

1. General

- 1.1. No quotation given by SAMMA Pty Ltd shall constitute an offer.
- 1.2. All orders placed with SAMMA Pty Ltd shall only be accepted subject to these Terms and Conditions of Sale. SAMMA Pty Ltd may at any time and from time to time alter these Terms and Conditions of Sale and such altered Terms and Conditions of Sale shall apply after notification by SAMMA Pty Ltd to the Customer.
- 1.3. If a customer cancels or alters any order or part order for special products or standard products with special materials, paints or finishes at any time after SAMMA Pty Ltd has received the order then SAMMA Pty Ltd reserves the right to charge to the customer the costs of any special products, materials, paints or finishes already acquired for the order together with the cost of any labour and tooling expended to the date of such cancellation or alterations.

2. Pricing

- 2.1. Where indicated, prices do not include any VAT or other applicable tax or duty payable and all VAT and other such taxes or duties to the extent that are applicable shall be paid by the customer as an additional charge.
- 2.2. Prices are based upon the complete package quoted. If there are any deviations, or deletions we reserve the right to re-quote with new specifications.
- 2.3. If any discrepancies arise in SAMMA P/L Quotes/Order/Invoice documents between unit and total amounts, the unit amount will prevail.
- 2.4. SAMMA P/L reserve the right to on forward any surcharge received from our suppliers on orders which are deemed to be urgent and outside of SAMMA P/L and their suppliers standard lead time and will vary according to project and scope. No works will commence without written approval for a surcharge from the client.

3. Terms of Payment

- 3.1. The Terms of payment are:
 - 3.1.1. all orders, a fifty per centum (50%) of the selling price must be paid by the customer as a deposit at the time of acceptance of the quotation and placement of the order unless other terms have been agreed. The remaining thirty per centum (30%) of the selling price is payable by the customer immediately prior to dispatch of the ordered products or unless otherwise stated; Final 20% to be paid on completion of project unless otherwise stated.
 - 3.1.2. if SAMMA Pty Ltd advises the customer that the ordered products are ready for dispatch and the customer refuses to accept the products or fails to make arrangements for installation, or if SAMMA Pty Ltd is unable to contact the customer after making reasonable endeavours to do so, the remainder of the selling price shall immediately become payable. SAMMA Pty Ltd shall be entitled to treat an amount equal to the remainder of the selling price as a judgment debt and such debt shall be capable of enforcement as a judgment debt without SAMMA Pty Ltd taking any further action to obtain a judgment debt against the customer;

3.1.3. the only exception that can be made to the Terms of Payment is a separate payment agreement made with the customer, between SAMMA Pty Ltd and the customer;

3.1.4. Notwithstanding the other provisions of clause 3.1.1, SAMMA Pty Ltd reserves the right to require the customer to pay the whole of the selling price in advance at the time of placement of the order.

3.1.5. If the customer fails to make payment in accordance with clause 3.1.1, SAMMA Pty Ltd shall be entitled to:

3.1.5.1. Require the payment of cash upon delivery of any further products;

3.1.5.2. Charge default interest at the rate of twelve per centum (12%) per month on a cumulative basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest to be computed from the due date for payment AND the parties agree that such default interest is not a penalty but is a true measure of damages incurred by SAMMA Pty Ltd; payments received from the customer will be credited first against any default interest and all such charges shall be payable on demand;

3.1.5.3. Claim from the customer all costs relating to any action taken by SAMMA Pty Ltd to recover monies or goods due from the customer including any mercantile agents costs, legal costs and disbursements on a solicitor-client basis; and

3.1.5.4. Cease any further deliveries to the customer and to terminate any agreement in relation to products that have not been delivered.

4. Retention

- 4.1. SAMMA P/L does not accept retention on any contract work less than \$50,000.00.

5. Lead Times for Special Orders

- 5.1. Please allow 8-10 weeks for delivery of goods from receipt of PO, deposits, signed terms and conditions, all materials, field measurements (if required) and approval of prototype, unless otherwise stated for all special-order items sourced from overseas.

6. Specifications

- 6.1. SAMMA P/L will not assume any responsibility for deviations between customer purchase order and/or designers and/or architect specifications as requested by the customer. SAMMA P/L will not be liable for changes in specifications due to client changes unless the customer requests a revised proposal. It is the customer's responsibility to obtain all approvals and/or waivers.

7. Customers Own Material (COM)

- 7.1. SAMMA P/L will not be responsible or liable for any shrinkage, discoloration, defects or other issues associated with or relating to the use of Customer's Own Materials and will only warrant workmanship on manufacturing, nor materials supplied by the customer. SAMMA P/L is not responsible for materials shortages out of our control.
- 7.2. SAMMA P/L reserves the right to hold production until all materials has been received. SAMMA P/L reserves the right to re-quote works on any materials that are not deemed appropriate for their specified use.
- 7.3. Quantities are estimated based upon sizes and specifications provided. SAMMA P/L will not be responsible for any additional materials required due to changes in the sizes and/or specifications.
- 7.4. Excess COM will be shipped to the property upon completion of the project unless otherwise specified in writing.

8. SAMMA P/L Supplied Material

- 8.1. SAMMA P/L will not be responsible or liable for any shrinkage, discoloration, defects or other issues associated with or relating to the use of materials if customer negligence is shown for inappropriate care or use of the same. SAMMA P/L will only warrant workmanship, as it does not apply to materials that are damaged due to inappropriate use.

9. Site/Product Measurements

- 9.1. SAMMA P/L will not be responsible for the final fit of finished products when customer or its agents have provided sizes. Only measurements taken by a qualified SAMMA P/L Technician can be assured.

10. Delivery and Installation

- 10.1. Installation charges if specified include a single trip charge for measure and a single trip charge for installation or unless otherwise stated. Any additional trips required unless otherwise stated, due to area inaccessibility, multi-phased project, construction delays, etc would be billed separately.
- 10.2. Pricing does not include the takedown and/or disposal of existing materials.
- 10.3. Pricing does not include for any lift or access equipment.
- 10.4. Any date or time quoted for delivery and installation is an estimate only and SAMMA Pty Ltd shall endeavour to effect delivery and installation at the time or times requested by the customer but failure to do so shall not confer any right of cancellation or refusal of delivery and installation on the customer or render SAMMA Pty Ltd liable for any loss or damages directly or indirectly sustained by the customer as a result thereof.
- 10.5. The customer shall not be relieved of any obligation to accept or pay for products by reason of any delay in delivery and installation caused by any "Force Majeure" as described in clause 17.
- 10.6. Being one of the last trades on site, SAMMA P/L will not accept any liquidated damages.

11. Inspection

- 11.1. The customer shall examine the products immediately after delivery:

- 11.2. SAMMA Pty Ltd shall not be liable for any short delivery, defect or damage unless SAMMA Pty Ltd receives details in writing within five (5) days from the date of delivery of the products;
- 11.3. The customer acknowledges that reasonable colour variations can occur in the manufacture of different materials;
- 11.4. While SAMMA Pty Ltd will take every care to obtain the best dimensions, SAMMA Pty Ltd cannot assume responsibility for variations in colour and
- 11.5. SAMMA Pty Ltd accepts no responsibility for changes in dimensions and SAMMA Pty Ltd shall not be liable in any way for loss or damage suffered as a consequence thereof.

12. Property and Risk

- 12.1. Notwithstanding delivery of the products or their installation, property in any given products shall remain with SAMMA Pty Ltd until the customer has paid and discharged any and all other indebtedness to SAMMA Pty Ltd on any account whatsoever (including applicable VAT and other taxes, levies and duties). Any payment made by or on behalf of a customer which is later avoided by the application of any statutory provision shall be deemed not to discharge the customer's indebtedness and, in such an event, the parties are to be restored to the rights which each respectively would have had if the payment had not been made.
- 12.2. The risk in the products shall pass to the customer upon delivery.
- 12.3. The customer acknowledges that it is in possession of the products solely as a bailee for SAMMA Pty Ltd until payment terms are met and until such payment:
 - 12.3.1. the customer shall be fully responsible for any loss or damage to the goods whatsoever and howsoever caused following delivery; and
 - 12.3.2. the customer shall store the products separately from its own goods and those of any other party and in a manner, which clearly identifies the products, whether as separate chattels or as components, as the property of SAMMA Pty Ltd
 - 12.3.3. The customer hereby irrevocably grants to SAMMA Pty Ltd, its agents and servants, an unrestricted right and license, without notice, to enter premises occupied by the customer to identify and remove any of the products the property of SAMMA Pty Ltd in accordance with these Terms and Conditions of Sale without in any way being liable to the customer or any person claiming through the customer. SAMMA Pty Ltd shall have the right to sell or dispose of any such products removed or otherwise in its sole discretion and shall not be liable for any loss occasioned thereby.

13. Warranty

- 13.1. Subject to payment in full being made as defined in clause 3.1.1 or agreed terms, SAMMA Pty Ltd shall use its best endeavors to pass on to the customer the benefit of any warranties or guarantees it receives in respect of products or parts thereof supplied to the customer which are not of SAMMA P/L manufacture.

14. Sale to Non-Consumers

- 14.1. In the case of products supplied by SAMMA Pty Ltd to a customer who is not a "consumer", if the products do not correspond with the description of them on the invoice or are defective, then provided that the products are preserved intact and made available for inspection by a representative of SAMMA Pty Ltd and are returned to SAMMA Pty Ltd in the same order and condition as that in which they were delivered, SAMMA Pty Ltd shall at its option replace those products or reimburse the customer for the amount of the purchase price paid for them, but any claim in this respect must be made in writing within seven (7) days of the date of delivery of those products.
- 14.2. Should the customer seek indemnity from SAMMA Pty Ltd in respect of any claim by a consumer on the customer as a result of a breach of condition or warranty implied by the Act in a contract for the supply of products by the customer to that consumer, sub- paragraph (i) will not apply and in respect of products that are of a kind ordinarily acquired for personal, domestic or household use or consumption ("consumer goods"), SAMMA Pty Ltd's liability is limited to indemnifying the customer in accordance with the Act, limited to a liability to pay to the customer an amount equal to the cost of replacing the products or the cost of obtaining equivalent products or the cost of having the products repaired, whichever is the lesser amount.

15. Sale to Consumers

- 15.1. In the case of products supplied by SAMMA Pty Ltd to a customer who is a consumer, to the extent that the products are not consumer products or goods, the liability of SAMMA Pty Ltd to the customer for breach of any warranty or for breach of any duty of care shall in all cases be limited, at the option of SAMMA Pty Ltd, to any one or more of the replacement of the products or the supply of equivalent products, the repair of the products, the payment of the cost of replacing the products or acquiring equivalent products or the payment of the cost of having the product repaired.
- 15.2. Except for those conditions and warranties implied by the Act or other sale of products or consumer protection legislation which may not be excluded, the customer agrees that:
- 15.3. It has not relied on any inducement, representation or statement made by or on behalf of SAMMA Pty Ltd in purchasing the products and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorized representative of SAMMA Pty Ltd); and
- 15.4. This clause sets out the entire liability of SAMMA Pty Ltd in respect of its liability under the Act or otherwise in respect of liabilities to the consumer for a breach of a condition or warranty with respect to the sale of products or goods. In no circumstances will SAMMA Pty Ltd incur any liability in respect of or arising out of or in connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the customer.

16. Force Majeure

- 16.1. SAMMA Pty Ltd shall not be liable for any failure or delay to supply or deliver the products where such failure or delay

is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of SAMMA Pty Ltd including, but not limited to, war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

17. Termination

- 17.1. If the customer fails to comply with any of these Terms and Conditions or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for winding up or liquidation (other than for the purposes of re-organization or reconstruction) or enters into any composition or arrangement with creditors or if a Receiver and/or Manager and/or Administrator is appointed for any property or assets of the customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a liquidator or provisional liquidator is appointed, SAMMA Pty Ltd may, in addition to exercising all or any of its rights against the customer, suspended any further deliveries and immediately recover possession of any products not paid for in accordance with these Terms and Conditions.

18. Supply

- 18.1. SAMMA Pty Ltd reserves the right to decline any order for products when the size of the order or the requested delivery date inhibits or prejudices SAMMA P/L's ability to fulfill its contractual commitments or other commitments to its clients, licensees, other customers or any other person or corporation. SAMMA Pty Ltd also reserves the right to rescind any orders within five (5) working days of the date of acceptance of the quotation/ placement of the order, and if SAMMA Pty Ltd does do so, it shall have no liability to the customer other than refunding any deposit paid.

19. Governing Law

- 19.1. The customer agrees that these Terms and Conditions of Sale shall be construed according to the Laws of the State. Proceedings may be instituted in such State as SAMMA Pty Ltd may in its sole discretion determine.

20. Service of Documents

- 20.1. The customer agrees that service of any notices or Court documents may be affected by forwarding same by pre-paid post or facsimile to the last known address or facsimile number of the customer.

21. Interpretation

- 21.1. If any matter, thing act or omission arising or occurring under or pursuant to these Terms and Conditions constitutes a *taxable supply* then the party making the supply shall have the right to recover any VAT payable in respect of that supply from the recipient of the supply in addition to any other amounts that it has a right to receive in respect of the supply provided that the party making the supply gives to the recipient of the supply a *tax invoice*.
- 21.2. Where the context permits, a reference to a party includes the *representative* member of any VAT group to which that party belongs.