

General

These general terms and conditions apply to every offer, performed or to be performed orders, quotes and agreements (including follow-up orders) and the performance of such; insofar as these conditions are not expressly deviated from in writing by Arcqua B.V.

In these terms and conditions, 'Other Party' refers to any (legal) person (or several legal persons at the same time) who enters into negotiations and/or enters into agreements with **Arcqua BV, located at Hazeland 31, Westervoort, registered with the Chamber of Commerce under number 73172138** (hereinafter referred to as 'Seller') with regard to products or services to be delivered by the Seller or who has accepted the validity of these general terms and conditions in any other way.

If the Other Party also uses general terms and conditions, these will only apply if the Seller and the Other Party explicitly agree in writing on the applicability of the General Terms and Conditions of the Other Party. This does not affect the applicability of the general terms and conditions of the Seller. This is only different if the provisions of the general terms and conditions of the Seller are clearly in conflict with the general terms and conditions of the aforementioned Other Party. In that case the general terms and conditions of the Other Party will prevail.

Deviations from these general terms and conditions only bind the Seller insofar as these deviations have been expressly accepted by the Seller in writing. Deviations from these general terms and conditions must each time (in case of new agreement) be explicitly agreed in writing.

Article 1 - Formation of the agreement

- 1.1 All offers, quotes, and orders (including oral offers, quotes, and orders), whether in the form of price lists or otherwise, and other statements by the Seller and its representatives and/or employees, are without obligation.
- 1.2 An agreement is formed if a quote (non-binding offer) issued by the Seller is accepted by the Other Party in writing. The Seller has the right to withdraw its non-binding offer (even after acceptance by the Other Party) within a period of 7 working days.
- 1.3 An order given by the Other Party will only bind the Seller after this order has been confirmed by the Seller in writing.
- 1.4 If the Other Party does not dispute the correctness and completeness of the order confirmation within 7 days after the confirmation has been sent by the Seller in writing, the order confirmation is deemed to represent the agreement correctly and completely.
- 1.5 In respect of orders, deliveries, and services for which neither a quote nor an order confirmation has been sent by the Seller, the invoice and/or delivery note is also considered to be an order confirmation and this invoice is considered to represent the agreement correctly and completely.
- 1.6 Any (additional) oral statements, commitments, and agreements from and with subordinates, representatives or other intermediaries of the Seller are not binding on the Seller, unless these (additional) agreements are confirmed by the Seller in writing. In this context, all employees and staff who do not have official authorisation are considered subordinates.
- 1.7 In addition to that stated in the catalogues and brochures, the normal and/or customary tolerances apply to all goods offered; in particular, explicit reservations are made with regard to nuances in the specified colours of goods. Minor deviations from the images and/or descriptions appearing in the catalogues and brochures are therefore reserved. Such deviations never release the Other Party from its obligations under the agreement.

Article 2 - Changes to the agreement

- 2.1 Changes to the agreement, of whatever nature, will only be effective if they have been agreed in writing between the Seller and the Other Party.
- 2.2 If, after the formation of the agreement, the Other Party still requires changes to the performance, it is up to the Seller to determine whether and, if so, under what (further) conditions, these changes can still be accepted in the context of the agreement.
- 2.3 In the event of changes to the agreement, of any nature whatsoever, the Seller is authorised to charge the higher costs associated with these changes to the Other Party.
- 2.4 If such an addition or deviation leads to a longer delivery time, the Seller is under no circumstances liable for fines and/or loss due to exceeding the term.

Article 3 - Prices

- 3.1 The offered and agreed prices are in euros and exclusive of VAT. Unless explicitly otherwise agreed, other taxes, levies and duties, installation, packaging, shipping, transport and insurance costs due under the law are not included in the price.
- 3.2 If the prices of raw materials, semi-finished products, (auxiliary) materials and parts and the like increase in respect of the sold products before delivery, the Seller is entitled to pass on the price increase to the Other Party.
- 3.3 Insofar as the price increase passed on by the Seller to the Other Party takes place within a period of three months after the formation of the agreement, the Other Party has the right to terminate the agreement in writing within 14 days after written notification by the Seller of that price increase. This does not apply if import and/or export duties and/or other duties, taxes or levies that are payable in connection with the sold products or raw materials or semi-finished products are increased. In the event of the aforementioned termination, the Other Party is obliged to reimburse the costs already reasonably incurred by the Seller.

Article 4 - Payment

- 4.1 Unless a different payment term has been agreed in writing, the Other Party must pay the entire amount owed by the Other Party or, in the event of advance payment, the remainder thereof in cash (on delivery).
- 4.2 The Seller is always entitled, also during the performance of the agreement, to require the Other Party to pay in advance or provide security in some other way with regard to an agreement.
- 4.3 If the Other Party does not pay any amount owed by it within the period set for this, the Other Party will be in default by operation of law without further notice of default being required. From the due date of the invoice the Other Party owes interest of 8%, to be calculated per (part of the) month on the outstanding amount.

- 4.4 Any costs, both judicial and extrajudicial, incurred by the Seller in order to enforce the performance of the obligations of the Other Party, will be borne by the Other Party. The extrajudicial costs are hereby set at 15% of the invoice amount, without evidence of such having to be provided. The aforementioned costs are payable from the moment the claim is placed in the hands of a lawyer, solicitor, bailiff or collection agency or other legal assistance provider, regardless of whether or not the Other Party is aware of this.
- 4.5 Each payment by the Other Party in the first instance serves to settle the interest (if any) owed by the Other Party, as well as the collection costs incurred by the Seller as referred to in the previous paragraph and/or administration costs, and will then be deducted from the oldest outstanding invoice.
- 4.6 The Other Party is not authorised to deduct any amount from the purchase price or to settle the purchase price against any counterclaim it may have against the Seller, or to suspend its payment obligation.
- 4.7 If the Other Party fails to pay for a (partial) delivery, the Seller is entitled to suspend the other delivery orders or work still to be carried out, without prejudice to the right of the Seller to definitively terminate the deliveries after having issued a notice of default and to demand payment for all that the Seller can claim at that time and without prejudice to the Seller's right to compensation in this respect.
- 4.8 If the Other Party consists of more than one natural or legal person, all are jointly and severally liable for the whole for the performance of the obligations of the Other Party.
- 4.9 All obligations of the Other Party towards the Seller are immediately due and payable in the event that the Other Party does not fulfil its payment obligations on time, or the Other Party has filed for bankruptcy or suspension of payments, is declared bankrupt, or if an attachment is imposed on the Other Party, in which case the Seller also has the right to terminate the agreements without judicial intervention in accordance with the provisions of article 12 of these general terms and conditions and is entitled to collect all products delivered by it, all this without prejudice to the right to compensation for loss suffered by the Seller, including loss of profit, transport and storage costs, interest and the like.

Article 5 - Intellectual property rights

- 5.1 With regard to the designs, drawings, images, catalogues and models, moulds, products, and the like made by the Seller, as well as with regard to the production methods used, the Seller expressly reserves all rights to and arising from intellectual property, such as rights to designs, copyrights and patents.
- 5.2 All designs, drawings, catalogues, models, estimates, quality manuals, diagrams, etc. provided by the Seller remain the property of the Seller and must be returned to the Seller immediately upon request. They may not be copied, made available to third parties, or made available for inspection, in whole or in part, without the express written permission of the Seller, nor used by the Other Party for the production of products and/or services to which they relate.

Article 6 - Claims of third parties

- 6.1 In the event of the manufacture by the Seller of products according to designs, drawings, models, mould, dies, templates or auxiliary tools or other instructions in the broadest sense of the word, received by the Seller from the Other Party, the Other Party guarantees that the manufacture and/or delivery of those products does not infringe the intellectual property rights of third parties. The Other Party indemnifies the Seller in this respect.
- 6.2 If a third party objects to the manufacture or delivery of products as referred to in the previous paragraph on the basis of an alleged intellectual property right, the Seller is entitled to immediately cease the manufacture and/or delivery of the products and demand reimbursement of the costs incurred from the Other Party.
- 6.3 The Other Party is obliged to compensate and indemnify the Seller against all claims for compensation that third parties may bring against the Seller in respect of loss caused by or with the goods delivered.

Article 7 - Delivery and delivery period

- 7.1 Unless otherwise agreed in writing, delivery takes place 'ex Works', according to the Incoterms 2020.
- 7.2 Agreed or stated delivery periods can never be regarded as deadlines, unless explicitly agreed otherwise in writing. Exceeding the delivery period never entitles the Other Party to compensation for any direct or indirect loss suffered by it or by third parties unless there is intent or gross negligence on the part of the Seller.
- 7.3 If it becomes clear that it cannot meet its obligations with regard to the delivery period, the Seller will immediately notify the Other Party, stating the expected period by which the delivery time will be exceeded.

Article 8 - Transport

- 8.1 The Other Party and the Seller can agree that the transport of the products to be delivered will be provided by the Seller at the expense and risk of the Other Party. The method of transport, dispatch, packaging, and the like will be determined by the Seller in accordance with good commercial practice, if no further instructions have been provided by the Other Party to the Seller, without the Seller being liable for this. Any specific wishes of the Other Party regarding the transport or dispatch will only be carried out if the Other Party has declared that it will bear the additional costs involved.
- 8.2 All freight costs, import and/or export duties, station storage, security and clearance costs, taxes and other charges are payable by the Other Party, unless expressly agreed otherwise.
- 8.3 The transport of all products, including those transported in the name of the Seller, is at the expense and risk of the Other Party, even if the carrier demands that consignment notes, transport addresses and the like contain the clause that all transport damage is at the expense and risk of the sender, unless the Seller has agreed otherwise with the Other Party.
- 8.4 The Seller can charge the costs of any transport insurance taken out by the Seller to the Other Party.
- 8.5 Acceptance of the goods by the carrier, without a note on the consignment note or receipt, serves as proof that the packaging was in good condition at the time of dispatch.

Article 9 - Return shipments

- 9.1 If the Other Party refuses to take receipt of the purchased products or returns them to the Seller without the Seller having agreed to this in writing, the Seller is entitled to store the refused or returned products at the expense and risk of the Other Party and keep them available to the Other Party, without any acknowledgment of the correctness of any complaints being inferred from this.
- 9.2 Return shipments do not in any way relieve the Other Party from its payment obligations.
- 9.3 The actual costs arising from or incurred in connection with return shipments and the measures taken by the Seller as a result will be charged by the Seller to the Other Party by providing a specified statement thereof to the Other Party.
- 9.4 Return shipments are also at the expense and risk of the Other Party.

Article 10 - Retention of title

- 10.1 All delivered products remain the property of the Seller until the moment at which all claims of the Seller against the Other Party, both arising from the agreement and from claims due to failure to comply with such agreements, have been paid by the Other Party in full, even if security has been provided for payment.
- 10.2 Without prejudice to the provisions of Article 4 regarding payment, the Seller is entitled to repossess all products delivered to the Other Party if the Other Party fails to pay any due and payable sum. The Other Party gives the Seller, or the representatives designated by the Seller, permission to enter its business sites, warehouses, factory halls, etc. for that purpose. The costs associated with repossession will be charged by the Seller to the Other Party. During repossession, credit will be given based on the value the products appear to have on repossession.
- 10.3 The Other Party will not encumber, process, or dispose of the delivered products, other than in the normal course of its business. If third parties wish to establish or assert any right to the delivered products under retention of title, the Other Party is obliged to immediately notify the Seller thereof in writing.
- 10.4 With regard to claims that (possibly) do not fall under the retention of title, the Seller reserves the right to establish a non-possessory pledge on the sold and delivered products. The Other Party declares in advance that it will cooperate with the establishment of such a non-possessory pledge on behalf of the Seller at the Seller's first request.
- 10.5 If the law of the country of destination of the purchased products has further options for retaining ownership than determined above, it applies between the parties that these further options are deemed to have been stipulated for the benefit of the Seller, on the understanding that when it cannot be objectively determined to which further reaching rules this provision applies, the above provisions regarding retention of title continue to apply.

Article 11 - Complaints

- 11.1 Complaints of any nature whatsoever do not suspend the Other Party's obligation to pay and can only be notified to the Seller in writing within the periods described in this article.
- 11.2 Upon receipt of the products, the Other Party must check whether the products correspond with the order or instruction.
- 11.3 Complaints with regard to visible defects or damage, including in any case shortages, incorrect format, weights, numbers, or the packaging, must be noted immediately on the transport document (consignment note/CMR) and communicated no later than one week after receipt of the products to the Seller in writing. Invisible defects or damage must be notified to the Seller within 14 days after the Other Party has reasonably been able to discover the defect. Complaints with regard to invoices must be notified to the Seller in writing within 8 days of the invoice date.
- 11.4 Defects in part of the delivery do not give the right to reject the entire delivered performance.
- 11.5 The Other Party must enable the Seller to check the products that are subject to complaint in their original condition. If the complaint is well-founded, the Seller will, at its option, either pay fair compensation up to a maximum of the invoice value of the delivered products to which the invoice relates, or replace the delivered products free of charge, against return of the originally delivered products.
- 11.6 Compensation claims for goods that are damaged or broken (delivered) will not be accepted once they have been installed. It is the responsibility of the Other Party to inspect the product before installation, or have this inspected.

Article 12 - Termination

- 12.1 If the Other Party fails to comply with its obligations arising from the agreement or fails to comply with those in a prompt and proper manner and is in default, the Seller is entitled to terminate the agreement without judicial intervention and with immediate effect by means of a written notification to the Other Party.
- 12.2 If the Other Party has filed for bankruptcy, is declared bankrupt, has been granted a moratorium, has been granted debt restructuring or otherwise loses its unfettered control over its assets or parts thereof, the Seller is also entitled to terminate the agreement without judicial intervention and without a notice of default being required.
- 12.3 Without prejudice to the provisions of paragraphs 1 and 2, the Seller is entitled to compensation from the Other Party for loss, costs, interest and the like it has suffered.

Article 13 - Liability

- 13.1 Except in the case of intent or gross negligence on the part of the Seller, the Seller is not liable for the costs, damages and interest that may arise as a direct or indirect result of (but not limited to):
 - a) acts or omissions of the Other Party, its subordinates, or other persons employed by or on its behalf;
 - b) incorrect or late performance of the order;
 - c) faults and/or defects in a product (a defective product);
 - d) delay or damage to products delivered by the Seller during transport;
 - e) as a result of the incorrect and/or improper processing and/or use of products delivered by the Seller;
 - f) choice of material and/or quality of the Other Party of the delivered products.
- 13.2 Subject to intent or gross negligence, the Seller's obligation to pay compensation will never exceed the amount equal to the invoice amount of the delivered products. The seller is never liable for any consequential loss.

Article 14 - Force majeure

- 14.1 In these 'general terms and conditions', force majeure means any independent circumstance beyond the control of the Seller - even if this was already foreseeable at the time of the formation of the agreement - that permanently or temporarily prevents the performance of the agreement, as well as, insofar as not already included, war, danger of war, civil war, riots, strike, lockout of workers, transport options, fire and/or serious disruptions in the business of the Seller or its supplier(s).
- 14.2 The agreed delivery periods are extended by the period during which the Seller or its suppliers is/are prevented by force majeure, or is/are seriously impeded, in the fulfilment of their obligations.
- 14.3 If the period of force majeure has lasted two months, or will last that long with certainty, both parties have the right to terminate (the remainder of) the agreement in writing. This does not lead to liability for compensation towards each other.

Article 15 - Fitting

- 15.1 Unless otherwise agreed, any responsibility or liability for the fitting of products delivered by the Seller by parties other than the Seller is excluded.
- 15.2 The costs of fitting by the Seller are not included in the stated prices and are charged separately, unless otherwise agreed.

Article 16 - Warranty

- 16.1 With due observance of the provisions below, the Seller warrants the soundness and quality of the products delivered by the Seller during the following periods;

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| ▪ Solid Surface baths and sinks: | fifteen (15) years with the exception of discolouration and thermo shock for which a warranty period of two (2) years applies |
| ▪ Cast Marble Baths and Sinks: | five (5) years |
| ▪ Herzbach products: | five (5) years with the exception of wear parts for which a warranty period of two (2) years applies |
| ▪ Mirrors: | two (2) years |
| ▪ Lighting: | two (2) years |
| ▪ Bathroom furniture: | two (2) years |
| ▪ Aluminium products: | five (5) years |
| ▪ Other products: | one (1) year, unless otherwise agreed in writing |

- 16.2 The warranty period used by the Seller starts from the date stated on the relevant invoice from the Seller to the Other Party.
- 16.3 The seller is entitled to indicate a different warranty period for products in writing.
- 16.4 Minor deviations in quality, dimensions and colour that cannot be prevented from a technical point of view and that are generally permitted in accordance with commercial practice, and the normal wear and tear of products or parts thereof, cannot constitute a claim under this article.
- 16.5 The Other Party only has a claim against the Seller on the basis of this article if the Other Party can hand over a purchase receipt or invoice for the delivered products to the Seller.
- 16.6 The warranty does not apply if the defect, malfunction or the associated damage is due to non-compliance with the applicable installation regulations, an external cause or improper use, or due to repairs carried out by any third party without the written permission of the Seller to the product or modifications thereof.
- 16.7 The warranty means that the Seller, at its discretion, will repair defective products free of charge within the warranty period, or replace the relevant products with other sound products.
- 16.8 The warranty does not apply to products that the Seller has expressly excluded from the applicability of the warranty, nor to products that consist of remnants or special batches, unless this is expressly indicated by the Seller.

Article 17 - Void stipulation

If a provision of these general terms and conditions turns out to be void, the other provisions will remain in full force. Any void provisions will be replaced by provisions which purport, in view of the intention of the parties, will correspond with the void provision as far as possible.

Article 18 - Choice of law and competent court

- 18.1 The offers from the Seller and the agreement between the Seller and the Other Party is governed by Dutch law. This also applies to all agreements entered into with the Other Party who is residing or established abroad.
- 18.2 All disputes arising from this legal relationship and agreements arising therefrom will be settled by the competent court in the place of business of the Seller or, at the option of the Seller, by the competent court in the place of residence or place of business of the Other Party.
- 18.3 That which has been determined above does not affect the fact that the parties may decide in joint consultation to have disputes settled by means of mediation, binding advice or arbitration.