

## **Pacific Bathroom Website Terms and Conditions**

Your use of this Site is subject to these Website Terms and Conditions. By accessing and using the Site, including by Ordering any Products through this Site, you confirm your acceptance of these Website Terms and Conditions and agree to be bound by them. If you do not agree to these Website Terms and Conditions, you must immediately exit and cease use of the Site.

In addition to these Website Terms and Conditions, any purchase of Products through the Site will be subject to our Website Terms of Sale. In the event of any inconsistency or discrepancy between the Website Terms of Sale and the Website Terms and Conditions, the Website Terms of Sale shall prevail in respect of its subject matter, and these Website Terms and Conditions shall prevail in all other matters.

### **1 Use of Information**

- 1.1 All information provided by us on this Site or in respect of any Products is provided by us as general information and is not in the nature of advice. We reserve the right to update or otherwise change this information at any time.
- 1.2 We do not make any representations, or provide any warranties, that any information we provide is reliable, up-to-date, accurate, complete or suitable for any particular purpose.
- 1.3 You use and rely on any information provided on this Site, or that we otherwise provide in respect of any Products, at your own risk, and represent and warrant that you shall and have made your own independent enquiries and satisfied yourself in relation to such matters.

### **2 Accounts and passwords**

- 2.1 Access to certain services on the Site may require registration and the creation of an account. You must ensure that the details you provide us upon registration or at any time are complete and accurate. You must inform us immediately of any changes to the details you provided when registering.
- 2.2 You may not create an account for any person other than yourself (or a company affiliated with you and whose behalf you are authorised to create, access and use the account). You must not create a false identity or misrepresent an affiliation with another person or entity.
- 2.3 You may not create an account unless you are at least 18 years of age.
- 2.4 When you register for an account, you will be asked to create a password. You are solely responsible for maintaining the confidentiality of your account details and password, and for restricting access to your computer or device to prevent unauthorised access to your account. You must promptly notify us if you have reason to believe that your account details or password have been lost, or if they are likely to be used in an unauthorised manner. You are responsible for all activities that occur under your account, regardless of whether such activities were authorised by you.
- 2.5 We reserve the right to suspend or terminate your access to an account or this Site at any time, for any reason, without prior notification.

### **3 Restrictions on use**

- 3.1 You must not:
  - (a) data scrape the Site either manually or by use of a web spider, web robot or any other web crawling or other technology;
  - (b) introduce to this Site any viruses, bugs, defects, corrupting programs, Trojan horses or other material that may be technologically harmful or malicious;
  - (c) use any device, software or routine to interrupt or interfere with, or attempt to interrupt or interfere with, the proper operation and working of the Site or with any other person's use of the Site;
  - (d) attempt to:

- (i) obtain unauthorised access to any part of the Site, or to our servers or any hardware supporting the Site
    - (ii) reconfigure the Site in any way; or
    - (iii) modify, reverse engineer, disassemble, decompile, copy or cause unintended effect to any part of the Site or any software used on the Site; or
  - (e) use this Site for any illegal or unlawful purpose, including, without limitation:
    - (i) access any data unlawfully or without consent;
    - (ii) attempt to probe, scan or test the vulnerability of a system or network or to circumvent or breach any security or authentication measures; or
    - (iii) attempt to interfere with service to any user, host or network, including without limitation via means of overloading, "flooding", "mail bombing" or "crashing".
- 3.2 Details of offences committed by Site users under Australian Law may be reported to the relevant Law enforcement authorities.
- 4 Intellectual Property Rights**
- 4.1 Intellectual Property Rights subsisting in or in relation to the Site (including text, graphics, photographs, logos, designs and software) is owned or licensed by us or our Associates.
- 4.2 You are granted a non-exclusive licence to access, view, download and print the content of this Site solely for your own personal use only. Your use of the Site grants you no other rights in relation to our Intellectual Property Rights or the Intellectual Property Rights of any third parties. All such rights not expressly granted are reserved.
- 4.3 Subject to the non-exclusive licence expressly granted to you under these Website Terms and Conditions and the exceptions prescribed under the *Copyright Act 1968* (Cth) and similar legislation which applies in your location, you must not without our written permission:
- (a) use any of our trade marks;
  - (b) adapt, reproduce, store, print, distribute, republish, broadcast or create derivative works from any part of the Site or any content downloaded from the Site; or
  - (c) commercialise any information or content obtained from the Site.
- 4.4 You agree that you will not change or delete any Intellectual Property Rights ownership notices from any materials downloaded from this Site.

## **5 Security**

- 5.1 You acknowledge and agree that you make any contributions, and transmit any information (including credit card details) via this Site, at sole risk. No data transmission over the internet can be guaranteed as totally secure. We do not warrant and cannot ensure the security of any information which you transmit to us.

## **6 Liability**

- 6.1 We do not represent or warrant that:
- (a) the use of this Site or any material downloaded from it will not cause damage to any property, including but not limited to loss of data or computer virus infection;
  - (b) the Site will be error-free or free from viruses, faults, defects or other harmful elements; or
  - (c) that any bugs, viruses, Trojan horses or other corrupting programs will not be transmitted to or through the Site by any party.

- 6.2 It is recommend that you take (and it is your sole responsibility to take) all appropriate safeguards (such as installing appropriate anti-virus software and firewalls) before downloading any content from this Site.
- 6.3 We do not warrant or represent that your access to the Site will be uninterrupted, timely or secure.
- 6.4 To the maximum extent permitted by Law, neither we, nor any of our Associates, will be liable for any direct, indirect or Consequential Loss resulting from your access to the Site or any action taken or reliance by you on any information provided on this Site or in respect of any Products (including through negligence).
- 6.5 If the Australian Consumer Law or any other Law implies a guarantee, condition or warranty into these Website Terms and Conditions which cannot be excluded by Law, our liability for any breach of such guarantee, condition or warranty will be, to the maximum extent permitted, at our election:
- (a) where we have supplied goods:
    - (i) the replacement of the goods or the supply of equivalent goods;
    - (ii) the repair of the goods;
    - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (iv) the payment of the cost of having the goods repaired; and
  - (b) where we have supplied services:
    - (i) supplying the services again; or
    - (ii) payment of the cost of having the services supplied again.
- 6.6 You must use reasonable steps to prevent, minimise, and mitigate, any actual or anticipated loss. We will not be responsible for any loss, damage or expenses to the extent that you:
- (a) contributed to the loss; or
  - (b) could have avoided or reduced the amount of the loss, damage or expense, by taking reasonable steps to mitigate its loss.

## 7 Indemnity

- 7.1 You indemnify us and our Associates, jointly and severally (**Those Indemnified**), from and against any liability, claim, loss, damage or expense (including legal costs on a full indemnity basis) suffered or incurred by and of Those Indemnified as a direct or indirect result of:
- (a) your breach of these Website Terms and Conditions;
  - (b) your use of or access to the Site;
  - (c) your breach of any third party's Intellectual Property Rights; or
  - (d) any wilful, unlawful or negligent act or omission by you.

## 8 Privacy

- 8.1 We shall maintain all Personal Information (as defined in the *Privacy Act 1988* (Cth)) collected by us under or in relation to access of this Site, including for the sale of any Products, in accordance with their respective obligations under the *Privacy Act 1988* (Cth).
- 8.2 Unless otherwise indicated in your account settings or at the time you place an Order, Pacific Bathroom may send you marketing information.

## **9 Dispute resolution**

- 9.1 The parties to these Website Terms of Sale must use reasonable endeavours acting in good faith to resolve any dispute arising in connection with the Products or these Website Terms of Sale (**Dispute**) as soon as reasonably possible and in accordance with this clause.
- 9.2 If the parties cannot resolve a Dispute within 14 days after a party notifies the other party that a Dispute has arisen and describing the Dispute, either party may by giving notice to the other refer the Dispute to mediation by a Queensland Law Society (**QLS**) approved mediator who is:
- (a) agreed by the parties, or
  - (b) failing the parties' agreement appointed by the President of the QLS or the President's nominee.
- 9.3 Unless agreed otherwise:
- (a) the mediation will take place in Brisbane, Queensland, Australia unless the parties agree otherwise;
  - (b) parties may appear at the mediation by video link; and
  - (c) the parties shall be entitled to legal representation at the mediation.
- 9.4 Each party shall bear their own costs of complying with this clause 9 and the costs of the mediator will be shared equally by the parties.
- 9.5 If the Dispute is not resolved within 30 days of its referral to mediation, a party may commence proceedings in any court of competent jurisdiction.
- 9.6 Except where urgent interim, interlocutory, or preliminary relief from a court of competent jurisdiction is being sought, no party may commence proceedings in any court seeking resolution of a Dispute until the provisions of this clause 9 have been complied with. However, if a party does not comply with this clause 9, the other party need not comply with this clause.

## **10 General**

- 10.1 These Website Terms and Conditions are governed by the Laws of Queensland, Australia. You agree to submit to the exclusive jurisdiction of the courts of Queensland, Australia, and courts entitled to hear appeals from the courts of Queensland, Australia.
- 10.2 The Site is managed from Queensland, Australia. We make no representations that the content and materials on the Site are appropriate for use in other locations. If you access the sites from outside Australia, you do so at your own risk and are solely responsible for complying with the Laws in the place where you access the Site.
- 10.3 Any provision in these Website Terms and Conditions that is illegal, void or unenforceable in a jurisdiction will as to that jurisdiction, be ineffective to the extent of the illegality, voidability or unenforceability, without invalidating the remaining provisions of these Website Terms and Conditions or affecting the validity or enforceability of that provision in another jurisdiction.
- 10.4 If we waive any rights we have under these Website Terms and Conditions as a result of your breach, it will not operate as a waiver of any future breaches.
- 10.5 These Website Terms of Sale represents the entire agreement between the parties and supersedes and prior agreements, arrangements or understandings.

## **11 Definitions**

These definitions apply to the Website Terms and Conditions, save where context requires otherwise:

**Associate** has the meaning given in the *Corporations Act 2001* (Cth).

**Australian Consumer Law** means the Australian Consumer Law as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

**Consequential Loss** includes without limitation loss of profits, loss of revenue, loss of data, lost production, loss of business, loss of the benefit of any contract or other agreement or arrangement, losses which do not arise naturally from a breach of contract in the usual course, damage to reputation, damage to property, downtime costs and legal costs.

**Intellectual Property Rights** means all industrial and intellectual property rights throughout the world including all rights in association with copyright, trade marks (whether registered or not), patents, patent applications, eligible circuit layouts, moral rights, service marks, trade names, registered designs, unregistered design rights, know how, trade secrets, domain names, internet addresses and confidential information.

**Law** means any written rule or collection of rules, including, but not limited to any statute, regulation, order or rule, any government ordinance or by-law, any governmental agency's rule, regulation or determination, and any form of custom or policy recognised and enforced by judicial decision.

**Order** means a request by you to purchase goods from Pacific Bathroom through the Site.

**Products** are any goods offered for sale on this Site, or supplied or promoted by us through the Site from time to time.

**Site** means the site [www.pacificbathroom.com.au](http://www.pacificbathroom.com.au), and such other websites as we may operate from time to time.

**We, us** and **our** are references to Copper Trading Pty Ltd trading as Pacific Bathroom.

**Website Terms and Conditions** means this document.

**Website Terms of Sale** means our terms of sale for online orders from time to time read together with these Website Terms and Conditions.

## **12 Interpretation**

- 12.1 If the due date for any obligation is not a business day, the due date will be the next business day.
- 12.2 All currency amounts are in Australian dollars.
- 12.3 Headings are provided for convenience and do not affect interpretation.
- 12.4 The words "include", "includes" and "including" must be read as if followed by the words "without limitation".
- 12.5 The singular includes the plural and the plural includes the singular.
- 12.6 If a word or phrase is defined its other grammatical forms have corresponding meanings.
- 12.7 Agreements, representations and warranties made by two or more people will bind them jointly and severally.
- 12.8 A reference to any legislation includes any consolidation, amendment, re-enactment or replacement of legislation.