

Retailer Terms of Use

BREVILLE STANDARD TERMS AND CONDITIONS OF SALE

The terms and conditions of sale (the "Terms") contained herein apply to all quotations made and purchase orders received by Breville USA, Inc., Breville Canada, L.P., acting through its general partner 9106-9146 Quebec Inc., or any of their respective affiliates, (hereinafter collectively referred to as the "Seller") and are the exclusive binding agreement between the parties regarding the products sold by Seller ("Products"). THE ACCEPTANCE OF ANY OR ALL OF THE BUYER'S ("BUYER") PURCHASE ORDERS IS CONDITIONAL UPON BUYER'S ASSENT TO THESE TERMS IN THIS DOCUMENT IN LIEU OF THE TERMS CONTAINED IN BUYER'S PURCHASE ORDER, UNLESS TERMS WERE PREVIOUSLY, EXPLICITLY AGREED TO IN WRITING BY BUYER AND SELLER. Seller hereby rejects all provisions contained in communications from Buyer that conflict with or are inconsistent with the terms contained herein. Seller's failure to object to any of the provisions contained in Buyer's documentation shall not be deemed a waiver of these provisions. Seller also objects to any provisions contained in communications from Buyer that increase Seller's risk, liability, obligations, or exposure beyond that set forth herein, unless included in a contract signed in writing by a duly authorized representative of the Seller.

1. Prices/Taxes. Buyer will be billed at the prices stated at the time of order acceptance. All prices are subject to adjustment on account of specifications, quantities, shipment arrangements or other terms and conditions, which are not part of the original price quotation. If the prices are based on the purchase of a particular quantity of goods and Buyer fails to purchase that quantity which would justify the pricing granted, Seller shall have the right, in addition to any other remedies at law or equity, to recover from Buyer the difference between the stated price and Seller's standard prices for such goods in the quantity actually purchased by Buyer. Unless otherwise specified or required by law, all prices will be quoted and billed exclusive of customs, duties or taxes, and Buyer shall be responsible for all such applicable duties and taxes (exclusive of taxes on Seller's income). If exemption from such taxes is claimed, Buyer must provide a certificate of exemption at the time the Purchase Order is submitted to Seller, and Buyer agrees to indemnify Seller for any unpaid taxes in the event such exemption is not applicable.

2. Terms of Payment. Terms of payment shall be in accordance with the agreement in place between Buyer and Seller. Any late payments are subject to a finance charge of the lesser of 1.5% per month (18% per annum) or the maximum amount allowed by law. Seller reserves the right to require payment in advance or C.O.D. and otherwise to modify credit terms. Buyer agrees to accept partial shipments in satisfaction of a single Purchase Order; when partial shipments are made, pro-rata

payments shall become due in accordance with the designated terms for each shipment. If Seller accepts partial payment in an amount less than the full amount of any invoice, such acceptance shall neither constitute a waiver of Seller's right to collect the balance nor an accord and satisfaction, notwithstanding Seller's endorsement of a check or other instrument. In the event of Buyer's bankruptcy or insolvency, Seller shall be entitled to cancel any order then outstanding without waiving any claims in law or equity. If Buyer fails to comply with these payment terms, Seller reserves the right to withdraw credit, suspend or cancel performance under any or all Purchase Orders or agreements and all Buyer's obligations to Seller shall become immediately due and payable. Buyer shall have no right to withhold any amount due to the Seller under these Terms because of a claim that the Buyer may have against Seller. Buyer shall pay to Seller all costs and expenses incurred by Seller in seeking collection of any amounts owed by Buyer to Seller.

3. Title and Delivery. Except as otherwise agreed to by the parties in writing, Shipment shall be EXW (Incoterms 2010) Seller's location and the manner of shipment shall be at Seller's option, unless specified by Buyer in writing at the time of order acceptance. Buyer shall be responsible for all shipping charges, including but not limited to shipping, transportation, duties and insurance costs. Title to all Products and risk of loss thereof, including damages or theft in transit, shall be assumed by Buyer, regardless of freight payment terms and whether such shipping agent has been specified by Buyer or Seller. Buyer shall inspect the Products upon delivery and shall notify Seller within ten (10) days of any damage or defective Products or under-shipment by Seller. All claims for loss or damage during shipment must be filed by Buyer with the carrier. The sale of any of Seller's products to Buyer in no way conveys to Buyer, either expressly or by implication, any intellectual property license whatsoever, except as may be granted by the Seller in the materials which accompany the Products upon delivery to the extent required to enable Seller to sell the Products. Seller expressly reserves its rights under any such claim, and asserts that additional restrictions may apply to the use of the Products, as set forth in the in the materials which accompany the Products. It is the responsibility of Buyer to arrange for and obtain insurance coverage for the Products, if so desired.

4. Warranty/Disclaimers. Seller warrants that the Products delivered hereunder will be in accordance with Seller's warranty policy which can be found at www.brevilleusa.com//warranty (for purchases in the United States) and <https://breville.ca/pages/warranty> or <https://fr.breville.ca/pages/politique-de-garantie> (for purchases in Canada). The obligations of Seller and Buyer with respect to this warranty shall be governed by and in accordance with Seller's RMA policy described in Section 7 hereof. The terms of this warranty do not apply to any specification required by Buyer or any Product which has been subject to misuse or neglect, or damaged by accident or that has been modified by anyone without the Seller's authorization. ALL CLAIMS FOR ALLEGED DEFECTS IN THE PRODUCTS SHALL

BE DEEMED WAIVED UNLESS MADE IN WRITING AND DELIVERED TO SELLER PURSUANT TO SECTION. 7. SELLER'S SOLE LIABILITY WITH RESPECT TO THE PRODUCTS SHALL BE LIMITED TO THE REPAIR, REPLACEMENT OR REFUND OF THE PURCHASE PRICE OF ANY DEFECTIVE PRODUCTS. THE SELLER, IN ITS DISCRETION, SHALL DETERMINE, ON A CASE BY CASE BASIS, WHETHER REPAIR, REPLACEMENT OR REFUND WILL BE THE REMEDY RESPECTING ANY SUCH DEFECTIVE PRODUCTS. IF THE APPLICABLE WARRANTY PERIOD DESCRIBED HAS NOT EXPIRED, SUCH REPAIR, REPLACEMENT OR REFUND SHALL BE SELLER'S SOLE LIABILITY AND THE SOLE REMEDY THAT BUYER, ITS CUSTOMERS OR ANY USERS OF THE PRODUCTS SHALL HAVE AGAINST SELLER WITH RESPECT TO THE QUALITY, PERFORMANCE OR USE OF ANY OF THE PRODUCTS. IF THE WARRANTY PERIOD HAS EXPIRED, SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND WHATSOEVER. BUYER ACKNOWLEDGES AND AGREES THAT THE PROVISIONS CONTAINED IN THIS WARRANTY CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO IT WITH REGARD TO THE PRODUCTS. EXCEPT FOR THE EXPRESS WARRANTIES MADE IN THIS SECTION, SELLER EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES WHICH, BUT FOR THIS PROVISION, MIGHT ARISE FROM COURSE OF DEALING, CUSTOM OR TRADE AND INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS WITH RESPECT TO THE PRODUCTS FURNISHED BY SELLER HEREUNDER. Certain jurisdictions do not permit the disclaimer of certain warranties, so this limitation may not apply to the Buyer.

5. Limitation of Liability. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL OR OTHER DAMAGES WHATSOEVER RESULTING FROM SELLER'S PERFORMANCE OR FAILURE TO PERFORM UNDER THESE TERMS OR THE FURNISHING, PERFORMANCE OR USE OF ANY PRODUCTS SOLD PURSUANT HERETO, WHETHER DUE TO BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, PRODUCT LIABILITY, THE NEGLIGENCE OF SELLER OR OTHERWISE. IT IS AGREED, HOWEVER, THAT IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE U.S. DOLLAR AMOUNT, OR CANADIAN DOLLAR AMOUNT, AS THE CASE MAY BE, EQUAL TO THE AMOUNT PAID BY BUYER FOR THE COST OF THE PRODUCTS PAID BY BUYER UNDER THE APPLICABLE INVOICE GIVING RISE TO A CLAIM. THE DAMAGE LIMITATIONS PROVIDED IN THIS AGREEMENT AND THE REMEDIES STATED HEREIN SHALL BE EXCLUSIVE AND SHALL BE BUYER'S SOLE REMEDY. THIS LIMITATION ON LIABILITY SHALL SURVIVE FAILURE OF ANY ESSENTIAL PURPOSE. Certain jurisdictions do not permit the limitation of certain types of liability, so this limitation may not apply to the Buyer.

6. Rescheduling/Cancellation. An order pursuant to these Terms shall not be rescheduled or cancelled by Buyer (in whole or in part) except with the prior written

consent of Seller. Seller reserves the right to cancel any orders placed by Buyer, or to refuse or delay shipment thereof, if Buyer: (a) fails to make any payment as provided in these Terms or under the terms of payment set forth in any invoice or otherwise agreed to by Seller and Buyer, (b) fails to meet reasonable credit or financial requirements established by Seller, including any limitations on allowable credit, or (c) otherwise fails to comply with these Terms. Buyer may not cancel for Seller's breach unless Buyer has provided Seller with thirty (30) days prior written notice alleging such breach and such breach has not been remedied by Seller within such time period.

7. Returns. Any Product return shall be returned to Seller ONLY upon assignment of a Return Merchandise Authorization (RMA) by Seller. Any Product returned to Seller without a RMA will be refused and returned to Buyer at Buyer's expense. Returns will not be accepted by Seller for any reason other than for: (i) verifiable Product defects or damage occurring within the warranty period or (ii) mishandled shipments directly caused by Seller. Return requests involving mishandled shipments must be brought to Seller's attention within five (5) days of original ship date. Seller reserves the right to reject any request regarding mishandled shipments submitted more than five (5) days after the original ship date.

8. Indemnification. In the event of a claim by a third party of infringement of proprietary rights, trademarks, or patents, resulting from compliance with Buyer's designs, specifications, or instructions Buyer will defend, indemnify and hold Seller harmless against any expense or loss ensuing from such a claim.

9. Security Agreement. Buyer hereby grants to Seller, its successors and assigns, a security interest in the Products to secure payment of the purchase price of the Products. Default in payment of such price or any part of the price when due shall permit Seller, in its sole discretion, to declare all obligations of Buyer immediately due and payable, and in such event, Seller shall have all the rights and remedies of a secured party under applicable law. In connection with the security interest granted herein, Seller is expressly authorized, at its discretion, to file one or more financing statements or other notices under applicable law naming Buyer as debtor and Seller as secured party. Buyer agrees to execute such documents requested by Seller to record and otherwise perfect this security interest.

10. Buyer Covenants. Buyer shall provide to, and register with, Seller, at the commencement of any transaction hereunder, its legal name to do business (the "Registered Legal Name") and the Country where it is permitted to sell Products (the "Country of Origin"). Buyer covenants and agrees that it shall only sell Products under the Registered Legal Name and within the Country of Origin. BUYER IS STRICTLY PROHIBITED FROM SELLING, TRANSPORTING OR OTHERWISE DELIVERING ANY

PRODUCT OUTSIDE THE COUNTRY ORIGIN OR UNDER A NAME THAT IS NOT THE REGISTERED LEGAL NAME. If Seller learns, or has reasonable cause to believe, or if any branch or agency of the government of the United States or Canada claims, that a violation of any applicable trade sanctions, export controls or trade regulations has occurred or is likely to occur because of any shipment, Seller may, in addition to any other remedy it may have, suspend all shipments to Buyer. Buyer will indemnify and will hold Seller harmless from and against any claim, loss or liability arising out of any breach of the foregoing covenants contained in this section.

11. Force Majeure. Seller shall not be liable for any loss, delay or failure to perform resulting from any circumstance, direct or indirect, reasonably beyond its control including, without limitation, fire, flood, accident, explosion, mechanical breakdown, strike or other labor trouble, plant shutdown, unavailability of or interference with the usual means of transporting the Product or compliance with any law, regulation, order, recommendation or request of any governmental authority or any changes in any laws, rules or regulations. In addition, Seller shall be so excused in the event it is unable to acquire from its usual sources and on terms it deems to be reasonable, any material necessary for manufacturing the Product. In the event that there should be a shortage of any Product, Seller may apportion its available Product among itself, its affiliates and all its customers in such equitable manner as it deems fair and reasonable. Any delivery date may be extended, at Seller's option, to the extent of any delay resulting from any force majeure event.

12. Confidential Information. Any documentation or data supplied by Seller to Buyer and marked "confidential" is proprietary and confidential to Seller. Seller retains for itself all proprietary rights to all designs, engineering details, and other data pertaining to any Product sold. Buyer agrees to use its best efforts to maintain the confidentiality of any proprietary documentation, data, or price quotes (whether marked "confidential" or not) supplied to it and not to disclose or use such documentation, data, or price quotes in any manner inconsistent with the purpose for which it was disclosed. Buyer hereby grants Seller a nonexclusive, limited license to use, copy, modify or otherwise utilize any materials or intellectual property provided by Buyer to Seller for purposes of fulfilling Company's obligations herein. Seller may require Buyer to execute a separate confidentiality agreement.

13. General. Neither Buyer nor Seller shall assign this order or any interest therein or any rights thereunder without the prior written consent of the other party. Any notice or report required or permitted by these terms and conditions shall be in writing or email and shall be deemed given if delivered personally or if sent by either party to the other by confirmed overnight delivery or by certified or registered mail, return receipt requested, postage prepaid, addressed to the other party to its address as set forth on the Purchase Order or at such other address as such party shall designate by notice hereunder or, if by email, upon acknowledgement or confirmation of delivery.

These Terms shall be governed by and construed according to the laws of the State of California, if Buyer is in the United States, and the laws of Montreal, Quebec, if Buyer is in Canada, without regard to conflict of laws provisions. Each party consents to the jurisdiction in the state and federal courts located within the State of California, if Buyer is in the United States, and the laws of Montreal, Quebec, if Buyer is in Canada. No modifications to these terms and conditions herein shall be enforceable except when in writing and signed by both parties, unless otherwise expressly stated herein. Any provision hereof which is prohibited or unenforceable shall, as to such jurisdictions, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity of such provision in any other jurisdiction. No waiver of any breach of any provision of these Terms shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. These Terms constitute the entire agreement between Buyer and Seller with respect to the Products purchased, and supersede all prior or contemporaneous negotiations, understandings and agreements.