

Almi GmbH

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**General Conditions of Sale, Supply, Delivery and Payment**

of Almi GmbH (hereinafter referred to as "Almi"),
Hörschinger Straße 1, 4064 Oftering, Austria, FN 463627 f, LG Linz

1. Scope of application

- 1.1. The scope of application of these General Terms and Conditions of Sale, Delivery and Payment shall cover all offers, contractual transactions and other services or deliverables, made, effected or provided by Almi in the course of its business operations. This shall also, and in particular, apply to all purchase orders which have come into effect without the use of Almi's order forms. These General Terms and Conditions of Sale, Delivery and Payment shall also apply to future business transactions, even if not expressly agreed. The contractual partner of Almi shall hereinafter be referred to as "Customer".
- 1.2. Any agreements which deviate from these present General Conditions of Sale, Supply, Delivery and Payment shall require a written confirmation from Almi to be legally effective and binding. In the event of any discrepancies in the underlying contractual assumptions, the following hierarchical order shall apply for their resolution:
 - Any special arrangements, provided that they have been confirmed by Almi in writing,
 - Almi's General Conditions of Sale, Supply, Delivery and Payment,
 - Non-mandatory provisions of civil law and commercial law.
- 1.3. Any general terms and conditions of business of the Customer are herewith expressly objected and excluded. Almi shall not be bound by such general terms and conditions of business of the Customer, even if Almi should not object to them at the time of the conclusion of a contract. Therefore, any performance of a contract by Almi shall not be construed as acceptance of deviating terms and conditions of the Customer.

2. Formation of the Agreement

- 2.1. Orders of the Buyer shall be deemed to constitute a binding offer which Almi, at its discretion, may accept within two weeks by dispatch of an order confirmation or by dispatch of the goods.
- 2.2. Any oral (including by phone) commitments made or agreements entered by employees or field representatives without authority to represent require Almi's written confirmation (by post, telefax or email) to be legally effective.
- 2.3. Under no circumstances silence on part of Almi shall be deemed as consent.
- 2.4. In the absence of any binding written agreement to the contrary, all offers made by Almi shall be subject to change and non-binding. A contract shall only be deemed to be entered upon dispatch of a written order confirmation by Almi or upon delivery effected by Almi. Almi offers are subject to prior sale.
- 2.5. Any resale of the goods supplied by Almi shall only be permitted if made to end users.
- 2.6. If "approx. quantities" are agreed, Almi shall be entitled to deliver an additional or reduced quantity of goods of max. ten per cent; the relevant weight is the dispatch weight. Almi assumes no liability of any kind for normal loss of weight during the transport.

3. Place of performance

Without prejudice to any individual agreement on the place of performance, payment and/or delivery and/or the assumption of any transport costs by Almi, Almi's registered office at 4064 Oftering, Hörschinger Straße 1, Austria shall be deemed to be agreed upon as the place of performance for all services, payments and

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supplies. The cost and risk of transport shall be borne by the Customer.

4. Prices, payment terms

- 4.1. Unless otherwise specified, all price quotations are expressed in Euro (EUR). All prices are subject to confirmation and are quoted 'ex works' or 'ex external warehouse', net of applicable value added tax and net of freight. For a VAT-exempted delivery, Customers from other EU member states are obliged to indicate their VAT identification number when placing their order. Almi reserves the right to separately bill any costs of transport and other ancillary costs, except for an ordinary and customary packing.
- 4.2. The Customer undertakes and agrees to pay the entire agreed consideration already at the time of the conclusion of the contract, without any deductions and free of charges. Without prejudice to any deviating note, the payment shall be first applied to the costs, then to interest and lastly to the principal, which shall be understood as the oldest overdue receivable.
- 4.3. Payments shall only be deemed to be valid and having debt discharging effect if made to Almi or to the bank specified by Almi.
- 4.4. Any credit notes will in any case be issued after deduction of any discounts granted on the respective invoice amount.
- 4.5. Almi shall not be under any obligation to accept bills of exchange or cheques. Any acceptance thereof shall only be on account of payment (and not in lieu of payment).
- 4.6. In the event that the Customer becomes delinquent with a payment due or that the conditions of section 370 para. 1 UGB (Austrian commercial code) are met, Almi shall, regardless of any fault on part of the Customer, be entitled, at its sole discretion and without granting any grace period to withhold any deliveries or contractual deliverables until the consideration has been paid, to rescind the contract for the portion not yet fulfilled or, at Almi's discretion, to demand a cash payment for further deliveries or to demand that all or part of the goods be appropriately kept in custody. For so long, any consequences of default on the part of Almi shall not come into effect. All other rights of Almi shall not be affected thereby.
- 4.7. For any failure to pay on due date, default interest at the statutory default interest rate specified in section 456 UGB shall be deemed to be agreed in any case, unless Almi can prove that it has incurred a higher loss. For every reminder, the lump sum amount specified in section 458 UGB may be charged and above that the Customer shall, in accordance with section 1333 para. 2 ABGB (Austrian civil code), be liable to Almi for all costs incurred in connection with a late payment.
- 4.8. All prices of Almi will be adjusted to inflation. The adjusted prices will be calculated on the basis of the 'Verbraucherpreisindex 2015' (i.e. the Austrian consumer price index 2015) or on the basis of an index replacing this Verbraucherpreisindex 2015. Any price will be adjusted to the same extent to which the mentioned index will have changed as compared to its starting point. Almi is entitled to adjust its prices to the index increases on each 1st January. All price adjustments shall be expressed to one decimal place.
- 4.9. Except as expressly otherwise agreed, any grid boxes, containers or other types of transport packaging loaned for use shall remain the property of Almi.

5. Packaging

Our prices only include simple commercial packaging of the goods. Should the Buyer request special packaging and Almi meets this request, this shall be further charged at cost price by Almi.

6. Scheduled delivery dates

Unless otherwise expressly agreed, any indication of scheduled delivery dates or periods of delivery shall be non-binding. If no scheduled delivery date was agreed, the delivery shall be made within two weeks. A failure

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to meet the scheduled delivery dates or delivery periods shall entitle the Buyer to withdraw from the Agreement only if expressly a sale to be performed at a fixed point in time was agreed. Buyer's compensation claims, of whatever nature, are excluded – except for claims that are based on gross negligence by Almi.

7. Partial deliveries / default in payment of instalments

- 7.1. Almis supplies are always divisible. For partial deliveries, partial invoices shall be permissible.
- 7.2. In the case that partial payments have been agreed, a default in payment shall be deemed to have occurred as soon as only one partial payment was not made in time or in the full amount. In the event of any given default in payment of an instalment, the entire outstanding invoice amount shall immediately become due and payable. Furthermore, Almi shall, in the event of default in payment, be entitled to seize the goods delivered under retention of title without rescinding the contract for as long as the entire receivable and any ancillary costs have been paid.

8. Shipment and delivery

- 8.1. All deliveries will be made 'ex works' or 'ex warehouse'. The goods are always transported at the Customer's risk and expense within the meaning of *Ex Works* (EXW, Incoterms© 2010) and are sent from the loading ramp of Almi's works or warehouse, unless a different time of the transfer of risk was agreed for the individual case.
- 8.2. Each unforeseen circumstance and each case of force majeure on the part of Almi or Almi's suppliers that prevents, makes impossible or delays the manufacture and/or the delivery of Almi's goods, including, without limitation, official measures, war, riots, lockouts or strikes, non-availability of necessary materials, operational disruptions, transport disturbances, refusals to supply by Almi's suppliers, shortages of raw materials or their late dispatching, and any other circumstances or events for which Almi is not responsible, shall entitle Almi to rescind the Agreement, to reduce the agreed delivery quantity or to postpone the term of delivery reasonably for at least as long as the obstruction persists. The Buyer may not derive any kind of damage compensation claims from this, unless Almi is guilty of gross negligence.
- 8.3. If, once the Agreement has taken effect, circumstances become known to Almi which give rise to reasonable doubts about the Buyer's solvency or willingness to pay and the Buyer does not comply with the request for advance payment or provision of an equivalent security, Almi shall be entitled, at its own discretion, to withhold all deliveries or to rescind the Agreement, in whole or in part, without assuming any consequential costs and request damage compensation for non-fulfilment. Expressly agreed fixed scheduled delivery dates or delivery periods shall lose their binding force once the lack of creditworthiness becomes known.
- 8.4. The goods delivered by Almi may be sold only in their original presentation. They may neither be repacked nor bagged, bottled or decanted.

9. Default of acceptance

The Buyer shall be under the obligation to take delivery of the goods with undue delay or to pick up the goods made ready for collection without undue delay. In the event of default of acceptance or in the event that a delivery should be impossible due to reasons on part of the Buyer, Almi shall be entitled to provide storage of the goods itself or to have the goods stored with a forwarding agent, in any such case at the Buyer's risk and expense.

10. Warranty

- 10.1. Unless stipulated otherwise or expressly agreed in writing otherwise, the statutory warranty provisions shall apply.
- 10.2. The articles sourced from Almi meet the requirements of Austrian food law, provided that they are in an

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unopened state and appropriately stored – or stored as indicated for specific cases – and as long as the processing information indicated on the labels is complied with.

Warranted qualities/properties within the meaning of section 922 (1) Austrian Civil Code (*ABGB*) shall be only such qualities that are expressly marked/labelled by Almi. Goods recommended by Almi or its vicarious agents as well as Almi's or the manufacturer's product descriptions are not considered to be expressly warranted qualities/properties.

- 10.3. The Customer shall notify to Almi within ten calendar days (date of receipt by Almi) any defects of goods that were ascertained or could have been ascertained after delivery by an examination in the ordinary course of business. Each such notification requires the written form and shall include an exact description of the defect (including, but not limited to order number, 'best before' date and the grounds for the complaint, invoice number, invoice date, delivery note number and the marking on the package) and be accompanied by all documents (e.g. packing slip) or data or samples which are available to him and necessary for an examination/evaluation of the defect and its cause. The notification period will commence with the handover of the goods to the Customer or, in the event of default of acceptance, at the time Almi notifies the Customer of its readiness to hand over. Claims in respect of a defect will only be considered if the goods are still in the condition in which they were delivered. Losses customary for the industry may not be made the subject of a complaint. For any defects which could not be ascertained at the time of acceptance, the warranty period shall be six months from the delivery date and such period shall neither be extended nor interrupted by any attempts to remedy the defect and the warranty period also applies to partial deliveries. Any claims with respect to such defects must be asserted in writing and within ten calendar days from the detection of the defect. Should the Customer fail to assert a claim about a defect within such period, the Customer agrees to waive any warranty claims and/or claims for damages and/or avoidance due to error. Any assertion of a claim about a defect shall, however, not entitle the Customer to hold back invoice amounts or parts thereof. A sample shall be sent to Almi.
- 10.4. Returned goods shall be accepted by Almi only after prior consultation and express authorisation.
- 10.5. In case of the Buyer's or a third party's preparatory work, Almi shall not assume any kind of liability whatsoever. This applies also for goods that are not used in the indicated dosage or as specified.
- 10.6. Specimens and samples are considered to be approximate demonstration pieces for quality, dimensions, colour, packaging and presentation; however, such qualities/properties are not warranted. Almi shall make every effort to avoid deviations by the goods from specimens or earlier deliveries to the extent possible. Notwithstanding this, Almi assumes no liability for deviation by the goods from specimens or earlier deliveries, unless this is agreed in writing; minimal deviations then shall not entitle the Buyer to any damage compensation or warranty claims; in case of non-minimal deviations the Buyer shall be entitled merely to a claim for substitute delivery. However, Almi may alternatively declare its withdrawal from the Agreement. Buyer's damage compensation claims, regardless of their nature, are excluded – with the exception of gross negligence.
- 10.7. In the event of justified notice of defects in good time in accordance with Article 10.3., Almi shall be free to deliver defect-free goods of a similar nature, quality, size, form and colour (improvement, replacement) or withdraw from the Agreement in exchange for repayment of the purchase price in cash – minus any separately agreed sales discounts, at its choice. The Buyer must grant Almi the required time and opportunity to a reasonable extent, however at least two weeks, for the replacement of the goods. If it refuses this or this is curtailed in an inappropriate manner, Almi shall be exempted from the warranty or rectification of the defect.
- 10.8. Buyer's damages claims, of any kind whatsoever, shall be excluded – with the exception of gross negligence by Almi.
- 10.9. The Customer shall always be obliged to provide a proof that the delivered goods were defective at the time of the handover and the legal presumption of section 924 ABGB and the right of recourse provided by section 934 ABGB shall be excluded.

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**11. Damages, product liability**

11.1. Almi's liability for any damages suffered by the Customer due to business transactions with us shall generally be limited to the value of the purchase order placed and restricted to damages resulting from gross misconduct on our part or on part of our agents. This limitation of liability shall not apply to claims relating to personal injury, where we shall be liable also in the event of slight or ordinary negligence. Any compensation by us for consequential damages, pure economic losses, loss of profits, and damages resulting from third party claims shall be excluded. The burden to prove gross negligence shall lie with the party having suffered damage. Claims for damage compensation shall become time-barred after six months from the knowledge of the damage and damaging party.

11.2. Almi assumes no duty to protect of any kind whatever to the actual user of the goods delivered by Almi; under the Agreement concluded with the Buyer, Almi's intention to deliver the goods is not aimed at concluding agreements with protective consequences for third parties (*Vereinbarungen mit Schutzwirkung zugunsten Dritter*).

11.3. In the event that the Customer should be held liable on the grounds of the Austrian Product Liability Act (*Produkthaftungsgesetz*), the Customer expressly agrees to waive the right to have recourse against Almi. In the event that the Customer places the goods delivered by Almi on a market outside the European Economic Area, the Customer undertakes and agrees to exclude the liability for damages under the Austrian Product Liability Act towards his clients provided that this is possible under the laws of such client's country. Should the Customer fail to meet this obligation to exclude the product liability, the Customer shall be obliged to indemnify and hold Almi harmless in respect to any claims whatsoever asserted by third parties on the grounds of product liability.

12. Retention of ownership

12.1. The goods shall remain the sole and exclusive property of Almi (goods subject to retention of title) until all claims which Almi has against the Buyer on grounds of the order have been met, including (but not limited to) until all payments have been fully made; this shall also apply in the event that individual parts have already been paid for. The goods being subject to retention of title must not be pledged or assigned as security.

12.2. Any promotional material provided by Almi shall remain Almi's property, unless the Buyer has fully paid for such material. The Buyer has the right to pass on, in the course of its ordinary business and subject to Almi's right to revoke this right at any time without giving reasons, such promotional material provided by Almi. Any promotional material that is Almi's property shall at any time be promptly returned upon request.

12.3. If the Customer sells the goods delivered, he thereby assigns his claims against his buyers to Almi up to the amount of Almi's receivables from the Customer. Almi hereby accepts the aforesaid assignment. The Customer is obliged to promptly make names and addresses of its buyers, the existence and amount of the receivables resulting from the sale known to Almi and to notify each of its buyers of the cession of the receivables. In addition, the Customer is obliged to highlight the cession of such receivables to Almi in his business accounts in a suitable manner. Almi shall be at any time entitled to notify the Customer's buyer of the cession. Any cession fees shall be borne by the Customer.

12.4. If the Buyer's goods subject to retention of title are processed into a new moveable item, this shall be done for Almi, without Almi thereby being under any obligation. The new item shall be transferred into Almi's ownership. If the goods are processed with items not belonging to Almi, Almi shall acquire co-ownership of the new item in proportion to the value of the goods subject to retention of title to the other goods at the time of the processing.

12.5. If the Buyer defaults in its payment obligation in whole or in part, over-indebtedness or suspension of payments occurs or a petition to open insolvency proceedings has been filed, Almi shall be entitled to take possession of all goods still subject to retention of title; Almi may likewise immediately assert further rights under the retention of title; the same shall apply in the event of any significant deterioration of the Buyer's

Raiffeisenbank Leonding

BLZ 34276, Kto. Nr.: 10330

IBAN : AT11 3427 6000 0001 0330

BIC : RZOOAT2L276

Bank Austria Creditanstalt

BLZ 12000, Kto. Nr.: 51872073501

IBAN : AT94 1200 0518 7207 3501

BIC : BKAUATWW

Oberbank AG

BLZ 15000, Kto.Nr.: 751-0991.85

IBAN : AT57 1500 0007 5109 9185

BIC : OBKLAT2L

Firmenbuchgericht Linz

FN 463627 f

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12.6. In the event of an execution or attachment or other seizure by a third party, Buyer must notify Almi without undue delay.

12.7. Almi expressly reserves all rights to cost estimates, drawings, illustrations and similar documents, in particular the right of ownership and copyright; they may be made accessible to third parties only with Almi's express prior consent. At Almi's request, all such documents must be returned without undue delay at the Buyer's expense.

13. Special provisions for sausage casings

13.1. Almi shall use recognised manufacturers' sausage casings. Almi shall assume a warranty for the manufacturer's warranted qualities only for the term of the respective manufacturer's guaranteed warranty period. Liability of any kind going beyond this shall be excluded.

13.2. Print motifs that are designed by Almi are Almi's intellectual property and require Almi's express prior consent for use by the Buyer or by a third party. If the Buyer's printed documents are made available or Buyer's specifications must be observed, Almi shall assume no liability of any kind whatsoever for collision with third party rights.

13.3. Liability for breaches of food law regulations through motif or text design as well as through the property of the sausage casings is excluded.

13.4. Sausage casings finished or printed at the Buyer's request as special orders shall not be taken back or replaced; this does not apply in the case of justified defects of quality. In the case of such special orders, up to three per cent unrectifiable rejects and likewise a minimal colour deviation from the designs equally shall not be considered as a ground for a complaint.

14. Export

If Almi's goods are exported by Almi's customers to territories outside of Austria, Almi shall assume no liability of any kind whatever if third-party proprietary rights are infringed through Almi's products. The Buyer is obliged to hold Almi completely free and harmless in this regard; this applies also for any kind of damage or other disadvantages that are caused to Almi through the export of goods that were not expressly delivered for export purposes.

15. Set-off

The Buyer is not entitled to assert rights of retention or other rights to withhold performance or to set off against counterclaims (apart from claims for money), unless these are claims expressly recognised in writing by Almi or established by a declaratory judgment.

16. Prohibition of assignment

An assignment of any Buyer's claims against Almi is prohibited, unless these are pecuniary claims.

17. Subcontractors

The use of subcontractors is permissible at any time.

18. Confidentiality

The Buyer shall be obliged to observe all of Almi's trade and business secrets coming to its knowledge in any manner and in any form whatsoever. The Buyer undertakes expressly to impose this confidentiality obligation on all employees and take corresponding measures for their observance.

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**19. Applicable law**

For all legal transactions, in particular (but not limited to) contractual transactions that are subject to these present General Conditions of Sale, Supply, Delivery and Payment, Austrian substantive law under exclusion of the UN's CISG (*United Nations Convention on Contracts for the International Sale of Goods*) shall apply exclusively.

20. Place of jurisdiction

For the Customer the sole venue and jurisdiction for all disputes arising from or in connection with the contractual transaction – including proceedings in connection with claims arising out of a bill of exchange or for payment of cheques – shall be that of the court competent in geographical and substantive aspects in respect to Almi's head office. Almi shall however, at its discretion, be entitled to institute proceedings against the Customer in any other court that may be competent under national or international law.

21. Miscellaneous

If any provisions of these General Conditions of Sale, Supply, Delivery and Payment should be invalid in whole or in part, the remaining provisions of these General Conditions of Sale, Supply, Delivery and Payment shall remain in effect. Any such invalid provision shall be replaced by such valid provision that comes closest to the original intent and purpose of the invalid provision.

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