GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY (INTERNATIONAL) OF THE COMPANY BANANIV GMBH

I. APPLICATION OF THE INTERNATIONAL TERMS AND CONDITIONS OF SALE

1. These International Terms and Conditions of Sale and Delivery (hereinafter called: „GTC“) of the company BANANIV GmbH, Güntherstr 2a, Frankfurt am Main, Germany - hereinafter referred to as „Seller“ or „we“ - apply to all transactions concerning the delivery of goods to customers (hereinafter called: „Customer“), if the place of business of the Customer is not in Germany.
2. The scope of application of these GTC is limited to contracts with entrepreneurs, legal entities under public law or special assets under public law. These GTC are not applicable to transactions with consumers within the meaning of § 13 of the German Civil Code (“BGB”).
3. These GTC are exclusively applicable. The application of Customer conditions that contradict, supplement or deviate from our GTC is herewith rejected. These shall not be applicable even if we execute the Customer delivery in the knowledge of or without expressly rejecting deviating Customer conditions.
4. Individual agreements reached with the Customer on a case-by-case basis (including collateral agreements, supplements and amendments) shall in every case have precedence over these GTC. The content of such agreements shall be in accordance with a written contract or our written confirmation.
5. These GTC shall also be applicable to future transactions between the Seller and the Customer, without the need to make renewed reference to these.
6. Legally significant declarations and notices that the Customer makes to us after the signing of the contract or that may need to be submitted (e.g. imposition of deadlines, defect notices, etc.), must be made in writing in order to be valid.
7. Rights that the Seller has under statutory regulations or other agreements that extend beyond these GTC remain unaffected.

II. FORMATION OF THE CONTRACT

1. Orders of the Customer are to be placed in writing, by e-mail or via messenger app. If the Customer's order deviates from the proposal or the tender submitted by the Seller, the Customer will emphasize the differences as such.
2. All orders will take effect exclusively if followed by a written acknowledgement of the order by the Seller, which the Seller can dispatch up to and including fourteen (14) calendar days after receipt of the Customer’s order. Until this time, the Customer’s offer is irrevocable.
3. The Seller’s written acknowledgement of the order sets out the terms of the contract concluded with the Customer.

4. The Seller's employees or sales intermediaries are not authorized to dispense with the requirement of the Seller’s written acknowledgement of the order or to make promises which differ from its content.
5. Amendments to the concluded contract always require written confirmation by the Seller.

III. PERFORMANCE PERIOD, SELF-SUPPLY RESERVATION, FORCE MAJEURE AND RIGHT OF WITHDRAWAL

1. Unless otherwise agreed on a case-by-case basis, any possible reported performance periods represent merely approximate deadlines.
2. The performance rendering period shall not begin before the Customer has completed his associated duties of cooperation.
3. If an advance payment obligation of the Customer is agreed, such as for example the performance of a down-payment, an agreed performance rendering period shall not commence before the Customer has fulfilled his respective advance payment obligation.
4. The Seller shall be entitled to assert the plea of an unfulfilled contract.
5. An agreed performance rendering period shall be subject to the condition of complete and punctual delivery by our contracting partner (self-supply reservation). This shall not apply if the contractual agreement clearly indicates that we have assumed the procurement risk or in a case of unlimited indeterminate obligation. Our performance obligation shall also not be waived by the self-supply reservation if we have not concluded a congruent hedging transaction with our suppliers or culpably caused the non-fulfilment of this congruent hedging transaction in respect of the performance to be rendered for the Customer. The Seller shall inform the Customer without delay, insofar as the performance of the congruent hedging transaction is not available.
6. The performance rendering period shall be reasonably extended in the event of force majeure. Excluded from this are those cases in which an instance of force majeure as well as the duration thereof does not have any impact on the performance rendering period. When quantifying the reasonable extension of the performance rendering period, the duration of the obstruction and a reasonable start-up period must also be taken into account. Instances of force majeure also constitute events that were unforeseeable at the time of the signing of the contract, such as energy or raw material shortages, strikes, lockouts, official measures, terrorist attacks and war. The Seller shall inform the Customer without delay about the existence of force majeure as well as the anticipated end of this circumstance. If the force majeure continues without interruption for more than three months, or if the delivery deadline is extended by more than four months due to several instances of force majeure, then both the Customer as well as the Seller shall be entitled to avoid the contract. In the event of force majeure, the assertion of compensation claims and further claims shall be excluded. The counter-performance obligation shall be waived, and already-performed down-payments shall be reimbursed. The provisions of this Fig. shall be correspondingly ap-

plicable insofar as the circumstances occur at a sub-supplier and impact the delivery to the Seller.

7. Compensation claims brought on the grounds of failure to adhere to the performance rendering period shall be based on IX. Liability.

IV. DELIVERY, TRANSFER OF RISK

1. The Seller shall deliver the goods in accordance with the contractually agreed Incorterms regulations. The risk of accidental loss shall pass to the Customer in accordance with the respective Incoterms regulation.
2. Unless otherwise agreed in individual cases, the goods shall not be insured.
3. The goods shall be transported either by ship or by truck.

V. ACCEPTANCE DEFAULT, DELAY DAMAGES

1. If the Customer does not accept the goods in good time, or if he otherwise defaults on the acceptance, then for each commenced working day he shall owe the Seller a sum amounting to 0.1 % of the respective order value, although not exceeding 5 % of the respective order value.
2. The onus shall be on the Customer to demonstrate that lower or no damage was caused, while the Seller reserves the right to demonstrate that the damage was higher.

VI. PRICES, TERMS AND CONDITIONS OF PAYMENT

1. All prices are net prices.
2. All possible other incurred costs, in particular for the settlement of payments, transport, import and export customs duties, fees, shall be borne by the Customer, unless otherwise agreed.
3. Unless otherwise agreed, payments are due net within seven calendar days from the transfer of risk. Payments must be made at the business domicile of the Seller in Frankfurt am Main, Germany. Payment costs and risks shall be borne by the Customer.
4. A cash discount shall be subject to a separate agreement on a case-by-case basis.
5. The acceptance of cheques and bills of exchange shall be subject to an express written agreement.

VII. RESERVATION OF TITLE

1. Goods delivered by the Seller shall remain the Seller‘s property until the payment has been made in full (goods subject to reservation of title).
2. If a legal institution similar to retention of title exists under the substantive law of the destination country, the Customer shall co-operate in the granting of such security for the Seller.

3. The Customer is obliged to insure goods that are subject to reservation of title sufficiently against fire, water and theft at his own expense.

VIII. NOTICE OF DEFECTS

1. The Customer shall be responsible for examining whether the received goods are free of defects within ten working days from the transfer of risk.
2. If a defect is apparent, this must be reported within five working days of its actual discovery. This shall apply irrespective of whether the defect was discovered within the context of the examination pursuant to Fig. 1 or at a later date.
3. Any possible discovered defects must be reported to the Seller at least in text form. The complaint must include a detailed description, enabling the presumed cause as well as the consequences to be identified. Upon request, suitable documentary material, in particular in the form of photographs, must be made available to the Seller.
4. If the Customer fails to fulfil his obligations to examine the goods and to issue a complaint, the performance shall be deemed to have been accepted and he shall not be entitled to warranty rights. This shall not be applicable, insofar as the Seller maliciously concealed the defect or if the exclusion would be incompatible with the provisions of a guarantee.
5. In case of an unjustified assertion of remedies for delivery of non-conforming goods or goods with a deficiency in title, the Customer is obliged to reimburse the Seller for expenses incurred due to the unjustified assertion.
6. Banana quality, defect classification and permitted tolerances

Upon acceptance of the bananas, the Parties shall apply the internationally recognized classification of defects, which includes the following categories:

- Minor defects — minor external defects of the peel or shape that do not affect the pulp quality, edibility, shelf life or overall marketability of the goods.
- Major defects — significant defects affecting the appearance or condition of the peel, reducing commercial value but not rendering the goods unfit for consumption.
- Loss — defects rendering the goods wholly or partially unfit for sale or consumption, including but not limited to rot, mold, pulp damage, severe overripeness, fermentation or other irreversible deterioration.

Depending on the agreed quality class, the following tolerances shall apply upon acceptance:

a) “Extra” / Premium Class

- Minor defects: permitted up to 5 % by quantity or weight of the batch;
- Major defects: not permitted;
- Loss: not permitted.

b) Class I

- Minor defects: permitted up to 10 % by quantity or weight of the batch;
- Major defects: permitted up to 5 % by quantity or weight of the batch;
- Loss: not permitted.

c) Class II

- Minor defects: permitted up to 15 % by quantity or weight of the batch;
- Major defects: permitted up to 10 % by quantity or weight of the batch;
- Loss: permitted up to 5 % by quantity or weight of the batch, provided that the goods are not unsafe for consumption.

Acceptance of the goods shall be carried out taking into account the above tolerances. Exceeding any of the permitted thresholds entitles the Buyer to raise a claim solely with respect to the exceeding portion, in accordance with the procedure and deadlines set forth in the contract.

The classification of defects and the permitted tolerances shall apply exclusively at the time of initial acceptance of the goods and shall be assessed based on the condition of the goods at that moment. Any deterioration occurring after acceptance, including during storage, ripening or handling by the Customer or third parties, shall not be attributed to the Seller.

7. Defects falling within the permitted tolerances shall be deemed acceptable and shall not constitute grounds for price reduction, rejection of the goods or any other claims.

IX. LIABILITY OF THE SELLER (DAMAGES)

1. The Seller shall be liable in accordance with the statutory provisions in the event of a culpable breach of duty for all damages arising out of mortal in-juries, physical injuries or health impairment.
2. The Seller shall be liable in accordance with the statutory provisions in the event of a culpable breach of material contractual obligations. Liability shall, however, be limited to the foreseeable, contractually typical damage if the Seller did not breach material contractual obligations wilfully or with gross negligence. Material contractual obligations mean those that are absolutely essential to achieve the purpose associated with the contract, and that the Customer is entitled to expect are being adhered to.
3. The Seller shall be liable for the grossly negligent and wilful breach of non-material contractual obligations.
4. If a contractual guarantee has been agreed, the Seller shall be liable in accordance with the guarantee declaration.
5. In other respects, liability shall be excluded.
6. The Seller is not liable for the conduct of subcontractors, carriers, or freight-forwarders. The Seller is not liable if the contract cannot be performed as was possible at the time of its formation due to statutory or sovereign measures.
7. The Seller is not liable for purely immaterial damages.

8. Moreover, the amount of damages for late or non-delivery is limited to 0.5 per cent for each full week of delay, up to a maximum of 5 per cent of the value of the non-conforming part of the contract.
9. To the extent that our liability is limited or excluded on the basis of the above Figs., this shall also apply to the liability of our statutory representatives and vicarious agents, including our workers and employees.

X. OBLIGATIONS OF THE CUSTOMER

1. The Customer undertakes to pay the price for the goods specified in the written acknowledgement of the order and shall remit the same without deduction and free of expenses and costs to one of the financial institutions designated by the Seller. To the extent that a price has not been agreed, the price which is at the time of delivery the Seller's usual selling price for the goods will apply.
2. Any statutory rights of the Customer to set-off against claims of the Seller or to withhold payment are excluded, except where the corresponding claim of the Customer is due and undisputed or has been finally adjudicated or where despite a written warning the Seller has committed a fundamental breach of his obligations which are due for performance and has not offered any adequate assurance.
3. Irrespective of any statutory provisions, the Customer shall at his own cost take care of the waste-disposal of the goods delivered and of the packaging material.
4. Irrespective of additional statutory or contractual claims, the Customer is obliged to pay damages to the Seller as follows:
    a. In the event of delay in payment, the Customer will pay the accruing costs of arbitral, judicial and extra-judicial means and proceedings, as well as interest at 9 per-cent points over the base rate of the German Federal Bank (Deutsche Bundesbank).
    b. In the event of other breaches of obligations, the Customer shall pay damages in accordance with the statutory provisions.

XI. AVOIDANCE OF THE CONTRACT

1. The Customer is entitled to avoid the contract, if the applicable legal requirements are fulfilled, he has threatened the Seller with avoidance in writing and a reasonable period of time for performance set out in writing has expired to no avail.
2. Without prejudice to his continuing legal rights, the Seller is entitled to avoid the contract if the implementation or performance of the contract is or becomes prohibited by law, or if insolvency proceedings relating to the assets of the Customer are applied for, or if the Customer does not meet fundamental obligations due towards the Seller.

XII. WRITTEN FORM REQUIREMENT

All amendments and supplements to these GTC as well as the waiver of its assertion must be made via e-mail or in writing in order to be valid.

XIII. DATA PROTECTION LAW

The Seller processes the Customer's personal data on the basis of the General Data Protection Regulation and other statutory provisions. Further details can be found in the Seller's data protection information sheet.

XIV. SETTLEMENT OF DISPUTES, APPLICABLE LAW

1. The exclusive place of jurisdiction is the court with competence for the registered domicile of the Seller in Frankfurt am Main, Germany. The Seller shall furthermore be entitled to take legal action against the Customer at his general place of jurisdiction.
2. If the relevant permanent establishment of the Customer for the rendering of the respective performance is located outside the European Union as well as outside the states of Switzerland, Norway and Iceland, then all disputes between the Seller and the Customer shall be definitively decided in accordance with the Rules of Arbitration of the German Institute of Arbitration, whereby recourse to ordinary legal channels shall be excluded. The place of the arbitration proceedings is Stuttgart. The number of arbitrators is three. The language of the arbitration proceedings is German or English.
3. The United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention / CISG) dated 11th April 1980 in the English version governs the legal relationship with the Customer. Where commercial terms are used, in case of doubt the Incoterms® 2020 of the International Chamber of Commerce apply taking into account the provisions stipulated in these International Conditions of Sale.

XV. SEVERABILITY CLAUSE

1. If one or more of the provisions of these GTC or parts of a provision are invalid, this invalidity shall not affect the validity of the remaining provisions or of the contract as a whole. The parties are bound to replace the ineffective provision with a legally valid provision which corresponds as closely as possible to the commercial meaning and purpose of the ineffective provision.
2. Fig. 1 shall be correspondingly applicable in the event of an omission in the contractual provisions.

INTERNATIONAL PURCHASING TERMS AND CONDITIONS OF THE COMPANY BANANIV GMBH

I. APPLICATION OF THESE INTERNATIONAL PURCHASING CONDITIONS

1. These International Purchasing Terms and Conditions apply to all Suppliers of goods to the company BANANIV GmbH, Güntherstr 2a, Frankfurt am Main, Germany - hereinafter referred to as Buyer - whose place of business is not in Germany.
2. These International Purchasing Conditions are exclusively applicable. The application of Supplier conditions that contradict, supplement or deviate from theses Conditions is herewith rejected. These shall not be applicable even if the Buyer does not object to the Supplier's terms and conditions.
3. Individual agreements reached with the Supplier on a case-by-case basis (including collateral agreements, supplements and amendments) shall in every case have precedence over these Conditions. The content of such agreements shall be in accordance with a written contract or our written confirmation.
4. These Conditions shall also be applicable to future contracts between the Buyer and the Supplier, without the need to make renewed reference to these.
5. Legally significant declarations and notices that the Supplier makes to us after the signing of the contract or that may need to be submitted (e.g. imposition of deadlines, defect notices, etc.), must be made in writing in order to be valid.
6. Rights that the Buyer has under statutory regulations or other agreements that extend beyond these Conditions remain unaffected.

II. FORMATION OF THE CONTRACT

1. In the event of a spot offer, the Supplier shall submit a binding offer with price and quantity on the basis of the Incoterms clauses. The Supplier shall be bound by this offer within the notified period.
2. In all other cases, the Buyer places the order, specifying the price and quantity and the contractual duration.
3. Amendments to the concluded contract always require written confirmation by the Buyer.

III. OBLIGATIONS OF THE SUPPLIER

1. The Supplier shall fulfil all obligations incumbent on him on the basis of the Buyer's written order or acknowledgement of the order and these International Purchasing Conditions and, in addition, the obligations incumbent on it under the respective contractually agreed rules of the Incoterms® 2020.

2. The Supplier shall place the goods at the Buyer's disposal at the place of delivery indicated in the written acknowledgement of the order or - if a place of delivery is not indicated - at the premises of the Buyer. In the case of drop shipment deliveries, the supplier is additionally obliged to notify the Buyer in writing of the delivery made to the consignee.
3. Every delivery must be accompanied by a delivery note. Invoices, delivery notes and transportation documents must correspond to the details in the Buyer's acknowledgement of the order. Invoices must in addition clearly state the order number and the date of the Buyer's acknowledgement of the order as well as the Supplier’s tax and VAT identification number.
4. The Supplier shall fulfil all obligations incumbent upon him in good time. Strict compliance with agreed dates or periods for delivery shall be a fundamental obligation of the Supplier. The Supplier is entitled to perform his obligations outside the agreed dates or periods only insofar as the Buyer has agreed thereto in writing. The Supplier is not entitled to make part deliveries.
5. The unconditional acceptance of a delayed delivery or service does not constitute a waiver of the rights that accrue to us due to the delayed delivery or service; this applies until full payment of the remuneration owed by us.
6. Statutory rights of the Supplier to exercise a lien or to suspend performance are excluded, except where the corresponding claim of the Supplier is due and undisputed or has been finally adjudicated upon or where the Buyer has committed a fundamental breach of his obligations due and arising out of the same contractual relationship.
7. The Supplier undertakes to ensure that the legal provisions and internationally recognised standards for the protection of the environment and respect for human rights, in particular prohibitions of child and forced labour and discrimination, regulations on minimum wages and occupational health and safety and fundamental workers' rights are complied with throughout the supply chain of the goods to be delivered to the Buyer.

IV. OBLIGATIONS OF THE BUYER

1. The Buyer is obliged to pay the agreed purchase price. Payment shall be made on the due date by transfer to a banking institution with which the Supplier maintains business relations.
2. The payment terms shall be as specified in the invoice. The payment period does not start before the Buyer has received a due and proper invoice.
3. The price shall cover all of the Supplier's services including any ancillary costs. The Buyer shall pay the import turnover tax (Einfuhrumsatzsteuer) accruing in Germany as well as other duties to be paid upon import clearance.
4. Third parties not involved in the conclusion of the contract are not entitled to request payment. The Supplier’s entitlement to receive payment shall also remain if he assigns claims arising from the contract to third parties.

5. If the goods perish before the transfer of risk (e.g. due to destruction), the Buyer does not have to pay the purchase price.

V. NON-CONFORMING OR LEGALLY DEFECTIVE GOODS

1. The duty to examine the goods arises when the goods are taken over by the Buyer’s end customer and exists in respect of recognisable deviations in type, quantity, quality and packaging of the goods. The consulting of experts, damage assessors, inspection offices or other external third parties is not required. If the Supplier remedies a non-conformity, the duty to examine is suspended until the Buyer has received a notice of the Supplier stating that the remedial measure has been completed.
2. The Buyer shall give notice of very obvious non-conformities within five (5) working days after the goods have been taken over by the Buyer’s end customer and of non-conformities discovered pursuant to the examination, within ten (10) working days after the examination of the goods. Notice of non-conformities not discovered by the examination shall be given within fifteen (15) working days after the non-conformity and the Supplier’s responsibility therefor are determined. Rights or claims of third parties regarding the goods can be given notice of at any time without complying with any time limit.
3. Irrespective of any fortuitous damage to the goods after risk has passed, the Buyer is entitled in the case of delivery of non-conforming goods or of legally defective goods to rely on the remedies provided by law and/or to advance extra-contractual claims. Delivery of substitute goods and avoidance of the contract shall be declared at the latest four (4) months after the notice of the non-conformity or the legal defect. Moreover, the stipulations in VI.-2. on the avoidance of the contract and in section VI.-3. on damages apply to the delivery of non-conforming goods or legally defective goods as well.
4. The limitation period for remedies is two (2) years and shall in no case expire before the expiration of (6) months from the giving of notice of the non-conformity if the notice was given before the limitation period elapsed. The limitation period for remedies of the Buyer against the supplier in respect of violation of third parties’ rights or claims is ten (10) years.

VI. AVOIDANCE OF THE CONTRACT AND DAMAGES

1. Complying with the legal requirements the Supplier is entitled to declare the contract avoided after he has threatened the Buyer with avoidance of the contract in writing and a reasonable additional period of time for performance given in writing has expired to no avail.
2. Without prejudice to his continuing legal rights, the Buyer is entitled to avoid the contract if the performance of the contract is or becomes prohibited by law, if the Supplier or his direct or indirect suppliers violate provisions for the protection of the environment or respect for human rights, if insolvency proceedings are applied for or commenced relating to the assets of the Supplier, if according to these International Purchasing Conditions the Buyer is

entitled to remedies due to the delivery of non-conforming goods or of legally defective goods, or if the Supplier has violated other obligations despite expiry of a grace period set by the Buyer.

3. The Buyer is entitled to claim damages from the Supplier instead of or in addition to any other remedy for every kind of breach of contract. The damages to be compensated shall comprise all direct and indirect expenses, losses and inconveniences caused to the Buyer by the breach of contract, unless the Supplier proves that the extent of the damages was not foreseeable. Without prejudice to the Supplier proving that damage was either not caused or was caused in a significantly smaller amount, and without prejudice to the Buyer claiming further damages, in each case of late delivery or non-delivery by the Supplier the Buyer is entitled to claim liquidated damages of 0.5 % of the value of the respective goods for each week of delay commenced, up to a maximum of 10 %, without any evidence being necessary.

VII. TRANSFER OF TITLE

On delivery the goods become the unrestricted property of the Buyer.

VIII. DATA PROTECTION LAW

The Buyer processes the Seller's personal data on the basis of the General Data Protection Regulation and other statutory provisions. Further details can be found in the Buyer's data protection information sheet. Within the scope of the negotiation, performance and termination of the contract concluded with the Buyer, the Supplier shall ensure compliance with Regulation (EU) 2016/679 (General Data Protection Regulation) and other legal requirements applicable to the processing of personal data in the specific case.

IX. SETTLEMENT OF DISPUTES, APPLICABLE LAW

4. The exclusive place of jurisdiction is the court with competence for the registered domicile of the Buyer in Frankfurt am Main, Germany. The Buyer shall furthermore be entitled to take legal action against the Supplier at his general place of jurisdiction.
5. If the relevant permanent establishment of the Supplier for the rendering of the respective performance is located outside the European Union as well as outside the states of Switzerland, Norway and Iceland, then all disputes between the Buyer and the Supplier shall be definitively decided in accordance with the Rules of Arbitration of the German Institute of Arbitration, whereby recourse to ordinary legal channels shall be excluded. The place of the arbitration proceedings is Stuttgart. The number of arbitrators is three. The language of the arbitration proceedings is German.
6. The United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention / CISG) dated 11th April 1980 in the English version governs the legal relation-

ship with the Supplier. Where commercial terms are used, in case of doubt the Incoterms® 2020 of the International Chamber of Commerce apply taking into account the provisions stipulated in these Conditions.

XI. SEVERABILITY CLAUSE

3. If one or more of the provisions of these Conditions or parts of a provision are invalid, this invalidity shall not affect the validity of the remaining provisions or of the contract as a whole. The parties are bound to replace the ineffective provision with a legally valid provision which corresponds as closely as possible to the commercial meaning and purpose of the ineffective provision.
4. Fig. 1 shall be correspondingly applicable in the event of an omission in the contractual provisions.