

# BREVILLE TERMS OF USE AND SALE

Last Updated: 8/01/2020

PLEASE READ THESE TERMS OF USE AND SALE CAREFULLY, INCLUDING THE MANDATORY ARBITRATION PROVISION IN SECTION 18 FOR RESIDENTS OF THE UNITED STATES. IF YOU RESIDE OUTSIDE OF THE UNITED STATES, ADDITIONAL TERMS AND CONDITIONS MAY BE APPLICABLE TO YOU THAT EITHER SUPPLEMENT OR REPLACE CERTAIN PROVISIONS IN THESE TERMS OF USE AND SALE. PLEASE REVIEW THE END OF THIS DOCUMENT TO DETERMINE WHETHER ANY ADDITIONAL TERMS AND CONDITIONS APPLY TO YOU.

BY CLICKING TO INDICATE YOUR ACCEPTANCE TO THESE TERMS OF USE AND SALE, OR OTHERWISE ACCESSING OR USING OUR PRODUCTS AND SERVICES (DEFINED BELOW), YOU AGREE TO BE BOUND BY THESE TERMS OF USE AND SALE AND ALL TERMS REFERENCED HEREIN. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, DO NOT ACCESS, PURCHASE OR USE OUR PRODUCTS OR SERVICES.

These Terms of Use and Sale ("**Terms**") apply to your access to, and use of the Products and Services of Breville ("**Breville**," "**we**," "**us**," or "**our**"), a company incorporated in the State of California, U.S.A. and located at 19400 S Western Ave, Torrance, CA 90501. The term "**Products**" means any hardware and physical devices sold by Breville (including without limitation the Joule Circulator and the Joule Big Clamp). The term "**Services**" refers to our websites, mobile applications, and other online products and services (some of which are paid subscription services). These Terms do not alter in any way the terms or conditions of any other agreement you may have with us with respect to any Products, Services or otherwise. If you are using the Products or Services on behalf of any entity, you represent and warrant that you are authorized to accept these Terms on such entity's behalf and that such entity agrees to be responsible to us if you or such entity violates these Terms.

Breville reserves the right to change or modify these Terms at any time and in our sole discretion. If we make changes to these Terms, we will provide notice of such changes, such as by sending an email notification, providing notice through the Services or updating the "**Last Updated**" date at the beginning of these Terms. Your continued use of the Services will confirm your acceptance of the revised Terms. We encourage you to frequently review the Terms to ensure you understand the terms and conditions that apply when you access or use the Services. If you do not agree to the revised Terms, you may not access or use the Services. Any changes we make will not affect your rights with respect to Products you have already purchased or orders you have already placed.

## 1. Privacy Policy

Please refer to our [Privacy Policy](#) for information about how we collect, use and disclose information about you.

## 2. Additional Terms

When you use our Products and Services, your use is subject to the applicable terms and conditions for those Products and Services. For example, when you use download, install or otherwise use our mobile applications, your use is subject to our [End User License Agreement](#).

### 3. Eligibility; Registration and Account; Required Equipment, ISP and Carrier

**Eligibility.** The Services are not targeted toward or intended for use by anyone under the age of 16. In addition, if you are between the ages of 16 and 18 (or between 16 and the age of legal majority under applicable law), you may only use the Services under the supervision of a parent or legal guardian who agrees to be bound by these Terms. By using the Services, you represent and warrant that you (a) have not been previously suspended or removed from the Services, or engaged in any activity that could result in suspension or removal from the Services, and (b) have full power and authority to enter into these Terms and that in so doing, will not violate any other agreement to which you are a party.

**Registration and Account.** In order to access and use certain areas or features of the Services, you will need to register for a Breville account and/or create a profile. When registering for an account, you cannot create an account name that incorporates a trademark without authorization from the trademark owner. We reserve the right to reclaim account names on behalf of any business or individual that holds legal claim, including trademark rights, in those names. By creating an account, you agree (a) to provide accurate, current and complete account information, (b) to maintain and promptly update your account information from time to time as necessary, (c) to maintain the security of your account credentials, (d) to be responsible for the acts or omissions of any third party you authorize to access or use your account and the Services, and (e) to immediately notify us if you discover or otherwise suspect any security breaches related to the Services or your account.

**Required Equipment, ISP and Carrier.** You acknowledge that the availability of certain Services depends on (a) your computer, mobile phone or tablet, home wiring, home Wi-Fi network, Bluetooth connection, and other related equipment ("**Equipment**"), (b) your Internet service provider ("**ISP**"), and (c) your mobile phone or tablet carrier ("**Carrier**"). You agree that you are responsible for all fees charged by your ISP and Carrier in connection with your use of the Services and that you are responsible for complying with all agreements and other policies of your ISP and Carrier. You further acknowledge and agree that your interactions with your ISP and Carrier are solely between you and such third parties, and that Breville is not responsible or liable in any manner for such interactions.

### 4. Subscription Services; Terms of Sale

#### 4.1. Services Subject to Free Trial, Discount Period and Auto-Renewal

One of the paid subscription Services that we provide are online cooking classes, demonstrations, and a corresponding provision of recipes and related services to our subscribers (collectively, the "**Cooking Lessons**"). In connection the Cooking Lessons, subscribers may have the opportunity to interact with online instructors and teaching assistants. These individuals are not our employees and we are not responsible for the content and information that they provide through the Services. We hereby disclaim any liability of any kind or nature in connection with the Cooking Lessons.

Another paid subscription Service is for periodic coffee bean deliveries through Beanz.com ("Beanz subscriptions"). These coffee beans are provided by independent roasters, and we are not responsible for the fitness, quality or suitability of those beans. We hereby disclaim any liability in connection with the merchantability or defects, if any, of any Beanz subscriptions.

## **4.2. Payment and Billing Information**

By providing a credit card or other payment method that we accept, you represent and warrant all payment information is accurate and that you are authorized to use the designated payment method and that you permit us (or our third-party payment processor) to charge your payment method for the total amount of your order (including any applicable Taxes and other charges). You must promptly notify us of any changes to your payment information. If the payment method cannot be verified, is invalid or is otherwise not acceptable, your order may be suspended or canceled. You must resolve any problem we encounter in relation to the payment method you select in order to proceed with your order. When we process your credit card, some credit card companies may place a temporary hold on your account for your first payment. Please contact your credit card company if you have questions.

Our presentation of Products and Services shall not be considered a binding offer, but rather an invitation to place an order. Once you conclude the online purchase process, we will have a binding contract of sale. You may update your cart at any time before concluding the online purchase process. We will not proceed with the delivery process until your payment has been received.

## **4.3. Pricing and Availability**

While we provide some of our Services free-of-charge, Cooking Lessons may be one of our paid subscription Services subject to a yearly fee, provided that we may provide a free trial (a "**Free Trial**") or discount period (a "**Discount Period**") to allow new subscribers to try the Service. We reserve the right, in our absolute discretion, to determine your Free Trial or Discount Period eligibility, and we may limit eligibility or duration to prevent free trial or discount abuse. We reserve the right to revoke the Free Trial or Discount Period and put your account on hold in the event that we determine that you are not eligible. Members of households with an existing or recent subscription are not eligible. We may use information such as device ID, method of payment, or an account email address used with an existing or recent subscription to determine eligibility. For combinations with other offers, restrictions may apply.

**If you sign up for a Free Trial or Discount Period, you will be automatically charged a yearly fee (the "Subscription Fee"), plus applicable taxes and related charges, after its expiration for continued access unless you cancel your subscription on or before the end of the Free Trial or Discount Period. YOU MAY NOT RECEIVE A NOTICE FROM US THAT YOUR FREE TRIAL OR DISCOUNT PERIOD HAS ENDED OR THAT THE FULL PAYING PORTION OF YOUR SUBSCRIPTION HAS BEGUN. Access to the Free Trial or Discount Period will end immediately upon cancellation during the Free Trial or Discount Period.**

**Following the Free Trial or Discount Period, we will continue to automatically charge the Subscription Fee on a yearly recurring basis until you cancel your subscription or we terminate it in our discretion for any reason, and you hereby authorize us to charge the current, valid, accepted method of payment you have provided us with to make such payments. All payments are non-refundable.**

You may cancel your subscription at any time. To cancel, go to [the "Subscription" page](#) on our website and follow the instructions for cancellation. To see when your account will close, click "Manage Subscription" on

the "[Subscription](#)" page. If you signed up through a third party payment provider and wish to cancel your subscription, you may need to do so through that third party, for example, by visiting your account with the applicable third party and turning off auto-renew, or unsubscribing through that third party. You may also find billing information about your subscription by visiting your account with the applicable third party.

We will provide you with advance notice of all fees we charge and any changes to our fees. If you continue to use paid Services after a fee has been increased, you agree to pay the increased fee. If you terminate your subscription, you are responsible for the full amount of the Subscription Fee for the subscription period during which you terminated, and you will continue to have access to your subscription benefits until the end of that period. You must cancel your subscription before it renews in order to avoid billing of the Subscription Fee for the next subscription period. **WE DO NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL PERIODS AND/OR ANY UNUSED SERVICES.** If, for any reason, you do not pay any Subscription Fee when due: (i) you remain liable for the Subscription Fee as well as any costs we incur in collecting it, including attorneys' fees; (ii) you authorize us to continue charging your chosen payment method pursuant to the terms hereof; and (iii) we may suspend or terminate your access to the Services. To the extent that you continue to be charged after valid cancellation of your subscription due to our error, you agree that your sole remedy will be to receive a refund from us for the overcharged amounts. You must raise any discrepancies within 60 days of the applicable charge or else they are waived.

All prices are shown in U.S. dollars, unless we display prices in the local currency. Prices do not include applicable Taxes (defined below), shipping and handling charges, or other fees, unless we clearly state otherwise or are required by law to display prices inclusive of any Taxes, charges and other fees.

All Products and Services offered for sale are subject to availability and we reserve the right to impose quantity limits on any order, reject all or any part of an order, and discontinue sales of Products and Services without prior notice. Prices for Products and Services are subject to change at any time, but such changes will not affect any order for Products or Services you have already placed.

### 4.3. Taxes

To the fullest extent permitted by applicable law, you are responsible for any sales, use, value-added or other governmental taxes, fees or duties (collectively, "**Taxes**") due with respect to your purchase and use of Products or Services. Orders placed outside the U.S. may incur Taxes as determined by the customs agency within the destination country. Assessment of Taxes is generally based upon the value of the order and the Tax-free threshold (if applicable) for goods imported into the destination country. We will collect applicable Taxes if we determine we have a duty to collect Taxes. Please note that we do not collect Taxes on merchandise shipped to jurisdictions in which we do not have substantial nexus. For our U.S. users, the actual Taxes charged and collected may differ from the amount shown at checkout. Several factors may cause this difference, such as variances between processor programs and changes in Tax rates.

### 4.4. Shipping; Risk of Loss

You agree to pay any shipping and handling charges shown at the time you make a purchase. We reserve the right to increase, decrease, add or eliminate shipping and handling charges from time to time, but we will provide notice of the charges applicable to you before you make your purchase. Any delivery dates or times shown as part of the checkout process are estimates only and are not guaranteed. Unless we state otherwise,

risk of loss or damage to a Product passes to you upon delivery of the Product to your specified delivery location. If you have any questions or concerns regarding shipping, please contact us at: [info@Breville.com](mailto:info@Breville.com).

**4.5. Returns and Refunds**

Products Purchased Directly from Breville. If you reside in the U.S., we accept returns and issue refunds for Products that you purchase directly from us (i.e., and not from other retailers or resellers), but only if such Products are returned within 30 days of delivery in an unopened and unused condition (i.e., in their original packaging). Before returning any Product, you must obtain a return authorization (and number) from Breville by contacting us at [info@Breville.com](mailto:info@Breville.com) and providing the following information: (a) the Product's serial number; (b) the reason for the return; and (c) the original purchase order number. Please do not return any Product without first obtaining the return authorization and number (such return authorization number which is valid for 14 calendar days from issuance). We are not responsible for any Product that is lost or damaged without following our return process and without obtaining a valid return authority number. All refunds will be provided based on your original method of payment. We may charge a 20% restocking fee for any returns that are not made in accordance with these terms. For non-U.S. residents, please see below for the return and refund terms for Products purchased from Breville that apply to you based on your country of residence.

Dead on Arrival (DOA) | Product Failure Out of the Box. A Product is considered DOA if it shows symptoms of an equipment failure, preventing basic operability, when you first use it after opening the box. If you believe that your product is DOA, please contact Breville within 30 calendar days of the invoice date. Breville will determine whether the product is DOA in its sole discretion and will arrange for the DOA Product's return and ship you a replacement product at Breville' sole expense.

For further information on warranty related claims, please refer to [Breville Warranty Policy](#).

**Breville Contact Information**

<b>Online Form</b>	<a href="https://support.Breville.com">https://support.Breville.com</a>
<b>Hours of Operation</b>	9am to 5pm (Pacific Time) Monday through Friday, excluding holidays
<b>Office Address</b>	19400 S. Western Ave. Torrance, CA 90501  (Please do not return Product to this address without speaking to Breville and obtaining a Return Authority number as outlined above.)

Third-Party Products Purchased from Third-Party Sellers. We may provide the ability to purchase products from third-party sellers through the Services, in which case, we act as an intermediary only. If you purchase a product from a third-party seller, your purchase will be governed by the terms and policies of that third party. We are not the sellers of such products and are not a party to the sale of these products; therefore, we do not make any representations or warranties in terms of that product, nor do we accept returns or issue refunds for such products.

## 4.6. Errors

We attempt to be as accurate as possible and to eliminate errors on our Services; however, we do not represent or warrant that the descriptions, pricing or other Product- or Service-related information is accurate, complete, reliable, current or error-free. In the event of an error, we reserve the right to correct such error and revise your order accordingly (which includes charging the correct price) or to cancel the order and refund any amount charged.

## 5. Licenses to Use the Services and Materials

Unless otherwise indicated, all content and other materials contained on the Services, including, without limitation, our logos and all designs, text, recipes, ingredient lists, cooking times, videos, graphics, pictures, information, data, software, sound files, other files, and the selection and arrangement thereof (collectively, "Materials ") are the proprietary property of Breville or our affiliates or licensors and are protected by national and international copyright, trademark and other intellectual property laws.

Breville grants you a limited, royalty-free, non-exclusive, non-transferable, non-sublicensable, worldwide license to access and use the Materials made available through the Services for your own personal, non-commercial purposes. Except as expressly permitted by law or by Breville in writing, you will not reproduce, redistribute, sell, create derivative works or subsequent versions, decompile, reverse engineer or disassemble our Services (except in cases where you have the right to do so under applicable law), nor will you take any measures to interfere with or damage our Services.

Breville encourages the use and distribution of certain Materials on the Services, including our recipes, ingredient lists, videos, pictures and User Content (defined in Section 11). Unless otherwise stated, such Materials are made available to you under the most recent version of the [Creative Commons Attribution-NonCommercial-ShareAlike license](#) (BY-NC-SA). Note that our service names, trademarks, logos and slogans that may appear on the Services are not licensed to you under the Creative Commons license.

Unless explicitly stated by us, nothing in these Terms shall be construed as conferring any right or license to any patent, trademark, copyright or other proprietary rights of Breville or any third party, whether by estoppel, implication or otherwise. The licenses granted herein are revocable at any time.

## 6. Repeat Infringer Policy; Copyright Complaints

In accordance with the Digital Millennium Copyright Act and other applicable laws, we have adopted a policy of limiting access to the Services by or terminating the accounts of users, in appropriate circumstances and in our sole discretion, who infringe the intellectual property rights of others. If you believe that anything on the Services infringes any copyright that you own or control, you may file a notification of such infringement with our designated agent as set forth below:

Name of Designated Agent: General Counsel, Breville USA, Inc.

Address: 19400 S. Western Ave., Torrance, CA 90501

Phone: 310.755.3000

Email: [generalcounsel@breville.com](mailto:generalcounsel@breville.com)

If you are a resident of the United States, please see [17 U.S.C. § 512\(c\)\(3\)](#) for the requirements of a proper notification. For non-U.S. residents, please see below for any jurisdiction specific requirements of a proper notification.

You should also note that if you knowingly make any material misrepresentation in your notification that the material or activity is infringing, you will be liable for any damages, including, without limitation, costs and attorneys' fees, incurred by us or the alleged infringer as the result of our relying on such misrepresentation in removing or disabling access to the material or activity claimed to be infringing.

## 7. Trademarks

"Breville" and the Breville logo (collectively, the "**Trademarks**") are all owned by Breville, used under licenses by its licensees, and may not be copied, imitated or used, in whole or in part, without Breville's prior written permission in each instance. You may not use any metatags or other "**hidden text**" utilizing the Trademarks or any other name, trademark or product or service name of Breville without prior written permission in each instance. In addition, the look and feel of the Services, including, without limitation, all page headers, custom graphics, button icons and scripts, constitute the service mark, trademark or trade dress of Breville and may not be copied, imitated or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names, and company names or logos mentioned on the Services may be trademarks of their respective owners and may not be copied, imitated or used, in whole or in part, without the permission of the applicable trademark holder. Reference to any products, services, processes or other information by name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation by Breville.

If you believe that anything on the Services infringes on any trademarks which you own or control, you may file a notification of such infringement with our designated agent as set forth in Section 6. A proper notification should contain the same elements required for copyright complaints.

## 8. Hyperlinks

You are granted a limited, nonexclusive, nontransferable right to create a text hyperlink to the Services, provided such link does not portray any of the Breville Parties (as defined in Section 14, below) or any of our Services in a false, misleading, derogatory or otherwise defamatory manner, and provided further that the linking site does not contain any adult or illegal material or any material that is offensive, harassing or otherwise objectionable. This limited right may be revoked at any time. You may not use a Breville or any other Breville logo or other proprietary graphic of any of the Breville Parties to link to the Services without our express written permission. Further, you may not use, frame or utilize framing techniques to enclose any trademark, logo or other proprietary information of any Breville Party, including the images found on the Services, the content of any text or the layout or design of any page, or form contained on a page, on the Services without our express written consent.

To the fullest extent permissible by applicable law, Breville makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature or reliability of third-party websites accessible by hyperlink from the Services or of websites linking to the Services. Such sites are not under our control, and we are not responsible for the contents of any linked site, any link contained in a linked site, or any review,

changes or updates to such sites. We provide these links to you only as a convenience, and the inclusion of any link does not imply our affiliation, endorsement or adoption of any site or any information contained therein. When you leave the Services, you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate from the Services.

## 9. Third-Party Content; Open Source Software; Interface to Third-Party Products and Services

**Third-Party Content.** We may display content, advertisements and promotions from third parties through the Services (collectively, "**Third-Party Content**"). To the fullest extent permissible by applicable law, we do not control, endorse or adopt any Third-Party Content, and we make no representations or warranties of any kind regarding such Third-Party Content, including, without limitation, regarding its accuracy or completeness. You acknowledge and agree that your interactions with third parties providing Third-Party Content are solely between you and such third parties, and that Breville is not responsible or liable in any manner for such interactions or Third-Party Content.

**Open Source Software.** Our Services may also contain third-party software that is subject to the GNU General Public License ("**GPL**") or other open source licenses ("**Open Source Software**"). The Open Source Software is licensed under the terms of the license that accompanies such Open Source Software, subject to additional terms and conditions, available at <https://www.Breville.com/libraries>.

**Connecting to Third-Party Products and Services.** Breville may allow you to use our Products and Services (such as Joule) in conjunction with third-party products and services, such as Amazon Alexa ("**Third-Party Products and Services**"). If you decide to connect our Products or Services with Third-Party Products and Services, your explicit consent and authorization is required, which is revocable by you at any time. Once you give consent to connect a particular Third-Party Product and Service to our Products or Services, you agree that Breville and the provider of the Third-Party Product and Service may exchange information to enable the functionality you authorize. Once Breville shares information with a provider of a Third-Party Product and Service, the third-party provider's use of such information will be governed solely by its own privacy policy. You acknowledge and agree that Breville makes no representation or warranty about the safety of any Third-Party Products or Services and Breville is not responsible for your use of any Third-Party Product or Service or any harm or losses arising from or relating to your use of any Third-Party Products or Services. You should contact third-party providers directly with any questions about their Third-Party Products and Services.

## 10. User Conduct

You agree that you will not violate any law, contract, intellectual property or other third-party right, or commit a tort, and that you are solely responsible for your conduct while accessing or using the Products and Services. You agree that you will abide by these Terms and will not:

Engage in any harassing, threatening, intimidating, predatory or stalking conduct;

Use or attempt to use another user's account without authorization from such user and Breville;



Use the Products or Services in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying the Products or Services, or that could damage, disable, overburden or impair the functioning of the Products or Services in any manner;

Transform any aspect of the Products or Services, including the correction of errors, without the authorization from Breville;

Reverse engineer any aspect of the Products or Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any Materials or features or areas of the Products or Services, except as expressly permitted under applicable law;

Develop any third-party applications that interact with User Content or the Products or Services without our prior written consent;

Use any robot, spider, crawler, scraper, script, browser extension, offline reader or other automated means or interface not authorized by us to access the Products or Services, extract data or otherwise interfere with or modify the rendering of Materials or functionality;

Bypass or ignore instructions contained in the robots.txt file, accessible at <https://www.Breville.com/robots.txt>,

Use the Products or Services for any illegal or unauthorized purpose, or engage in, encourage or promote any activity that violates these Terms.

## 11. User Content

The Services may include interactive features and areas that allow users to create, post, share or store content, including, but not limited to, user-generated content, recipes, reviews, photos, videos, music, sound, text, graphics, code, items or other materials (collectively, "**User Content**"). In the event that you decide to share your User Content with others through the Services or third-party platforms, you understand that this User Content will be viewable by others in accordance with the privacy settings you establish in your account.

You agree that you are solely responsible for your User Content and for your use of any interactive features and areas of the Services. By posting, uploading or otherwise submitting User Content, you represent and warrant that (a) such User Content is non-confidential; (b) you own all intellectual property rights (or have obtained all necessary permissions) to provide such content and to grant the licenses set forth herein; and (c) the User Content will not violate or infringe any intellectual property right or other proprietary right, including the right of publicity or privacy, of any person or entity.

By using the interactive features and areas of the Services, you further agree not to create, post, share or store any of the following:

User Content that is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, fraudulent or otherwise objectionable;

User Content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any local, state, national or international law;

User Content that contains or depicts any statements, remarks or claims that do not reflect your honest views and experiences;

User Content that impersonates, or misrepresents your affiliation with, any person or entity;

User Content that references or depicts Breville or any of its Products or Services but fails to disclose a material connection to us, if you have one (for example, if you are a Breville employee);

User Content that contains any unsolicited promotions, political campaigning, advertising or solicitations;

User Content that contains any viruses, corrupted data or other harmful, disruptive or destructive files or content; or

User Content that, in our sole judgment, is objectionable or that restricts or inhibits any other person from using or enjoying the Products or Services, or that may expose Breville or others to any harm or liability of any type.

We are not responsible or liable for any User Content. Although we have no obligation to screen, edit or monitor User Content, we reserve the right, and have absolute discretion, to remove, screen or edit User Content posted or stored on the Services at any time and for any reason, and you are solely responsible for creating backup copies of and replacing any User Content you post or store on the Services at your sole cost and expense.

## 12. Rights in User Content

Except as otherwise provided in these Terms or in a separate agreement, we do not claim any ownership or control over your User Content. However, by uploading, posting or otherwise submitting User Content, you grant Breville a non-exclusive, royalty-free, worldwide, perpetual, irrevocable, transferable and fully sublicensable right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display such User Content and your name, likeness, voice and persona on the Services, on third-party sites and mobile applications, and in all other media or formats, whether now known or hereafter developed, for any purpose, including for Breville's commercial purposes. You further grant all users of our Services permission to access and use your User Content in accordance with the most recent version of the [Creative Commons Attribution- NonCommercial-ShareAlike license](#) (BY-NC-SA).

## 13. Feedback

Separate and apart from User Content, you can submit questions, comments, suggestions, ideas, original or creative materials or other information about Breville or our Products or Services (collectively, "**Feedback**"). Feedback is non-confidential and shall become the sole property of Breville. Breville shall own exclusive rights, including, without limitation, all intellectual property rights, in and to such Feedback and shall be entitled to the unrestricted use and dissemination of this Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

## 14. Indemnification

To the fullest extent permitted by applicable law, you agree to indemnify, defend, and hold harmless Breville and our respective past, present and future employees, officers, directors, contractors, consultants, equity holders, suppliers, vendors, service providers, parent companies, subsidiaries, affiliates, agents, representatives, predecessors, successors and assigns (together with Breville, the "**Breville Parties**") from all third-party claims of any kind, whether in tort, contract or otherwise (collectively, "**Claims**"), including damages to property or personal injury, that arise from or relate to:

your access to or use or misuse of our Products, Services and Materials;

any User Content you create, post, share or store on or through our Services or our pages or feeds on third-party social media platforms;

any Feedback you provide;

your violation of these Terms;

your violation of the rights of any third party; or

use or misuse of the Products or Services by any third party you authorize to use the Products or Services provided to you.

This indemnity obligation includes paying for any of the Breville Parties' attorneys' fees and other costs of investigating and defending Claims, and the costs of enforcing the indemnity obligation.

You agree to promptly notify Breville of any third-party Claims and cooperate with the Breville Parties in defending such Claims. You further agree that the Breville Parties shall have control of the defense or settlement of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Breville.

## 15. Disclaimers

WE MAY PROVIDE IMPORTANT HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS THAT YOU MUST READ BEFORE USING CERTAIN BREVILLE PRODUCTS AND/OR PARTICIPATING IN CERTAIN ACTIVITIES OR SERVICES. WE MAY UPDATE OR REVISE THESE WARNINGS AND INSTRUCTIONS, SO PLEASE REVIEW THEM PERIODICALLY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL SERVICES AND MATERIALS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED AND WE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WE DO NOT REPRESENT OR WARRANT THAT ANY OF OUR WEBSITES, MOBILE APPLICATIONS AND MATERIALS ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE. IN ADDITION, OUR WEBSITES, MOBILE APPLICATIONS AND MATERIAL ARE (A) FOR INFORMATIONAL PURPOSES ONLY, (B) PROVIDED AS GENERAL ADVICE AND (C) NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL OR NUTRITIONAL ADVICE. WHILE WE ATTEMPT TO MAKE YOUR ACCESS TO AND USE OF ANY OF OUR WEBSITES, MOBILE APPLICATIONS AND MATERIALS SAFE, WE CANNOT AND DO NOT REPRESENT OR WARRANT THAT THEY OR OUR SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS;

THEREFORE, YOU SHOULD USE INDUSTRY-RECOGNIZED SOFTWARE TO DETECT AND DISINFECT VIRUSES FROM ANY DOWNLOAD.

YOU ARE SOLELY RESPONSIBLE FOR THE PROPER AND SAFE WASHING, HANDLING, PREPARATION, STORAGE, COOKING, USE AND CONSUMPTION OF FOOD. THE COOKING INSTRUCTIONS AND DIRECTIONS PROVIDED BY BREVILLE ARE OFFERED AS GUIDELINES ONLY. USE YOUR BEST JUDGMENT AND PROPER DISCRETION WHEN PREPARING OR CONSUMING ANY FOOD. CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS, AND SUCH CONSUMPTION IS TO BE DONE AT YOUR OWN DISCRETION. WE EXPRESSLY DISCLAIM RESPONSIBILITY FOR ANY ADVERSE EFFECT THAT MAY RESULT FROM YOUR USE OR APPLICATION OF INFORMATION PROVIDED THROUGH THE SERVICES.

BREVILLE PROVIDES NO WARRANTY ON PRODUCTS THAT ARE MANUFACTURED BY OTHER ENTITIES, EVEN THOUGH YOU MAY PURCHASE THEM THROUGH OUR SERVICES. PRODUCTS MANUFACTURED BY OTHER ENTITIES BUT SOLD THROUGH OUR SERVICES ARE SOLD BY BREVILLE "AS IS" AND "WITH ALL FAULTS." BREVILLE DISCLAIMS ALL IMPLIED WARRANTIES FOR SUCH PRODUCTS, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. BREVILLE DOES NOT WARRANT ANY QUALITY OR CHARACTERISTIC OF PRODUCTS THAT WE DO NOT MANUFACTURE. UNLESS THE MANUFACTURER PROVIDES A WARRANTY, YOU AS THE BUYER BEAR THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF SUCH PRODUCTS, AND YOU, NOT BREVILLE, ASSUME THE ENTIRE COST OF ANY NECESSARY REPLACEMENT OR REPAIR.

MANUFACTURERS OF PRODUCTS SOLD BY BREVILLE MAY PROVIDE THEIR OWN WARRANTIES AND YOU AGREE THAT YOUR REMEDY FOR ANY DEFECTS IN SUCH PRODUCTS WILL BE BASED SOLELY ON THE WARRANTIES, IF ANY, PROVIDED BY THOSE MANUFACTURERS.

## 16. Limitation of Liability; Release

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW: (A) IN NO EVENT SHALL BREVILLE OR ANY OF THE OTHER BREVILLE PARTIES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, INCOME OR PROFITS, LOSS OF USE OR DATA, LOSS OR DIMINUTION IN VALUE OF ASSETS OR SECURITIES, OR DAMAGES FOR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY RELATED TO THE ACCESS OR USE OF THE SERVICES OR MATERIALS OR OTHERWISE RELATED TO THESE TERMS (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM BREVILLE, OR FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETIONS OF FILES OR EMAILS, ERRORS, DEFECTS, BUGS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD OR FORCE MAJEURE, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO BREVILLE' RECORDS, PROGRAMS OR SYSTEMS), REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, SIMPLE NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY (EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE); AND (B) IN NO EVENT SHALL THE AGGREGATE LIABILITY OF BREVILLE AND THE BREVILLE PARTIES (JOINTLY), WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR

RELATING TO THE USE OF OR INABILITY TO USE THE SERVICES, INCLUDING MATERIALS AND FUNCTIONS CONTAINED THEREIN, EXCEED ANY COMPENSATION PAID TO US FOR YOUR ACCESS TO OR USE OF THE PRODUCTS OR SERVICES.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU, ON BEHALF OF YOUR HEIRS, EXECUTORS, ADMINISTRATORS, LEGAL AND PERSONAL REPRESENTATIVES, HEREBY RELEASE, WAIVE, AND DISCHARGE THE BREVILLE PARTIES FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." YOU HEREBY WAIVE ANY SIMILAR PROVISION IN ANY OTHER JURISDICTION.

THE LIMITATIONS SET FORTH IN THIS SECTION 16 WILL NOT LIMIT OR EXCLUDE LIABILITY FOR DEATH OR PERSONAL INJURY OR PROPERTY DAMAGE CAUSED BY PRODUCTS OR SERVICES YOU PURCHASE FROM US, OR FOR OUR FRAUD, GROSS NEGLIGENCE, OR INTENTIONAL, WILLFUL, MALICIOUS OR RECKLESS MISCONDUCT.

## 17. Modifications to the Services

We reserve the right in our sole discretion to change any and all Materials and to modify, suspend or stop providing access to the Services (or any features or functionality of the Services) at any time without notice and without obligation or liability to you. You are also entitled not to use all or part of the Services or terminate this agreement at any time.

## 18. Dispute Resolution; Arbitration

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH BREVILLE AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

### 18.1. Binding Arbitration

Except for any disputes, claims, suits, actions, causes of action, demands or proceedings (collectively, "**Disputes**") arising out of or related to a violation of Section 10 or Disputes in which either party seeks to bring an individual action in small claims court or seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, including, without limitation, copyrights, trademarks, trade names, logos, trade secrets or patents, you and Breville agree (a) to waive your and Breville's respective rights to have any and all Disputes arising from or related to these Terms, or the Services, Materials or Products, resolved in a court, and (b) to waive your and Breville's respective rights to a jury trial. Instead, you and Breville agree to arbitrate Disputes through binding arbitration (which is the referral of a Dispute to one or more persons charged with reviewing the Dispute and making a final and binding determination to resolve it instead of having the Dispute decided by a judge or jury in court).

### 18.2. No Class Arbitrations, Class Actions or Representative Actions

You and Breville agree that any Dispute arising out of or related to these Terms, the Services, Products or Materials is personal to you and Breville and that such Dispute will be resolved solely through individual

arbitration and will not be brought as a class arbitration, class action or any other type of representative proceeding. You and Breville agree that there will be no class arbitration or arbitration in which an individual attempts to resolve a Dispute as a representative of another individual or group of individuals. Further, you and Breville agree that a Dispute cannot be brought as a class or other type of representative action, whether within or outside of arbitration, or on behalf of any other individual or group of individuals.

### **18.3. Federal Arbitration Act**

You and Breville agree that these Terms affect interstate commerce and that the enforceability of this Section 18 shall be both substantively and procedurally governed by and construed and enforced in accordance with the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the "**FAA**"), to the maximum extent permitted by applicable law.

### **18.4. Notice; Informal Dispute Resolution**

You and Breville agree that each party will notify the other party in writing of any arbitrable or small claims Dispute within thirty (30) days of the date it arises, so that the parties can attempt in good faith to resolve the Dispute informally. Notice to Breville shall be sent electronically to [info@Breville.com](mailto:info@Breville.com).

### **18.5. Process**

Except for Disputes arising out of or related to a violation of Section 10 or Disputes in which either party seeks to bring an individual action in small claims court or seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, including, without limitation, copyrights, trademarks, trade names, logos, trade secrets or patents, you and Breville agree that (a) any arbitration will occur in Los Angeles County, California, (b) arbitration will be conducted confidentially by a single arbitrator in accordance with the rules of the Judicial Arbitration and Mediation Services ("**JAMS**"), which are hereby incorporated by reference, and (c) that the state or federal courts of the State of California and the United States, respectively, sitting in Los Angeles County, California, have exclusive jurisdiction over any appeals and the enforcement of an arbitration award. You may also litigate a Dispute in the small claims court located in the county of your billing address if the Dispute meets the requirements to be heard in small claims court.

### **18.6. Authority of Arbitrator**

As limited by the FAA, these Terms and the applicable JAMS rules, the arbitrator will have (a) the exclusive authority and jurisdiction to make all procedural and substantive decisions regarding a Dispute, including the determination of whether a Dispute is arbitrable, and (b) the authority to grant any remedy that would otherwise be available in court; provided, however, that the arbitrator does not have the authority to conduct a class arbitration or a representative action, which is prohibited by these Terms. The arbitrator may only conduct an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

### **18.7. Rules of JAMS**

The rules of JAMS and additional information about JAMS are available on the JAMS website. By agreeing to be bound by these Terms, you either (a) acknowledge and agree that you have read and understand the rules of JAMS, or (b) waive your opportunity to read the rules of JAMS and any claim that the rules of JAMS are unfair or should not apply for any reason.

## **18.8. Severability**

If any term, clause or provision of this Section 18 is held invalid or unenforceable, it will be so held to the minimum extent required by law, and all other terms, clauses and provisions of this Section 18 will remain valid and enforceable. Further, the waivers set forth in Section 18.2 are severable from the other provisions of these Terms and will remain valid and enforceable, except as prohibited by applicable law.

## **19. Governing Law and Venue**

These Terms and your access to and use of the Products and Services shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to conflict of law rules or principles (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any Dispute between the parties that is not subject to arbitration or cannot be heard in small claims court, shall be resolved in the state or federal courts of the State of California and the United States, respectively, sitting in Los Angeles County, California.

## **20. Termination**

Notwithstanding anything contained in these Terms, to the fullest extent permitted by applicable law, we reserve the right, without notice and in our sole discretion, to terminate your right to access or use the Services, and to block or prevent your future access to and use of the Services. If you transfer a Product that links to our Services, such as Joule, to a new owner, your right to use the Services with respect to that Product automatically terminates, and the new owner will have no right to use the Services under your account and will need to register for a separate account with Breville.

## **21. Severability**

If any term, clause or provision of these Terms is held invalid or unenforceable, then that term, clause or provision will be severable from these Terms and will not affect the validity or enforceability of any remaining part of that term, clause or provision, or any other term, clause or provision of these Terms.

## **22. Survival**

The following sections will survive the expiration or termination of these Terms and the termination of your Breville account: all defined terms and Sections 1, 2, 3, 4, 5 (first paragraph only), 6, 7, 8 (second paragraph only), 9 through 23.

## **23. California Disclosures**

If you are a California resident, you may report complaints to the Consumer Assistance unit of the Consumer Information Division of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952 5210.

## **24. Questions**

If you have any questions regarding these Terms or our Products or Services, please contact us at [info@Breville.com](mailto:info@Breville.com). or send a letter to Breville c/o Breville USA, Inc., 19400 S. Western Ave., Torrance, CA 90501; Attn.: General Counsel.

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