

**MANUCHAR GROUP**

# **General Terms and Conditions of Sale**

**Manuchar**

Your partner in emerging markets

## 1. Scope of Application

**1.1.** All of our supplies, sales, services and related offers, quotations, (proforma) invoices, and contracts are governed by these general terms and conditions of sale (hereinafter the “Conditions”), unless explicitly agreed otherwise in writing in a separate agreement. In the event of a continuing business relationship, the Conditions shall also apply to future transactions even if the Conditions are not explicitly referred to. By placing an order, accepting an offer, quotation, (proforma) invoice or otherwise entering into a contract with Manuchar, the buyer (the “Buyer”) confirms and is deemed to have read and accepted these Conditions and to have renounced his own general terms and conditions, if any. The Buyer agrees that, except if explicitly confirmed in writing, no actions taken by Manuchar shall be interpreted as accepting any contractual provisions offered by the Buyer.

**1.2.** In these Conditions, Incoterms® shall mean the International Commercial Terms as most recently published at the time the transaction is concluded by the International Chamber of Commerce.

**1.3.** In the event of any conflict between the Conditions and any specific conditions agreed in writing by the Buyer and the Seller (“Specific Conditions”) the provisions of the latter shall prevail. The Conditions and any Specific Conditions shall hereinafter jointly be referred to as the “Contract”.

**1.4.** We reserve the right to amend, modify or otherwise alter the Conditions from time to time. The most recent version will always be available on the [Manuchar website](#), will be effective immediately upon publication on the [Manuchar website](#), and will cover all pending and future orders and any Contracts entered into after the date of publication.

**1.5.** The Conditions are available in different languages ([Download center | Manuchar](#)). In the event of inconsistencies, the English version of these Conditions available on the mentioned website shall prevail.

**1.6.** “Seller” or “Manuchar” shall mean the relevant company of the Manuchar group, including Manuchar NV, Manuchar Steel NV, Baubur NV, Parts Trading Company NV, LDI International NV, Manuchar International Trade Services NV, Manuchar Pulp & Paper NV, Manuchar Wood NV, Manuchar Europe NV and any of their affiliates except when the terms and conditions from a certain Manuchar group affiliate are specified as applicable.

## 2. Offers and Orders

**2.1.** Seller’s offers and quotations are non-binding and are subject to, in particular, credit cover approval and/or credit cover being available, unless agreed otherwise in writing. Any offer or quotation, confirmed by the Buyer – either orally or in writing – within the validity term stated in the offer or quotation, shall be considered a binding order to the Seller to enter into a contract, subject to the terms and conditions stipulated therein and the Conditions. The Buyer cannot cancel any order, except with the Seller’s explicit written approval.

**2.2.** Upon receipt of Buyer’s confirmation, and subject to acceptance by the Seller, the latter issues a proforma invoice (the “Proforma”) to be signed by the Buyer. Unless the Proforma provides otherwise, it is to be returned duly signed to the Seller within two (2) business days of receipt, in the absence of which the Seller cannot be held liable in any way in relation to the order, whether contractually or extra contractually.

**2.3.** For the avoidance of doubt, any contracts, as well as supplements, modifications or ancillary agreements, shall be deemed entered into only upon (i) the Seller’s written confirmation through the Proforma invoice (without prejudice to any reservations to which the Proforma is made subject) or (ii) the Seller’s signing of the (ancillary) contract, supplement or modification.

### 3. Prices

**3.1.** Prices include the taxes, levies, duties, costs, insurance, and charges, to the extent that they are for the Seller's account in accordance with the prevailing Incoterm®. All other costs or charges, including value added tax or any similar foreign tax, levy or duty in any jurisdiction, are excluded and for the Buyer's account.

**3.2.** The Seller shall be entitled to increase any prices agreed upon when justified in response to any changes in the costs of supplying the goods to the Buyer (e.g. import/export duties or other levies, insurance premiums, freight or commodity market rates) or if relevant, with a hardship allowance (e.g. in the event of flood, low water or ice).

### 4. Delivery

**4.1.** Times of delivery are only estimates and not guaranteed unless expressly agreed otherwise in writing. In any case, the Seller will not be liable in respect of any loss or damage incurred by the Buyer arising from or in connection with any delay in delivery of the goods or performance of any service. Moreover, the Seller shall only be obliged to supply within the scope of its existing capacities and taking account of prior orders placed by other customers.

**4.2.** The Seller's obligation to supply shall be suspended as long as the Buyer is in arrears with any payment towards the Seller or any company affiliated to the Seller, this without notice and without prejudice to the Seller's or the relevant company's right to claim compensation. If any doubt exists as to the Buyer's ability to fulfil its payment obligations towards the Seller, the latter reserves the right to suspend transport or deliveries until satisfactory securities have been provided or advance payment has been made, as requested by the Seller at its sole discretion.

**4.3.** Unless otherwise agreed, the Seller shall be entitled, at all times, to deliver the goods in instalments. Each instalment shall be treated as if it constituted a separate and distinct contract with the Buyer. Any failure, suspension, or delay by the Seller in respect of any part delivery of the goods or the discovery of any defect in any of the goods thus delivered shall not entitle the Buyer to cancel the remainder of the Contract and shall not affect the obligations of the Buyer in respect of the remainder of the goods.

### 5. Transport and Risk

All transport is carried out in accordance with the agreed Incoterm® or, in the absence thereof, at the Buyer's risk. In case the Seller arranges the transport, the Seller reserves the right to determine or arrange for route, means of transportation, as well as packaging of the goods unless otherwise agreed upon in writing.

### 6. Acceptance, Inspection and Claims

**6.1.** The Buyer must take delivery of the goods immediately upon presentation. All costs incurred by the Seller relating to the Buyer's refusal to take delivery, or delay in taking delivery of the goods are for the Buyer's account, including costs of transportation and storage. If the risk for loss or damage to the goods has not been transferred yet to the Buyer according to the prevailing Incoterm®, such risk shall in any event transfer to the Buyer on the moment of refusal to take delivery and the Buyer shall be deemed to have taken delivery.

**6.2.** The Buyer must inspect the goods without delay. If any discrepancies are noted, the Seller shall be informed immediately and allowed to (appoint an inspector or surveyor to) inspect or survey the goods. Failure to immediately inform the Seller or not allowing the Seller or its designated inspector or surveyor to survey the goods, will cause any claim whatsoever to become void and null.

**6.3.** Any claim concerning quality or quantity must be received in writing by the Seller within seven (7) calendar days after the Buyer has taken delivery of the goods or after the moment the Buyer is deemed to have taken delivery. However, quality defects that could not have been discovered even through diligent inspection upon delivery must be notified within seven (7) calendar days after discovery thereof and in any event within three (3) months from the date of delivery or from the moment the Buyer is deemed to have taken delivery. All claims filed after the relevant period set forth in this Clause are time-barred.

**6.4.** Claims shall be sent to the Seller by registered letter, and the date of receipt by the Seller shall be considered as the date of presentation of the claim.

Claims addressed to Manuchar NV, Manuchar Steel NV, Baubur NV, Parts Trading Company NV, LDI International NV, Manuchar International Trade Services NV, Manuchar Pulp & Paper NV, Manuchar Wood NV, Manuchar Europe NV shall be sent to the following address: Rietschoorvelden 20, 2170 Antwerp, Belgium, to the attention of the Legal Department and the Buyer's contact person for the relevant transaction.

**6.5.** All claims shall be documented with an original inspection report of a neutral survey company accepted by the Seller. Claims lacking such inspection report shall be invalid and automatically rejected.

**6.6.** All goods under claim must be quarantined and therefore, stocked separately, clearly marked, and not used until the claim is settled, unless the Seller agrees otherwise in writing. Incompliance with this Clause renders the claim invalid.

**6.7.** No claims will be accepted once the goods are processed, resold or destroyed. Furthermore, the Buyer shall lose all rights to claim for defects if the goods were improperly handled or stored by or for the account of the Buyer.

**6.8.** No express or implied warranties are made by the Seller regarding the suitability of the goods for the purpose intended by the Buyer.

**6.9.** The Seller shall bear no liability in respect of the quality and specifications of the goods in case the Buyer had designated the party (e.g. manufacturer) supplying the goods to the Seller. In such event, the Seller shall use its commercially reasonable efforts to cooperate with the Buyer so that the latter may formulate a claim against the Seller's supplier.

**6.10.** For justified or accepted claims, the Seller shall, at its sole discretion, either (i) supply additional goods or replace the goods at its expense or (ii) refund the invoice amount partly or in full, or issue a credit note. Any and all further claims or demands of the Buyer on whatever legal basis are hereby rejected.

**6.11.** The Buyer agrees that the Seller may apply by way of set-off an amount equal to any monies or other liability owed from time to time by the Buyer or any member of the Buyer's group to the Seller, against any monies owed by the Seller to the Buyer.

## 7. Retention of Title

**7.1. Retention of title.** All goods delivered by the Seller shall remain its property until all outstanding debts (whether due or not) owed by the Buyer towards the Seller and towards any of its affiliates have been fully settled. Outstanding debts shall be considered settled in full when the respective funds are credited on the Seller's bank account. The Buyer shall be obliged to affix to the goods a sign clearly indicating that the goods are the Seller's property.

**7.2. Ownership of processed goods.** Retention of title under Clause 7.1. shall continue to apply where the goods under retention of title undergo treatment or processing. If the goods under retention of title are processed, combined and/or mixed with other materials by the Buyer, the Seller shall acquire co-ownership of the new product in the ratio of the invoice value of the goods under retention of title to that of the other materials used. If the Seller's ownership ceases as a result of combining or mixing, the Buyer hereby assigns title to the new products or materials to the extent of the invoice value of the goods under retention of title and shall store these on our behalf free of charge. The goods subsequently co-owned by the Seller shall be deemed to be goods under retention of title pursuant to Clause 7.1. above.

**7.3. Re-sale by Buyer.** The Buyer may only re-sell or process the goods under retention of title or mix them with other materials in the ordinary course of its business and if it is not in default. Pledges and transfer of ownership as security shall not be permitted. If payment of the purchase price by the customer is deferred, the Buyer shall ensure it retains title to the goods under retention vis-à-vis its customer on the same terms and conditions applied by the Seller to retain title of the goods.

**7.4. Assignment and collection of claims.** In the event of re-sale of the goods under retention of title, the Buyer hereby assigns to the Seller as security all claims for sums due to the Buyer from the re-sale - where the Seller co-owns the goods under retention of title in proportion to the Seller's co-ownership rights. The same applies to any other claims superseding the goods under retention of title or otherwise arising with respect to these, such as insurance claims or tort claims in the event of loss or destruction. The Seller hereby revocable authorizes the Buyer to collect the claims assigned to the Seller in its own name and for its own account.

**7.5. Duty of notification.** In the event of seizure of the goods under retention of title by any third party, in particular by attachment, the Buyer shall immediately disclose to such third-party the Seller's ownership of the goods and notify the Seller thereof to enable the latter to assert its ownership rights. To the extent that the third party is unable to reimburse the Seller for the legal costs incurred in this connection, the Buyer shall be liable for payment of such costs.

**7.6. Event of realization.** Should the Seller rescind the Contract due to a breach by the Buyer of any terms of the Contract, in particular in the event of delayed payment, the Seller shall be entitled to demand the return of the goods under retention of title.

**7.7.** If this retention of title is not enforceable towards third parties under any relevant law or in any relevant jurisdiction or as a result of any other reason, under any relevant law or in any relevant jurisdiction, the Seller shall be conferred to the security and collateral rights permissible under such law/in such jurisdiction as security for due payment of the invoice. The Buyer shall inform the Seller of the measures the Seller has to take to safeguard its rights and shall co-operate in taking such measures.

## 8. Payments

**8.1.** Payments are to be performed on the terms and in the currency as mentioned in the Contract or invoice, the latter prevailing in case of conflict. The amounts shown on the invoice shall be due and payable without any deductions or set-off whatsoever, except in case of the Seller's express written consent. No claim or invoice-discussion shall entitle the Buyer to suspend the payment of the related invoice. Any claim relating to the invoice must be presented to the Seller by registered letter or courier addressed as set forth in Clause 6.4. above, within seven (7) calendar days as from the date of the invoice.

**8.2.** Any loss as a consequence of the volatility in exchange rates is for the Buyer's account.

**8.3.** The Buyer undertakes to collect/accept all documents when presented by the Seller's bank or the bank's agents. The Buyer will also carry out all measures necessary for the immediate transfer of relevant funds.

**8.4.** Failure to pay the purchase price by the due date constitutes a material breach of contractual obligations.

**8.5.** Interest shall accrue on overdue payments at the rate set out in the Seller's invoices, or if no such rate is specified, at the official rate applicable in the jurisdiction of the Seller in case of late payments in commercial transactions increased by two percent (2%).

For payables to Manuchar NV, Manuchar Steel NV, Baubur NV, Parts Trading Company NV, LDI International NV, Manuchar International Trade Services NV, Manuchar Pulp & Paper NV, Manuchar Wood NV, Manuchar Europe NV Interest shall accrue on overdue payments at the official rate established pursuant to the Belgian Law of 2 August 2002 on combating late payments in commercial transactions (Belgian Official Gazette of 7 August 2002) increased by two percent (2%).

**8.6.** Additionally, the amount of any overdue payment will automatically be increased by fifteen percent (15%) as contractual and irreducible damages for administrative expenses and commercial disruptions, without prejudice to the Seller's right to claim higher damages.

**8.7.** In the event the Buyer fails to meet a payment date under any contract with the Seller or any of the Seller's affiliates, the Seller may at its option and without prejudice to its other rights and remedies (i) terminate the relevant Contract with immediate effect by written notice to the Buyer without any further action or formality being required, and/or (ii) suspend or cancel deliveries under the relevant or other contracts with the Buyer, until all amounts due are paid in full. Furthermore, all other outstanding invoices will become immediately due and payable without the need for any notice. Moreover, if the Buyer fails to make payment on the due date, the Seller shall be entitled to retention of title, as set out in Clause 7 of these Conditions.

**8.8.** In the event that the Buyer makes an overpayment for whatever reason, such overpayment must be notified by the Buyer within a period of twelve (12) months starting from the date of overpayment. The Buyer shall have the right to request that the overpayment(s) are used as credit in relation to later orders or that the overpayment(s) are returned to the Buyer in which case the provisions of Clause 8.9. will apply. Any requests under this Clause shall be submitted in writing and shall be subject to agreement from the Seller.

**8.9.** In the event of a request from the Buyer that an overpayment is refunded, the Seller will only issue a refund relating to the overpayment sum to the bank account it originated from and then only provided there are no other monies outstanding at the time the overpayment refund is requested. If there are any monies past due for payment, the Seller shall be entitled to deduct such monies from the refund. No interest will be payable on the overpayment. The refund for the overpayment:

- if the request is made within six (6) months of the overpayment, will be less a thirty-five dollars (USD 35) administration fee and any bank charges;
- if the request is made more than six (6) months after the overpayment, will be less a seventy-five dollars (USD 75) administration fee and any bank charges.

**8.10.** If the Buyer receives any communication by e-mail or otherwise regarding a change of bank account numbers from the Seller, the Buyer should contact its usual contact person within the organization of the Seller immediately by phone to check this information, to prevent possible fraud. The Seller does not accept any liability in case the Buyer transfers money to an incorrect bank account number.

## **9. Force Majeure, Hardship**

**9.1.** The Seller is entitled to suspend the performance of its contractual obligations towards the Buyer under any contract without incurring any liability, in case of:

- force majeure; or
- any act of god, natural disturbance, adverse weather, war, employee accident, terrorism, riot, fire, explosion, accident, flood, epidemics, quarantine restrictions, highly contagious or infectious diseases, sabotage, mechanical breakdown, (supplier) plant shutdown, delay during transportation, the impossibility to obtain fuel, power, transporter, materials or equipment from our usual resources at reasonable prices, suspension of transport, governmental laws, regulations or orders; or
- any supply chain interruption, caused by any reason whatsoever; or
- any other cause beyond the Seller's reasonable control; or
- any labor disturbance, strike, lock-out or injunction, which events in any case are deemed to be beyond the Seller's reasonable control and to delay, restrict, limit or renders commercially infeasible such performance.

The Seller will notify the Buyer of such suspension as soon as reasonably possible. The Seller will have no obligation to procure goods from other sources. If the aforementioned occurrence lasts for a period of more than one (1) month, the Seller will be entitled to withdraw from the Contract without the Buyer having any right to compensation.

**9.2.** If performance of the Seller's contractual obligations has become excessively onerous due to other events beyond the Seller's reasonable control, which the Seller could not reasonably be expected to have taken into account at the time of the conclusion of the Contract, and which (consequences) the Seller cannot at a reasonable cost avoid or overcome, the parties shall negotiate alternative contractual terms in good faith. If such negotiations fail or are not concluded within a reasonable time period, the Seller shall be entitled to withdraw from the unfulfilled obligations of the Contract without incurring any liability.

## **10. Limitation of Liability**

The aggregate liability of the Seller in connection with each contract to the Buyer for any loss or damage of whatever nature and whatever cause shall be limited to and in no circumstances, shall exceed (i) the price of the goods concerned or (ii) if the goods are delivered in instalments, the price of the instalment of the goods concerned. The Seller shall, moreover, not be liable to the Buyer, for any loss of profit, loss of use, loss of income, loss of production or accruals, loss of contracts, loss of goodwill or for any financial or economic loss or for any other indirect or consequential damage.

## **11. Compliance with international sanctions**

**11.1.** For purposes of this provision, “Sanctions” means any trade, economic and/or financial sanctions or export controls including without limitation any relevant law, regulation, order, ordinance, resolution, decree, restrictive measure, or other requirement having the force of law, as well as import and export restrictions related to military and dual-use products and technologies, chemical precursors (drugs and explosives), dangerous chemicals, pesticides and substances that deplete the ozone layer, adopted by the US, UK, EU (or its respective Member States), UN or any other government authority.

**11.2.** The Buyer represents and warrants that neither it nor any person or entity that directly or indirectly owns or controls it, that it directly or indirectly owns and controls, or for which it is acting on behalf of or at the direction of, is a designated target of any Sanctions (“Sanctioned Country”), nor an individual ordinary resident in or an entity incorporated under the laws of a country or territory subject to comprehensive sanctions administered by the U.S. Department of Treasury Office of Foreign Assets Control (“OFAC”) (collectively “Sanctioned Person”). The Buyer agrees and undertakes that it and its agents, contractors and representatives will fully comply with the requirements of all applicable Sanctions in the performance of any Contract.

**11.3.** The Buyer agrees and undertakes that the goods being purchased in performance of any Contract will not be directly or indirectly resold to a Sanctioned Person or a Sanctioned Country, nor are or will the goods be transported on a vessel flying under the flag of a Sanctioned Country or that is a Sanctioned Person, or otherwise dealt with in any way which would cause a breach of Sanctions by Manuchar, its banks, insurers, agents, contractors, representatives or shareholders (“Manuchar Related Parties”) or which would expose Manuchar or Manuchar Related Parties to the effects of any Sanctions.

**11.4.** The Buyer further represents and warrants that it will not make payments to the Seller via such country, bank, or other entity or body or facility, as would cause a breach of Sanctions by Manuchar or Manuchar Related Parties, or which would expose the Seller or Manuchar Related Parties to the effects of any Sanctions, and that it will ensure that payment is made for the goods in full without violating Sanctions.

**11.5.** The Buyer warrants that goods supplied or handled by Manuchar will not be used by its customer or supplied by its customer in a way which would cause a breach of Sanctions by Manuchar or any Manuchar Related Parties or otherwise to the effects of any Sanctions.

**11.6.** The Buyer will not and shall procure that its related parties will not cooperate with, agree to, or comply with any terms or requests, including documentary requests, which violate or are otherwise prohibited or penalized under the anti-boycott laws or regulations of the US, UK, UN, the EU (or its respective member states) or any other government authority.

**11.7.** Without prejudice to the foregoing, the Buyer agrees to cooperate with Manuchar’s reasonable requests for information and/or documentary evidence to support and/or verify compliance with this Clause.

**11.8.** Each and every obligation, warranty and undertaking in this Clause shall be deemed to be an essential condition of the Contract and breach of any of these warranties or undertakings by the Buyer entitles Manuchar to terminate the Contract immediately and unilaterally without any further notice nor any further liability towards the Buyer. The Buyer shall immediately notify Manuchar in writing of any changes or circumstances that may result in a breach of this Clause.



## **12. Compliance with anti-corruption and anti-money laundering laws**

**12.1.** Each party respectively agrees and undertakes to the other that, in connection with any Contract, it will fully comply with all applicable laws, regulations, orders, ordinances, resolutions, decrees, or restrictive measures and/or other requirements having the force of law, adopted by any state or government or international organization such as, but not limited to, the EU, the UN relating to anti-bribery and anti-money laundering, the US and the U.S. Foreign Corrupt Practices Act of 1977 and the UK and the UK Bribery Act of 2010 (hereinafter collectively the “Anti-Corruption and Anti-Money Laundering Laws”). In particular, each party respectively represents, warrants and undertakes to the other that it shall not, directly or indirectly, pay, offer, give or promise to pay or authorize the payment of, any monies or other things of value to, or confer a financial advantage on:

- a. a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
- b. an officer or employee of a public international organization;
- c. any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organization;
- d. any political party or official thereof, or any candidate for political office; or
- e. any other private person, individual or entity.

**12.2.** The Buyer agrees and undertakes that it and its agents, contractors and representatives will fully comply with the requirements of all applicable Anti-Corruption and Anti-Money Laundering Laws in the performance of any Contract.

**12.3.** Each and every obligation, warranty and undertaking in this Clause shall be deemed to be an essential condition of any Contract and breach thereof entitles the non-breaching party to terminate the Contract immediately and unilaterally without any further liability towards the other Party.

## **13. Compliance with Laws and Manuchar’s Code of Conduct**

*This Clause 13 shall apply in case the Buyer is acting as a distributor selling Manuchar products.*

**13.1.** In the context of the performance of any Contract, the Buyer commits to always comply with all laws and regulations, including, but not limited to, fair labor, equal opportunity, environmental and trade compliance laws and regulations. If the Buyer is a person or legal entity doing business in the United States, the Equal Employment Opportunity Clauses set forth in 41 Code of Federal Regulations, Chapters 60-1.4, 60-250.5, and 60-741.5, are hereby incorporated by reference.

**13.2.** The Buyer acknowledges having received a copy of the Code of Conduct which can be found on Manuchar’s website ([Download center | Manuchar](#)). In the performance of any Contract, the Buyer shall respect the principles set out in this Code of Conduct.

## **14. Corporate Social Responsibility**

**14.1. Forced labor, modern slavery and child labor.** The Buyer undertakes to take the necessary measures to ensure that forced labor, child labor and modern slavery do not take place in any part of its business, or in the business of its subcontractors or suppliers, even if permitted by applicable local law.

**14.2. Human rights and employee rights.** The Buyer represents and warrants compliance with the International Bill of Human Rights adopted by the United Nations and all applicable laws, statutes, and regulations in force in any relevant jurisdiction, against slavery and human trafficking.

**14.3. Occupational health and safety.** The Buyer shall take all necessary measures to ensure occupational health and safety within its organization in accordance with applicable law in any relevant jurisdiction, such as the United Nations International Bill of Human Rights.

**14.4. Environment and sustainability.** The Buyer shall adhere to environmentally responsible practices throughout its supply chain, including the reduction of greenhouse gas emissions, conservation of natural resources and the elimination of harmful substances or chemicals. To achieve this end, the Buyer ensures compliance with all international, federal, state, and local environmental laws and regulations, and will work to eliminate and/or reduce environmental pollution that may be attributable to its operation.

## **15. Data Privacy**

All personal data collected by Buyer and Seller will be treated in accordance with applicable legislation. The most recent version of Manuchar's privacy statement will always be available on its website.

## **16. Severability**

**16.1.** The invalidity, illegality or unenforceability of any provisions of these Conditions under a certain law or jurisdiction shall not affect the validity, legality or enforceability of any other provision in these Conditions, which shall remain in full force and effect.

## **17. Law and Disputes**

**17.1.** Any Contract shall be construed and governed in all respects by the law of the country where the registered office of the Seller is established, excluding the United Nations Convention on Contracts for the International Sale of Goods (1980) and excluding principles of International Private Law that would designate any other laws to apply.

**17.2.** Any dispute arising in connection with any Contract shall be exclusively submitted to the competent court of the jurisdiction in which the registered office of the Seller is established, or, at Seller's option, the competent court of the Buyer's registered office.