
General Conditions of Sale of Nutland

1. Definitions

- 1.1 Nutland B.V. having its office at Laan van Oversteen no. 20 (2289 CX) in Rijswijk, the Netherlands and registered with the Kamer van Koophandel Den Haag under no. 27310368, or any of the affiliate companies:
- a) Nutland UK Ltd. (office at Holden House, 57 Rathbone Place, W1T 1JU London, United Kingdom, registered with the Trade Register under no. 10785607),
 - b) Nutland GmbH (office at Rheinpromenade 9, 46446 Emmerich am Rhein, Germany registered with the Amtsgericht Kleve under no. HRB 17746),
 - c) Nutland España S.L. (office at Aticco Urquinaona, Ronda de Sant Pere 52, 08010 Barcelona, Spain registered with the Registro Mercantil Barcelona under no. 42050852) hereinafter referred to as "Nutland".
- 1.2 "Buyer" means Nutland's contracting party, being the (potential) buyer or a (legal) person on behalf of the (potential) buyer.
- 1.3 "Agreement" means the sales contract and/or further follow-up sales contracts between Nutland and the Buyer.
- 1.4 "Goods" means all goods to be sold by Nutland to the Buyer.
- 1.5 "Set aside" means "ontbinden" in the Dutch language.
- 1.6 "Terminate" means "opzeggen" in the Dutch language.
- 1.7 "Conditions" means these General Conditions of Sale of Nutland.
- 1.8 "Consequential Loss" means, inter alia, loss of profit, loss of business, loss of use, loss of production, loss of contract or economic loss or any other indirect or consequential losses or damages.

2. Applicability

- 2.1 These Conditions apply to all agreements concluded by Nutland and to all actions performed in connection therewith in as far as the main terms of these agreements do not stipulate differently.
- 2.2 In case of discrepancy, the main contract terms shall prevail over these Conditions, with the exception of Article 13 thereof, which will in any case apply, notwithstanding any provisions to the contrary.
- 2.3 In case of discrepancy between these Conditions and any standard-contract terms mentioned in the main contract, these Conditions shall prevail over the standard-contract terms.

- 2.4 These Conditions are applicable to every quote, offer, order confirmation and delivery of Nutland, and form part of every Agreement entered into by Nutland with the Buyer with regard to goods and/or services to be supplied by Nutland, as well as (legal) acts in connection with that, insofar as the parties have not explicitly deviated from these Conditions in writing.
- 2.5 The applicability of any general (purchase) conditions applied by the Buyer is explicitly rejected by Nutland.
- 2.6 Changes or supplements to these Conditions or the Agreement only bind Nutland after written confirmation thereof by Nutland and only relate to the agreement concerned.
- 2.7 Verbal arrangements and/or promises only bind Nutland if they have been confirmed by Nutland to the Buyer in writing.
- 2.8 If one or more of the provisions of these Conditions are void, the remaining provisions of these Conditions will remain in full force.

3. Offers and formation of the Agreement

- 3.1 All quotes and offers made by Nutland, both verbally and in writing, are free of obligation and can be revoked by Nutland at all times.
- 3.2 An Agreement is formed by the written confirmation thereof by Nutland, yet in any case at the moment that Nutland starts executing the Agreement. In the event of an instruction for partial deliveries, the Agreement is deemed to have been formed in full once the first partial delivery has been made.
- 3.3 Any arrangement, promises, supplements and/or changes made in or to the Agreement after order confirmation are only binding if agreed by the parties in writing.
- 3.4 If so deemed required or desired by Nutland, Nutland will be entitled to engage third parties in the execution of the Agreement, the costs of which will be passed on to the Buyer. Nutland will consult the Buyer regarding this in advance.

4. Prices

- 4.1 All prices are in the currency as agreed upon and exclusive of VAT of the relevant country, unless agreed otherwise in writing.
- 4.2 All prices stated by Nutland are based on delivery Ex Works ('EXW'), Incoterms 2020 of the International Chamber of Commerce in Paris, unless agreed otherwise in writing.
- 4.3 Any other costs to be incurred in connection with the delivery are not included in the price, insofar as not agreed otherwise in the Agreement.
- 4.4 If one or more cost price factors (including but not limited to ocean freight) are subject to an increase after the offer date regardless of whether this increase could have been foreseen, Nutland will be entitled to increase the agreed price accordingly.

4.5 Nutland will be entitled to charge taxes, import duties, levies and other taxes imposed by the authorities that were not known or in force at the time when the Agreement was concluded, or increases thereof.

4.6 Bank charges of Nutland's bank are for the account of Nutland. Any other bank charges are for Buyer's account. Payment must be made in such a way that the full invoice amount is available to Nutland on the due date, without any deduction and/or withholding and/or set-off.

5. Delivery and delivery period

5.1 All deliveries are made EXW, unless explicitly agreed otherwise in writing. Nutland is entitled to supply the Goods in parts.

5.2 In the event the Agreement stipulates deliveries by buyer's call-off, the deliveries will be called-off per full pallets evenly spread in time and quantity over the duration of the Agreement.

5.3 In the event the Buyer has not called-off the full quantity of the Agreement during the agreed period, Nutland will be entitled, at its discretion, to demand execution of the Agreement or terminate the Agreement or to partially or fully set aside it by means of an extrajudicial declaration, or to suspend the (further) execution of the Agreement.

5.4 Insofar as the parties, contrary to Article 5.1, in practices of trade agree on another Incoterm, these will be the Incoterms 2020 of the International Chamber of Commerce in Paris, unless explicitly agreed otherwise in writing.

5.5 Delivery times are stated for indicative purposes only and are never final. If the given delivery date or dates cannot be honoured by Nutland, Nutland will notify the Buyer thereof expeditiously, stating the newly expected delivery dates, without the Buyer being able to derive any right to any compensation from this or set aside or to cancel the Agreement.

5.6 As soon as (part of) the Goods delivered under the Agreement are processed and/or removed from the original packaging, (the quality of) the complete lot will be considered as fully approved by the Buyer.

6. Differences and deviations

6.1 Supplying 5% more or less than the ordered quantity is permitted. Differences are calculated at the unit price, unless agreed otherwise.

6.2 Minor deviations in terms of quality, colour, taste etc. in respect of the Goods sold do not give rise to rejection.

7. Transfer of ownership and risk

7.1 Nutland retains title to the Goods sold and/or delivered and/or processed until the moment the Buyer has fulfilled all his payment obligations and any additional costs.

7.2 In case the Buyer is also obliged to pay compensation to Nutland, the ownership of the Goods will only be transferred upon payment of the compensation in full.

- 7.3 During the period that ownership of the Goods remains vested in Nutland, the Buyer is obliged to carefully store the Goods supplied under retention of title and as the recognisable property of Nutland, while the Buyer will not be able to transfer the Goods to third parties (as security) and/or create security interests in these Goods.
- 7.4 If the Buyer fails in the fulfilment of his obligations towards Nutland, or if Nutland has reasonable grounds to fear that the Buyer will fail in the fulfilment of those obligations, Nutland, without prior notification, will be authorised to take back the Goods supplied, without prejudice to the right of Nutland to compensation.
- 7.5 If the Agreement is set aside by Nutland, the Buyer must immediately place the Goods at Nutland's disposal. The Buyer shall not have a right of lien (*Dutch: retentierecht*) in respect of the Goods and shall not effect prejudgment attachments to the Goods.
- 7.6 If pursuant to applicable EU or national legislation, or a measure or decision of the competent authorities (such as the NVWA, Skal or any other national or international control body with the authority to decertify the Goods), such as an inspection, a blocking, decertification or (silent) recall decision, Nutland is obliged to take measures that affect the Goods or the delivery thereof, such event and the consequences thereof are for the risk and account of the Buyer. Measures, or decisions taken by the competent authorities, after such delivery and the consequences thereof are for the risk and account of the Buyer. This includes also the decision and costs of objecting such decisions if deemed necessary by the Buyer.
- 7.7 The risk with regard to the Goods sold transfers upon delivery, which will be EXW, unless agreed otherwise in writing.

8. Transport documents

- 8.1 The copy held by Nutland of the transport document signed by the carrier for receipt will serve as full evidence of the dispatch of the quantities stated on the transport document, as well as of the external condition of the Goods.
- 8.2 If contrary to Article 5.1, alternative delivery conditions are agreed, the transport document signed by or on behalf of the Buyer for receipt, without comments, will serve as full evidence of the dispatch of the quantities stated on the transport document, as well as of the external condition of the Goods.

9. Complaints

- 9.1 Upon delivery, the Buyer is obliged to inspect the Goods and/or documents in respect of the goods to verify whether they conform to the Agreement.
- 9.2 Prior to delivery, compliance with EU food law provisions and/or with the agreed product specifications is verified by the Buyer in respect of certain qualities and/or specifications. While the Goods are a product of nature, the features of which may vary in every respect throughout any delivered quantity, Buyer without reservation accepts any report and/or certificate provided by Nutland demonstrating compliance in respect of such qualities and/or specifications with regard to the Goods delivered, or to be delivered, under the Agreement as full and final evidence of such compliance at the time of delivery. Complaints based on analysis of the Goods after delivery are not accepted by Nutland.

- 9.3 Complaints with regard to the quantity of the Goods must be immediately noted down on the confirmation of receipt, upon handover of the Goods to the Buyer or recipient of the Buyer. Complaints with regard to the quality of the Goods must be submitted to Nutland in writing immediately or at least within twenty four (24) hours of receiving the Goods, together with pictures of the relevant product. Complaints in respect of product safety shall be made by the Buyer to Nutland immediately by e-mail at quality@nutland.nl as well as by phone at +31 70 820 97 77 mentioning all relevant information regarding possible dangers, including the measures taken by the Buyer.
- 9.4 Complaints with regard to invoices must also be submitted in writing, within five (5) days of the invoice date.
- 9.5 Following expiry of the terms referred to in Article 9.3 and/or the non-compliance with Article 9.4, the Buyer will no longer be able to invoke the goods and/or documents supplied not conforming to the Agreement.
- 9.6 Faults in part of the delivery do not constitute a right to refuse the entire delivery.
- 9.7 Goods returned without prior consultation with Nutland will not be accepted by Nutland. Return shipments are at the expense and risk of the Buyer.
- 9.8 Regardless of the previous paragraphs of this Article, complaints will not be accepted by Nutland if the goods supplied have been removed from the original packaging and/or processed and/or treated and/or supplied to a third party.
- 9.9 Complaints or disputes, of whatever nature, do not entitle the Buyer to suspend payment.
- 9.10 If any complaint is upheld by Nutland, Nutland, at its discretion, can either resupply the goods concerned or refund the purchase price, as part of which the goods concerned must be made available to Nutland in their original packaging and free from any damage. In all other respects, Nutland is not obliged to pay any damages, losses or costs.
- 9.11 The Buyer is not allowed to comment negatively about Nutland and/or the delivered Goods in the media, social media or otherwise, in the absence of which the Buyer will be liable towards Nutland for the damage to be suffered by the latter, including but not limited to damage to the image of Nutland.

10. Quantities, dimensions, weights and further details

- 10.1 Minor deviations – to be determined by trade custom – relating to specified dimensions, weights, quantities, colours and/or other such details are not deemed shortcomings by Nutland.
- 10.2 The delivered weight determined by Nutland, the delivering factory and/or silo company is final. However, if based on the purchase contract Nutland has to accept a method for determining the weight which is different from the customary method, the Buyer is also obliged to accept this determination of the weight as final.

11. Payment

- 11.1 Payments must be effected within fourteen (14) days of acceptance of the order confirmation by Nutland, in the agreed currency used for invoicing and by bank transfer, unless agreed otherwise in writing.
- 11.2 In case Nutland supplies goods in parts, Nutland will be entitled to invoice separately and the Buyer will be obliged to pay these invoices as if they were invoices for separate agreements.
- 11.3 If the Buyer fails to pay an amount owed before the due date, the Buyer is deemed to be in default by operation of law, without the need for any demand or notice of default. In that event, all amounts of Nutland owed by the Buyer will become immediately due and payable, regardless of whether Nutland has already invoiced these amounts. As such, Nutland will not be obliged to make any further deliveries to the Buyer and it is entitled to suspend all agreements entered into with the Buyer or to terminate or set aside them without judicial intervention, without prejudice to the obligation of the Buyer to pay compensation. This provision also applies if the Buyer dies, is declared bankrupt or applies for a moratorium on payments.
- 11.4 The Buyer is in no event entitled to any setoff, discount and/or suspension.
- 11.5 Both before and after conclusion of the Agreement, Nutland will be entitled to demand from the Buyer payment in advance or security, to ensure that payment and other obligations are fulfilled. If the Buyer has failed to meet this requirement within fourteen (14) days, Nutland will be entitled to set aside the Agreement, without judicial intervention and without being obliged to pay compensation.
- 11.6 In the event of a failure to pay (within the agreed payment term), the Buyer, without any demand or notice of default being required, from that date onward, owes interest in accordance with the commercial interest rate by virtue of Section 6:119a of the Dutch Civil Code (DCC), plus 2% on the outstanding amount, up to the date on which payment is received by Nutland.
- 11.7 If the Buyer fails in the fulfilment of his obligations, he owes extrajudicial (collection) costs, which are set at 15% of the principal sum owed, or 15% of the damage suffered or actual costs incurred for legal assistance, should those amounts be higher, as well as all legal costs.
- 11.8 Payments made by the Buyer will firstly be applied to reduce costs owed, subsequently to any interest due and finally to the invoice that has been outstanding for longest.

12. Force majeure

- 12.1 In the event Nutland is unable to partially or fully fulfil its obligations under the Agreement due to reasons that cannot be attributed to Nutland and/or that were unforeseen and/or could not reasonably be prevented, including, but not limited to, strikes, stagnation with suppliers, government measures and/or measures by order of any permit to be obtained from the government, export or transports, fire, flooding, natural and/or nuclear disasters, (threat of) war, diseases, epidemics and/or pandemics (like Covid-19), government measures including import and/or export restrictions in particular acts of Skal or any other national or international control body in respect of establishing the organic status of the Goods, material change in organic regulations and/or applicable law, change of licence of said control body, defective machinery, sudden substantial increase in the price of energy and/or raw materials etc., the obligations of Nutland will be suspended until Nutland will be able to fulfil its obligations in the agreed manner, where Nutland will not be deemed to be in default in any way or owe the Buyer any compensation.
- 12.2 In the event of partial deliveries, the above provision applies to each delivery separately.
- 12.3 Cases of force majeure invoked by the suppliers of Nutland, also apply to Nutland as a case of force majeure.

13. Liability and indemnification

- 13.1 Except in cases of intent or conscious recklessness on the part of its directors, Nutland is not liable for any damage that the Buyer or a third party might suffer as a consequence of the Goods supplied or services rendered by Nutland. Nutland shall never be liable in tort or for Consequential Loss arising from the Goods not being in conformity with the Agreement, recall(s) arisen at the Buyer or third parties, delayed, incorrect or incomplete delivery of the Goods or services concerned.
- 13.2 In the event that it is established by the competent court or arbitral tribunal that Nutland, despite the provision in the previous section, is liable for any of the damages meant there, its liability shall at any rate be limited to the amount that its insurance would pay out or, if there is no insurance cover, for whatever reason at all, to the invoice value of the Goods or services it provided that relate to its liability but to a maximum amount of € 50,000.00.
- 13.3 The Buyer shall indemnify Nutland from any claims by its agents, including its employees or representatives, and/or third parties, concerning damage for which Nutland has excluded and/or limited liability towards the Buyer.

14. Suspension, termination and setting aside of the Agreement

- 14.1 In the event that the Buyer fails to fulfil any of his obligations ensuing from the Agreement or fails to do so properly or in good time, as well as in the event of liquidation, moratorium or guardianship of the Buyer, or the discontinuation of his business, merger with or takeover of the Buyer by another party, Nutland, at its discretion and without being obliged to pay any compensation and without prejudice to any of its other rights, will be entitled to terminate the Agreement or to partially or fully set aside it by means of an extrajudicial declaration, or to suspend the (further) execution of the Agreement.

- 14.2 In the event of a situation as described in Article 12.1 (force majeure), Nutland will be entitled to set aside the Agreement. Reference is also made to Articles 17.2, 18.2 and 19.2.
- 14.3 In the event of setting aside by Nutland by virtue of Article 14.1, Nutland, at its discretion, by way of compensation, is entitled to:
- a) the possible negative difference between the contract price and the market value of the Goods as at the day of non-performance, or;
 - b) the difference between the contract price and the price of the covering sale, all this without prejudice to the right of Nutland to additional or alternative compensation.
- 14.4 Every right of the Buyer to set aside and/or terminate the Agreement is excluded.

15. Auxiliary persons

- 15.1 Nutland, without prior approval from the Buyer, is entitled to engage third parties for the execution of the Agreement. In the event Nutland has engaged a third party for the execution of the Agreement, these Conditions also serve to protect this third party towards parties other than Nutland and this third party will be able to rely on these Conditions towards parties other than Nutland.

16. Compliance

- 16.1 The Buyer accepts that on the basis of applicable regulations or upon request of a(n) (inter)national control body such as customs, Skal or the Netherlands Food and Consumer Product Safety Authority (NVWA), Nutland may be obliged to furnish information or to identify the Buyer and to verify the identification. The Buyer shall fully cooperate in this respect. Nutland will record and keep the required data in accordance with applicable regulations.

17. Sanctions and exportrestrictions

- 17.1 The Buyer guarantees the compliance with all applicable sanctions and limitations laid down in and following from all relevant sanctions and export control regulations (including, but not limited to those of the Netherlands and/or the European Union and/or the United States and/or the United Kingdom and/or the United Nations) in force at the time of conclusion of the Agreement and during its performance.
- 17.2 Nutland is entitled to immediately set aside the Agreement, if it supposes in reason that:
- a) the Goods are directly or indirectly intended for any country or industry for which a sanction is in force for the relevant Goods;
 - b) directly or indirectly sanctioned parties are involved in the financial transaction, or if the financial institutions involved in the transaction have serious doubts about this as a result of which they do not authorize and/or execute the financial transaction;
 - c) if at any time the Goods would (or will) qualify as Dual Use goods and for which – categorically or due to the lack of sufficient *end use / end user* information – no exemption or license is granted; or
 - d) there may be intentional circumvention of the objectives of applicable sanctions and export regulations.

18. Anti-corruption

18.1 The Buyer guarantees that it will comply with all relevant and/or applicable legislation in the field of anti-corruption – including, but not limited to legislation of the Netherlands and/or the European Union and/or the United States and/or the United Kingdom and/or the United Nations and/or any other country relevant to the performance of the Agreement – in performing all acts related to the performance of the Agreement.

18.2 Nutland is entitled to immediately set aside the Agreement if it reasonably suspects that the Buyer and/or third parties engaged by the Buyer violate the regulations referred to in Article 18.1.

19. Unusual transactions

19.1 The Buyer accepts that Nutland will report unusual transactions to the competent authorities on the basis of applicable regulations for the prevention of money laundering and terrorist financing.

19.2 Nutland is entitled to immediately set aside the Agreement if it reasonably suspects that the Buyer and/or third parties engaged by the Buyer violate the regulations referred to in Article 19.1.

20. Time limit

20.1 Any claim against Nutland must be brought before the competent court or arbitration tribunal no later than six (6) months after delivery of the claim related Goods and/or after the expiration date of the claim related Goods has expired, failing which any rights, including but not limited to the right to compensation and/or performance extinguishes.

21. Language

21.1 In the event of deviation between the Dutch text of these Conditions and a translation into a foreign language, the Dutch text will prevail.

22. Applicable law and jurisdiction

22.1 An international legal relationship between Nutland and the Buyer is governed by the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention/CISG) and, in addition, by Dutch law.

22.2 Any disputes following from or relating to these Conditions or the agreement(s) between Nutland and the Buyer will be settled exclusively by means of arbitration at the Netherlands Association for the trade in dried fruit, species and allied products ('NZV-arbitration'; <https://www.zuidvruchten.nl/bestuur/condities-en-arbitragereglement/>) in Rotterdam, the Netherlands. Regardless of the above provisions of this article, Nutland is always free to submit disputes as referred to above to the competent court of the country in which the Goods are located or will be located – in case they are transported – or the competent court of the country in which the Buyer is established.

Verlängerter Eigentumsvorbehalt

(i) Nutland behält sich das Eigentum an der Ware bis zum Eingang aller Zahlungen aus dem Kaufvertrag vor. Die Verarbeitung oder Umbildung der Ware erfolgt stets für Nutland als Hersteller, jedoch ohne dass hieraus Verpflichtungen für Nutland resultieren. Wird die Ware mit anderen, Nutland nicht gehörenden Gegenständen verarbeitet, so erwirbt Nutland das Miteigentum an der neuen Sache im Verhältnis des Wertes der Ware zu den anderen verarbeiteten Gegenständen zur Zeit der Verarbeitung. Erlischt das (Mit-)Eigentum Nutlands durch Verbindung, so wird bereits jetzt vereinbart, dass das (Mit-)Eigentum an der einheitlichen Sache wertanteilmäßig (Rechnungswert) auf Nutland übergeht. Der Käufer verwahrt das (Mit-)Eigentum Nutlands unentgeltlich. Die Ware, an Nutland (Mit-)Eigentum zusteht, wird im folgenden als Vorbehaltsware bezeichnet.

(ii) Der Käufer ist berechtigt, die Vorbehaltsware im ordentlichen Geschäftsgang zu verarbeiten oder zu veräußern, solange er nicht mit seinen Zahlungsverpflichtungen in Verzug ist. Verpfändungen oder Sicherungsübereignungen sind unzulässig. Die aus dem Weiterverkauf oder aus einem sonstigen Rechtsgrund (Versicherung, unerlaubter Handlung) bezüglich der Vorbehaltsware entstehenden Forderungen gegen Dritte tritt der Käufer bereits jetzt sicherungshalber im vollen Umfang an Nutland ab. Nutland ermächtigt den Käufer widerruflich, die an Nutland abgetretenen Forderungen für dessen Rechnung im eigenen Namen einzuziehen. Diese Einzugsermächtigung kann nur widerrufen werden, wenn der Käufer seinen Zahlungsverpflichtungen nicht ordnungsgemäß nachkommt.

(iii) Bei Zugriffen Dritter auf die Vorbehaltsware wird der Käufer auf das Eigentum des Nutlands hinweisen und diesen unverzüglich benachrichtigen.

(iv) Bei vertragswidrigem Verhalten des Käufers – insbesondere Zahlungsverzug – ist Nutland berechtigt, die Vorbehaltsware zurückzunehmen oder ggf. die Abtretung der Herausgabeansprüche des Käufers gegen Dritte zu verlangen. In der Zurücknahme der Vorbehaltsware sowie in der Abtretung der Herausgabeansprüche an Nutland liegt kein Rücktritt vom Verträge.

(v) Nutland verpflichtet sich, die ihm zustehenden Sicherheiten auf Verlangen des Käufers insoweit freizugeben, als der Wert der Sicherheit die zu sichernden Forderungen um 20% übersteigt. Für die Bewertung des Sicherungsgutes ist, auch soweit es be- oder verarbeitet worden ist, der Kaufpreis maßgebend. Die Bewertung abgetretener Forderungen erfolgt zu deren Nennwert.