to court.

33. By signing the quotation the signatory acknowledges, accepts and agrees that the signee is personally jointly and bound to the principal party, if applicable, as co-principal debtor jointly and severally and liable for payment of the full amount reflected in the quotation, final invoice and any and all payments which becomes due and payable to AD. The signatory agrees that these terms and conditions of service will apply in the exact same way to him/her.
34. No relaxation or waiver of any terms and conditions as set out herein will be enforceable unless reduced to writing and signed by AD and the client.
35. The client acknowledges that it does not rely on any representations made by AD in regard to the goods and services or any of its qualities leading up to this agreement other than those contained in this agreement. All specifications, price lists, performance figures, advertisements, brochures and other technical data furnished by AD in respect of the goods or services orally or in writing will not form part of the agreement.
36. The client agrees that neither AD nor any of its employees will be liable for any negligent or innocent misrepresentations made to the client.
37. AD accepts no responsibility for any work done or damage caused on a client's premises where the title deed, deed of servitude or other document prohibits or restricts any such work to be executed in such area and the client did not inform AD in writing thereof prior to the commencement of the installation process.
38. The client agrees to pay all additional costs resulting from any acts or omissions by the client including suspension of work, modification of requirements, failure or delay in giving particulars required to enable work to proceed on schedule or requirements that work be completed earlier than agreed.
39. AD reserves the right at its sole discretion to provide alternative goods of the same quality and quantity at the prevailing prices to those ordered by the client should such goods be superseded, replaced or their manufacture terminated.
40. All quotations will remain valid for a period of 30 days from the date of the quotation or until the date of issue of a new price list or any cost increases, whichever occurs first. If the client disputes the amount of increase, the amount of the increase may be certified by any independent auditor and such certificate shall be final and binding on the client. In any event the client shall have only 14 (fourteen) days from the date on which the increase is implemented or claimed by AD to object thereto, failing which the increase shall be final and binding.
41. AD shall be entitled in its sole discretion to split the delivery / performance of any goods or services in the quantities and on the dates it decides.

42. AD shall be entitled to invoice each delivery / performance actually made separately.
43. The risk of damage to, destruction or theft of goods shall pass to the client on acceptance of any order placed in terms of this agreement and the client undertakes to comprehensively insure the goods until paid for in full.
44. Delivery, installation and performance times quoted are merely estimates and are not binding on AD.
45. All guarantees are immediately null and void should any goods be tampered with or should the installation be altered by anyone other than AD.
46. Under no circumstances shall AD be liable for any consequential damages including loss of profits or for any delictual liability of any nature whatsoever whether caused negligently or innocently.
47. Under no circumstances shall AD be liable for any damage arising from any misuse, abuse or neglect of the goods or services directly or indirectly related to the installation.
48. AD reserves the right to, in its sole discretion, unilaterally terminate the agreement with any client at any stage. The client will remain fully liable for payment of all costs and fees of AD up to the notice of termination (including, but not limited to work conducted, costs of transportation and use of all machinery/equipment, drainage pipe, drainage designs and material brought to and to be removed from an installation site). This clause shall apply mutatis mutandis should the client cancel the agreement for installation or should it be done by agreement.
49. Should it be necessary for AD to institute any legal proceedings against a client for any reason whatsoever, the client shall be liable for the payment of AD's legal costs on a scale as between attorney and client.
50. Should any invoices remain unpaid after the due date for payment thereof, AD will have the right to immediately enter the premises of the client without any prior notice and at any time and to proceed to block or in any other manner render the operation of the installation or any part thereof inoperable. The client may under no circumstances remove any such blockages or other act of AD in terms of this clause. Should it be found that the client has acted in any manner which breaches the provisions of this clause, the client shall immediately be liable to a penalty to the value of \$250 000 (USD).
51. The client expressly agrees that no debt owed to AD by the client shall become prescribed before the passing of a period of 6 (six) years from the date the debt falls due.
52. Any order is subject to cancellation by AD due to 'acts of God' or any circumstance beyond the control of AD, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

53. Any order is subject to cancellation by AD if the client breaches any term of this agreement/terms and conditions of service or makes any attempt of compromise, liquidation, sequestration, termination or judgement is recorded against the client or any of its principals.
54. The client agrees that AD will be immediately and irrevocably released from any contractual damages and penalty obligations should any event in clause 52 or 53 occur.
General
55. The client undertakes to inform AD in writing within 7 (seven) days of any change of director, member, shareholder, owner or partner or address or 14 (fourteen) days prior to selling or alienating the client's business or property and failure to do so will constitute a material breach of this agreement/terms and conditions of service.
56. Should any problem of any nature be found with regard to any goods or services rendered by AD, the client must allow AD a period of no less than 90 (ninety) days to resolve the issue including but not limited to manufacturing defects, system malfunctions etc. prior to the client having the right to take any further action of whatsoever nature.
57. Each provision of this agreement/terms and conditions of service is severable from the other provisions. Should any provision be found to be invalid or unenforceable for any reason, the remaining provisions hereof shall nevertheless remain binding and continue with full force and effect.
58. Should any dispute of whatsoever nature arise between any client and AD which dispute is not resolved between the parties within a period of 5 (five) business days, the client is obliged to declare a dispute in writing and refer the dispute to mediation before any other remedy of whatsoever nature may be explored/invoked by the client. The mediator's identity must be agreed upon between the parties within a period of 3 (three) business days, failing which the manager of Social Justice, Gauteng, will allocate a mediator to mediate the dispute between the parties. The mediator will give notice of the date, time and place of the mediation.