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STRICKLAND TRACKS LIMITED
TERMS AND CONDITIONS OF SALES

In these conditions "we" and "us" and all similar terms shall mean Strickland Tracks Limited. We offer to sell goods and perform services and accept orders for such goods and services only on the basis of the following conditions. These conditions shall therefore be deemed to be incorporated in any agreement between a customer and ourselves. Any term or condition which a customer may seek to stipulate or incorporate in any such agreement which either is inconsistent with these conditions or has the effect of increasing or extending our obligations or those of our servants or agents beyond those arising under these conditions shall accordingly be of no effect. We request that our customers read these conditions and draw their attention in particular to conditions 6, 17 and 18 under which we disclaim certain obligations and responsibilities and exclude certain liabilities and to conditions 7 to 14 under which we retain title to goods supplied by us and prohibit their resale until all sums due to us from the customer have been paid.

MANUFACTURERS' DESCRIPTIONS
We also draw our customers' attention to the fact that many of the products we supply are designed to replace original parts supplied by the manufacturer of the equipment to which the parts relate. Similarly some of the processes we employ are intended as substitutes for processes employed by the original equipment manufacturer. In order to identify the appropriate replacement product or substitute process supplied by us we may therefore use both our own replacement product number or substitute process description and the original manufacturer's name, part number and/or description. Such use of the original equipment manufacturer's names, part numbers and descriptions is for reference purposes only and is not intended to be and should not be treated as a representation, warranty or condition either that the replacement product in question was manufactured by, on behalf of, with the approval of or to the standards or specification of the original equipment manufacturer or that the substitute process in question has been or will be carried out by or on behalf of, with the approval of or to the standards or specifications of such manufacturer.

1. APPLICATION OF CONDITIONS
(1) These conditions shall apply to all agreements for the sale or supply of goods or services by us to the Customer to the exclusion of all other terms and conditions, including any terms or conditions which the Customer may purport to apply under any purchase order, confirmation of order, receipt or similar document.
(2) All orders for goods or services shall be deemed to be an offer by the Customer to purchase goods or services from us pursuant to these Conditions.
(3) The acceptance of delivery of goods sold or supplied by us or the delivery of goods to us, or the acceptance of work performed by us, as the case may be, shall in each case, be deemed to be conclusive evidence of the Customer's acceptance of these Conditions.
(4) Any purported variation of, or addition to these Conditions (including any special terms or conditions agreed between us and the Customer) shall be of no effect unless such variation or addition has been expressly agreed in writing by one of our directors.
(5) No order placed by the Customer shall be deemed to be accepted by us until a written acknowledgement of order is issued by us or (if earlier) we deliver the goods to the Customer or per form the services.
(6) The Customer must ensure that the terms of its order and any applicable specification are complete and accurate.
(7) Any quotation is given on the basis that no contract will come into existence until we despatch an acknowledgement of order to the Customer or (if earlier) we deliver the goods to the Customer or per form the services. Any quotation is valid for a period of 30 days only from its date provided we have not previously withdrawn it.
(8) All drawings, descriptive matter, specification and advertising issued by us and any descriptions or instructions contained in catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the goods described in them. They will not form part of the contract.

2. PRICES
(1) Prices and charges are quoted exclusive of Value Added Tax and any other taxes levies or duties.
(2) Unless otherwise agreed by us in writing, all charges of whatsoever nature relating to the carriage, collection or delivery of goods together with all taxes, levies and duties shall be paid by the Customer in addition to the price or charge originally quoted or agreed.
(3) If after the date of any quotation there is an increase in the costs to us of labour (including National Insurance or other contributions), raw materials, fuel, electricity, transport or goods manufactured by others, including any such increase caused by a fluctuation in exchange rates, the Customer shall pay, in addition to the price originally quoted or agreed, an amount representing our estimate of the increased cost to us of executing the order in question at the actual date of execution.
(4) (a) Prices and charges quoted for repair or reconditioning work are so quoted on the basis that any scrap parts removed during such work are to become our property.
(b) If the Customer desire such scrap parts to be retuned to him he must request us in writing to do so in accordance with Condition 23 before the work in question begins. In this case we reserve the right to increase the price quoted or agreed for the work by an amount not exceeding the value of the part to be returned.
(5) If, notwithstanding any such request in writing, we or any employee, agent or subcontractor shall accidentally destroy, lose or mislay any such scrap parts the Customer agrees to make no claim against us in relation to them.

3. STRICKLAND TRACKS LIMITED SERVICE EXCHANGE SCHEME
(1) Where payment by the Customer is required at the time of delivery of a Service Exchange Unit, the price charged for the Service Exchange Unit will be the price of a new Unit. If a repairable worn unit is returned to us within 14 days of the date of the supply of a Service Exchange Unit credit will be given for the difference between the new price and the Service Exchange price. Unless authorised by us in writing we will not accept any old Unit after 14 days from the date of supply of the Service Exchange Unit. If a worn Unit which is not repairable is returned to us within 14 days credit will be given equal to 5% of the list price of the new Unit as an allowance for the scrap value of the old Unit.
(2) Where a Customer has credit facilities, the Service Exchange Unit will be invoiced at the Service Exchange Price providing that a repairable worn Unit is returned to us within 14 days of the supply of the Service Exchange Unit. If a repairable worn Unit is not returned within such 14 day period, a charge will be made for the difference between the Service Exchange price and the price of a new Unit. If the Unit returned to us is not repairable, a charge will be made for the difference between the Service Exchange price and the price of a new Unit less 5% allowance on the list price of the new Unit for the scrap value of the old Unit. Unless authorised by us in writing, we will not accept any old Unit after 14 days from the date of supply of the Service Exchange Unit.
(3) All worn Units are received by us subject to their being repairable and the decision as to whether such Units are repairable or not shall be in our sole and absolute discretion. Worn Units which are not repairable will remain available for inspection on reasonable notice during normal working hours by the Customer for a period of 14 days from the date of their return to our Works. All worn Units become our property upon delivery to us.
(4) It is the responsibility of the Customer to ensure that the worn Units are delivered to our Works within the time specified if they wish to claim the Service Exchange prices. The Customer is responsible for all delivery charges and the worn Units remain at the Customer's risk until received by us.
(5) The Customer warrants that he is the legal and beneficial owner of any worn unit delivered to us under the Service Exchange scheme and that any such Unit is not the subject of any lien, charge or other encumbrance.

4. PAYMENT BY CUSTOMER
(1) Payment for goods sold or supplied by us or for services performed by us shall be made by the Customer in accordance with these Conditions and any instructions appearing on our invoices.
(2) The price for goods sold or for services performed by us shall become payable on despatch by us of such goods or on completion of such services and the time for payment shall be of the essence.
(3) If the Customer fails to pay any sums payable to us by the date upon which they become due then, without prejudice to any other remedies available to us, we shall be entitled:
(a) to charge interest on all such unpaid sums, from the date when payment becomes due until the date of payment at the rate of 1% above National Westminster Bank PLC's base rate in force from time to time, and such interest shall accrue at such rate after as well as before any judgment; and
(b) to withhold further performance of any obligations under any agreement between ourselves and the Customer until all such unpaid sums, together with interest thereon, have been paid in full.
(4) Any reference in these Conditions to prices, charges or sums being due, payable or owing to us includes:
(a) any such prices, charges or sums which would be so due, payable or owing but for our having allowed credit to the Customer; and
(b) any such price, charges or sums the benefit of which have been assigned by us to a third party.
(5) No payment shall be deemed to have been received until we have received cleared funds.
(6) All amounts payable to us shall become due immediately upon termination of this contract despite any other provision.
(7) All amounts payable to us under this agreement shall be paid in full without any deduction or withholding other than as required by law and the Customer shall not be entitled at any time to assert any credit, set-off or counterclaim (howsoever arising) against us in order to justify withholding payment of any such amount in whole or in part.

5. DELIVERY
(1) Unless otherwise agreed in writing by us, delivery of goods shall take place at our premises.
(2) The Customer will take delivery within 7 days of our giving notice that the goods are ready for delivery.
(3) Times and dates quoted by us for the delivery of goods or the performance of services are estimates only.
(4) Where any delay occurs in the delivery of goods or the performance of services and that delay is caused by lock-outs, strikes or other industrial action, breakdown of plant, non-availability of parts or raw materials, interruptions in transport facilities or fuel or electricity supplies, or by any other cause beyond our control, such time or date shall be deemed to be extended by the period of the delay so caused.
(5) All conditions, warranties and terms as to the time or date for the delivery of goods or the performance of services by us, whether implied by statute or by common law or otherwise, are hereby excluded.
(6) We hereby exclude all liability for loss and damage of whatsoever nature resulting from any delay by us in delivering goods or performing services whether such liability arises in contract, tort, delict or otherwise and whether it arises as a result of our negligence or otherwise.
(7) If for any reason the Customer will not accept delivery of the goods when they are ready for delivery, or we are unable to deliver the goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
(a) Risk in the goods will pass to the Customer (including for loss or damage caused by our negligence);
(b) The goods will be deemed to have been delivered; and
(c) We may store the goods until delivery whereupon the Customer will be liable for all related costs and expenses (including, without limitation, storage and insurance).

RISK
6. The goods are at the risk of the Customer from the time of delivery.

TITLE TO GOODS
7. All goods sold or supplied by us to the Customer shall remain our sole and absolute property as legal and beneficial owner until such time as the Customer shall have paid to us:
(1) the agreed price for such goods; and (2) all other sums due from the Customer to us whether arising under any agreement between the Customer and ourselves or otherwise.
8. (1) Where we carry out work for the Customer on any goods which are the property of the Customer, the property in those goods shall at the time when the work begins be transferred to us as legal and beneficial owner until such time as the Customer shall have paid to us:
(a) The agreed charges for such works; and
(b) All other sums due from the Customer to us, whether arising under any agreement between the Customer and ourselves or otherwise whereupon the legal and the beneficial ownership of those goods shall revert to the Customer.
(2) In the event that the Customer fails to pay to us by the due date any charges for the work carried out by us on the goods or any other sums due from the Customer to us we shall be entitled to sell the goods and to apply the proceeds of sale in reduction or elimination of such charges and other sums due from the Customer to us. Any surplus proceeds remaining after such application shall be paid by us to the Customer.
9. Until the property in goods sold or supplied by us shall pass to the Customer in accordance with Condition 7 above:
(1) the Customer shall hold such goods and each of them on a fiduciary basis as bailee for us; and
(2) the Customer shall keep such goods;
(a) in his own exclusive possession; and
(b) separately from his own goods and the goods of any other person; and
(c) in a manner which makes them readily identifiable as our goods; and
(3) the Customer shall keep such goods properly stored and protected; and
(4) the Customer shall at his own expense insure and keep insured such goods against all risks to a value equal to the full price payable by the Customer for the goods to our reasonable satisfaction, and when ever requested by us, shall produce a copy of the policy of insurance for our inspection. Without prejudice to our other rights, if the Customer fails to insure the goods in accordance with this paragraph, all sums owed to us by the Customer shall immediately become due and payable.
10. On the occurrence of any of the following circumstances, all rights of the Customer to possession of our Goods shall cease:
(1) in the case of an individual or firm, if he or, where the Customer is a firm, any member of that firm:
(a) makes with or proposes to any of his creditors any composition in satisfaction of his debts scheme of arrangement of his affairs;
(b) applies to any court for an interim order under Part VIII of the Insolvency Act 1986;
(c) becomes subject to a bankruptcy order;
(d) ceases to be solvent.
(2) in the case of a company:
(a) a petition is presented to any court for the Customer or any other company which is a holding company or subsidiary of the Customer to be wound up or for an administration order to be made in respect of the Customer or any such holding company or subsidiary;
(b) a resolution to wind the Customer up voluntarily has been passed or notice of any meeting to consider any such resolution has been given;
(c) a composition in satisfaction of the Customer's debts or a scheme of arrangement of the Customer's affairs has been proposed or made;
(d) any receiver or administrative receiver of the whole or any part of the Customer's property is appointed;
(e) the Customer ceases to be solvent.
(3) Any sum payable by the Customer to us is not paid on the due date.
11. In any case where the Customer's right to possession of our goods ceases we shall be entitled to possession of our goods.
12. In any case where we are entitled to possession of our goods, the Customer will upon being so required by us immediately refrain from using our goods.
13. For the purpose of ensuring compliance by the Customer with the provisions of paragraphs (2) and (3) of Condition 9 and for the purpose of obtaining possession of our goods, we by our servants or agents may enter upon any land or premises owned, occupied or controlled by the Customer where our goods are, or are reasonably suspected of being, situated and may remove our goods from such land or premises.
14. Until property in all goods sold or supplied by us has passed to the Customer in accordance with Condition 7 above, the Customer shall not offer for sale, sell or purport to sell our goods.

GENERAL LIEN
15. (1) In addition to any other right of lien to which we may be entitled by law or under these Conditions, in the event of the occurrence of any of the circumstances specified in Condition 10 above, we shall be entitled to a general lien on all goods in our possession which are either the property of the Customer or which have been placed in our possession by the Customer with the express or implied authority of the true owner for all sums due from the Customer to us immediately following such bankruptcy or insolvency.
(2) In the event that payment in full of all such sums is not made within 30 days of the occurrence of any of the circumstances referred to in the preceding paragraph of this Condition, we shall be entitled to sell the goods the subject of our general lien and to apply the proceeds of sale in reduction or elimination of such sums. Any surplus proceeds remaining after such application shall be paid by us to the Customer.

LOSS OR DAMAGE IN TRANSIT
16. (1) Without prejudice to the provisions of Condition 18 below, when goods are delivered to the Customer he shall immediately examine them with care. If there is any shortage in the goods delivered or the goods are damaged otherwise than as a result of faulty materials or workmanship or other lack of satisfactory quality, the Customer shall notify us of any such shortage or damage by telephone within 2 working days of the delivery being made and shall confirm such notification in writing, in accordance with the provisions of Condition 23 below, within 5 working days of the delivery being made, time being of the essence in each case.
(2) If notification and confirmation are not given in accordance with paragraph (1)of this Condition then the following consequences shall ensue:
(a) We shall be deemed to have delivered to the Customer the correct quantity of goods;
(b) In particular in respect of damage caused by faulty materials or workmanship or other lack of satisfactory quality, the goods shall be deemed to have been undamaged and properly packed when delivered to the Customer;
(c) The Customer shall be deemed to have accepted the goods;
(d) The Customer shall make no claim against us in respect of such shortage or damage and shall indemnify us against any claim made against us in consequence of a claim made by the Customer against any other person in respect of such shortage or damage.
(3) Where goods are damaged on delivery as a result of faulty materials or workmanship or other lack of satisfactory quality the provisions of Condition 18 below shall apply.

RESPONSIBILITY FOR ADVICE
17. (1) Any express or implied advice, guidance, recommendations, representations or other statements (in this Condition collectively referred to as "statements") which we may give or make to the Customer as to the goods sold or supplied by us, or as to the service we perform, or as to any matter relating to such goods or services, are given or made on the sole basis that we accept no responsibility for the accuracy or correctness of such statements. However, nothing in this Condition shall exclude or limit our liability for fraudulent misrepresentation.
(2) In particular, and without prejudice to the generality of the foregoing the Customer agrees that prior to entering into this agreement he has relied, and thereafter he shall rely, exclusively on his own skill and judgement as to:
(a) the fitness of goods sold by us for any particular purpose for which they are required by him; and
(b) the correct selection, fitting and adjustment of parts for his machinery and equipment; and
(c) the correct method of operation and maintenance of his machinery and equipment, to the exclusion of any reliance upon our statements in relation to such matter.
(3) Accordingly, the Customer further agrees that we shall not be liable to him whether in contract, tort, delict or otherwise for any loss or damage of whatsoever nature caused by reliance by him or by any other person on our statements or skill and judgment, regardless of whether such statements were given or made or such skill and judgment was exercised negligently or otherwise. For the avoidance of doubt, the loss or damage which the Customer hereby agrees that we shall not be liable to him for includes, but is not limited to, all economic loss or damage.

WARRANTY
18. (1) This paragraph applies to all goods and services sold or supplied by us except for Ground Engaging Tools. The responsibilities that we undertake in respect of such goods and services are that, free of charge, we will repair or (at our sole discretion) replace:
(a) any goods sold or supplied by us which are either defective as a result of faulty materials or workmanship or are otherwise not of satisfactory quality; and
(b) any goods repaired by us which are defective as a result of our faulty repair work.
(2) The responsibilities set out in paragraph (1) above are subject to the following conditions:
(a)
(i) Where the defects are not apparent on reasonable inspection and testing by the Customer following delivery of the defective goods, we are given written notice of the defects either as soon as reasonably practicable after they become apparent or within 90 days of delivery of the defective goods whichever is the sooner; or
(ii) Where the defects are or should have been apparent on reasonable inspection and testing by the Customer following delivery of the defective goods, we are given written notice of the defects in accordance with Condition 23 below within 14 days of the delivery;
(iii) Unless in either case the period for notification is extended by our express written consent.
(b) We accept no responsibility in respect of the defects referred to in paragraph (1) above where:
(i) such defects were drawn to the Customer's attention before the relevant agreement for the sale or supply of the defective goods was made; or
(ii) the Customer examined the goods before the relevant agreement was made and the defects should have been apparent on such examination
(c) if we so request, the defective goods are returned to us. We shall bear the cost of such return up to but not exceeding the cost of return from the original country of delivery;
(d) if we so request, the Customer allows us access to any place where the defective goods are situated to perform any inspection, testing, repair or replacement which we consider necessary;
(e) in the case of goods containing lubricating oil which are filled before delivery, the responsibilities we undertake in paragraph (1) above shall not extend to the repair or replacement of any such goods which have been severely damaged as a result of a continuing leakage of oil where the leakage was, or reasonably could have been noticed, by the Customer and notified to us in time to prevent such damage.
(3) We shall not be liable if:
(a) the Customer makes any further use of the goods after giving notice of a defect; or
(b) the defect arises because the Customer failed to follow either our instructions or normal standards prevailing in the industry as to the storage, installation, commissioning, use or maintenance of the goods; or
(c) the Customer alters or repairs the goods without the written consent of the Company.
(4) (a) The expression "Ground Engaging Tools" includes all cutting edges, end bits, router bits, side cutters, tips, adapters and solid teeth
(b) The responsibility that we undertake and the warranty that we give, in respect of Ground Engaging Tools is that in the event of a Ground Engaging Tool sold or supplied by us breaking during operation we will, at our sole discretion, either repair the Ground Engaging Tool or provide in replacement a new Ground Engaging Tool or give a full credit against the original price.
(5) The responsibility and warranty set out in paragraph (4) above are subject to the following conditions:
(a) the repair of a Ground Engaging Tool, its replacement or the giving of a full credit will only be undertaken on delivery of the broken Ground Engaging Tool by the Customer, either to the place of business from which it was supplied or to such other place as we may specify. We shall bear the cost of such return up to but not exceeding the cost of return from the original country of delivery.
(b) Our obligations under paragraph (4) above do not include:
(i) the provision of equipment or hardware for the removal of broken Ground Engaging Tools or for the fitting of replacement Ground Engaging Tools; or
(ii) the labour costs involved in such removal or fitting; or
(iii) the repair, replacement or the giving of credit in respect of broken Ground Engaging Tools which have been hardfaced or improperly welded after delivery to the Customer.
(6) Notwithstanding anything in this Condition or in Condition 17 above we accept liability:
(a) for death or personal injury resulting from our negligence; and
(b) for defective products arising under Part 1 of the Consumer Protection Act 1987 to the extent provided in Part 1 of that Act.
(7) (a) The responsibility for goods and services sold or supplied by us which we undertake in paragraphs (1) to (5) of this Condition is the totality of our liability to the Customer in respect of such goods and services.
(b) All further conditions, warranties and terms relating to the sale or supply of such goods and services, whether express or implied by statute, by common law or otherwise are hereby excluded (save for the conditions implied by section 12 of the Sale of Goods Act 1979).
(c) Save as provided in this Condition:
(i) our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Conditions shall be limited to the price of the goods supplied by us to the Customer under the order in question; and
(ii) we shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profits, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the supply of goods or services to the Customer in accordance with these Conditions.

PATENTS ETC.
19. Where any work is done by us or on our behalf in accordance with the Customer's instructions or specifications the Customer warrants that the carrying out of such work in accordance with such instructions or specifications will not cause us to infringe any patent, trademark, trade name or registered design or to breach any copyright or design right. In case any such infringement or breach shall occur the Customer will indemnify us against all loss, damage, penalties, costs and expenses to which we may become liable in consequence of such infringement or breach.

CANCELLATION
20. Once any order has been accepted by us the Customer shall have no right to cancel it except with our express written consent signed by one of our directors.

GOODS NOT RETURNABLE
21. Subject to Condition 18 above, goods are not returnable to us unless we have previously agreed in writing to accept their return.

SUBCONTRACTING
22. We shall be entitled to subcontract the fulfilment of any order, or performance of any agreement, or the fulfilment or performance of any part thereof.

NOTICES AND OTHER COMMUNICATIONS
23. Where under these Conditions the Customer is required to give written notice to us or otherwise communicate with us in writing such notice or communication shall be signed by the Customer or by some responsible person on his behalf and shall be delivered by hand or sent by facsimile transmission or by first-class-pre-paid letter post to whichever of our establishments has dealt with the transaction in question. Any such notice or communication will not be deemed to have been received until actual receipt by us.

INTERPRETATION
24. In these Conditions, the following words and phrases bear the meanings assigned to them below:
- "Company" bears the same meaning as in section 735 of the Companies Act 1985 and includes in addition any corporate body;
- "Holding Company" and "Subsidiary" bear the same meanings as in sections 736 and 736A of the Companies Act 1985;
- "satisfactory quality" bears the same meaning as in section 14(2) of the Sale of Goods Act 1979 (as amended).

LAW
25. These Conditions and any agreement incorporating them shall be subject to and construed in accordance with English Law, and the Customer submits to the non-exclusive jurisdiction of the English courts.
26. If any provision of these Conditions is found by any Court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Conditions and the remainder of such provision shall continue in full force and effect.
27. Our rights or remedies under these Conditions are without prejudice to any other rights or remedies we may have.
28. Failure or delay by us in enforcing or partially enforcing any provision of these Conditions will not be construed as a waiver of our rights under these Conditions.
29. Any waiver by us of any breach of or default under any provision of these Conditions by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other provisions of these Conditions.
30. Any contract formed on the basis of these Conditions shall not be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to the contract.

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