

## GENERAL TERMS AND CONDITIONS POINTBREAK NV

**Article 1: Definitions and general.** § 1. "POINTBREAK" Pointbreak NV (with company number 0727.729.830) with registered office at Napoleonkaai 11, 2000 Antwerp. § 2. "Customer": any natural or legal person who purchases goods and/or services from POINTBREAK exclusively for professional purposes and with a view to resale. § 3. Unless proven otherwise, these general terms and conditions shall irrevocably and unconditionally apply to every offer of, every agreement with, every delivery of goods and/or provision of services by, every invoice from, and, in general, every transaction of POINTBREAK. § The Customer acknowledges that the application of its own general terms and conditions, if any, is expressly excluded and that these general terms and conditions take precedence over any general terms and conditions of the Customer. § POINTBREAK reserves the right to amend the present general terms and conditions at any time with the prior consent of the Customer (which may be proven, inter alia, by the (further) execution of the agreement).

**Article 2: Formation, amendment and cancellation of the agreement, future deliveries.** § Each order placed by the Customer shall be binding on the Customer. § An agreement shall only come into effect when POINTBREAK sends a written order confirmation to the Customer. An order confirmation shall always be valid under the suspensive conditions of (i) approval of the Customer's (credit limit) by POINTBREAK's credit insurer, of (ii) sufficient availability of the goods included in the order either at POINTBREAK or at POINTBREAK's supplier and of (iii) production of the goods included in the order either by POINTBREAK or by POINTBREAK's supplier. § If the Customer cancels the order after order confirmation by POINTBREAK, the Customer shall owe POINTBREAK a cancellation fee of 30% of the sales price (excluding VAT). § No framework agreement or agreement of indefinite duration shall come into being between POINTBREAK on the one hand and the Customer on the other. Acceptance or approval of an order by POINTBREAK shall in no way entitle the Customer to future orders or deliveries, nor to compensation from POINTBREAK, so that POINTBREAK shall remain completely free to accept future orders, whether for all or part of the Customer's outlets. § **The Customer shall** not be entitled to assign its rights and obligations under these general terms and conditions and/or the agreement to third parties in whole or in part without the written consent of POINTBREAK.

**Article 3: Prices.** All prices are expressed exclusive of costs, taxes, duties and other levies (including, inter alia, value added tax and transport costs). The Customer accepts that these are at its expense and shall be charged to it by POINTBREAK. Verbal prices are only indicative and do not bind POINTBREAK. Only the prices on the order confirmations are binding for POINTBREAK.

**Article 4: Delivery.** § The predetermined delivery period is indicative for POINTBREAK and an obligation of effort and not an obligation of result. Compliance with the specified delivery period shall be dependent, among other things, on timely delivery by POINTBREAK's supplier and the transport company engaged. § Before taking delivery, the Customer must inspect the delivered goods. To be admissible, all complaints regarding visible defects or omissions must be addressed to POINTBREAK by e-mail with acknowledgement of receipt to [info@brandsplus.com](mailto:info@brandsplus.com) within a period of 15 calendar days after receipt of the goods by (the appointee of) the Customer. In the absence of such a complaint, the Customer shall be deemed to have accepted the goods without reservation. § POINTBREAK can only be held liable for hidden defects if the following cumulative conditions are met: (i) each complaint must be reported to POINTBREAK within 15 calendar days of its discovery, specifying the object of the complaint and the order number to which the complaint relates and (ii) the right to file a complaint for hidden defects shall in any event expire 1 year after receipt of the relevant goods by (the employee of) the Customer. § 4. The Customer accepts that an individual product within an order may always be defective. A complaint from the Customer in accordance with Article 4, § 2 or 4, § 3 of these general terms and conditions shall therefore only be accepted by POINTBREAK if 30% of the batch to which the complaint relates has the same defect. § 5. A complaint regarding the delivery and/or delivered goods shall not entitle the Customer to rescind the agreement, to refuse acceptance, to suspend or refuse payment, or to claim damages. § Delivery of the goods by a carrier not appointed by POINTBREAK shall always be at the exclusive risk of the Customer; where applicable, the Customer shall accept all consequences thereof.

**Article 5: Payment.** § All POINTBREAK invoices shall be payable in accordance with the terms and conditions set out in the POINTBREAK order confirmation. § 2. An invoice from POINTBREAK may only be validly protested by the Customer within a period of 10 calendar days of its issue by means of a registered and reasoned letter. Any invoice that has not been protested in the aforementioned manner shall be irrevocably accepted. § POINTBREAK shall be entitled to allocate payments first to any interest, court costs and fixed damages referred to in Article 6 of these General Terms and Conditions and only then to the outstanding principal sum. Any payment by the Customer shall be deemed to be earmarked for settlement of the oldest or most urgent outstanding debt, without prejudice to the right of POINTBREAK and its appointees to allocate the payment to another debt of the Customer. § 4. The Customer shall not be entitled to offset amounts owed to POINTBREAK with amounts that POINTBREAK would owe to the Customer, regardless of whether or not such amounts are due and payable. § POINTBREAK reserves the right to examine the financial condition and/or creditworthiness of the Customer. If, based on objective circumstances, there is a well-founded fear that the Customer will not fulfil its contractual obligations towards POINTBREAK, POINTBREAK shall be entitled to require the Customer to make one or more advance payments, full prepayment, the signing of a prepayment or instalment plan, the delivery of bills of exchange (with or without guarantee), the provision of additional information or the provision of additional securities before proceeding with the delivery of goods. Such objective circumstances shall include the Customer's financial condition, e.g. deterioration thereof between the formation of the agreement and delivery, as evidenced, whether or not according to the estimation of POINTBREAK's credit insurer, by, inter alia evidenced by issuance of a cheque without cover, protest of a bill of exchange, seizure, dissolution, liquidation, collective debt settlement, bankruptcy, fulfilment of the conditions for the alarm bell procedure, negative equity, losses, payment arrears, shop closure, debts to public authorities, default judgements, negative credit assessment (e.g. loss of credit limit by POINTBREAK's credit insurer), irrespective of whether these relate to the contractual relationship vis-à-vis POINTBREAK or vis-à-vis third parties. Making the delivery conditional on the payment of an advance, full prepayment, the signing of a prepayment or instalment plan, the delivery of bills of exchange (with or without guarantee), the provision of additional information or the provision of other additional securities shall not create any (claim) rights on the part of the Customer. If the Customer refuses to provide the guarantees listed in the aforementioned sentence, this shall be regarded as a serious contractual breach on the part of the Customer and POINTBREAK shall be entitled, without prior notice of default and without prior judicial intervention, to dissolve the agreement extra-judicially at the expense of the Customer and to claim additional damages from the Customer, valued at a flat rate of 30% of the sales price (excluding VAT), without prejudice to POINTBREAK's right to claim higher damages in the event that its losses are higher. § 6. **For the purposes of this clause**, the Customer acknowledges and accepts that POINTBREAK's economic risk is greater than the non-payment of the order in question, as POINTBREAK must pay for the goods to its supplier, among other things because the risk extends over several sales seasons, and because it is not possible for POINTBREAK to resell the goods at the same sales price after cancellation of the order.

**Article 6: Default.** § 1. In default of full payment on the due date of one or more invoices, POINTBREAK shall automatically and without prior notice of default (i) be entitled to the payment of default interest equal to the interest rate determined by the Act of 2 August 2002 on combating late payment in commercial transactions from the due date of each invoice until the date of full payment and (ii) entitlement to the payment of liquidated damages of 10% of the outstanding amount with a minimum of EUR 125 and this without prejudice to POINTBREAK's right to reimbursement of legal costs (including litigation costs) in the event that judicial

recovery proceedings need to be conducted and without prejudice to POINTBREAK's right to claim higher damages in the event that POINTBREAK's damages are greater. § If payment is not made on the due date of one or more amounts, all outstanding but not yet due amounts owed by the Customer shall become due by operation of law and without notice of default. § 3. POINTBREAK shall be entitled to suspend its obligations (e.g. to deliver ordered goods) with immediate effect and without prior notice of default without being liable for any compensation (i) in the event of non-payment in full on the due date of one or more invoices or bills of exchange, even within the framework of another agreement than the one to which the default relates, or (ii) in the event of a well-founded fear in accordance with Article 5 § 5 of these General Terms and Conditions that the Customer will not fulfil its contractual obligations towards POINTBREAK. § POINTBREAK may terminate any agreement with immediate effect and without prior judicial intervention at the expense of the Customer by written notice to the Customer, without POINTBREAK being liable to pay any termination fee or damages to the Customer, if the Customer commits a serious breach of its obligations and fails to remedy such breach within 15 calendar days of written notification thereof by POINTBREAK, unless such remedy period is meaningless in view of the nature and/or effect of the breach. § 5. POINTBREAK shall be entitled to terminate any agreement with immediate effect and without prior judicial intervention at the expense of the Customer in extraordinary circumstances which make it clear that the Customer will breach its obligations and that the consequences of such breach are sufficiently onerous for POINTBREAK, provided that the Customer has failed to provide adequate safeguards for the proper performance of its obligations within 15 calendar days of written notification thereof by POINTBREAK. The following circumstances, among others, shall count as extraordinary circumstances which make it clear that the Customer will breach its obligations and that the consequences of such breach will be sufficiently onerous for POINTBREAK: (i) in the event the Customer does not obtain the necessary financing, (ii) in the event the Customer's solvency is not (or is no longer) guaranteed, including but not limited to in the event of the issuance of a cheque without cover, protest of a bill of exchange, seizure, dissolution, liquidation, collective debt settlement, bankruptcy, negative equity respectively by/of/on behalf of the Customer, (iii) in the event the Customer falls short of fulfilling one or more of its obligations to POINTBREAK, including in any case, but not exclusively (a) those imposed by Article 9 of these General Terms and Conditions or (b) the failure to pay invoices or bills of exchange deferred by POINTBREAK or the requested advances, prepayment and instalment plans on time, even within the framework of other agreements than the one to which the dissolution relates, and (iv) in the event that the Customer itself declares that it will not fulfil its obligations. In this case, POINTBREAK shall be entitled to reclaim goods already delivered or in shipment. § POINTBREAK may terminate an agreement with immediate effect by written notice to the Customer, without being liable for any termination fee or damages, in the event the Customer (i) ceases its activities, (ii) is declared bankrupt, files for bankruptcy or other measures are taken m.o.o. the liquidation, management, winding-up or dissolution of that party or (iii) applies for a moratorium (subject to mandatory provisions of law), enters into or proposes a composition or arrangement with its creditors in general. § In the event of dissolution at the expense of the Customer in accordance with Article 6 § 4 or 6 § 5 of these General Terms and Conditions, in addition to, if applicable, the right to return the goods already delivered, POINTBREAK shall be entitled to claim additional compensation from the Customer fixed at 30% of the sale price (excluding VAT) or of the outstanding invoices or amounts, without prejudice to POINTBREAK's right to claim higher compensation in the event that its loss is greater. § 8. In the event of cancellation by or dissolution of the agreement at the expense of the Customer, POINTBREAK shall be entitled to use the advances paid by the Customer to pay the compensation to which it is entitled. § For the purposes of this clause, the Customer acknowledges and accepts that POINTBREAK's economic risk is greater than the non-payment of the respective order, inter alia because POINTBREAK must pay for the goods to its supplier, because the risk extends over several sales seasons, and because it is not possible for POINTBREAK to resell the goods at the same sales price after cancellation of the order.

**Article 7: Force majeure.** § POINTBREAK shall not be liable for the non-performance, untimely performance or improper performance of (one of) its obligations resulting from an external cause, such as accident or force majeure, which cannot be attributed to it. Force majeure shall mean the event which makes fulfilment of POINTBREAK's obligation reasonably impossible, particularly difficult or particularly expensive. § 2. Without being exhaustive, the following events shall be deemed an extraneous cause: strike, lock-out, war, government obligation or prohibition, requisition, occupation of territory, riot, attack, robbery, sabotage, illness, epidemic, fire, flood, snowfall, storm, earthquake, natural disaster, change of transport tariffs, change of customs tariffs, shortage of labour, shortage of fuel, breakdown of machinery, traffic disruption, late and/or incomplete delivery by its supplier or subcontractor, insolvency of its supplier or subcontractor, insufficient stock at its supplier or subcontractor and any extraneous cause of its supplier or subcontractor. The aforementioned events are deemed unforeseeable and unavoidable. However, since the beginning of the Covid-19 pandemic, government authorities have taken several measures to combat the pandemic. The parties agree that additional government measures can be expected. As a result, not all government measures and not all consequences of the Covid-19 pandemic are unforeseeable and unavoidable and therefore do not automatically qualify as force majeure, and the Parties are obliged to take sufficient measures to avoid or minimise the risks of such government measures and consequences of the Covid-19 pandemic, and to assess on a case-by-case basis whether a specific situation related to the Covid-19 pandemic should qualify as force majeure. § In3. case of force majeure, the Customer shall have no right to compensation from POINTBREAK on any account whatsoever.

**Article 8: Retention of title.** § POINTBREAK shall retain ownership of all goods sold, whether or not delivered, until such time as POINTBREAK has received payment in full. Consequently, as long as the sold goods have not been paid in full, the Customer is prohibited from making any disposition of the goods, including sale, exchange, donation, lending, pledging or any other disposition. Retention of title shall continue to apply in the event the goods are processed or resold, in which case POINTBREAK shall have a direct claim against the customers of the Customer. Thus, after partial payment by the Customer, e.g. of an advance payment, the goods shall remain the property of POINTBREAK until the Customer has paid for all delivered goods in full. The Customer acknowledges that violation of the aforementioned prohibition shall be punishable under civil and criminal law. § The goods delivered under retention of title shall be stored by the Customer at the expense and risk of the Customer.

**Article 9: Location clause.** § The Customer shall only sell the goods at the point of sale specified in the order. The Customer may only change the location of the point of sale, or open one or more additional branches, with the prior written consent of POINTBREAK. § Without prejudice to Article 6 § 4 and § 5 of these general terms and conditions, in the event of a breach of Article 9 § 1 of these general terms and conditions, the Customer shall be liable to pay compensation to POINTBREAK. These damages shall be valued at a lump sum of EUR 500 per item offered for sale for each day that the item in question continues to be offered for sale following written notice of default by POINTBREAK or its supplier, with a minimum of EUR 2,500 per breach.

**Article 10: Limitation of Liability.** § POINTBREAK shall only be liable, both contractually and extra-contractually, for direct damage caused by its fraud, deliberate or grossly negligent acts or omissions, or of its auxiliary persons. The recovery of damages caused by the non-performance of a contractual obligation by POINTBREAK or its auxiliary persons, subject to current terms and conditions, will be governed exclusively by the rules of contract law, even if the event giving rise to the damages also constitutes a tort. § The maximum liability of POINTBREAK to the Customer in the event of fault on the part of POINTBREAK shall in all cases be limited to (i) the amount paid by its insurer or (ii), failing this, to an amount equal to the sales price (excluding taxes) of the order(s) to which the fault relates. § POINTBREAK shall in no way be liable to pay storage, safekeeping, warehousing or similar

costs to the Customer. § POINTBREAK shall in no way be liable for indirect damages. Indirect damages shall include consequential damages (e.g. economic loss, loss of profit due to disuse of the vehicle, costs associated with the purchase of replacement goods, loss of opportunities, loss of customers, immaterial damage (e.g. reputational damage), damage to goods other than those supplied by POINTBREAK. § The above limitations do not apply in case (i) the fault affects the life or physical integrity of the person, (ii) the liability results from an intentional fault. § The Customer accepts that no provision of these general terms and conditions shall constitute an inappropriate limitation or exclusion of its legal rights in the event of default by POINTBREAK.

**Article 11: Severability - varia. §** The invalidity or unenforceability of one or more provisions of these general terms and conditions shall in no way affect the validity and enforceability of the remaining provisions. The court shall have the power to adjust the scope of an invalid provision in such a way that it is no longer invalid but at the same time fulfils the objective of the original invalid provision as far as possible. § Each provision of these general terms and conditions is truly willed by both parties; no provision of these general terms and conditions creates an (apparent) imbalance between the rights and obligations of the parties, taking into account the specific nature of the sector in which they operate and the specific nature of the goods, without prejudice to Articles 5, § 6 and 6, § 9 of these general terms and conditions. The stipulated division of risk also determined the selling price of the goods. § Should POINTBREAK not have exercised (part of) its rights, this shall never be interpreted as if it had waived these rights. § POINTBREAK reserves the right to digitize all printed documents. Digitized documents shall be deemed to have the same legal value as printed documents.

**Article 12: Processing of personal data.** POINTBREAK processes personal data in accordance with its privacy policy, which is available at <https://brandsplus.com/general-terms-and-conditions>

**Article 13: Place of performance, applicable law and competent court. §** All obligations of POINTBREAK or the Customer shall be performed at the registered office of POINTBREAK. The drawing up of bills of exchange or other payment agreements shall in no way affect this and shall not result in novation. § Every offer and quotation by POINTBREAK, every agreement between POINTBREAK and the Customer, every delivery of goods and/or services by POINTBREAK shall be governed exclusively by Belgian law. § For all disputes between POINTBREAK and the Customer, the courts of Antwerp (Antwerp Division) shall have exclusive jurisdiction, without prejudice to POINTBREAK's right to initiate proceedings before any court competent on the basis of the Customer's registered office.