

License agreement

Version: License agreement May/2018
Person responsible: Langanger Michael

Agrarmarkt Austria Marketing GesmbH, 1200 Vienna, Dresdner Straße 68a,
hereinafter referred to as **licensor**,
grants, in accordance with cl. 2 of this agreement, to the company

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| Max Mustermann GmbH. Mustergasse 1 1000 Musterstadt Represented by: Max Mustermann Revenue category: < 20 million euros annual turnover Employee category: < 50 employees Companies' Register number: fb123456a |
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hereinafter referred to as **licensee**, upon
presentation of positive inspection results by the
independent monitoring body (bodies),
the right to use the logo

AMA-Gütesiegel (AMA Seal) / AMA-Biosiegel (AMA Organic Seal) / bos / sus / ovum / pastus



(hereinafter referred to as symbol)

with the license number **LN11223344**

for the production facilities of the licensee / production facilities of the private-label producers /
production facilities of the contract producers, the products and the details indicated in
Annexes 1 and 2

1. General provisions of the agreement

- 1.1 Contracting partner and thus licensee is the company having legal capacity that is indicated in the agreement header, with the production facilities of the licensee set out in Annex 1 as well as with the production facilities of the private-label producers / production facilities of the contract producers indicated in Annex 2. All annexes shall form integral parts of the license agreement.
- 1.2 In the sense of this agreement,
- a) "production facilities" shall be all bodies which are involved in the production or in the sale of a product labelled with the symbol.
- b) "products" shall be all products which are to be labelled with the symbol(s).
- 1.3 If products are produced in production facilities of the company of the licensee, these production facilities are indicated in "production facility of the licensee" in Annex 1.
- 1.4 If the licensee has products – which are subsequently sold/distributed under the licensee's own label – produced by/in another company, this company is indicated in "production facility of the private-label producers" in Annex 2.
- 1.5 If the licensee hands over the product in its title to another company for further handling or processing without transfer of title, this is indicated in "production facility of the contract producer" in Annex 2.
- 1.6 If a prior agreement already exists at the moment this license agreement is concluded, the legal continuity in the unchanged clauses of the agreement shall be maintained. Only the changed clauses (e.g. range of products, term of the agreement, adjustments pursuant to the changed legal situation) shall be renewed – therefore, in this case, the fee for drawing up the agreement does not apply.
- 1.7 The right to use the symbol(s) is not transferable. Sublicenses can therefore not be granted by the licensee in a legally effective manner.
- 1.8 Specific provisions in the respective guideline of the licensor shall prevail over general provisions of this contract.
- 1.9 The right to use the symbol(s) shall be granted by the licensor after having verified the compliance with the prerequisites, in particular in accordance with the following cl. 2 of the license agreement.

2. Obligations of the licensee

- 2.1 Upon signing the agreement, the licensee confirms that it has also taken note of the guideline(s), as amended from time to time, respectively indicated in Annexes 1 and 2. The licensee undertakes to comply with the same and with the other related legal provisions and, in particular, to pay the fee for drawing up the agreement, the license fee, the monitoring costs and, if necessary, the contractual penalties incurred as well as the usual reminder fees.
- 2.2 The licensee shall disclose all production facilities of the licensee / production facilities of the private-label producers / production facilities of the contract producers to the licensor in writing upon commencement of the agreement as well as at the end of each calendar year (December) in order to ensure that the products can be checked for conformity with the guideline(s). During the calendar year, the licensee shall immediately notify the licensor of changes in this list in writing by using the form "disclosure of changes to data relevant to the agreement" (see Annex 4) as supplement to the license agreement, for the purpose of which a transmission via e-mail suffices. When a fully functional internet-based software provided by the licensor is offered, these changes may be directly made by the licensee in the software. In case of complex constructions, the licensor may request, for better representation, a full graphic representation of the integration of the subcontractors and subsidiaries in the legal organisation of the licensee.
- 2.3 The licensee shall ensure that, on the one hand, solely those products are labelled with the symbol that meet the criteria of the related guideline and of this agreement, on the other hand, that each product pursuant to Annexes 1 and 2 that has been requested and that conforms with the guideline(s) has also been correctly labelled with the symbol. The use and size of the symbol shall be clearly visible and shall be chosen in such a way that it can be excluded that the customer is deceived or misled. Shape, size, colour and design of the licensed symbol can be found at www.amainfo.at and are made available by the licensor. The licensed symbol may not be integrated into other symbols. The specified shape, colour and design of the licensed symbol and its use for labelling may only be modified after written consent of the licensor. The licensee shall refrain from any advertisement, labelling details or use of other symbols which is misleading, unclear, incorrect or not easily understandable for the consumer or calls into question the integrity of the symbol or could cause confusion.
- 2.4 Already prior to granting the right to carry the symbol, the licensee undertakes to also enable unannounced inspections by designated monitoring bodies of the articles to be labelled with the symbol and of the production facilities as regards their compliance with the guidelines, this during the usual business hours and operating hours, whereby the inspection shall also include the completeness and correctness of the (contractual) details provided by the licensee. The licensee undertakes to support the monitoring body and the licensor with fulfilling their tasks, in particular to provide those reports and supporting documents which are necessary for being able to check compliance with the assumed obligations, to allow the inspection of the records to be considered as well as to allow access to the production, storage and transport facilities. It shall be permitted to take e.g. (digital) photographs and photocopies necessary for the documentation of the inspection results and preservation of evidence as well as to draw or, respectively, acquire product samples. To check any indications of origin given, the licensee shall provide the corresponding supporting documents.
- 2.5 The licensee checks product manufacturing and labelling for conformity with the guideline(s), in particular it safeguards that the necessary self-checks are carried out on a regular basis in the production facilities of the licensee / production facilities

of the private-label producers / production facilities of the contract producers (see Annexes 1 and 2), that the staff is instructed, trained and monitored accordingly as well as that the necessary organisational and controlling measures are also taken on a regular basis.

- 26 In the case of a contract production pursuant to cl. 1.5, the licensee shall ensure that its contracting partner complies with the same obligations (conformity of product manufacturing with the guideline(s), existence and execution of self-check systems, allowing inspections, etc.), just like the licensee itself has assumed [sic] due to the respective guideline of the licensor and this license agreement.
- 27 a) In cases where the licensor directly arranges inspections by monitoring bodies authorised by the licensor with the licensee, the licensee shall submit itself to these inspections.
- b) In all other cases, the licensee shall first enter into a monitoring agreement with a monitoring body authorised by the licensor, whereby the inspection of the products – requested pursuant to Annexes 1 and 2 and to be labelled or, respectively, subsequently labelled – in the contractual production facilities of the licensee / production facilities of the private-label producers / production facilities of the contract producers is ensured at any time as regards compliance with the criteria specified in the respective guideline; any conclusion of contract as well as any cancellation of contract with an authorised monitoring body shall be immediately notified to the licensor in writing.
- c) The right to label the products requested pursuant to Annexes 1 and 2 with the symbol shall be granted only immediately upon presentation of a positive opinion of the licensor or of a monitoring body authorised by the licensor as well as following compliance with all of the prerequisites stipulated by the related guideline and this agreement (in particular payment of the license fee, the monitoring costs, etc.).
- 28 If a relevant connection with the compliance with the respective guideline or, respectively, with the contractual symbol arises from any pending criminal or, respectively, administrative criminal proceedings and if the licensor has grounds to believe that the symbol is endangered, the licensee undertakes to grant power of attorney to the Licensor – if so requested by the Licensor – to inspect the files or, respectively, to copy them.

3. Obligations of the licensor

The licensor undertakes to

- 3.1 grant to the licensee, once all prerequisites have been fulfilled, the right to use the symbol to the extent documented at the beginning;
- 3.2 notify the licensee of changes to the respective guideline in due time prior to it entering into effect, at least however 30 days prior to such entering into effect;
- 3.3 undertake all suitable measures to act against the misuse of the symbol(s);
- 3.4 carry out inspections of the labelled products, of their manufacture and of the production facilities of the licensee / production facilities of the private-label producers / production facilities of the contract producers pursuant to the Annexes 1 and 2 as regards the proper self-checking pursuant to cl. 2.5 and 2.6 or, respectively, if necessary, inspections ordered by the licensee pursuant to cl. 2.7 b) and, in general, as regards conformity with the guideline(s). A suitable monitoring body may also be commissioned with this inspection;
- 3.5 immediately communicate the cancellation of the approval of a monitoring body to the licensees thereby concerned. The licensor will disclose newly approved monitoring bodies in a suitable manner at least once per year.

4. Penalties

- 4.1 The licensee shall be liable vis-à-vis the licensor for complying with the obligations resulting from the related guideline and the license agreement. Beyond the obligation to pay the monitoring costs, a violation of the provisions may – according to the fault and the nature or, respectively, gravity of the violation – result in the following penalty.
- 4.1.1 Level 1: In case of only minor formal deviations (e.g. only minor faulty recording, transposed numbers, etc.), a warning will be given and corrective measures will be specified by setting a time limit. The costs for any necessary follow-up inspection shall be borne by the licensee.
- 4.1.2 Level 2: In case of not only minor formal deviations (e.g. not reporting products which have been inspected and can therefore be labelled, or cases of repeated irregularities under penalty level 1, etc.), not only a warning will be given, but corrective measures will also be specified by setting a time limit. The expenses caused as well as the costs incurred for the necessary follow-up inspections shall be borne by the licensee.
- 4.1.3 Level 3: In case of substantial, material deviations with or without formal deviations (e.g. essential records are missing or, respectively, are grossly inadequate, prevention of the proper monitoring activity or cases of repeated irregularities under penalty level 2, etc.), a warning will be given as well as corrective measures will be specified by setting a time limit. Furthermore, the expenses caused as well as the costs incurred for the necessary follow-up inspections shall be borne by the licensee. In addition, a contractual penalty of up to € 7,500.00 (excl. VAT), which shall also be based on the economic importance of the business, shall be imposed.
- 4.1.4 Level 4: In case of severe violations (e.g. in the case of incorrect labelling to a great extent, forgery of documents, cases of repeated irregularities under penalty level 3, etc.) or in case the inspection is refused, the right to use the symbol(s) shall be immediately withdrawn for a duration of up to 6 months. Furthermore, the expenses caused as well as the costs incurred for the necessary follow-up inspections shall be borne by the licensee. In addition, a contractual penalty of up to € 7,500.00 (excl. VAT), which shall also be based on the economic importance of the business, shall be imposed.

- 4.2 In case of a violation of a symbol which, according to the applicable guidelines, can be permissibly promoted by the licensor (symbols currently covered: AMA-Gütesiegel (AMA Seal), AMA-Biosiegel (AMA Organic Seal); symbols currently not covered: bos, sus, ovum, pastus+), the contractual penalty imposed by the licensor may be increased to € 37,500.00.
- 4.3 The licensor reserves the right to also demand that damages exceeding the contractual penalty be compensated. For determining the amount of damage, any advertising expenses of the licensor in this regard shall also be considered.

5. Withdrawal of the right to use the symbol(s)

- 5.1 The licensor has the right to immediately revoke the right to carry the symbol if
- 5.1.1 the proper inspection is prevented or if the inspection is refused, in particular also in the case of out-sourced production parts under cl. 2.2 and 2.6;
 - 5.1.2 an opinion to be produced by the licensee was not received by the licensor in due time;
 - 5.1.3 the opening of insolvency proceedings in respect of the assets of the licensee was dismissed due to lack of assets;
 - 5.1.4 the licensee has repeatedly not fulfilled obligations (in particular as regards product manufacturing and marketing) under the related guideline or the license agreement as well as in case of serious violations which, in the framework of a public discussion, could also result in a danger for other licensees;
 - 5.1.5 the symbol is misused;
 - 5.1.6 in spite of a reminder, the license fees, the monitoring costs or any contractual penalties imposed and/or the usual reminder fees have not been fully paid and/or have not been paid in due time.
- 5.2 The licensor may limit the withdrawal of the right to use the symbol(s) to certain products or, respectively, product groups of the licensee if the reason for withdrawing the right to use the symbol(s) solely relates to certain products or, respectively, product groups, provided that the state of technology or, respectively, of science allows a separation according to products or, respectively, product groups, and if the licensor does not deem necessary to completely withdraw the right to use the symbol(s).
- 5.3 Upon expiry of the right to use the symbol(s), any further use of reproductions that are in the possession of the licensee shall be refrained from as well as any use of the symbol(s) for advertising and labelling purposes shall be, without delay, ceased without the licensee having any claim to a refund of any kind. Any certificates issued by the licensor as regards the extent of the right to use the symbol(s) shall be returned to the licensor.
- 5.4 In spite of the withdrawal of the right to use the symbol(s) pursuant to cl. 4.1.4 and/or cl. 5, the licensor shall be entitled, during the term of the agreement, to exercise any and all rights to monitor that are set out in cl. 2 and that have been contractually agreed.

6. Confidentiality obligation

- 6.1 As regards any deviations from a use of the symbol(s) conforming with the guideline(s), the licensee shall exempt all monitoring and inspection bodies acting in the food sector from any statutory confidentiality obligations vis-à-vis the licensor.
- 6.2 The licensor undertakes for its part to maintain confidentiality, except for
- a) informing the purchasers of the licensee concerned, in case of symbol withdrawal pursuant to cl. 5.1.1, 5.1.4, 5.1.5 and 5.2, that a further delivery of products using the symbol is not admissible;
 - b) if there are reasonable grounds for suspecting legal infringements and violations – which result in an imposition of a penalty of at least level 3 (cl. 4.1.3) – vis-à-vis licensees that have a legitimate interest in such;
 - c) in cases of risk of imminent danger vis-à-vis the competent authorities caused by the products labelled with the symbol.

7. Use of data

- 7.1 In order to fulfil the license agreement, in particular for taking quality assurance measures and monitoring measures by the licensor as well as by the monitoring bodies consulted in the sense of cl. 2.7, data of the licensee are used according to the following standards:
- 7.1.1 During the term of the license agreement, data of the licensee are processed by the licensor and transmitted to the monitoring bodies consulted pursuant to cl. 2.7 for fulfilling the license agreement as well as for taking the quality assurance and monitoring measures (e.g. name, company name, address, production facility (facilities), license number(s), guideline(s), product group(s), monitoring body (bodies) and monitoring data) incurred within the framework of the license relationship. These monitoring bodies transmit to the licensor data concerning inspections carried out at the licensee's. Furthermore, data of the licensee, in particular to the extent of name, company name, address, production facility (facilities), licensing data (e.g. license number(s), symbol(s), guideline(s), product group(s), certificate) are published on the website of the licensor for the purpose of traceability of the participation in the measures. For the purpose of improving the quality assurance systems, the data of the licensee, as well as the data of the quality assurance and monitoring measures incurred under the license relationship, are processed and analysed in anonymized form;
 - 7.1.2 In case of violations which result in a withdrawal of the symbol(s) pursuant to cl. 5.1.1, 5.1.4, 5.1.5 and 5.2, all purchasers will be informed that further delivery of products using the symbol is not admissible; in case of violations which result in a level 4 penalty (cl. 4.1.4) and which could endanger the existence of the symbol, the name of the licensee, including address and LFBIS no.¹/client number, as well as the violation determined will be disclosed to all licensees

¹ Translator's note: The abbreviation LFBIS stands for "Land- und forstwirtschaftliches Betriebssystem" (en. business information system for agriculture and forestry). The LFBIS no. is used to identify businesses in agriculture and forestry.
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and will be published, within a reasonable framework at the expense of the licensee, in the specialised press or in any other suitable way;

- 7.1.3 The data regarding the licensee (e.g. IACS data) existing with the market regulation body Agrarmarkt Austria will be transmitted to the licensor within the framework of the legal provisions and will be transmitted and used for monitoring purposes by the licensor or, respectively, by monitoring bodies commissioned by it;
- 7.1.4 The monitoring and inspection bodies acting in the food sector will communicate their monitoring and inspection results pursuant to cl. 6.1 to the licensor and, in case of a withdrawal from the license agreement (cl. 9), the name of the licensee, including address and LFBIS no./client number, will be disclosed in a suitable manner;
- 7.1.5 Further data of the licensee will be used by the licensor or divulged to it to the necessary extent, provided that this has been specified, in a form marked by highlighting, for the purposes indicated in the respective guidelines, as amended from time to time, which are mentioned at the beginning.

8. Validity

- 8.1 This license agreement is concluded for an indefinite period of time.

9. Cancellation

- 9.1 This license agreement may be cancelled by both contracting parties, provided that a cancellation period of two months is observed, by sending a registered letter to the address last disclosed by the contracting party.
- 9.2 When substantial changes to the guideline applying to the licensee enter into force, the licensee has the right to cancel the license agreement for serious grounds by observing a cancellation period of 14 days.
- 9.3 The licensor has the right to cancel the license agreement by observing a cancellation period of 14 days if
 - 9.3.1 the licensee is unable to provide a valid monitoring agreement with a monitoring body authorised by the licensor pursuant to cl. 2.7.b);
 - 9.3.2 the licensee does not resume the contractual obligations pursuant to cl. 2 in spite of a withdrawal of the right to use the symbol(s) imposed pursuant to cl. 4.1.4 and pursuant to cl. 5;
 - 9.3.3 the opening of insolvency proceedings against the licensee was dismissed due to lack of assets;
- 9.4 After the cancellation period has expired, the licensee undertakes to refrain from using the respective symbol and shall ensure that no product, no advertising material and no other documents of the licensor are placed on the market with the respective symbol or with another confusingly similar symbol. Any and all commercial indications, labelling and advertising materials shall be immediately removed by the licensee at its own expense. Furthermore, the licensee undertakes to also refrain from any other unauthorised use of the respective symbol in commercial activities. In any case of contravention, the licensee undertakes to pay a lump-sum contractual penalty of € 3,000.00 per violation to the licensor and to make this payment within 14 days from the date of the request. Claims exceeding the aforementioned shall remain unaffected thereby.
- 9.5 Upon separate written request, the licensor may, after termination of contract, grant a temporary right to use up packaging or, respectively, labelling in return for the continued grant of all rights to monitor. This provision shall not apply if a withdrawal of the right to use the symbol(s) pursuant to cl. 5.1.1, 5.1.4 or 5.1.5 was pronounced. Products which were provably manufactured already prior to the withdrawal of the right to use the symbol(s), products which are labelled with the symbol and products conforming in any case with the guideline(s) may only be marketed if all rights to monitor are continued to be granted.

10. Costs

- 10.1 The licensee pays a license fee in accordance with the fee model respectively applicable the recent version of which can be accessed on the website of the licensor.
- 10.2 Stability of value of the license fee has expressly been agreed. The license fee is reduced or increased to the extent that results from a change in the consumer price index 2015 published by the Federal Institute Statistics Austria (in German *Bundesanstalt Statistik Österreich*) or from an index replacing such as compared to the index figure published for November 2017, whereby changes shall not be considered as long as they do not exceed 5 % of this index figure and, subsequently, do not exceed 5 % of the index figure most recently binding for valorisation.
- 10.3 In addition, all costs related to carrying out the inspections of the product, of the production facilities, carrying out the periodic control examinations provided for in the respective guidelines, procuring and keeping the samples and drawing up opinions as well as processing by the licensor shall be fully paid by the licensee following disclosure.

11. Reporting

- 11.1 The licensee shall immediately report events to the licensor the occurrence of which delays or makes it impossible to comply with these contractual obligations or with the provisions of the related guideline.
- 11.2 A change of monitoring bodies shall in particular be disclosed without delay. In case of reasonable grounds for concern of bias, the licensor may refuse a monitoring body.
- 11.3 Furthermore, the licensee shall report to the licensor all measures concerning individual or several products pursuant to Art. 19 of Regulation (EC) 178/2002 in connection with sec. 38 par. 1 cl. 5 lit. a) of the Austrian Food Safety and Consumer Protection Act (in German *Lebensmittelsicherheits- und Verbraucherschutzgesetz*, LMSVG) for food as well as pursuant to Art. 20 of Regulation (EC) 178/2002 in connection with sec. 18 par. 4 of the Austrian Act on Feedstuff (in German *Futtermittelgesetz*, FMG), in particular for public recalls and undisclosed withdrawals.

12. Retention obligation

All opinions, records and delivery notes shall be retained in a safe and well-arranged manner for at least 3 years from the end of the year in which they were created, unless shorter time limits were required by law or agreed.

13. Legal succession

A legal succession, even a legal succession by virtue of law, shall be excluded for the rights and obligations under this agreement. The licensee shall (e.g. in the case of a business takeover) explicitly point this regulation out to its legal successor.

14. Agreement on jurisdiction

All disputes arising out of the present agreement shall be settled by the court having substantive jurisdiction in Vienna. This shall also apply to disputes arising out of this agreement after termination of contract. Austrian law shall exclusively apply.

15. Severability

151 Changes or additions to this agreement require the written form. If a provision of this agreement is invalid, the validity of the remaining provisions shall not be affected. If necessary, the invalid provision shall be replaced by a valid provision that comes closest to the intended contractual clause.

152 The agreement shall only then become legally binding when the company signature of the licensor has been placed.

Annex 1: List of the production facilities of the licensee, products and details

Annex 2: List of the production facilities of the private-label producers / production facilities of the contract producers, products and details

Annex 3: Details regarding the company group

Annex 4: Form "disclosure of changes to data relevant to the agreement"

Place, date

Licensee
Company signature
(stamp, signature)

Place, date

Licensor
AMA-Marketing GesmbH
Company signature
(stamp, signature)

List of the production facilities of the licensee, products and details

Licensee: Max Mustermann GmbH.
Mustergasse 1
1000 Musterstadt
License number: LN11223344

Image of the symbol:



Production facility: **Max Mustermann GmbH.** **Production facility no.:** LN11223344
1000 Musterstadt, Mustergasse 1
Business function: milk licensee, BIO (organic) licensee

Production facility: **Max Musterbetriebstätte** **Production facility no.:** LNB11223344
3000 Musterdorf, Musterstraße 30
Business function: milk processor

Product (groups): **milk and dairy products**
Details: - / Origin: Austria
Guideline: AMA Seal Guideline Milk and Dairy Products
(AMA-GS RL Milch und Milchprodukte)
(as amended from time to time)
Monitoring body (bodies): Monitoring body XY

List of the production facilities of the private-label producers / production facilities of the contract producers, products and details

Licensee: Max Mustermann GmbH.
Mustergasse 1
1000 Musterstadt
License number: LN11223344

Image of the symbol:



Production facility: **Max Musterlohnproduzent** **Production facility no.: LNL11223344**
2000 Musterland, Musterplatz 1
Business function: BIO OGK (organic fruits, vegetables and potatoes)

Product (groups): **fresh meat**
Details: - / Origin: Austria
Guideline: AMA Organic Seal Guideline
(AMA-Biosiegel-Richtlinie) (as amended from time to time)
Monitoring body (bodies): Monitoring body XY

Details regarding the company group

VERSION 1:

The following companies are legally, contractually or in another manner bound to the licensee mentioned above that agrees to assume payment of the fee for drawing up the agreement*, license fee*, monitoring costs I* (according to hourly rate), monitoring costs II* (according to lump sum), penalties*, usual reminder fees* for the affiliated company (companies). It is agreed that any and all data concerning the affiliated company (companies) which are relevant to quality (incl. data related to business and product(s) e.g. concerning operation acceptance), in particular inspection reports as well as inspection and analysis results or, respectively, violations, information regarding changes and deviations of the companies in connection with the license system are transmitted by the licensor to [sic] for the purpose of assuring quality and being able to check the inspection(s) of the products.

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| Licensee | Name licensee | Zip code place, street number |
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VERSION 2:

The licensee mentioned above is legally, factually or in another manner bound to the following company or, respectively, part of the following company. It is agreed that any and all of its data which are relevant to quality (incl. data related to business and product(s) e.g. concerning operation acceptance), in particular inspection reports as well as inspection and analysis results or, respectively, violations, changes and deviations in connection with the license system are transmitted to this company for the purpose of assuring quality and being able to check the inspection(s) of the products.

| | | |
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| Licensee | Name licensee | Zip code place, street number |
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