

**GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND PAYMENT**

of the private limited liability company Elacin International B.V., with its registered office and principal place of business in Dongen at Hak 21, as filed at the registry of the Court of Breda.

**Content:**

1. **General**
  2. **Offers**
  3. **Orders**
  4. **Price**
  5. **Delivery period**
  6. **Dissolution of the contract**
  7. **Place and time of delivery**
  8. **Transport**
  9. **Warranty**
  10. **Liability**
  11. **Inspection and complaints**
  12. **Return shipments**
  13. **Payment/retention of title/provision of security**
  14. **Obligation to insure**
  15. **Force majeure**
  16. **Disputes/jurisdiction**
  17. **Final condition**
1. **General**
    - 1.1. Unless explicitly agreed otherwise in writing, these Terms and Conditions shall apply to all our offers, to the orders received by us from the buyer, and to the sale and delivery of all our articles, even if the contract is concluded by virtue of the acceptance of an offer on the part of the buyer.
    - 1.2. These Terms and Conditions shall also apply to all contracts with Elacin International for which third parties have to be involved in its performance.
    - 1.3. Any departures from these General Terms and Conditions shall be valid only if they are explicitly agreed in writing.
    - 1.4. The applicability of any terms and conditions of purchase or other terms and conditions of the buyer is explicitly rejected.
    - 1.5. If one or more provisions of this agreement are null and void or should be nullified, the rest of these General Terms and Conditions shall remain fully in force. In that case, Elacin International and buyer shall consult in order to agree new provisions to replace the null and void or nullified provisions. The tenor of the original provision shall be taken into consideration if and as far as possible.
  2. **Offers**

Our offers and quotations are – if applicable – valid only for a period explicitly indicated therein, and shall also be totally free of obligations, as shall our statements regarding qualitative properties, etc. of our articles, unless explicitly stated otherwise. A sample shown shall serve only as an indication, and shall never bind us to deliver an equivalent article.
  3. **Orders**
    - 3.1. Except for orders which (also) relate to merchandise (raw materials), an order shall be accepted by Elacin International unless they notify the buyer otherwise in writing within two working days of the date of receipt of the order.
    - 3.2. Only if and to the extent that our order confirmation departs from the order to the buyer's disadvantage, or is otherwise incorrect, can the buyer still object to this for 24 hours from the dispatch of the order confirmation by Elacin International, and the buyer's objection – if not met on our part – shall count as a withdrawal of his order.
  4. **Price**
    - 4.1. The selling prices quoted and/or agreed with us are based on taxes, duties, purchase prices, exchange rates etc., as they exist and apply at the time that the contract with the buyer is concluded. Unless otherwise agreed, our prices are ex works and are expressed in EURO, exclusive of VAT and exclusive of the costs of transport to the destination desired by the buyer and other transport-related costs.
    - 4.2. We are entitled to charge order and handling costs.
    - 4.3. Unless explicitly agreed otherwise, in the case of any change in the amount or rate of taxes, duties, and charges, as well as in the case of a change in our purchase price or its exchange rate, after conclusion of the contract, we will be entitled to adjust the final purchase price or prices due from the buyer and charge them to the buyer with due observance of the change which occurred.
    - 4.4. If we have agreed with the buyer that, on the instruction and at the expense and risk of the buyer, we allow transport costs to be part of the contract of sale, the provisions of paragraph 4.2 shall apply mutatis mutandis to these costs.
  5. **Delivery period**
    - 5.1. The delivery periods included in the order or order confirmation shall be adhered to as far as possible,

but shall never be a deadline for Elacin International, unless otherwise agreed in writing. Orders can only be processed on working days. The delivery term of orders placed on Sundays and national holidays shall thus start on the first working day afterwards.

- 5.2. Except in the case that a final delivery date or deadline has been agreed in the manner, in the words and with the consequences as referred to in paragraph 1 of this article, the buyer shall not be able to blame us for any exceeding of the delivery period before it has first offered us – should any delivery period be exceeded – a reasonable period within which we can still comply with our obligations. Should this period be exceeded, the buyer shall then have the right to dissolve the contract. We shall not be bound to pay damages under any circumstances.
  - 5.3. If no delivery term has been agreed, we shall deliver as soon as possible, or within a period which we consider reasonable, given the nature of the articles and the other relevant circumstances known to us. If desired, the buyer may request us to set a period – not a deadline – within which the articles will be delivered. If this period is exceeded, the buyer shall then have the right to dissolve the contract; without us or the buyer being bound to pay any damages.
  - 5.4. In all cases of contracts in which a final or non-final delivery time of not more than 15 working days has been agreed, we shall still be able to comply with our obligations for five days after exceeding the delivery period without being in default.
6. **Dissolution of the contract**
    - 6.1. Contracts of sale shall be concluded through (tacit) acceptance by Elacin International of an order placed.
    - 6.2. If the buyer is in default of his obligations under any contract with us, and we are entitled to dissolve the contract, we shall not only be entitled to dissolve that contract, but also previous contracts concluded with the buyer, wholly or partially, and regardless of whether they have been performed fully or in part. In that case the buyer must return the articles we delivered to it under those contracts at our first request and at our discretion, against our obligation, in so far as the buyer has paid for the articles returned to us, to credit the buyer for a sum equal to 25% of the original invoice value, unless the articles were made specifically for this buyer, and without prejudice to our claims for payment of delivered and not yet returned articles and without prejudice to our claim for damages.
  7. **Place and time of delivery**
    - 7.1. All deliveries shall be made ex works Dongen, and shall be made at the time that delivery has been taken of the articles by the (carrier of) or on behalf of the buyer, or have been loaded for shipment to the buyer. From this time, the buyer shall bear the risk.
    - 7.2. Elacin International reserves the right to execute an accepted order in parts. Each part of a delivery shall count as a separate and independent delivery.
    - 7.3. We reserve the right at all times to deliver COD, against advance payment or for payment in cash, if we consider this desirable or necessary.
    - 7.4. If, in spite of our relevant agreements with the buyer, as a result of circumstances not attributable to us, the articles cannot be delivered to the address indicated by the buyer, we shall nevertheless be deemed to have fulfilled our delivery obligation by keeping the articles at the disposal of the buyer in our warehouse or in that of the carrier for 14 working days from the date on which the articles were ready for shipment, of which date the buyer shall inform us in writing by registered letter.
    - 7.5. The buyer must take delivery of the goods when presented or in a case as referred to in paragraph 4, pick up the articles at the address indicated by us.
    - 7.6. Goods not received or not picked up on time may be stored at the expense and risk of the buyer. Under no circumstances shall we be liable for damage to the articles, if, due to lack of any suitable storage space, they cannot be stored at all, or can only be stored partially and/or poorly.
  8. **Transport**
    - 8.1. Unless otherwise agreed, we shall provide for transport of the articles to the destination indicated by the buyer on the instruction and at the expense and risk of the buyer. The articles to be shipped by us shall never be insured. If the buyer wishes to do so, it must give a written instruction to insure to insure the shipment at his expense. Unless otherwise agreed, the conclusion of the contract of sale shall entail the buyer's instruction to us to conclude the transport agreement in the name of and at the expense and risk of the buyer.
    - 8.2. If we have undertaken with respect to the sold goods to enter into a transport contract, this contract and everything related to it shall be deemed to form

part of the contract of sale. If the carrier is in default, also in the case that it was contracted by us, we shall not be liable for the consequences; in such a case, we shall be fully discharged vis-à-vis the buyer by transferring our relevant rights vis-à-vis the carrier to the buyer.

**9. Warranty**

- 9.1. We provide a warranty, but only for invisible defects in the hearing protectors supplied by us, which have been shown by the buyer to contain material or manufacturing errors, for sole evaluation on the one hand, and further and only for as long as and for as long as - as applicable - as we who have been able to negotiate or obtain the manufacturer's / supplier's warranty. This warranty does not apply to custom-made hearing protectors for longer than 5 years after delivery to buyers and for universal hearing protectors for no longer than 1 month after delivery to buyer. The warranty for electronic products and accessories incorporated into custom-made ear protectors is never longer than for a period of 1 year.
- 9.2. We do not warrant the quality of the raw materials and semi-finished products to be delivered, otherwise than that they meet normal, usual quality standards with normal use. We shall never warrant, not even if a sample of the delivered goods was provided to the buyer in advance, that the delivered goods are suitable for achievement of the purpose for which the buyer wishes to use, consume or process them.
- 9.3. With respect to articles for which a warranty given by us is rightly relied upon, we shall replace the articles free of charge.
- 9.4. The warranty shall never apply to errors or defects, which have occurred (partly) through outside violence, use, natural wear and tear, and other causes beyond the control of Elacin International, also including cleaning and/or treatment by or on behalf of the buyer.
- 9.5. Deviations that seldom occur in the trade and/or technically unavoidable deviations shall never be covered by the warranty and shall never oblige us to pay any compensation, nor shall they give the buyer the right to refuse to take delivery of or pay for the delivered articles.
- 9.6. We shall not be liable for direct and/or indirect loss suffered by the buyer as a result of delayed, faulty or improper delivery or defects of or on the articles delivered, otherwise than in accordance with the provisions of these Terms and Conditions.

**10. Liability**

- 10.1. If Elacin International should be liable, such liability shall be limited to what is regulated in this provision.
- 10.2. If we are liable for direct damage and/or loss, such liability shall be limited to a maximum of twice the invoice amount, or at least that part of the contract to which the liability relates, or to a maximum of EURO 5,000 (five thousand EURO). Liability shall be limited at all times to a maximum of the amount of the payment to be made by the insurer of Elacin International in the particular case, plus our own excess under that insurance.
- 10.3. Direct damage and/or loss means exclusively:
  - the reasonable costs to determine the cause and extent of the damage and/or loss, in so far as the determination relates to damage and/or loss within the meaning of these Terms and Conditions;
  - any reasonable costs made to allow the faulty performance of Elacin International to comply with the contract, unless they cannot be attributed to us;
  - reasonable costs made to prevent or limit damage and/or loss, in so far as the buyer demonstrates that these costs have resulted in limitation of direct damage and/or loss as referred to in these General Terms and Conditions.
- 10.4. We shall never be liable for indirect loss, including consequential loss, loss of profit, missed savings and loss due to business interruption.
- 10.5. The limitations of liability included in these Terms and Conditions for direct damage and/or loss shall not apply if the damage and/or loss is to blame on intentional acts or omissions or gross negligence of Elacin International or our employees.

**11. Inspection and complaints**

- 11.1. Upon taking delivery, the buyer must check the delivery for the quantities as indicated on the waybill or receipt and for the condition of the packing materials. The buyer shall be deemed to have received the quantities listed in good condition if he does not make a note or reservation on the waybill or receipt.
- 11.2. Furthermore, the buyer shall check the articles delivered to him within 24 hours of delivery for compliance with the contract, more particularly for all properties and characteristics which are visible in an external inspection.

- 11.3. The articles delivered to the buyer shall be deemed to be in compliance with the order confirmation, unless and in so far as the buyer complains to us within 24 hours of taking delivery in writing, by fax.
- 11.4. Complaints relating to visible or invisible defects can be made only if we have guaranteed their absence and, moreover, they were reported directly to us in writing of taking delivery of the articles or – if the buyer makes it plausible that he was unable to discover a defect earlier even after proper inspection – after the buyer discovered these defects or ought to have discovered them, on pain of lapse of the right to rely on these defects in any way. Complaints regarding visible defects of the delivery must be reported within 24 hours after delivery date in writing.
- 11.5. Complaints regarding invisible defects of the delivery must be reported within 8 days after delivery date in writing
- 11.6. Complaint shall no longer be possible after use or cleaning or whole or partial processing of the articles. Complaints concerning minor deviations customary in the trade or unavoidable technical deviations shall not be accepted.
- 11.7. If we acknowledge a complaint as well-founded, with exclusion of any right of the buyer to damages, we may have the articles improved or replaced free of charge.
- 12. Return shipments**  
The buyer shall never have the right to send back delivered articles if and as long as we have not agreed to this. The articles returned to us shall remain at the buyer's expense and risk as long as we, with due observance of the provisions of Article 8 or 9, have not made it known that we will take back the articles. The granting of permission to return the articles shall not entail that we acknowledge any complaint or warranty. Nor can any right to damages be derived from this.
- 13. Payment/retention of title/provision of security**
- 13.1. Payment shall be due on the date of delivery. Payment must in any case be made within thirty days of the invoice date, unless stated otherwise on the invoice. The buyer's complaints shall not entitle him to suspend his payment obligations.
- 13.2. Payments made by the buyer of a sum of money to be allocated to a certain obligation shall serve primarily to reduce the costs, subsequently to reduce the interest due and finally to reduce the principal sum and current interest.
- 13.3. If the buyer makes a payment that would be allocated to two or more payment obligations towards us, the payment shall be allocated to the payment obligations which the buyer indicates, failing which the payment shall be allocated successively to the payment obligations due, the most onerous, or finally to the oldest. Furthermore, if the payment obligations are of the same age, the payment shall be allocated proportionally.
- 13.4. If the buyer has not paid after the expiry of the payment period, he shall be in default by operation of law through the mere expiry of the period, without notice of default being required, and shall owe interest at a rate of 1% per month or part of a month.  
In that case, all judicial and/or extra judicial costs to be made by us and other costs shall be payable by the buyer.
- 13.5. On extra judicial costs, the buyer shall owe administrative charges of 1% of the outstanding amount for each payment reminder or warning to be sent by us, as well as a sum of at least 15% of the invoice amount, subject to a minimum of EURO 250 plus VAT, if and as soon as we have turned over the collection of the claim.
- 13.6. The title to the sold articles shall pass to the buyer only after they have been delivered to him and the buyer has paid everything he owes to us in relation to the delivered articles, including interest due and costs. Also in the event of any credit provided by us to the buyer for any reason, and in case of any other debt of the buyer to us, the title to the goods delivered by us shall pass only if we have given the buyer valid proof of discharge.
- 13.7. Goods delivered by us, which are subject to the retention of title pursuant to this article, may only be sold on in the course of normal business operations.
- 13.8. The buyer shall not be entitled to pledge or create any other right in the goods subject to retention of title.
- 13.9. We shall always, therefore both before and after delivery, be entitled to require the buyer to provide security to our satisfaction in a manner indicated by us for the proper performance of the total of his payment obligations vis-à-vis us, whether or not due and payable. As long as security has not been provided after a request to that effect on our part, we may suspend our delivery obligation and – if the buyer remains in default even after written warnings on our part – dissolve the contract, subject to the consequences referred to in Article 6.
- 13.10. If the buyer has exceeded the period within which a payment should have been made, is in a state of insolvency, obtains a suspension of payment, or is placed in receivership, or other circumstances occur which justify the expectation that he will not be able to meet his payment obligations, future or not, we shall have the right to dissolve the contract(s) concluded with him or parts thereof, subject to the consequences referred to in Article 6. All judicial and extra judicial costs made by us in connection with the buyer's non-compliance with his obligations or in connection with the dissolution shall be for his account.
- 13.11. In case we wish to make use of our retention of title, the buyer undertakes to return all articles delivered, even in so far as they have been paid, upon first demand and at his expense, against proof of surrender, and to render every cooperation desired and provide information, as well as to allow access to the storage space and suchlike. The buyer must warn us immediately as soon as a third party, for whatever reason, is of the opinion that it has claims on the articles and/or is taking or plans to take measures in this regard,
- 13.12. If we have exercised the right to take back articles, we shall have the choice between keeping these articles in our possession and storing them at the buyer's expense until the buyer has fulfilled all his obligations towards us, or selling the articles and setting off the proceeds against the outstanding claims against the buyer, or dissolving the contracts of sale entered into with the buyer, in so far as they relate to the returned goods, subject to the consequences referred to in Article 6.
- 14. Obligation to insure**
- 14.1. The buyer undertakes to manage the aforementioned goods properly, to keep and maintain them properly, to store them in an orderly and clear manner and insure them to the satisfaction of Elacin International against fire, water damage, danger of explosion and theft, for the benefit of Elacin International, to ensure that the premiums due for the insurance are paid on time, and to surrender the policy as well as the receipts for paid premiums to Elacin International upon first demand. The buyer shall arrange the insurance contract in such a way that he will only owe an insurance premium for each whole year.
- 14.2. The other party undertakes at our first request to pledge all claims of the other party against insurers in relation to delivered goods subject to retention of title to Elacin International in the manner prescribed in Book 3, Section 239 of the Netherlands Civil Code (BW);
- to pledge the claims which the other party obtains against its buyers upon reselling goods delivered by us under retention of title to us in the manner prescribed in Book 3, Section 239 of the Netherlands Civil Code;
  - to mark the goods delivered under retention of title as the property of Elacin International;
  - to cooperate in other ways in all reasonable measures which Elacin International wants to take to protect its title to the goods and which will not unreasonably hinder the other party in the normal operation of its business.
- 15. Force majeure**
- 15.1. Circumstances which impede or delay production, delivery or shipment to us or to the buyer due to circumstances which cannot be attributed to us, including strikes by or lockouts of workers, lack of workers, both in and outside our company, lack of appropriate means of transport, obstruction of traffic on land, water or in the air, breach of contract by our pre-supplier(s), carrier(s) or other third parties engaged by us, and all other perils of any nature, shall release us from our obligations under the contract entered into with the buyer, or shall suspend the performance thereof, without our being obliged to pay any damages in this regard.
- 15.2. Without prejudice to the other relevant provisions of these Terms and Conditions, we shall only be liable for damage and/or loss if the buyer proves that such damage and/or loss is the result of our intentional act or omission or equivalent gross negligence. Under no circumstances shall we be liable for any damage or loss caused by errors of third parties engaged by us in the performance of the contract.
- 16. Disputes/jurisdiction**
- 16.1. The contract with the buyer shall be governed by Netherlands law. All disputes arising from or connected with contracts with the buyer – notwithstanding the jurisdiction of the Court, Subdistrict Section – shall be settled by the court with jurisdiction in Breda, unless we should decide to approach a court which (also) has jurisdiction with respect to the buyer, or to subject ourselves to the judgment of such other court.
- 16.2. In case it is decided, by anyone, to start a procedure for testing and/or analysis of a product delivered by us, the costs involved shall always be paid by the party proved wrong by the evidence.
- 17. Final condition**  
Unless explicitly provided otherwise in writing, the relationship between us and the buyer shall be governed by these General Terms and Conditions and by any special conditions stated on the order confirmation, to the exclusion of (general) terms and conditions which the buyer wishes to apply or has declared applicable. The text of these General Terms and Conditions written in the Dutch language shall prevail over the text of a translation in a foreign language in case of a contradiction between them.
- These General Terms and Conditions of Sales and Delivery were filed for the first time at the registry of the Court of Breda 1 June 2013.