

CONDITIONS OF TRADING

"IMPORTANT NOTICE"

These Conditions set out the terms of the contract between the Trader and the Contractor. The Trader's attention is drawn to the following clauses which exclude or limit the Trader's liability (clause 4) and which require the Trader to indemnify the Contractor or impose other obligations on the Trader (clause 5) and which limit the time in which claims can be notified or brought (clause 20).

It is the responsibility of the Trader to ensure that appropriate insurance cover for the full value of the Goods is procured for the duration of the Services.

1. DEFINITIONS

In these Conditions the following terms have the following meanings:
"Conditions" means the terms and conditions set out herein

"Contractor"	means both Hysiam Limited trading as International Lifting & Shipping, and Industrial Engineering Services (Midlands) Ltd
"Courier Services"	Gateway means the Contractor's bespoke courier access system which allows the Trader to contact direct with third party courier service providers
"Dangerous Goods"	means Goods that are or may become of a dangerous, hazardous, inflammable, radioactive or damaging nature to other Goods or any other property or person; and/or any substance of which carriage is prohibited and/or controlled by legislation, including but not limited to Goods which must be handled or stored in accordance with the Control of Substances Hazardous to Health (COSHH) Regulations 2002 or any related successor legislation as may from time to time be enacted
"Domestic Road Haulage Services"	means the carriage by road of Goods within the United Kingdom, including any such carriage prior to an International Movement but not including International Haulage Services or Courier Gateway Services
"Excluded Goods"	means Goods that require special handling, carriage or security, including but not limited to Dangerous Goods, a full list of which is available on request and on the Contractor's website
"Goods"	means any article accepted by the Contractor for transport or handling, including (save where expressly provided below) Machinery
"International Road Haulage Services"	means the international carriage of Goods by road where the place of taking over the Goods and the place designated for delivery are situated in two different countries, but not including Courier Gateway Services
"International Movement"	means the international carriage of Goods by sea or air
"Logistics Services"	means arranging International Movements of Goods and any related ancillary services, including local services equivalent to On-Site Services
"Machinery"	means any and all plant and machinery accepted by the Contractor for transport or handling, and all parts thereof, including any associated exhibition and display equipment
"On-site Services"	means on-site and exhibition services including lifting (including contract lifting), handling, dismantling, assembly and ancillary services and all associated enhanced services (including but not limited to provision of electricals, shell schemes, lighting, carpets and installations)
"Owner"	means the owner, exhibitor, shipper and/or consignee of the Goods and/or any other person who has or may have a legal or equitable interest in the Goods at any given time, and/or any person acting on their behalf
"Services"	means Collectively Domestic Road Haulage Services, Courier Gateway Services, On-site Services, International Road Haulage Services, Logistics Services and Storage Services
"Storage Services"	means warehousing of Goods not in the course of carriage and not provided in connection with Logistics Services
"Tariff"	means the official show Tariff as issued by the Contractor, a copy of which is available on request
"Trader"	means any person whose request or on whose behalf work is performed by the Contractor

2. APPLICATION

All and any Services provided by the Contractor in the course of business, whether gratuitous or not, are subject to these Conditions. The Contractor does not agree to act as a common carrier and only agrees to provide Services in relation to the Goods subject to these Conditions. Any liability of the Contractor, however arising whether in contract, tort, under statute or otherwise, shall be governed by the Conditions. All warranties, conditions and other terms implied by statute or common law that may apply to the Contractor are to the fullest extent permitted by law excluded from these Conditions. If any part of these Conditions is incompatible with any legislation commonly applicable to the Services, then that part of the Conditions shall be voided to that extent and no further.

3. PARTIES AND CAPACITY

- (a) The Trader warrants that he is either the Owner of the Goods or is the authorised agent of the Owner, and that he accepts these Conditions not only for himself but also as agent for and on behalf of the Owner.
 - (b) The Trader enters into the Contract for and on behalf of themselves and their subcontractors and their respective servants and agents, all of whom shall be entitled to the benefit of the Conditions and shall be under liability whatsoever to the Trader or anyone claiming through him in respect of the Goods greater than, in addition to or separately from that of the Contractor under these Conditions.
 - (c) All Domestic Road Haulage Services, International Road Haulage Services, Storage Services and On-site Services are provided by the Contractor as a principal subject to these Conditions.
 - (d) All Courier Gateway Services and Logistics Services are provided by the Contractor as agent only on behalf of the Trader, and the Contractor assumes no liability as a carrier or principal in respect thereof. The Contractor shall be entitled to and is expressly authorised by the Trader to enter into all and any contracts on behalf of the Trader as required to fulfil the Trader's instructions, subject where applicable to the trading conditions of the parties with whom such contracts are made.
4. LIABILITY AND LIMITATION OF LIABILITY
- (a) All Domestic Road Haulage Services are provided subject to the provisions of the current version of the Road Haulage Association Conditions of Carriage, and the Contractor is entitled to rely on the provisions, defences, limitations and exclusions of liability contained therein.
 - (b) All International Road Haulage Services are provided subject to the provisions of the Convention on the Contract for the International Carriage of Goods by Road (CMR), and the Contractor is entitled to rely on the provisions, defences, limitations and exclusions of liability contained therein.
 - (c) All Courier Gateway Services and Logistics Services are provided by the Contractor as agent only in accordance with clause 3(d) above and subject to the current version of the British International Freight Association's Standard Trading Conditions, and the Contractor is entitled to rely on the provisions, defences, limitations and exclusions of liability contained therein.
 - (d) All On-site Services are provided by the Contractor subject to the Conditions herein and subject to the following express provisions:
 - i) The Contractor will provide On-site Services with a reasonable degree of care, diligence, skill and judgment.
 - ii) The Contractor will be responsible for loss of or damage to Goods and/or damage to other property caused directly by the Contractor in breach of its duty under 4(d)(i) during the performance of On-Site Services, provided always that such loss or damage has not been caused or contributed to by any instructions or orders, or any error or deficiency in such instructions or orders, given on site or otherwise by the Trader, the Owner or their servants or agents.
 - (e) All Storage Services are provided by the Contractor subject to the current version of the United Kingdom Warehousing Association Contract Conditions for Logistics (2014), and the Contractor is entitled to rely on the provisions, defences, limitations and exclusions of liability contained therein.
 - (f) Without prejudice to the foregoing, the liability of the Contractor in respect of any claim whatsoever arising in respect of any of the Services shall in any case be limited to the lesser of:
 - i) the actual value of the loss or damage;
 - ii) the cost of making good the damage;
 - iii) the limit of liability under the regimes referred to in clauses 4(a)-(e) above, where applicable;
 - iv) in the case of claim relating to Machinery and/or On-site services, the sum of £200,000 for any one claim;
 - v) in all other cases, the sum of £250,000 for all claims arising out of any one incident.
 - (g) The limitations set out in clause 4(f) shall not apply to any liability of the Contractor for death or personal injury caused by its negligence, or for fraud or fraudulent misrepresentation, or to the extent such limitation is not permitted by law.
 - (h) The Contractor shall have the option of replacing or repairing any article lost or damaged for which it may be liable.

- (i) The Contractor shall not be in any case whatsoever acting as responsible for:
 - i) loss of market, production, revenue, income, profits or investment opportunities, whether such loss be direct or indirect, or for any special, indirect, exemplary, punitive or consequential loss or damage of any kind whatsoever arising suffered by the Trader, Owner or any other party;
 - ii) loss, damage or personal injury arising from:
 - 1. delay or deviation, however caused;
 - 2. any consequence of warlike war, invasion, act of foreign enemy (whether war be declared or not), hostilities, rebellion, insurrection, terrorism, military or usurped power of confiscation, requisition, or destruction or damage by any of government or public or local authority, or seizure or forfeiture under legal process;
 - 3. any natural deterioration of, or inherent, latent or manufacturing defects or vice in Goods or Machinery;
 - 4. any changes in Goods specifications;
 - 5. Excluded Goods;
 - 6. industrial fallout contamination, airborne corrosives and/or cleanliness
 - 7. failure of any rope, sling, shackle or any other item of equipment or lifting tackle provided by the Trader or Owner for use by the Contractor unless misuse of such tackle and equipment by the Contractor is proven;
 - 8. insufficient or improper preparation, packing, stowing, labelling, marking and/or addressing of Goods for transit, except where the Contractor has agreed to carry this out on the Trader's behalf;
 - 9. the unreliability of the Trader, the Owner, or their servants or agents;
 - 10. any failure by the Trader, the Owner, or their servants or agents to provide clear and specific instructions or to supervise the loading and/or unloading of Goods;
 - 11. without prejudice to the remainder of this clause 4, any Goods in respect of which Services are provided, once such Goods are delivered to start;
 - 12. without prejudice to the remainder of this clause 4, Goods being left unattended, whether on a stand or in an open store or otherwise, by the Trader, the Owner or their servants or agents (all stores will be deemed to be open unless expressly stated otherwise), or any failure by the Trader, his servants or agents to take delivery of or remove Goods;
 - 13. loss of or damage to packaging, shipping crates, containers or similar objects;
 - 14. error, act, omission, fraud, misstatement or misrepresentation by the Trader or Owner or any other party acting on the Trader's or Owner's authority;
 - 15. riot, civil commotion, industrial action, strike, lock-out, or general or partial stoppage or restraint of labour;
 - 16. act of God, fire, flood or adverse weather conditions or any other cause or event which the Contractor is unable to avoid, and the consequences of which the Contractor is unable to prevent by the exercise of reasonable diligence.
- (i) Save that nothing in these Conditions shall operate to limit or derogate from any applicable statute or international convention that requires compliance by law, and without prejudice to the provisions of clause 4(f)(i) above, in the event of a discrepancy or conflict between these Conditions and any of the regimes referred to in this clause 4, then in the terms of these Conditions shall prevail.

5. CHOICE OF WORK AND SUBCONTRACTING

- (a) Unless otherwise agreed with the Trader, the Contractor shall have full liberty to employ subcontractors for the performance of the whole or any part of these Services. These Conditions shall nevertheless apply to the Goods during the period when they are in the custody or control of any such subcontractor.
- (b) The Contractor reserves to itself full liberty to determine the method, route, order of delivery of Goods and/or procedure to be followed in the performance of any of the Services subject to these Conditions, save where expressly otherwise agreed with the Trader.
- (c) The Contractor reserves the right to exercise its discretion in the performance of the Services in the event that the Trader, its servants or agents are not available to provide instructions, where required.

6. TRADER RESPONSIBILITIES, WARRANTIES AND INDEMNITIES

Without prejudice to the generality of the foregoing, the Trader warrants and confirms that:

- (a) they have read these Conditions in full and accept these Conditions and the reasonableness thereof without reservation;

- (b) save where the Contractor agrees to procure insurance under clause 12 below, they will procure adequate goods in transit and/or static risks insurance to cover the Goods for loss and/or damage for the duration of the Services;
- (c) all Goods and any property and/or equipment supplied in connection with the Goods are safe, free from defect and fit for purpose;
- (d) they will notify the Contractor of any special requirements or instructions in respect of the handling, lifting, storage or transportation of the Goods;
- (e) all Goods have been properly and sufficiently prepared, packed, stowed, labelled marked and/or addressed for transit, except where the Contractor has agreed to carry this out on the Trader's behalf;
- (f) they will be responsible for any VAT, duty, tax or any other liability that may fall due in respect of the Services (and insofar as the Contractor may be required to pay and recover such sums this shall not affect the Trader's liability to pay such sums);
- (g) no claim shall be made against any director, servant or employee of the Contractor which imposes, or attempts to impose, upon them any personal liability in connection with any Services provided by the Contractor;
- (h) they will indemnify and hold the Contractor harmless in respect of any loss, damage or liability to the Trader or any third party and against all claims, actions, demands or proceedings whatsoever and by whomsoever made against the Contractor for loss, damages, costs, fines, duties, penalties, demurrage, expenses or any other relief arising from:
 - i) any breach by the Trader, its servants or agents of any of their obligations and/or warranties contained in these Conditions;
 - ii) any negligence, error, omission, fraud, misstatement or misrepresentation by the Trader, the Owner or their servants or agents;
 - iii) any negligence, error, omission, fraud, misstatement or misrepresentation by the Trader, the Owner or their servants or agents;
 - iv) any payment by the Contractor of any duty, tax, impost, levy, deposit or any other outlay in respect of the Goods on the Trader's and/or the Owner's behalf;
 - v) any claims in respect of the limits of liability set out in clause 4 above;
 - vi) any losses arising from Goods being left unattended at any time, whether on a stand or in an open store or otherwise, by the Trader, Owner, or their servants or agents.

7. QUOTATIONS AND TIMINGS

- (a) All quotations and estimates are provided pursuant to these Conditions, are subject to change and, unless otherwise expressly agreed by the Contractor, are valid for a period of thirty days only from the date of issue.
- (b) All quotations are net of VAT, insurance, customs duties and other similar charges or taxes, and are based on the assumption that loading and unloading facilities are available at the points of collection and delivery, where applicable.
- (c) The Contractor is entitled to vary any quotation upon discovery of any previously unknown circumstances which may in the Contractor's opinion affect the level of charges applicable to the Services, or if criteria including destination, weight and dimensions change or are found to be different when the Services are performed.
- (d) Charges are subject to a minimum charge of £45 or the rate stipulated in the Tariff, where applicable, whichever is greater, and are based on work being carried out between 0800 and 1800 hours Monday to Friday. Work outside these hours incurs an overtime surcharge of 50% or the overtime rate working in the Tariff, where applicable, whichever is greater. Quotations are not based on a limited collection or delivery unless otherwise stated.

8. PAYMENT OF CHARGES

- (a) The Contractor reserves the right to charge an all-in fee for all Services, including any Services provided by the Contractor as agent only, without prejudice to the Contractor's role as agent. All charges are quoted exclusive of VAT.
- (b) The Trader shall be liable for, and the Contractor reserves the right to charge, up to 100% of the applicable charges where notice of cancellation is provided less than 48 hours before provision of the Services is due to commence.
- (c) The Contractor is entitled to remuneration for the Services regardless of whether or not any work order, delivery note or similar document has been signed by the Trader, their servants or agents.
- (d) The Contractor reserves the right to require payment for all charges involved in connection with the Services to be paid by the Trader to the Contractor or its agents in advance. In all other cases, the Trader shall be liable to pay all sums invoiced by the Contractor in full within 30 days of the date of any invoice issued by the Contractor, and the Late Payment of Commercial Debts (Interest) Act 1998 as amended shall apply to all sums due from the Customer.
- (e) If full payment is not made in accordance with clause 8(d), the Contractor shall be entitled to:
 - i) charge statutory interest on a daily basis in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended, on any outstanding sums until full date of payment in full by cash or cleared funds;
 - ii) take payment from any credit card details taken by way of guarantee of payment, and/or enforce or realise any other form of guarantee or security provided in respect of payment;
 - iii) claim damages and costs, including but not limited to statutory damages, debt recovery costs, and legal costs;
 - iv) without prejudice to its rights against the Trader, take steps to recover any sums due under this clause 8 from the Owner.

9. COUNTERCLAIMS

A claim or counter claim shall not be made the reason for deferring or withholding payment of monies payable or liabilities incurred to the Contractor, and in no circumstances shall the Trader be entitled to raise or rely upon a defence of set-off.

10. LIEN, SALE, REMOVAL AND DISPOSAL OF GOODS

- (a) The Contractor shall have a general lien on all Goods and/or any other property belonging to the Trader in the Contractor's possession, custody or control for all sums owed at any time by the Trader to the Contractor. The Trader shall be liable for all storage charges and any other charges that may be incurred in respect of any Goods detained under lien, and these Conditions shall continue to apply. Delivery of part of the Goods shall not affect any lien exercised by the Contractor over the remainder.
- (b) Without prejudice to the generality of these Conditions, it is the Trader's responsibility to ensure that Goods are kept secure at all times prior to collection by and/or following delivery by the Contractor. In particular, the Trader assumes full responsibility for any Goods left unattended, whether on a stand or in an open store or otherwise, prior to collection by or following delivery by the Contractor. The Contractor will use reasonable endeavours to alert the Trader to any discrepancies in quantities identified upon collection of unattended Goods from a stand or other non-secure location, but shall in no circumstances accept liability for loss of, damage to or discrepancies in quantities of Goods that have been left unattended prior to collection or following delivery.
- (c) In the event that the Contractor is unable to effect delivery of the Goods or any part thereof, the Contractor will store the Goods pending collection by the Trader or instructions to re-deliver. Any Goods stored pursuant to this clause will be stored at the Trader's sole risk. The Trader shall be liable for all and any charges, costs and expenses incurred in connection with storage and/or re-delivery pursuant to this clause.
- (d) The Contractor shall be entitled to dispose of or deal with by sale or by any other means all of the Trader's expense and as the Trader's agent any Goods and/or any other property detained under lien or which the Trader has failed to collect or which the Contractor has been unable to deliver:
 - i) upon a minimum of 7 days' notice; or
 - ii) if the Trader can be contacted or traced and reasonable efforts have been made by the Contractor to contact any party who may have an interest in the Goods, or if the Goods in question have perished, deteriorated or altered, or may be about to do so, or may cause loss or damage to the Contractor or any other third party, or may contravene any applicable laws or regulations, immediately and without notice to the Trader.
- (e) The Contractor is entitled to apply the proceeds of any sale or disposal towards the payment of any sums due to the Contractor, including any costs of sale, disposal or storage, and shall, upon accounting to the Trader for any remaining balance, be discharged of any liability whatsoever in respect of the Goods or any other property.

11. DEMURRAGE CHARGES

The Trader shall be liable to pay demurrage at the Contractor's current rate for unreasonable detention of any vehicle, trailer, container or equipment. In no circumstances will the Contractor be responsible for demurrage charges however incurred on any rail or road vehicle, crane, barge, vessel, or aeroplane or any detention charges levied by any third party other than the Contractor, however arising.

12. INSURANCE

- (a) The Contractor undertakes to have and keep in force policies of insurance indemnifying them in respect of:
 - i) their liability to the Trader as defined in these Conditions;
 - ii) their liability to third parties, and
 - iii) their liability to their employees at common law.
- (b) It is the responsibility of the Trader to ensure that he has procured adequate insurance to cover the full value of the Goods during the performance of the Services and to ensure that he is properly protected in respect of his liability to third parties arising out of any defects in his premises, plant and equipment or Goods and he is recommended to confirm the adequacy of such cover with his usual insurers.
- (c) The Contractor will at the request of the Trader endeavour to arrange for and on behalf of the Trader insurance in respect of any Goods for which Services are provided, at rates of premium which will be quoted upon application. Any insurance arranged under this clause will be procured by the Contractor as agent only in accordance with the provisions of clause 4(c) above and subject to the following express provisions:
 - i) Requests for insurance must be made in writing on or at least 48 hours notice during normal business hours. The Contractor shall at its sole discretion seek to accommodate any requests made that do not comply with this clause, but shall be under no obligation to do so.
 - ii) Without prejudice to the foregoing, no insurance shall be effected unless the Contractor has confirmed the details of the insurance requested by way of written quotation, and the Contractor will be effected unless and until a cargo insurance certificate has been issued by or on behalf of interested insurers.
 - iii) The Contractor reserves the right to declare any insurance a agree to procure on any open or general policy held by the Contractor, and shall not be obliged to effect a separate insurance of the Goods in question.
 - iv) The contract of insurance shall be with interested insurers taking the risk and not with the Contractor, and shall be subject to the conditions, exceptions, exclusions and limitations of the underlying policy/policies, copies of which are available on request.

13. ACCESS AND ROADS

- (a) Where, where necessary, every effort is made to respect access to collection and delivery points, all quotations are made on the assumption that the Contractor's vehicles, cranes or plant can be taken along roads to a place affording hard, solid standing and unobstructed by overhead wires or other obstructions when collecting or delivering or undertaking lifting or handling operations and that the work can be carried out under the Contractor's instructions without interruption.
- (b) Except where the Contractor negligently fails to comply with instructions issued by the Trader, in respect of the premises at which collection or delivery is to be made and/or at which lifting or handling is to be undertaken, the Contractor shall not be responsible for any damage to roadways or approaches, or for loss or anything within or beneath any of them and shall be indemnified by the Trader against all claims and expenses made in respect thereof.

14. DANGEROUS AND EXCLUDED GOODS

Without prior agreement in writing, the Contractor will not accept or deal with Excluded Goods as defined above. Should any Trader deliver Excluded Goods to the Contractor, or cause the Contractor to handle or deal with Excluded goods, with or without the Contractor's consent, the Contractor reserves the right to deal with the Excluded Goods as they think fit, including to remove the Excluded Goods at the Trader's expense, or require the Trader to do so, in the event that the Contractor forms the opinion that the Excluded Goods constitute a risk to other goods, property, life or health.

15. HIRE OF CRANES

The Trader shall not submit or lend to any third party any crane provided on hire by the Contractor, nor shall he direct or permit any person other than the Contractor's servants or agents to drive or operate such crane. The Trader shall be responsible for any loss or damage occurring as a result of any breach of this Condition and shall indemnify the Contractor in respect thereof.

16. FURTHER WORK

These Conditions shall apply to any further work in excess of that referred to in the contract carried out at the Trader's request.

17. AUTHORITY TO VARY CONDITIONS

- (a) No servant or agent of the Contractor has authority to:
 - i) alter, vary or qualify these Conditions;
 - ii) accept purchase or other orders embodying any condition or clause aimed at transferring any common law or other liability of the Trader to the Contractor;
 - iii) agree to provide Services on any terms and conditions other than these Conditions.

18. WAIVER

Any failure by the Contractor to exercise any right, power or remedy under these Conditions shall not in any circumstances impair such right, power or remedy nor operate as a waiver thereof. The single or partial exercise by the Contractor of any right, power or remedy under these Conditions shall not, in any circumstances, preclude any other or further exercise of it, or the exercise of any other right, power or remedy. Any waiver by the Contractor of any breach or default by the Trader of these Conditions shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other provisions of these Conditions.

19. SEVERABILITY

If any part of these Conditions is found by any Court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable in any respect, then that part of these Conditions shall be removed without affecting or impairing the validity or enforceability of any other part of these Conditions.

20. TIME LIMITS FOR CLAIMS

- (a) The Contractor will not accept liability for any loss, damage, claim or potential claim unless notice thereof has been given in writing within seven clear days after the delivery of the Goods or after completion of the Services performed under the Contract.
- (b) The Contractor's acceptance of the liability regimes set out in clause 4, the Contractor shall in any event be discharged from all liability whatsoever and however arising unless such be brought and written notice thereof given to the Contractor within nine months from the date of the event or occurrence alleged to give rise to a cause of action against the Contractor.

21. JURISDICTION

These Conditions and any Services or contract to which they apply shall be governed by and construed in accordance with the laws of England and Wales, and any claim arising out of or in connection with the Services and/or these Conditions and/or any contract to which the Conditions apply shall be subject to the exclusive jurisdiction of the English Courts.