

JND RESPONSE - TERMS AND CONDITIONS OF SALE TO BUSINESSES

1. BASIS OF SALE

- 1.1 In these Conditions "we" means JND Response, a trading division of John N Dunn Group Limited (Company Number 06176843) whose registered office is at Phoenix House, Kingfisher Way, Silverlink Business Park, Wallsend, Tyne and Wear, NE28 9NX.
- 1.2 We shall sell and you, the Customer, shall buy the Goods and Services subject to these Conditions which govern the contract between us to the exclusion of any other terms which you may ask us to sign or which you may supply.
- 1.3 Any variation to these Conditions is of no effect unless agreed in writing by our authorised representative.
- 1.4 "Goods" means the goods which we are supplying and "Services" means the services (including any repair work or installation) which we are to perform in each case in accordance with these Conditions.
- 1.5 Quotations are not offers and are valid for 30 days only and subject to withdrawal at any time by us.
- 1.6 You are responsible for ensuring that your order is accurate and for giving us all the information we need to complete the order.
- 1.7 Your order is not accepted until we confirm in writing or (if earlier) we supply the Goods and/or Services to you.

2. CANCELLATION AND DELAY

- 2.1 Once accepted, an order may not be cancelled without our written agreement and on terms that you indemnify us against all loss and expenses incurred because of cancellation.
- 2.2 We will not be liable to you or be in breach of contract by reason of delay or failure to perform any of our obligations if the delay or failure was due to any cause beyond our reasonable control.

3. PRICE

- 3.1 The price of the Goods and Services will be the price we have quoted to you. We reserve the right at any time before delivery or performance to amend the price to take into account any variation in our costs.
- 3.2 Any price quoted is inclusive of the costs of delivery to you, unless specified otherwise.
- 3.3 The price is exclusive of any applicable VAT.
- 3.4 The price quoted to you is based on the assumption that all Services are to be performed during our normal working hours. If you require us to perform the Services outside of our normal working hours, we will be entitled to increase the price charged to you to account for any resulting increase in our costs.

4. PAYMENT

- 4.1 Unless otherwise specified, we will issue our invoice to you within 7 days of the delivery of the Goods or the performance of the Services has taken place. Payment for the Goods and/or Services is due and payable 14 days after date of invoice without deduction, retention or set-off. However, payment is due and payable

immediately upon cancellation or termination of the contract between us.

- 4.2 If you fail to pay on the due date, the total price of the Goods and/or Services becomes due and payable without demand and we may cancel the contract between us, suspend further deliveries and/or claim statutory interest and debt recovery costs.

5. DELIVERY AND PERFORMANCE

- 5.1 Delivery of the Goods shall be made by us delivering the Goods.
- 5.2 Any dates for delivery and/or performance are approximate only.
- 5.3 Where Goods are supplied by instalments, each instalment is a separate contract.
- 5.4 If you fail to take delivery or to give us adequate delivery or performance instructions we may charge you for any damages, charges and expenses we incur as a result of your failure (including the cost of storage and all labour and materials used).

6. RISK AND PROPERTY

- 6.1 **Risk in the Goods passes to you on delivery, but the Goods remain our property until we receive their full price together with the full price of any other goods you have contracted to buy from us.**
- 6.2 We may recover or resell the Goods and enter any premises where the Goods are stored for this purpose, so as to discharge any overdue payment.

7. WARRANTIES

- 7.1 We warrant to you that the Goods correspond with their specification at the time of delivery. We reserve the right to make any changes in the specification of the Goods or Services which are required for the Goods or Services to conform with any applicable safety or other statutory requirements or, where the Goods or Services are to be supplied to your specification, which do not materially affect their quality or performance.
- 7.2 We warrant that the Services will be performed:-
 - 7.2.1 with reasonable care and skill;
 - 7.2.2 by appropriately trained personnel; and
 - 7.2.3 in accordance with all applicable laws and regulations relating to the performance of the Services.
- 7.3 We warrant that the Goods and/or Services will be free from defects in materials and workmanship for a period of 12 months from delivery. This warranty only covers Goods that we have provided or replaced, and Services that we have performed.
- 7.4 If we repair or replace Goods or re-perform Services due to a breach by us of the warranties contained in this condition 7, the 12 month warranty detailed in condition 7.3 will start to run again from the date the Goods were repaired or replaced and/or the Services were re-performed.
- 7.5 Any claim by you which is based on any defect in quality or condition or failure to correspond with specification must be notified to us within seven days from date of delivery or within a reasonable

time after discovery of the defect or failure. If no such notification is received, you are not entitled to reject the Goods and/or Services and must pay their price.

7.6 Where any valid claim in respect of any of the Goods and/or Services is notified to us in accordance with these Conditions, we shall be entitled to (in the case of Goods) repair or replace them (or the part in question) free of charge and (in the case of Services) carry out the Services again (or the part in question) free of charge or (in each case) refund to you their price (or a proportionate part) but then we shall have no further liability to you.

7.7 We shall not be liable under the warranties contained in this condition 7 if:-

7.7.1 the total price for the Goods and Services has not been paid by the due date for payment; or

7.7.2 any defect arises from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions (whether oral or written) or maintenance requirements, misuse or alteration or repair of the Goods without our prior approval; or

7.7.3 the Goods have been improperly installed or connected (unless we carried out the installation and connection).

8. **HEALTH AND SAFETY**

You agree to:-

8.1 pay due regard to all information supplied by us relating to the use of the Goods necessary to ensure the Goods will be safe and without risk to health at all times; and

8.2 indemnify us in respect of any and all claims arising from the Goods being unsafe as a result of your activities.

9. **LIMITATION OF LIABILITY**

YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

9.1 The following sets out our entire liability (including any liability for the acts or omissions of our employees, agents or subcontractors) to you in respect of any breach of these Conditions, any representation or statement made or any act or omission relating to or done in connection with the contract between us and in respect of any contemplated performance or lack of performance including liability for negligence and other tortious liability.

9.2 All warranties, conditions or other terms implied by statute, common law or trade usage are excluded to the fullest extent permitted by law but this exclusion does not apply to any implied condition that we have the right to sell the Goods.

9.3 Nothing in these Conditions excludes or limits our liability for death or personal injury caused

by our negligence or for fraudulent misrepresentation or any other liability to the extent such liability may not be excluded or limited as a matter of law.

9.4 Subject to conditions 9.2 and 9.3 our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the contract between us shall be limited to two times the contract price.

9.5 Subject to conditions 9.2 and 9.3 we shall not be liable to you for:-

9.5.1 any loss of profit, loss of production, depletion of goodwill; and

9.5.2 any indirect loss, damage, costs or expenses whatsoever

in each case which arise out of or in connection with the contract between us.

10. **GENERAL**

10.1 You are not permitted to resell the Goods.

10.2 If any provision of these Conditions is found to be invalid or unenforceable, the remainder shall not be affected.

10.3 Any waiver by us of any breach by you is not a waiver of any subsequent breach.

10.4 These Conditions and the contract between us do not create, confer or purport to confer any benefit or right enforceable by any person not a party to it.

10.5 We are part of a group of companies and accordingly we may perform any of our obligations or exercise any of our rights ourselves or through any other member of our group.

10.6 We are entitled to subcontract our obligations under these Conditions.

10.7 These Conditions and the contract between us are subject to English law and the exclusive jurisdiction of the English courts.