

Terms And Conditions

BADELOFT USA, LLC'S STANDARD TERMS AND CONDITIONS OF SALE

Buyer's order from Badeloft USA, LLC ("Seller") of the goods covered by that order (the "goods") constitutes acceptance in connection with the order of all the terms and conditions herein, which shall apply to the exclusion of any contradictory or additional terms and conditions contained in any order, document, or communication of Buyer and to which Seller has not expressly agreed in a writing signed by Seller's authorized representative. Seller's acceptance of Buyer's order for the purchase of goods and/or related services is expressly made conditional on Buyer's acceptance of each and all of the terms and conditions contained herein. If for any reason Buyer does not agree that each and all of the terms and conditions herein apply to Buyer's order from Seller, then Buyer should request that Seller accept return of the goods associated with that order consistent with Seller's policy for returns set forth below.

1. **Delivery.** Seller will arrange for the delivery of the goods FCA to Buyer's designated location (Incoterms 2010), unless otherwise agreed to in writing by both Buyer and Seller. Risk of loss of, or damage to, the goods from any cause whatsoever will be borne by Seller until the moment Seller delivers the goods to the carrier at the point of origin ("Delivery"), and by Buyer thereafter. If the goods are lost, confiscated, damaged, destroyed or otherwise rendered unfit or unavailable for use prior to Delivery: (i) Seller will not be liable to repair the same or supply any goods in substitution therefor; and (ii) Buyer will not be liable to purchase the goods.
2. **Delay.** Seller will not be responsible for any failure or delay in performance in connection with Buyer's order from Seller resulting from causes beyond Seller's reasonable control. These may include, but are not limited to, acts of God or public enemy, fire, sabotage, adverse weather conditions, strikes or other labor disputes, riots, insurrection, civil unrest, war, acts of government, court orders, delays occasioned by manufacturers, suppliers or subcontractors, and shortage of materials or services.
3. **Acceptance.** Upon receipt of the goods, Buyer may inspect the goods to ensure compliance with the terms of the order. Buyer will notify Seller in writing of any discrepancy with respect to the goods no later than fifteen (15) calendar days following Buyer's receipt of the goods (the "Inspection Period"). After such Inspection Period, the goods will be deemed, conclusively and automatically, as accepted by Buyer.
4. **Returns and Exchanges.** Buyer's order is a firm order. Seller may return goods that are in new, original condition within fourteen (14) calendar days of Delivery of those goods (the "Return Window"); for goods outside the Return Window, Seller may, in Seller's sole and absolute discretion, accept the return or exchange of those goods by Buyer. For any permitted return or exchange of goods, Buyer will be solely responsible for all shipping expenses associated with: Seller's original shipment of those goods to Buyer; Buyer's shipment of those goods to Seller to effect a permitted return or exchange; and any shipment of repaired or replacement goods from Seller to Buyer. For any permitted return of goods, Buyer is required

to pay a ten percent (10%) restocking and handling fee to Seller. Buyer should call 1.877.892.3445 to discuss any potential return or exchange of goods.

5. Payment. Terms of payment will be agreed to in writing with Seller. In respect of any payment not made when due, Buyer will pay to Seller an amount equal to interest on such payment at the per annum rate of the United States Prime Rate plus five percent (5%) or the maximum rate allowed per applicable law, whichever is greater. Buyer will not delay payment for the goods pending, or based on the result of, its inspection or acceptance. If Buyer fails to make any payment due in full within five (5) calendar days after the date when such payment is due, then Buyer will be obligated to indemnify and reimburse Seller upon demand for all costs and expenses incurred by Seller in recovering any sums due from Buyer (including, without limitation, attorneys' fees and costs of enforcement). The foregoing remedies are not exclusive, but will be in addition to all other remedies available to Seller at law or in equity.

6. Taxes. Buyer is responsible for all sales, use, ad valorem, value added and other taxes, duties, fees and other charges of any nature whatsoever, including interest and penalties thereon (collectively, "Taxes") arising from the sale, delivery or use of the goods or related services under the order, and will reimburse Seller for any such charges Seller may be required to pay; provided, however, that Buyer will not be responsible for any Taxes based on the net income of Seller.

7. Limited Warranty and Disclaimer.

(a) Residential Applications (10-Year Limited Residential Warranty). All of Seller's stone resin bathtubs, sinks and Parts purchased for residential use only are warranted hereunder against manufacturing defects for ten (10) years from the date of original purchase, subject to the limitations set forth below. As used herein, "Parts" means all mechanical working parts of drains and freestanding faucets and/or fillers (including, without limitation, ceramic disc cartridges for both side valves and pressure balance, thermo cartridges, stops and diverters).

(b) Commercial and/or Industrial Applications (2-Year Limited Commercial Warranty). All of Seller's stone resin bathtubs and sinks purchased for commercial and/or industrial use (whether in whole or in part) are warranted hereunder against manufacturing defects for two (2) years from the date of original purchase, subject to the limitations set forth below. For the avoidance of doubt, the warranty extended by this paragraph does not apply to any Parts purchased for commercial and/or industrial use (whether in whole or in part).

(c) Available Remedies. Seller's entire liability and Buyer's exclusive remedy during the effective period of any warranty applicable to any goods (each, a "Seller's Warranty") will be, with the exception of any statutory warranty or remedy that cannot be excluded or limited under applicable law, at Seller's sole discretion, limited to Seller either repairing the warranted goods or replacing them with the same goods or, if those the same goods are no longer available, with other goods of similar function and value. In no event shall Seller's liability for any loss of and/or damage to any goods exceed the amount of the purchase order for those

goods. Seller reserves the right, without notice or obligation, to make specification changes to goods and to change or discontinue certain models.

(d) Procedure. Warranted goods deemed by Seller as defective and thus entitled to service under any Seller's Warranty then in effect as to those goods, which determination Seller may make in its sole and absolute discretion, must be returned to Seller's warehouse for inspection by Seller prior to Seller making any decision regarding whether to repair or replace those goods. To obtain service for Seller's Warranty, Buyer must contact Seller directly at which time Seller will provide Buyer with further instructions such as the address to which Buyer must send the goods, at Buyer's expense, for Seller's inspection.

(e) Limitations. Regardless of intended and/or actual use, Seller's Warranty is strictly limited to goods purchased directly from Seller in the United States. Seller's Warranty is further strictly limited to the original purchaser of the goods and is not transferable. The original sales receipt must be provided to Seller in order for Buyer to exercise any rights in connection with Seller's Warranty. Seller's Warranty does not cover: (a) loss and/or damage, whether to goods or otherwise, resulting in whole or part from installation error, product abuse, misuse, neglect, improper maintenance, abrasives, corrosion and/or accidents, whether or not caused or performed by a professional; (b) any and all goods that are subjected to any type of harsh abrasives (including, without limitation, detergents and/or window cleaners); (c) loss and/or damage, whether to goods or otherwise, due to normal wear and tear; (d) loss and/or damage, whether to goods or otherwise, caused by hard water, calcareous deposits and/or sediments; and/or (e) loss and/or damage, whether to goods or otherwise, sustained in a natural calamity (including, without limitation, fire, earthquake, flood, thunder or electrical storm). Seller is not responsible or liable for any labor, shipping charges, and/or damages whatsoever incurred (whether in whole or in part) on account of any installation, removal, re-installation, repair and/or replacement of any goods; nor shall Seller bear any responsibility or liability for any incidental or consequential damages, expenses, and/or losses (whether direct or indirect), arising from any cause whatsoever. SELLER'S WARRANTY GIVES BUYER SPECIFIC LEGAL RIGHTS; BUYER MAY HAVE ADDITIONAL LEGAL RIGHTS UNDER APPLICABLE LAW; SELLER DOES NOT SEEK TO LIMIT BUYER'S WARRANTY RIGHTS TO ANY EXTENT NOT PERMITTED BY APPLICABLE LAW.

(f) Disclaimer. EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED ABOVE (I.E., SELLER'S WARRANTY), AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: THERE ARE NO WARRANTIES THAT APPLY TO THE GOODS WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF; AND SELLER MAKES, AND BUYER RECEIVES, NO REPRESENTATIONS OR CONDITIONS OF ANY KIND WITH RESPECT TO THE GOODS. THE GOODS ARE BEING SOLD "AS IS, WHERE IS." WITH THE EXCEPTION OF SELLER'S WARRANTY, SELLER DISCLAIMS, AND BUYER WAIVES, ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND OR NATURE WITH RESPECT TO THE GOODS, WHETHER IN CONTRACT, TORT OR STRICT LIABILITY (INCLUDING, WITHOUT LIMITATION, ANY OBLIGATION OR LIABILITY IN NEGLIGENCE, WHETHER ACTIVE OR PASSIVE, OR WITH RESPECT TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, LOSS OF USE, NON-INFRINGEMENT, OR RELATING TO A COURSE OF DEALING OR USAGE OF TRADE). IN NO EVENT WILL SELLER BE

RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ECONOMIC LOSS, LOSS OR DAMAGE TO ANY PROPERTY OR PERSON OR ANY OTHER EXEMPLARY, PUNITIVE OR SIMILAR DAMAGES, AS WELL AS EXPENSES INCURRED EXTERNAL TO THE GOODS AS A RESULT OF A DEFECT IN THE GOODS) ARISING OUT OF OR IN CONNECTION WITH ANY TORTIOUS OR NEGLIGENT ACT OR OMISSION BY SELLER. IN NO EVENT WILL THE LIABILITY OF SELLER HEREUNDER, OR UNDER ANY ORDER FOR GOODS BY BUYER, EXCEED THE AMOUNT PAID BY BUYER TO SELLER IN CONNECTION WITH BUYER'S ORDER. NOTHING IN THE FOREGOING RESTRICTS THE EFFECT OF WARRANTIES OR CONDITIONS WHICH MAY BE IMPLIED BY LAW WHICH CANNOT BE EXCLUDED, RESTRICTED, OR MODIFIED NOTWITHSTANDING A CONTRACTUAL RESTRICTION TO THE CONTRARY.

8. Indemnities. Buyer will forever protect, indemnify and hold harmless Seller and Seller's officers, directors, employees and agents from and against any and all liabilities whatsoever that may arise out of the ownership, use and/or operation of the goods on or after Delivery.

9. Assignment. Absent Seller's prior written consent, any assignment or attempted assignment by Buyer of any of Buyer's rights hereunder will be wholly void, invalid and totally ineffective for all purposes.

10. Governing Law and Jurisdiction. These terms and conditions, and any order for goods submitted by Buyer hereunder, shall be written in the English language and be governed by and construed in accordance with the laws of the State of California, without regard to any conflicts of law provisions thereof. The contract created between Seller and Buyer in connection with Buyer's order from Seller and these terms and conditions is entered into in Marin County, California. The United States District Court for the Northern District of California, or the appropriate state court located in Marin County, California, (each, a "Court") shall have exclusive jurisdiction over any suit, action, or proceeding arising out of, or in connection with, these terms and conditions and/or Buyer's order from Seller (each, an "Action"). For any Action, Buyer expressly consents to the in personam jurisdiction and venue of each Court and hereby expressly waives any objection to the same.