

LOCUBE

SIMPLE LIGHTWEIGHT DURABLE

TERMS AND CONDITIONS OF TRADE

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By accepting Ecoflo Wastewater Management Pty Ltd (ABN 33 606 583 985) trading as LooCube's ("LooCube") Quote either through issuing a purchase order, and/or by paying a deposit, the Customer agrees to be bound by these General Terms and Conditions of Trade.

1. DEFINITIONS AND INTERPRETATIONS

1.1. DEFINITIONS

In these Terms and Conditions of Trade:

Additional Charge means:-

- (a) fees or charges for additional work performed outside the the terms of the agreed quotation at the Customer's request or reasonably required as a result of the Customer's conduct, calculated in accordance with LooCube's then current prices or hourly rates;
- (b) expenses incurred by LooCube, at the Customer's request or reasonably required as a result of the Customer's conduct.

Business Day means a day that is not a Saturday, Sunday or public holiday in the place where the Products are provided.

Customer means the Person or Company that the Quotation is addressed to and includes the Customer's agents and permitted assigns.

Delivery means when the Products are transferred to the Customer either by physical delivery to, or collection by, the customer's agent or assignee.

Products means any toilet systems, toilet buildings or associated items supplied by LooCube.

GST means Goods and Services Tax as defined in A New Tax System (Goods and Services) Act 1999

Intellectual Property Rights means intellectual property rights at any time protected by statute or common law, including copyright, trademarks, patents and registered designs.

ISO Containers means intermodal containers manufactured according to specifications from the International Organization for Standardisation.

Loss includes, but is not limited to, costs (including, but not limited to, party to party legal costs and LooCube's legal costs), expenses, lost profits, award of damages, personal injury and property damage.

NDT Non-Destructive Testing as per Australian Standards

Order means a purchase order for Products or Services placed by a Customer in response to a Quote and as varied in writing from time to time by the parties.

Overseas Customer means any customer that does not have a registered office in the country of Australia and/or is not considered an Australian entity for the purposes of taxation.

PPS Law means:-

- (a) the Personal Property Security Act 2009 (Cth) (PPS Act) and any regulation made at any time under the PPS Act (each as amended from time to time); and
- (b) any amendment made at any time to any other legislation as a consequence of a PPS Law. Quote means a written description of the Products or Services to be provided, an estimate of LooCube's charges for the performance of the required work and an estimate of the time frame for the performance of the work.

Terms and Conditions means this document.

1.2. INTERPRETATION

In these Terms and Conditions, unless the context otherwise requires:-

- (a) a reference to writing includes email and other communication established through LooCube's website (if any); and
- (b) the singular includes the plural and vice versa;
- (c) a reference to a clause or paragraph is a reference to a clause or paragraph of these Terms and Conditions;
- (d) a reference to a party of these Terms of Trade or any other document or arrangement includes that party's executors, administrators, successors and permitted assigns;
- (e) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (f) headings are for ease of reference only and do not affect the meaning or interpretation of these Terms and Conditions; and

- (g) if the date on which any act, matter or thing is to be done falls on a day which is not a Business Day, that act, matter or thing:-
- (i) if it involves a payment other than a payment which is due on demand must be done on the preceding Business Day; and
 - (ii) in all other cases, must be done on the next Business Day.

2. AGREEMENT TO BUY AND SELL

In consideration of payment of the price specified in the Quotation, LooCube agrees to sell and the Customer agrees to buy the Products on the terms and conditions of this Agreement.

3. ENGAGEMENT OF LOOCUBE

- (a) These Terms and Conditions apply to all transactions between the Customer and LooCube relating to the provision of Products, including all quotations, contracts and variations. These Terms and Conditions take precedence over conditions contained in any document of the Customer or elsewhere.
- (b) The variation or waiver of a provision of these terms or a party's consent to a departure from a provision by another party is ineffective unless in writing signed by both parties.
- (c) LooCube may amend any details in a Quote by notice in writing to the Customer prior to the Customer accepting the Quote. Such amended details supersede any relevant prior detail in dealings between the parties.

4. QUOTES

- (a) LooCube may provide the Customer with a Quote. Any Quote issued by LooCube is valid for 30 days from the date of issue.
- (b) Unless specifically included in the Quote, our Quote does not include delivery of the Products.
- (c) If delivery is specified in a quote, then the quote for freight costs is valid for 14 days in respect of quoted freight costs.
- (d) Quotes are based upon the cost of materials available at the time of preparation of the Quote and

assume the timely supply by the Customer of necessary material and instructions to LooCube.

- (e) Following provision of a Quote to the Customer, LooCube is not obliged to commence work until the Quote has been accepted in writing or by e-mail by the Customer, and a deposit paid.
- (f) LooCube reserves the right to amend any Quote before an Order has been made to take into account any rise or fall in the cost of completing the Order. LooCube will notify the Customer of any amendment as soon as practicable, at which point the amended quote will be the Quote for the purposes of these Terms and Conditions.
- (g) An indication in a Quote of the timeframe for the provision of the Products or Services is an estimate only and is not a fixed timeframe. Subject to any obligations in respect of consumer guarantees under the Australian Consumer Law, this estimate is not binding upon LooCube.
- (h) The Quote includes the provision of generic engineering and a Form 15 as standard (excludes and geotechnical studies and footing design). It is the Customer's responsibility to inform LooCube of any additional engineering requirements, which will be quoted as an additional cost and charged accordingly.

5. ACCEPTANCE OF QUOTE

The Customer may accept a Quote by written acceptance and payment of a deposit. Acceptance shall be deemed to be an agreement by the Customer to be legally bound by this Agreement.

In all cases, a mobilisation deposit of 50% is required.

6. PURCHASE ORDERS

- (a) Government customers issuing a government purchase order are still required to pay a 50% mobilisation deposit within 30 days of issuing the Purchase Order.
- (b) An Order will not be placed by the Customer other than against a LooCube Quote and must be in writing or by email.
- (c) Placement of an Order by the Customer signifies acceptable by the Customer of these Terms and

Conditions and the Quote number specified on the Order.

- (d) LooCube may in its absolute discretion refuse to provide Products or Services where:-
- (i) Products are unavailable for any reason whatsoever;
 - (ii) payment for Products or Services previously provided to the Customer or any related corporation of the Customer or to any other party who is, in the reasonable opinion of LooCube, associated with the Customer under the same or another supply contract, has not been received by LooCube.
- (e) An Order cannot be cancelled without the prior written consent of LooCube. Where an Order is cancelled, the Customer indemnifies LooCube against any Losses incurred by LooCube as a result of the cancellation, including, but not limited to loss of profit from other orders foregone as a result of the scheduling of the Order which is subsequently cancelled.
- (f) Following placement of an Order, any delays caused by the Customer exceeding three months which subsequently delays LooCube's purchase of materials for the Products including but not limited to FRP, steel, fixings and sheeting, may incur an Additional Charge.

7. VARIATIONS

- (a) The Customer may request that its Order be varied by providing a request in writing to LooCube. A request for a variation must be agreed to in writing by LooCube in order to have effect.
- (b) If the Customer wishes to vary its Order, LooCube reserves the right to vary the fee quoted to include any extra costs incurred or additional work carried out in complying with the customer's request. A revised Quote issued by LooCube in respect of the required variation supersedes the original Quote. If the revised Quote only specifies additional work the Quote for that additional work will be in addition to the immediately preceding Quote for the Products and/or Services.

- (c) LooCube has an automatic extension of time for the provision of Products or Services equal to the delay caused by the variation.

8. DELIVERY AND STORAGE

- (a) Delivery times are estimates only and LooCube is not liable for any late delivery.
- (b) Any delays caused by the Customer that result in LooCube being unable to dispatch the Products within 14 days of completion of manufacture, including but not limited to late payment of final invoice or site delays, may incur an Additional Charge for storage of the Products.
- (c) Storage of the Products will be charged at a flat rate of \$25.00 plus GST per day invoiced weekly in advance.

9. INVOICING AND PAYMENT

- (a) All Customers must pay a deposit of 50% of the Price to confirm the Customer's order. LooCube will issue an Invoice for the balance of payment approximately 14 days prior to the product being ready to dispatch. The Customer must pay for the Product in full upon manufacture completion, prior to dispatch of the Product from LooCube's premises.
 - (i) The Customer must pay an invoice issued by LooCube to LooCube within 30 days of a valid tax invoice being issued to the Customer.
 - (ii) If any invoice is due but unpaid, LooCube may withhold the provision of any further Products or Services until overdue amounts are paid in full.
 - (iii) LooCube may in its complete discretion apply any payment received from the Customer to any amount owing by the Customer to LooCube.
 - (iv) The Customer is not entitled to retain any money owing to LooCube notwithstanding any default or alleged default by LooCube of these Terms and Conditions, including (but not limited to) the supply of allegedly faulty or defective Products, provision of Services to an inadequate standard or a delay in the provision of Products or Services. Nothing in this paragraph affects the Customers rights for any alleged failure

of a guarantee under the Australian Consumer Law.

- (v) The Customer is to pay LooCube on demand interest at the rate of 12% per annum on all overdue amounts owed by the Customer to LooCube, calculated daily.
- (vi) All costs and expenses associated with collecting overdue amounts, including (but not limited to) legal fees and internal costs and expenses of LooCube, are to be paid by the Customer as a debt due and payable under the Terms and Conditions.
- (vii) The Customer and LooCube agree to comply with their obligations in relation to Products and Services Tax (GST) under the A New Tax System (Products and Services Tax) Act 1999 and any other applicable legislation governing GST.

- (b) No Credit Accounts will be entered into with Overseas Customers and all Overseas Customers must provide payment in full of LooCube's invoice prior to LooCube arranging Shipping of the Products.

10. ADDITIONAL CHARGES

LooCube may require the Customer to pay an Additional Charge in respect of costs incurred by LooCube as a result of installation conditions or delays caused by the Customer or reliance on inadequate or incorrect information or material provided by the Customer or information or material supplied later than required by LooCube in order for it to provide the Products within the specified timeframe (if any).

11. STANDARD OF MANUFACTURING

LooCube manufactures to Australian Standards and produces documentation in LooCube's standard formatting at the sole and unfettered discretion of LooCube. Any requirements in addition to the standards may incur an Additional Charge.

12. INSTALLATION

LooCube does not provide installation services. We can provide a list of builders but these are provided without recommendation or guarantee.

13. ACCEPTANCE OF PRODUCTS

- (a) If the Customer fails to advise LooCube in writing of any fault in Products or failure of Products to accord with the Customer's Order within 14 days of delivery, the Customer is deemed to have accepted the Products and to have accepted that the Products

are not faulty and accord with the Customer's order. Nothing in this paragraph affects the Customer's rights for any alleged failure of a guarantee under the Australian Consumer Law.

- (b) Any claims or disputes by the Customer in relation to an invoice must be notified in writing to LooCube within 7 days from the date of the invoice.

14. TITLE AND RISK

- (a) Risk in the Products passes to the Customer immediately upon delivery.
- (b) Ownership of Products supplied to the Customer does not pass to the Customer until all money (including money owing in respect of other transactions between LooCube and the Customer) due and payable to LooCube by the Customer has been fully paid.
- (c) Where Products are supplied by LooCube to the Customer without payment in full of all moneys payable in respect of Products provided by LooCube in respect of those Products, the Customer:
 - (i) is a bailee of the Products until property in them passes to the Customer;
 - (ii) irrevocably appoints LooCube its attorney to do all acts and things necessary to ensure the retention of title to Products including the registration of any security interest in favour of LooCube with respect to the Products under applicable law;
 - (iii) must be able upon demand by LooCube to separate and identify as belonging to LooCube Products supplied by LooCube from other Products which are held by the Customer;
 - (iv) must not allow any person to have or acquire any security interest in the Products;
 - (v) agrees that LooCube may repossess the Products if payment is not made within 30 days (or such longer time as LooCube may, in its complete discretion, approve in writing) of the supply of the Products; and

- (vi) the Customer grants an irrevocable license to LooCube or its agent to enter the Customer's premises in order to recover possession of Products pursuant to this paragraph. The Customer indemnifies LooCube in respect of any damage to property or personal injury which occurs as a result of LooCube entering the Customer's premises.
- (d) LooCube may sell or otherwise dispose of the Products in its absolute discretion and on its own account without limiting any other rights LooCube has.
- (e) The Customer indemnifies LooCube against any loss damage liability or expense incurred or sustained as a result of the exercise of LooCube's rights under this clause.
- (iv) the Customer breaches or is alleged to have breached these Terms and Conditions for any reason (including, but not limited to, defaulting on any payment due under these Terms of Trade) and fails to remedy that breach within 7 days of being giving notice by LooCube to do so;
- (v) the Customer, being a natural person, commits an act of bankruptcy;
- (vi) the Customer, being a corporation, is subject to:-
- (b) a petition being presented, an order being made or a meeting being called to consider a resolution for the Customer to be wound up, deregistered or dissolved;
- (c) a receiver, receiver and manager or an administrator under Part 5.3A of the Corporations Act 2001 being appointed to all or any part of the Customer's property and undertaking;

15. INTELLECTUAL PROPERTY RIGHTS

- (a) The Customer indemnifies and agrees to keep indemnified LooCube against all Losses incurred by LooCube in relation to or in any way directly or indirectly connected with any breach of any other Intellectual Property Rights in relation to any material supplied by the Customer to LooCube.
- (b) Unless specifically agreed in writing between LooCube and the Customer, all Intellectual Property rights in any works created by LooCube on behalf of the Customer vest in and remain the property of LooCube.
- (c) Subject to payment of all invoices due in respect of the Products or Services, LooCube grants to the Customer a perpetual, non-exclusive license to use the works created or produced by LooCube in connection with the provision of Products or Services under these Terms and Conditions for the purposes contemplated by the Order.
- (d) All photos provided by the Customer to LooCube become the property of LooCube and may be used by LooCube for marketing and promotional purposes.
- (iv) the Customer purports to assign its rights under these Terms and Conditions without LooCube's prior written consent;
- (v) the Customer ceases or threatens to cease conduct of its business in the normal manner.
- (f) Where an event of default occurs, except where payment in full has been received by LooCube, LooCube may:-
 - (i) terminate these Terms and Conditions;
 - (ii) terminate any or all Orders and credit arrangements (if any) with the Customer;
 - (iii) refuse to deliver Products or provide further Services;
 - (iv) pursuant to clause 10(c), repossess and re-sell any Products delivered to the Customer, the payment for which has not been received; or

16. DEFAULT BY CUSTOMER

- (a) Each of the following occurrences constitutes an event of default:

- (v) retain (where applicable) all money paid on account of Products or otherwise.
- (g) In addition to any action permitted to be taken by LooCube under paragraph (b), on the occurrence of an event of default all invoices will become immediately due and payable.

17. TERMINATION

In addition to the express rights of termination provided in these Terms and Conditions, a party may terminate these Terms and Conditions by giving 30 days written notice to the other party.

18. EXCLUSIONS AND LIMITATION OF LIABILITY

- (a) The Customer expressly agrees that use of the Products and Services is at the Customer's risk. To the full extent allowed by law, LooCube's liability for breach of any term implied into these Terms and Conditions by any law is excluded.
- (b) All information, specifications and samples provided by LooCube in relation to the Products or Services are approximations only and, subject to any guarantees under the Australian Consumer Law, small deviations or slight variations from them which do not substantially affect the Customer's use of the Products or Services will not entitle the Customer to reject the Products upon delivery, or to make any claim in respect of them.
- (c) LooCube gives no warranty in relation to the Products provided or supplied. Under no circumstances is LooCube or any of its agents, employees or officers liable or responsible in any way to the Customer or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues), as a result, direct or indirect of any defect, deficiency or discrepancy in the Products or Services including in their form, content and timeliness of deliveries, failure of performance, error, omission, defect, including, without limitation, for and in relation to failure to supply the Products or Services.
- (d) Any advice, recommendation, information, assistance or service given by LooCube in relation to Products and/or Services is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty or accuracy, appropriateness or reliability. LooCube does not accept any liability or responsibility for any Loss suffered as a result of the Customer's reliance on such advice, recommendation, information, assistance or service.
- (e) To the fullest extent permissible at law, LooCube is not liable for any direct, indirect, punitive, incidental, specific, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the provision of or failure to provide Products or Services, or otherwise arising out of the provision of Products or the Services, whether based on Terms and Conditions, negligence, strict liability or otherwise, even if LooCube has been advised of the possibility of damages.
- (f) The Australian Consumer Law may give the Customer certain guarantees. Where liability for breach of any such guarantee can be limited, LooCube's liability (if any) arising from any breach of those guarantees is limited:
 - (i) with respect to the supply of Products, to the replacement or repair of the Products or the costs of resupply or replacement of the Products; or
 - (ii) with respect to Services to the supply of Services again or cost of resupplying the Services again.

19. INDEMNITY

The Customer indemnifies and keeps indemnified LooCube, its servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Customer) against LooCube or, for which LooCube is liable, in connection with any Loss arising from or incidental to the provision of Products or Services, any Order or the subject matter of these Terms and Conditions including, but not limited to any legal costs incurred by LooCube in relation to meeting any claim or demand or any party/party legal costs for which LooCube is liable in connection with any such claim or demand. This provision remains in force after the termination of these Terms and Conditions.

20. FORCE MAJEURE

- (a) If circumstances beyond LooCube's control prevent or hinder its provision of the Products or Services, LooCube is free from any obligation to provide the Products or Services while those circumstances

continue. LooCube may elect to terminate this agreement or keep the agreement on foot until such circumstances have ceased.

- (b) Circumstances beyond LooCube's control include, but are not limited to, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems.

21. WARRANTIES

- (a) To activate and validate this warranty, the Customer must complete and return to LooCube the Warranty Application Form and provide 10 good quality photos of the installed Products within 60 days of receipt of the Products.
- (b) If for any reason the Australian Consumer Law applies to the supply of the Products, LooCube gives the following statement to the Customer:

"Our Products come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Products repaired or replaced if the Products fail to be of acceptable quality and the failure does not amount to a major failure."

- (c) The benefits to the Customer given by this warranty are in addition to other rights and remedies of the consumer under a law in relation to the Products or services to which the warranty relates.

22. OTHER MATTERS

- (a) These Terms and Conditions are governed by the laws of Queensland and each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland.
- (b) These Terms and Conditions and any Quotes and written variations agreed to in writing by LooCube represent the whole agreement between the parties relating to the subject matter of these terms.
- (c) These Terms and Conditions supersede all oral and written negotiations and communications by and on behalf of either of the parties.

- (d) In entering into these Terms and Conditions, the Customer has not relied on any warranty, representation, or statement, whether oral or written, made by LooCube or any of its employees or agents relating to or in connection with the subject matter of these Terms and Conditions.
 - (e) If any provision of these Terms and Conditions at any time is or becomes void, voidable or unenforceable, the remaining provisions will continue to have full force and effect.
 - (f) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
 - (g) A notice or other communication required or permitted to be given by one party to another must be in writing to the address shown on a Quote or sent by email to the email address of the addressee specified in the relevant Quote with acknowledgement of delivery.
 - (h) A notice or other communication is taken to have been given (unless otherwise proved) if sent by email before 4pm one Business Day at the place of receipt, on the date it is sent and otherwise on the next Business Day at the place of receipt.
 - (i) A party may only change its postal or email address for service by giving notice of that change in writing to the other party.
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