



# GENERAL TERMS AND CONDITIONS OF SALE

Gruppo Burgo Via Piave 1, Altavilla Vicentina – 36077 Italia

*In force from October 2021*

## SCOPE OF APPLICATION

General terms and conditions of sale and supply applied by the following Burgo Group companies (jointly referred to as Burgo Group and/or Seller):

**Burgo Group S.p.A.**

## PRODUCTS

Containerboard (as identified on [www.burgogroup.com](http://www.burgogroup.com)).

### 1. GENERAL

- a) The sales and supply contracts for the Products, as identified above, concluded with Burgo Group (Seller) are concluded under the following general terms and conditions.
- b) The buyer/transferor/contractor (hereinafter: the Customer) by sending the Order Proposal and with subsequent receipt of the Order (see Art. 2), declares to unconditionally accept the contents and application of these General Terms and Conditions of Sale and Supply, which are published at [www.burgogroup.com](http://www.burgogroup.com) and which it declares to have reviewed and expressly and unconditionally accepted.
- c) It is agreed that these General Terms and Conditions of Sale and Supply shall also apply to future contracts and even if reference is no longer made to them. Any general terms and conditions of the Customer shall not apply unless expressly accepted in writing by the Seller.

### 2. COMMITMENTS – ORDERS

- a) All order proposals shall be deemed to have been sent with the clause “subject to final approval by the company”. Consequently, orders in any form submitted by the Customer are/will be in no way binding for the Seller, which may not accept them and/or partially accept them at its discretion. The Seller’s non-acceptance and/or partial acceptance of the order proposal shall not result in any right on the part of the Customer for any reason or cause whatsoever.
- b) The agreements made with the Burgo Group Companies operating as the Seller’s agents, brokers, agents, representatives and in general with associates, have no binding effect on the Seller.
- c) The order shall be deemed completed when the Customer receives written acceptance (Order Confirmation) from the Seller. The contents of the Order Confirmation, which constitute the Contract together with these General Terms and Conditions, shall be decisive for the performance of the requested service.
- d) With the exception of force majeure and/or express agreement between the Parties, any cancellations of orders which have already been confirmed shall have no effect, without prejudice to the right of the Seller to request the Customer, in addition to payment of the price of the goods of the order, to pay compensation for any direct and/or indirect damage suffered by the former, with no exceptions.
- d) The Seller reserves the right to proceed with partial sales and/or supplies.

### 3. PRICE

- a) The supply and/or sale price of the products is what is shown in each Order Confirmation, plus the value added tax valid for each country and/or period of reference, customs charges as well as any charges for ancillary services (such as storage costs). In the event of a conflict between the Customer’s Purchase Order and the Seller’s Order Confirmation, the terms and conditions contained in the latter shall prevail.
- b) Unless otherwise agreed, the prices are always ex-works/warehouse of the Customer and for packaged goods, without

unloading. The Seller shall apply the standard packaging methods for each sale/supply. Additional costs for any packaging other than what is provided by the Seller shall be borne exclusively by the Customer, with express assumption of the risks of damage during transport and storage associated with the type of packaging. It is understood that the packaging of the goods is provided and is to be used solely for the purpose of transporting the goods and expressly excludes any possible use as a storage unit and/or for other purposes.

c) The sale/supply price shall remain unchanged provided that the goods are collected by the delivery date/shipping date shown in the order confirmation. In the event of a delay in delivery due to the Customer's request and/or fault, the Seller shall have the right to apply the price plus any increases in force at the time of actual delivery in addition to the storage indemnity of € 1.00/tonne for each day of delay or the same amount converted into the different currency agreed upon for the purchase.

d) Unless otherwise agreed between the parties, in the event that the delivery date shown in the Order Confirmation is expressly defined as "upon request", the Customer undertakes to collect the goods no later than 60 days from the delivery date shown in the Order Confirmation. It is understood that the price agreed and shown in the Order Confirmation shall remain unchanged for the aforementioned period of 60 days, after which the Seller shall have the right to apply any price increases that may have occurred in addition to the storage indemnity of € 1.00/tonne for each day of delay. In any case, once the aforementioned period has passed, the Seller is authorised to invoice the agreed price for the goods, plus any increases, without prejudice to the right to invoice the cost of storage within 15 days of the actual delivery of the goods (as identified in Art. 4 below).

e) If collection is delayed because of the Customer and as referred to in points c) and d) above, it is understood that the Customer acquires ownership of the goods and all the associated risks, including loss, damage, etc., from the day of delivery referred to in the Order Confirmation and/or from the expiry of the additional period. Application of Articles 1766 et seq. of the Italian Civil Code is expressly excluded, with the exception of the provisions of Art. 1782 of the Italian Civil Code, where applicable, given the nature of the goods.

f) In the case of sale/supply of goods in non-EU countries and/or in any case outside the euro zone, prices are determined with reference to the current exchange rate at the time of acceptance of the order, subject to the application of a tolerance threshold of 5%. The Seller shall have the right to apply the currency adjustment if at the time of invoicing the exchange rate has exceeded the threshold of 2% (or in the case of sales/supply relationships to be paid in a currency other than the euro, if the devaluation of the agreed currency exceeds 5%, the Seller shall have the right to apply the corresponding currency adjustment to the price. This currency adjustment shall apply in the case of invoices issued for the amount not yet collected).

#### **4. ORDER PROCESSING – TRANSPORT – INSURANCE**

a) Unless the delivery date is not expressly established in the Order Confirmation and in all cases of orders pursuant to Art. 3 letter d above, the Customer is obliged to notify the Seller in writing of the date of each collection of goods at least 3 days in advance of the expected delivery date. If the Customer collects the goods by its own means, it must provide all the indications and information relating to the Carrier at least 48 hours in advance for the preparation of the transport document. Otherwise, the Seller may refuse delivery and request payment for all costs and damages incurred.

b) In any case in which the Customer refuses to collect the goods on the established date, the Seller shall have the right to immediately invoice the goods and keep them at the Customer's disposal, unless, at its discretion, it deems it more appropriate to terminate the contract. In any case, the Seller shall have the right to reimbursement of the expenses incurred and compensation for all resulting damages.

c) The delivery dates/shipping dates stated in the Order Confirmation are not binding for the Seller, who reserves the right to inform the Customer of the exact date of delivery of the goods.

d) For DDP, FOB and CIF sales/supplies, the applicable pro tempore INCOTERMS clauses shall apply.

e) With the delivery of the goods to the carrier/forwarding agent, the Order is considered to have been fulfilled and, consequently, having fulfilled its obligation, the Seller has the right to request payment of the amount due in accordance with the terms and methods set out in Art. 8 below.

f) It is understood that the Seller may suspend and/or cancel, by way of withdrawal, subsequent sales/supplies of goods in the event that the Customer is in default and/or in arrears with the payment of the amount due for sales/supplies already carried out, without prejudice to the rights of the Seller under point h) below and Articles 8 and 10.

g) The Seller may, at its sole discretion, require the Buyer to pay for deliveries in advance or to provide guarantees of correct fulfilment of the service.

h) In the event of repeated delays in payment or changes in the Seller's reasonable assessment of the Buyer's financial standing, the Seller is within its right to terminate the Contract or require prepayment or other guarantees, if these have not been agreed in advance, and the Buyer shall bear the resulting costs and expenses.

i) The Buyer shall not be entitled to withhold payment of any amount due to the Seller, nor shall the Buyer have any right to compensation, unless the Buyer's counterclaims are acknowledged by the Seller in writing, undisputed or recognised by a final and legally binding court decision.

l) It is understood that the provisions of points a, b and e above do not apply in the cases in which goods are delivered at the Seller's expense.

## 5. DELIVERY AND TRANSFER OF RISK

- a) Pursuant to the provisions of Art. 4(e) above and without prejudice to the cases referred to in Arts. 3(d) and 3(e), the risk of partial or total damage to the goods shall pass to the buyer upon delivery of the goods at the latest. In the event of delayed delivery due to circumstances dependent on the Buyer, the risk shall pass to the Buyer on the date of notification that the goods are ready to be shipped.
- b) In the case of FOB deliveries, the risk of loss of the goods shall be borne by the Buyer from the time of loading of the Products onto the vessel designated by the Buyer. In the case of CFR and CIF deliveries, the international standards in force at the time will apply.
- c) In the case of DDP deliveries, all risks shall pass to the Buyer upon delivery to the Buyer's premises or other agreed point of delivery.
- d) If, at the request of the Buyer, the Seller is required to deliver the goods to any place other than the place of performance set out in the Order Confirmation, without prejudice to the right to claim payment of additional costs, all risks shall pass to the Buyer upon delivery of the Products to the forwarding agent, carrier or other person or agency appointed to collect them ("Appointed Forwarding Agent").

## 6. SUBJECT OF THE CONTRACT – GUARANTEE – COMPLAINTS

- a) The subject of the contract is exclusively the goods described in the order confirmation prepared by the Seller. The Seller guarantees that the Products delivered will comply with the characteristics set out in the technical data sheets published on [www.burgogroup.com](http://www.burgogroup.com) and which the Buyer declares to understand and accept.
- b) Unless a higher guarantee is specified in the contract, the characteristics of the product and all parameters (weight, grammage, number, dimensions, etc.) defining the supply are guaranteed within the tolerances, dispersion of values, testing and verification methods provided for in the CEPI standards General Conditions of Sale of Paper and Board Manufacturers in EEC – 1991, which the Customer expressly declares to understand and accept.
- c) In the case of goods intended for uses requiring specific suitability requirements or different technical characteristics, the Seller shall issue the corresponding guarantees only and to the extent that such uses and characteristics and the corresponding guarantee request have been expressly indicated in the subsequently confirmed order.
- d) Any sample or model presented and/or sent to the Customer has the sole purpose of illustrating the normal quality of the goods and may never be used as proof of a quality defect against the Seller, bearing in mind that for each relationship the characteristics indicated in the order confirmation shall be the sole reference.
- e) The Customer must check the goods upon receipt. Within 6 days of receipt and/or use, the Customer must report any defects in the goods in writing by registered letter with return receipt or by fax, stating specifically, under penalty of ineffectiveness, the defects found, attaching a sample and indicating the invoice number and the number of packages. The Customer must report any missing goods to the Seller in writing, under penalty of forfeiture, no later than 24 hours after receipt.
- f) In the event of hidden defects, the Customer must report them within 6 days of their discovery and, in any case, no later than 3 months from receipt of the goods, in accordance with the procedures set out in the Complaints Procedure issued by the Seller and which the Customer declares to understand and accept.
- g) The deadlines referred to in this article shall be considered as final and essential in the interest of the Seller; it follows that any complaints made after the established deadlines shall have no effect.
- h) The Seller is not liable for damage caused by carelessness, improper and/or incorrect storage of the product, deterioration, misuse and, in general, for any indirect damage.
- i) Any disputes about individual batches shall have no effect on the remainder of the order.
- l) In the event of activation of the guarantee for acknowledged defects, the Seller may replace the goods or reduce and/or refund the amount specified in the order confirmation. In the case of acknowledged and proven missing quantities (shortfall in supply), the Seller shall have the right to make up the missing goods or to reduce the price proportionally.
- m) The Seller shall only be liable for wilful misconduct or gross negligence for the liability scenarios provided for in these General Terms and Conditions of Sale and within the economic limit of 50% of the value of the Order associated with the claim.

## 7. USE OF THE PRODUCT – BUYER'S INDEMNIFICATION OBLIGATIONS

- a) The Buyer must use the Seller's Products in accordance with the technical specifications and uses set out in the Seller's technical data sheets.
- b) The Seller is not liable for damages due to defects in a final product of the Buyer of which the Products constitute a part and/or component due to application of the principle of liability of the Producer of the final product.
- c) The Buyer shall indemnify and hold harmless the Seller, its directors, employees, affiliates and agents, from and against

any and all claims, actions, claims by third parties, proceedings, losses, liabilities, claims, damages, assessments, rulings, compromises, transactions, fees, expenses (including legal fees, interest, penalties, investigation expenses and costs of proceedings) which are caused by, relate to, arise from or are in connection with any claim for damages caused by Buyer's misuse of the products.

## 8. PAYMENT TERMS

- a) The Customer shall pay the price within 30 consecutive calendar days from the invoice date, unless otherwise agreed in writing between the Parties and/or otherwise provided for by the law in force at the time.
- b) According to Art. 1193(2) of the Italian Civil Code, payment is applied first to interest, then to the overdue payable, where there are several overdue payables, to the least secured, where there are several equally secured payables, to the most onerous for the debtor; where there are several equally onerous obligations, to the oldest. If these criteria are of no help, the allocation is made in proportion to the various payables.
- c) Payment of the price shall be made in the manner indicated in the Order and/or invoice. Arrangements other than those expressly indicated must be agreed upon by the parties in writing. In the case of payments by means of bills of exchange, cheques and/or other credit instruments, the costs of collection shall be borne by the Customer and the obligation shall only be deemed to have been fulfilled when the Seller has collected the money in full.
- d) Payment of the price or of individual instalments may not be deferred for any reason whatsoever, including complaints. The Customer may not bring any legal action against the Seller, including any action of objection and/or counterclaim and/or set-off, upon full performance of its obligation to pay the price and any ancillary charges (e.g. interest on arrears). The right of the Customer to proceed to set-off without the prior formal consent of the Seller is expressly excluded.
- e) In the event of late payment, the Seller shall be entitled to payment of interest on arrears at the legal interest rate.
- f) In the event of partial or total non-payment of a supply, even if contested by the Customer, the Seller shall have the right to i) suspend or terminate any other relationship and/or order and/or supply and/or subsequent delivery, ii) revoke any "recall" sales clause, iii) request immediate payment of all invoices issued and not expired, iv) terminate any contractual relationship in place with the Customer due to fault of the Customer pursuant to Art. 1456 of the Italian Civil Code, without prejudice to any other action.

## 9. FORCE MAJEURE – SUPERVENING EXCESSIVE BURDEN

- a) In the event of impossibility or significant temporary difficulty in preparing the goods, due to circumstances arising and not attributable to the Seller or its suppliers, such as impediments due to force majeure (for example public emergencies, natural disasters, strikes and worker protests — even if only within the company — lockouts, redundancy funds, binding provisions of the Authority, difficulties and/or suspension of traffic and/or transport services, interruptions, energy or fuel shortages, lack of raw materials, fires, machinery breakdowns, pandemics and epidemics, factum principis etc.), the Seller may, at its discretion, reduce the quantity of the goods and/or postpone the delivery date for a maximum period of 90 days and/or terminate the contract. It is understood that the Customer shall not be entitled to fees or reimbursement of any kind, indemnities and/or compensation for damages.
- b) In the event that the Seller has not exercised its right of withdrawal, the Customer remains obliged to collect the goods and proceed to pay the amount due.
- c) The Seller shall have the right to suspend and/or cancel any Order, even if already confirmed, in the event that the performance of the service is excessively onerous for the Seller pursuant to Art. 1467 of the Italian Civil Code due to unforeseeable and/or extraordinary events and in any case beyond the Seller's control.

## 10. RETENTION OF TITLE

- a) The goods delivered are and shall remain the property of the Seller until all receivables, including ancillary receivables, arising from the business relationship with the Customer have been satisfied, even if arising from different sales/supply contracts and with the express exception of the principle of *lex rei sitae*.
- b) If payment of the price has been made by means of a credit instrument and/or banker's draft, the right of ownership of the goods shall remain with the Seller until actual collection of the amount.
- c) The Customer may not assign the goods subject to retention of title as security and/or pledge them or subject them to any other form of collateral.
- d) Retention of title does not exclude the Customer's right to use, process and sell the goods as part of its normal course of business. If the reserved goods are transferred to a third party, even if they have been processed together with other products, or if the retention of title is not applicable, the Customer hereby transfers, and the Seller accepts, the credit arising from the transfer at an amount equivalent to its debt. In the event of processing with different goods not owned by the Seller, the Customer hereby transfers to the Seller, who accepts, the ownership and/or co-ownership of the goods resulting from the processing up to the amount of the share of the goods subject to retention of title.
- f) In the event of default by the Customer, the Seller shall have the right to demand the immediate return of the goods.

g) The Buyer shall adequately insure the goods still owned by the Seller but at its disposal against all common risks, in particular against fire, loss of material, theft or water damage at the Buyer's own expense; the Buyer shall, until full payment of the price, act as custodian and depositary of the Goods owned by the Seller and accordingly assume the obligation to handle and store the stored Goods with care in an appropriate manner.

h) In the event that the Buyer is in arrears with payment, considering a grace period of 10 working days, the Seller shall have the right to demand the return of the goods delivered or to take back the goods and sell them as they are (i.e. including their packaging) to a third party. In the event that the delivered goods are sold to third parties by the Seller, the Buyer declares and guarantees that this does not result in the infringement of any intellectual property rights (e.g. trademark rights with respect to symbols, logos and words, etc.) that are printed on the respective products or packaging and waives any rights the Buyer may have against the Seller on the grounds that the Seller's action arises from the Buyer's default.

i) At its discretion, the Seller may, however, also terminate the unpaid order without this constituting an implicit waiver of the right to proceed for compensation of all costs incurred and/or damages suffered either directly or indirectly related to the default of the Buyer

#### **11. WITHDRAWAL – EXPRESS TERMINATION CLAUSE**

a) Without prejudice to the provisions of the previous article, the Seller reserves the right to withdraw from any legal relationship with the Customer by means of written notice of no less than 60 days.

b) The Seller has the right to terminate any existing legal relationship with the Customer by means of a registered letter without the need for a notice of default, without prejudice to action for compensation of further damages suffered in the following cases:

- refusal to collect the goods;
- complete or partial suspension of the payment of sums due for any reason to the Seller;
- insolvency, liquidation, including voluntary liquidation, or bankruptcy proceedings, or if protests are raised against it or in the case of pending proceedings for movable and/or immovable property.

The existence of such situations shall be verified on the basis of the legislation in force in the Customer's country of origin.

#### **12. INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES**

a) The Buyer shall be solely responsible for obtaining intellectual property rights in the goods design ordered as well as in all printed material, drafts and samples completed and shall indemnify and hold harmless the Seller against all claims, costs, damages and expenses (including legal fees) arising from any actual or alleged infringement of any third-party intellectual property rights.

b) Notwithstanding the foregoing, intellectual property rights in any specifications written or determined by the Seller, as well as drawings, samples, sample rolls, models and other information attributable to the Seller shall remain the exclusive property of the Seller.

c) The Buyer shall not invoke any intellectual property rights, copyrights or any other rights on specifications written or determined by the Seller or by the design, samples, sample rolls, models and other information attributable to the Seller, nor produce or cause to be produced for itself or for any third party any item in which, or in the manufacture of which, any information or knowledge of the Seller has been used directly or indirectly; nor shall the Buyer use any of the designs, documents, information or knowledge directly or indirectly made available or disclosed to it by the Seller for the purpose of securing intellectual property rights or copyrights or preventing the concession of intellectual property rights or copyrights to the Seller.

d) If the Buyer secures any intellectual property rights in breach of Articles 12.b and 12.c, the Buyer shall voluntarily transfer such rights to the Seller without charge. The costs incurred for registration of said transfer by the competent authority shall be borne by the Buyer.

#### **13. PRIVACY – DATA PROCESSING – CODE OF ETHICS – ORGANISATION AND MANAGEMENT MODEL PURSUANT TO ITALIAN LEGISLATIVE DECREE NO. 231/01.**

a) The Buyer shall keep confidential all information received from the Seller in any form and format, in particular but not limited to know-how, specifications, formulas, samples and company data. The obligation to maintain secrecy shall remain in force irrespective of any termination of the business relationship between the parties until such time as the information has entered the public domain through no fault of the Buyer.

b) Where applicable, the Customer expressly authorises the Seller, as per Regulation (EU) no. 679/2016 General Data Protection Regulation – GDPR, to process the information and data provided in accordance with the provisions of the Privacy Code.

c) The Customer also declares that it has been informed that it is the holder of the rights provided for in the aforementioned law and of the manner in which they may be exercised.

d) The Customer expressly authorises the Seller to disclose its data within the Group for statistical, commercial, marketing, credit protection, credit management and transfer purposes.

e) The Customer undertakes to comply with all the provisions of the Burgo Group Code of Ethics, the contents of which it declares to know and understand. The Customer also undertakes to comply with the Organisation and Management Model pursuant to Italian Legislative Decree no. 231/01, the contents of which it declares to know and understand. The Burgo Group Code of Ethics and the Organisation and Management Model are available at [www.burgogroup.com](http://www.burgogroup.com).

#### **14. PLACE OF PERFORMANCE – APPLICABLE LAW – JURISDICTION**

a) The Contract and the General Conditions shall be governed by the national law applicable to the Seller, as in force at the time the Contract is concluded.

b) The applicability of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

c) All disputes arising out of or in connection with any Contract or these General Terms and Conditions or any breach, termination or invalidity thereof, shall be subject to the exclusive jurisdiction of the court of Vicenza, Italy.

#### **15. MISCELLANEOUS**

a) Any communication relating to the Contract or any delivery of goods governed by these General Conditions must be in English or Italian.

b) Any communication made on behalf of the Seller shall only be legally binding if issued by the required number of authorised representatives (managing directors, authorised signatories, proxies).

c) The Buyer shall not be entitled to assign any of its rights or obligations under the Contract without the prior written consent of the Seller.

d) If any part or provision of these General Terms and Conditions or the application of such part or provision to any person or circumstance should be deemed invalid, illegal or unenforceable in any respect by any competent arbitral tribunal, court, government tribunal or administrative authority, a) such invalidity, illegality or unenforceability shall not affect any other part or provision of these General Terms and Conditions or the application of such part or provision to any other person or circumstance, and b) the Buyer and the Seller shall endeavour to negotiate a replacement provision which best reflects the economic intentions of the invalid, illegal or unenforceable part or provisions of these General Terms and Conditions without being invalid, illegal or unenforceable, and shall execute all agreements and documents required in this respect.

e) No waiver of any provision by the Seller shall be deemed to be a waiver of any subsequent breach by the Buyer.

f) Any agreements between the Seller and the Buyer must be made in writing. Verbal agreements are null and void. Amendments to these General Terms and Conditions shall only be effective if made in writing. This requirement is also deemed to be met in the case of transmission by fax or certified e-mail (PEC).