

General Terms and Conditions

1. General Information

We shall carry out deliveries exclusively in accordance with the following conditions. The purchasing party shall recognise these conditions of purchase as binding for all future transactions. Any agreement deviating from these terms requires our express written confirmation. No purchase conditions of the purchasing party that differ from the conditions stated here shall be considered valid unless they have been expressly accepted in writing by Hama. Our general terms and conditions shall be considered accepted upon receipt of the goods, at the latest. We shall store and process customer information electronically, in so far as this is required for the proper conclusion of the given business transaction, in accordance with all relevant data protection regulations.

2. Quotation, Order and Minimum Order Value

Issuing a quotation does not obligate Hama to accept the order. Changes shall be made in writing.

Technical details and illustrations of articles for sale in advertising brochures and other advertising information are not binding features, but instead descriptions or labelling of our products. Factory tolerances as considered usual within the trade shall be considered binding in all cases in so far as no special limits for acceptable deviation have been agreed upon.

Where samples have been provided, Hama shall make every effort to deliver to the quality and specifications of the relevant sample. Slight deviations shall not constitute grounds for a claim on the part of the ordering party.

a) Domestic orders

We shall apply a surcharge in the amount of € 4.00 for orders below the minimum net order value of € 50.00.

b) International orders

The minimum value for foreign orders shall be defined in a separate agreement.

3. Prices

All prices are ex works or warehouse and subject to legally stipulated value added tax at point of transaction. Postage and packaging costs are itemised separately on our invoices, as is transport insurance.

4. Delivery and Period of Delivery

Unless the period of delivery has been agreed upon in written form for a specific case, delivery dates are to be understood as approximate dates to which we shall adhere whenever possible. Should the period of delivery be exceeded, the purchasing party may set an appropriate extension of said period, after the end of which they may withdraw from the contract through written declaration of their intent to do so.

The period of delivery shall be considered adhered to if the object of delivery has left the factory or notification of readiness to ship has been sent before the end of said period.

The period of delivery shall be extended in the event of industrial disputes, particularly strikes and lockouts, as well as unpredicted obstructions beyond our control such as disruption of production, delay in the delivery of essential materials and other such disruptions that demonstrably bear on the delivery of the goods to be delivered. The same applies should such eventualities affect subcontractors. The period of delivery is extended according to the duration of such eventualities and obstructions. Should delivery become impossible or unreasonable, we are released from the responsibility of making delivery.

We are also not responsible for the aforementioned circumstances if they occur during an already existing delay. In important cases, the onset and conclusion of such obstructions shall be communicated by Hama to the ordering party at the earliest possible occasion.

The purchasing party shall have no right to compensation for delayed delivery, unless deliberate or gross negligence on our part can be demonstrated.

We are entitled to undertake partial deliveries in acceptable and reasonable quantities. Disputes over partial delivery do not entitle the purchasing party to refuse further partial deliveries.

5. Shipping and Transfer of Risk

All deliveries take place at the expense of the purchasing party.

The choice of route and means of transport are determined by Hama to ensure the swiftest transportation and punctual arrival to the best of its knowledge but without liability on the part of Hama.

Risk shall be transferred to the purchasing party when the object of delivery is received by the forwarding agent, carrier or other transporting agent – including those that are employed by us – and in any case no later than when the object leaves the factory or warehouse. This also applies to FOB and CIF transactions.

Goods for which notice has been given that they are ready for dispatch on the agreed upon date must be retrieved immediately. Hama is otherwise at liberty to store goods at the cost and risk of the customer as it considers fit, and to charge such goods as ex works or warehouse. The same applies if delivery cannot occur as a result of failure or suspension of transport, or of other conditions for which we cannot be held responsible. Should the ordering party delay acceptance of delivery for more than fourteen days after receiving notification of availability either intentionally or through gross negligence, Hama shall be, after an extension of a further fourteen days, entitled to withdraw from the contract or to demand compensation for breach of contract.

6. Terms of Payment

a) Creditworthiness

In the case of delayed payment and justified concerns as to the solvency and creditworthiness of a purchasing party, Hama is within its rights to demand securities or advance payment for pending deliveries and to make all claims of the financial transaction immediately payable without affecting our other rights.

b) Terms of Payment, Domestic

Payment shall be made in cash or by transfer of funds at a discount of 2 per cent of the invoice amount if made within ten days, or without any discount on the fixed price if made within thirty days. Payment shall be made irrespective of receipt of goods. In the absence of other agreements, advance payment shall be required. Payment by the ordering party shall be considered in default if such payment has not been made within the payment period starting upon receipt of the invoice. Set-off and retention rights shall only be granted to the ordering party if counterclaims are legally recognised, beyond dispute or recognised by Hama.

We only accept rediscountable bills of exchange from the Bundesbank by special arrangement and on account of payment. Bills of exchange or cheques shall, subject to receipt, be credited with the value date of the day on which Hama shall finally have access to the proceeds. All costs incurred thereby are the responsibility of the purchasing party.

If the payment deadline is exceeded, article 288 of the German Civil Code shall apply.

c) Terms of Payment, International

Only written terms of payment are valid for export trade. In the absence of such agreements, advance payment shall be required.

7. Retention of Title

Hama itself shall retain title of delivered goods until such time as the customer has made all payments resulting from the transaction, including those covering interest and costs, and any necessary balancing of a current account and any cheques or bills given in payment have been fully honoured.

As long as payment resulting from the transaction remains due, the following shall apply: The purchasing party is within its rights to sell, process or use goods subject to this retention of title within the normal course of business. Should the purchasing party be placed in default due to outstanding payments, all factory-condition goods in the hands of the purchasing party and/or goods still to be received shall be put at our disposal.

Should any goods to which Hama maintains title be sold, all claims to reimbursement shall be transferred to Hama without any particular act of transfer being required when demand is made.

The purchasing party may collect such claims as have been transferred to Hama, but must immediately redirect collected funds to Hama. The same also applies to all claims arising from any other service provided by Hama.

The purchasing party is not entitled to pledge goods or ceded claims or to use such goods or claims as securities. Hama must be immediately notified of seizures by third parties. The purchasing party is obligated to insure goods against fire damage and theft and to furnish proof of insurance upon request. The retention of title extends to cover new items produced by processing. If property of the purchasing party is mixed or combined with items owned by Hama, Hama acquires partial ownership under articles 947/948 of the German Civil Code. On the request of the purchasing party, Hama shall release its securities in so far as the value of our securities exceeds more than 20 % of the claim on a non-temporary basis. The choice of securities to be released lies with Hama.

8. Claims for Defects and Warranty

a) Claims for Defects

Hama warrants that its goods shall be free of material defects and defects of title at the time of transfer of risk. The warranty period begins with receipt of the goods by the customer and lasts two years.

Received goods shall be checked on receipt as to proper quality. The purchasing party shall notify Hama of any detectable defects in writing within fourteen days of receipt of goods. Hidden defects shall be reported in writing as soon as they are detected, at the latest within two years after receipt of goods. In the event of justified complaints made within the appropriate period, Hama shall rectify the defects, exchange the goods, or issue a credit note at its discretion.

b) Warranty

Hama warrants some of its products as indicated on the relevant product warranty card. Defects of material or fabrication shall be rectified within the warranty period by repair or replacement at Hama's discretion.

The warranty does not cover claims for damages of any kind, particularly not for replacement due to consequential damage. If the device in question is still under warranty, it shall be sent to Hama along with details of the defect and the dealer's receipt as proof of warranty.

c) Voiding of Claims for Defects and Warranties

In the case of defects caused by force or improper use, as well as in the case of repairs or actions by the purchasing party or third parties without our express written consent, the right to claim for defects and the warranty become null and void.

In the case of articles subject to wear and tear, no damage resulting from use over and above appropriate norms shall constitute a defect.

d) Reimbursement of Expenses

Reimbursement of expenses pursuant to article 439 II of the German Civil Code shall be agreed with Hama on an individual basis. This only applies to purchasing parties who themselves sell the goods they receive to private individuals. Any further liability for other reimbursement of expenses is excluded by Hama. The purchasing party has no other rights.

e) Postage and Shipping Costs

The sender is responsible for initially paying the postage and shipping costs for any shipments sent to Hama relating to claims for defects, warranties, product liability claims and similar matters. These costs will be reimbursed once the validity of the claim is acknowledged.

9. Disclaimer

Regardless of the legal basis of such claims, our liability for damages is limited to intentional acts and gross negligence, including intentional acts and gross negligence on the part of our representatives and agents. In so far as no intentional breach of duty exists, liability is limited to foreseeable damage that typically occurs. In the case of breach of an essential cardinal duty, we assume liability irrespective of the degree of fault. However, our liability is limited here to foreseeable damage that typically occurs.

Liability due to non-accidental injury to life, limb or health is not affected. Liability is also not affected in so far as it is mandated by the German Product Liability Act, in the case of willful deception or if a warranty is provided.

10. Returns

If it is necessary to clear merchandise, the scope and execution is generally to be clarified with us or with our field service. The following products are excluded from merchandise clearing: storage media, picture frames, opened display items, items with minimum order quantities and products that have been discontinued from our line. We also reserve the right to exclude from merchandise clearing individual product ranges that might be damaged during transport, that were delivered as part of a sales campaign or that could result in increased costs/procedures for returns and disposal. Goods must be returned in the original packaging and with all shipping costs paid by the sender. The invoice belonging to the original delivery must accompany the shipment. Credit notes from the return of goods may only be charged against new orders of goods. Credit notes are subject to relevant deductions. Handling costs are set at fifteen per cent of the credited value of goods.

11. Applicable Law

The material law of the Federal Republic of Germany shall apply. International law on the purchase of moveable goods shall not apply, even if the purchasing party has headquarters abroad.

12. Place of Performance and Jurisdiction

The place of performance for both parties is Monheim, Bavaria, Germany. In the event of any disputes arising from contractual conditions, all lawsuits are to be filed at the court whose jurisdiction covers our headquarters if the ordering party is a merchant under commercial law, a legal entity under public law or a special fund under public law. We also reserve the right to file lawsuits at the location of the headquarters of the purchasing party.