ONE STOP CUTTING SHOP LIMITED – TERMS OF TRADE

1. DEFINITIONS

"OCSC" means One Stop Cutting Shop Limited and its successors and assigns.
"Customer" means each person named as the Customer in a Credit Account Application signed and submitted to OSCS and each other person who requests OSCS to supply Goods described in any order, proposal, quotation, invoice or other documentation.
"Delivery" means the delivery of Goods at the time and in in accordance with clause 4.
"Goods" means all goods and services supplied by OSCS to the Customer from time to time.
"Guarantor" means each person who is personally liable for the obligations of the Customer under clause 13.
"Price" shall mean the price (plus all goods and services tax ("GST") payable under the Goods and Services Tax Act 1985) payable by the Customer to OSCS in accordance with clause 3.

2. ACCEPTANCE

2.1 The Customer accepts, and is jointly and severally bound by, these Terms of Trade when the Customer signs a Credit Account Application, places an order for Goods, or takes delivery of Goods.

2.2 The Customer acknowledges that it relies solely on its own skill and judgment when purchasing Goods. The Customer disclaims any right to rescind or cancel any order with OSCS, or to sue for damages or to claim restitution, arising out of any inadvertent misrepresentation made to the Customer by OSCS.

2.3 OSCS may, at its discretion, agree to supply Goods to the Customer on credit.

2.4 The Customer shall give the Seller not less than 14 days prior written notice of any change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details, including but not limited to any change of address, phone number, email address, or business practice. The Buyer shall indemnify OSCS for any loss or liability incurred as a result of the Customer's failure to comply with this clause.

2.5 These Terms of Trade override any other terms purporting to govern the relationship between the Customer and OSCS in relation to the supply of Goods.

3. PRICE AND PAYMENT

3.1 At OSCS' discretion the Price shall be either:
- a. as indicated on invoices provided by OSCS to the Customer in respect of Goods supplied; or
- b. the Price quoted by OSCS (subject to clause 3.2) which shall be binding upon the Customer when the quotation is accepted by the Customer.

3.2 OSCS may change the Price of any goods at any time at its absolute discretion.

3.3 If requested by OSCS the Customer shall pay a deposit in relation to an order for Goods at the time and in the amount specified by OSCS. Each deposit received by OSCS shall be non-refundable.

3.4 The Customer shall pay to OSCS the Price relating to Goods at the time stated by OSCS in the invoice relating to the Goods. If no time for payment is stated, then payment shall be due by the 20th day of the calendar month following the calendar month in which the invoice was issued. Time for payment for the Goods shall be of the essence.

3.5 Payment shall be made by direct credit to the bank account of OSCS specified in the relevant invoice, or by any other method as agreed to between the Customer and OSCS.

3.6 OSCS may, at its discretion, allocate any amount of money received from the Customer towards the payment of any amount due and payable by the Customer.

3.7 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed by OSCS to the Customer. The Customer may not withhold payment of any amount if the Customer disputes that any other amount is due and payable.

3.8 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay all GST payable in relation to the supply of the Goods without deduction or set-off of any other amount at the same time as the Customer pays the Price. All other taxes and duties that may be applicable shall be added to the Price and shall be payable by the Customer.

4. DELIVERY OF GOODS

4.1 Delivery of the Goods occurs:
- a. if the Customer is arranging delivery, at the time that the Customer or the Customer's nominated carrier takes possession of the Goods; or
- b. if OSCS is delivering the Goods, at the time that OSCS or OSCS' nominated carrier delivers the Goods to the address nominated by the Customer, even if the Customer is not present at that address.

4.2 If OSCS is delivering the Goods, the Customer shall ensure that OSCS has clear and free access to effect Delivery and OSCS shall not be liable for any loss or damage to pathways, driveways, concreted areas, or grassed areas when effecting Delivery.

4.3 The Customer must take delivery of the Goods when they arrive for Delivery. Delivery of the Goods to a third party nominated by the Customer is deemed to be effective Delivery to the Customer.

4.4 At OSCS's sole discretion all costs of delivery (and any related insurance) is payable by the Customer in addition to the Price.

4.5 OSCS may deliver Goods in separate instalments which may, at OSCS' discretion, be invoiced separately.

4.6 Any time specified by OSCS for the Delivery of Goods is an estimate only. OSCS shall not be liable for any loss or cost incurred by the Customer as a result of Delivery being late. If the Customer is unable to take Delivery of the Goods as arranged then OSCS shall be entitled to charge a reasonable fee for re-Delivery.

4.7 Any failure by OSCS or its nominated carrier to deliver Goods at a specified time shall not entitle the Customer to make any claim against OSCS or to treat these Terms of Trade as repudiated.

5. RISK

5.1 All risk for the Goods passes to the Customer at the time of Delivery. The Customer must insure the Goods from the time Delivery occurs.

5.2 If Goods are damaged or destroyed following Delivery but prior to title passing to the Customer, OSCS is entitled to receive all insurance proceeds payable in relation to the Goods. The production of these Terms of Trade is sufficient evidence of OSCS' rights to receive the insurance proceeds.

5.3 If the Customer requests OSCS to leave Goods outside OSCS' premises for collection or to deliver Goods to an unattended location, then the Goods shall be left at the Customer's sole risk.

5.4 OSCS shall not be liable for any defect or damage resulting from incorrect or faulty installation of the Goods by any person or for any defect in the Goods if the Customer does not comply with OSCS' recommendations.

6. TITLE

6.1 Titel and ownership of the Goods shall not pass until the Customer has paid all amounts due and payable by the Customer to OSCS under these Terms of Trade and the Customer has met all other obligations owing to OSCS.

6.2 Receipt by OSCS of any amount of money shall not be deemed to be payment of an amount due until that payment has been honoured, cleared, or recognised.

6.3 Until title of Goods has passed to the Customer in accordance with these Terms of Trade:
- a. the Customer is a bailee of the Goods only and must, at the Customer's cost, immediately return the Goods to OSCS on demand;
- b. the Customer may not sell, dispose of, or otherwise relinquish possession of the Goods other than in the ordinary course of business and for market value, and the Customer shall hold all proceeds of the Goods on trust for OSCS and pay those proceeds to OSCS on demand;
- c. the Customer holds the benefit of all insurance policies relating to the Goods, and all insurance proceeds, on trust for OSCS and must pay to OSCS all insurance proceeds received by the Customer if the Goods are lost, damaged, or destroyed;
- d. all Goods shall be kept separate and identifiable and the Customer may not convert, process, or intermix the Goods with other goods and, if Goods are converted, processed, or intermixed with other goods, the Customer shall hold the resulting products on trust for OSCS and must sell or return the resulting products to OSCS or as it directs;
- e. the Customer irrevocably authorises OSCS and OSCS's agents to enter any premises where the Goods may be situated and recover possession of the Goods;
- f. OSCS may recover the Goods in transit whether or not Delivery has occurred;
- g. the Customer may not grant or otherwise allow the creation of any security interest or other encumbrance in the Goods;
- h. OSCS may give notice in writing to the Customer to return the Goods or any of them to OSCS and, upon such notice being given, the Customer shall have no right to obtain ownership of the Goods; and
- i. OSCS may commence proceedings to recover the Price of the Goods notwithstanding title to the Goods has not passed to the Customer.

7. PERSONAL PROPERTY SECURITIES ACT 1999

7.1 All terms that used in this clause 7 and defined in the Personal Property Securities Act 199 ("PPSA") shall have the meanings given in the PPSA.

7.2 The Customer grants a security interest in all Goods supplied by OSCS to the Customer and a security interest in all present and after-acquired personal property of the Customer (together the "Secured Property"). The Customer acknowledges and agrees that these Terms of Trade constitute a security agreement for the purposes of the PPSA.

7.3 The Customer shall:
- a. sign any further documents and provide any further information (such information to be complete, accurate and up-to-date in all respects) which OSCS may require to register a financing statement or financing change statement on the personal property securities register;
- b. not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of any person other than OSCS without the prior written consent of OSCS; and
- c. immediately advise OSCS of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

7.4 Nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms of Trade. The Customer waives its rights under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA and its right to receive a verification statement in accordance with section 148 of the PPSA.

7.5 The Customer shall unconditionally ratify any actions taken by OSCS under clauses 7.1 to 7.4.

8. DEFECTS, RETURNS, CANCELLATIONS

8.1 The Customer shall inspect the Goods on Delivery and shall within 7 days of Delivery (time being of the essence) notify OSCS of any alleged defect, shortage in quantity, damage or failure by OSCS to comply with the description or quote. The Customer shall give OSCS the opportunity to inspect the Goods within a reasonable time following Delivery if the Customer believes the Goods are detective in any way. If the Customer fails to comply with this clause, the Goods shall be presumed to be free from any defect or damage. For defective Goods, which OSCS has agreed the Customer is entitled to reject, OSCS' liability is limited to either (at OSCS's discretion) replacing the Goods or repairing the Goods.

8.2 Returns will only be accepted if:
- a. the Customer has compiled with clause 8.1;
- b. OSCS has agreed in writing to accept the return of the Goods;
- c. the Goods are returned at the Customer's cost within 7 days of Delivery; and
- d. the Goods are returned in the condition in which they were delivered.

8.3 OSCS may cancel delivery of Goods at any time before the Goods are Delivered by giving written notice to the Customer. On giving such notice OSCS Shall repay to the Customer any sums received in respect of the Price. OSCS shall not be liable for any loss or damage whatsoever arising from such cancellation.

8.4 If the Customer cancels delivery of the Goods the Customer shall be liable for any resulting loss incurred by OSCS (including, but not limited to, any loss of profits) up to the time of cancellation.

8.5 Cancellations of orders for Goods will not be accepted once the order has been placed with OSCS' suppliers or manufacturing has commenced.

9. WARRANTY

9.1 Subject to the conditions of warranty set out in clause 9.2, OSCS warrants that if any defect in any workmanship of OSCS becomes apparent and is reported to OSCS within 3 months of Delivery (time being of the essence) then OSCS will either (at OSCS' sole discretion) replace or remedy the defective workmanship.

9.2 The conditions applicable to the warranty given by clause 9.1 are:
- a. The warranty shall not cover any defect or damage which may be caused or partly caused by:
  - i. failure on the part of the Customer to properly install or maintain any Goods; or
  - ii. failure on the part of the Customer to follow any instructions or guidelines provided by OSCS; or
  - iii. any use of Goods otherwise than for the application specified in the order, quotation, or other documentation relating to the Goods; or
  - iv. the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
  - v. fair wear and tear, any accident or act of God.
- b. The warranty shall cease and OSCS shall not be liable under the warranty if any workmanship is repaired, altered, or overhauled without OSCS's written consent.
- c. In respect of all claims OSCS shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing the Customer's claim.

10. CONSUMER GUARANTEES ACT 1993

10.1 If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by OSCS to the Customer.

11. INTELLECTUAL PROPERTY

11.1 Where OSCS has designed, drawn, or developed Goods for the Customer, the copyright in the designs, drawings, and all other related documents shall remain the property of OSCS, and shall only be used by the Customer at OSCS's discretion.

11.2 The Customer warrants that all designs, specifications, or instructions given to OSCS will not cause OSCS to infringe any patent, registered design, or trademark in the execution of the Goods and the Customer agrees to indemnify OSCS against any action taken by a third party against OSCS in respect of any such infringement.

11.3 OSCS may (at no cost) use for the purpose of marketing or entry in any competition, any documents, designs, drawings or Goods created by OSCS for the Customer.

12. DEFAULT AND CONSEQUENCES

12.1 Interest on overdue Invoices shall accrue daily from the date when payment becomes due, until the date payment is received in full, at a rate of 2.5% per calendar month after as well as before any judgment and, at OSCS's sole discretion, accrued interest shall compound monthly.

12.2 If the Customer fails to pay any amount to OSCS when due, the Customer shall indemnify OSCS on demand from and against all costs and disbursements incurred by OSCS in pursuing the payment of that amount, including without limitation OSCS' reasonable administration fees, legal costs on a solicitor and own client basis, collection agency costs, and bank dishonour fees.

12.3 Without prejudice to OSCS' other remedies at law or otherwise, if:
- a. any money payable to OSCS is not received by OSCS on the due date for payment, or in OSCS's opinion the Customer will be unable to meet its payments as they fall due; or
- b. the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- c. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer,

then OSCS may, at its absolute discretion:
- d. cancel, by written notice to the Customer, all or any part of any order of the Customer;
- e. declare, by written notice to the Customer, all amounts owing to OSCS to be due and payable, whereupon they shall become immediately due and payable;
- f. appoint a receiver to all or any of the Secured Property;
- g. (whether or not a receiver has been appointed) exercise any of the powers of a receiver, or powers which a person would have if appointed as a receiver under these Terms of Trade; and
- h. pay all costs and expenses incurred in the exercise of any such powers out of the proceeds of realisation of, or revenue received from, the Secured Property.

12.4 Where the Customer has supplied any item with OSCS for repair, modification, exchange, or for OSCS to perform any other Service in relation to the item and the Price for the work is not paid on its due date, then OSCS shall have:
- a. a lien on the item;
- b. the right to retain the item for the Price while OSCS is in possession of the item;
- c. a right to sell the item and apply the sale proceeds towards satisfaction of the Price.

The rights of OSCS shall continue despite the commencement of proceedings, or judgement for the Price having been commenced or obtained.

13. GUARANTEE AND INDEMNITY

13.1 In consideration of OSCS agreeing to supply Goods to the Customer, each person who is a director of the Customer and has signed a Credit Account Application on behalf of the Customer:
- a. unconditionally guarantees to OSCS the due and punctual payment by the Customer of all moneys payable in respect of all Goods supplied by OSCS and all other amounts payable under these Terms of Trade as and when the same becomes due and payable by the Customer and the performance of all obligations of the Customer under these Terms of Trade;
- b. agrees to be deemed as a principal debtor for all amounts owing by the Customer to OSCS;
- c. agrees that the guarantee and indemnity in this clause shall be a continuing guarantee and indemnity and shall not be discharged by any settlement or payment of account and that this guarantee and indemnity is both joint and several;
- d. agrees that their liability under the guarantee and indemnity in this clause shall not be discharged, abrogated, prejudiced or affected by:
  - i. the granting of time, credit or the indulgence or other concession to the Customer;
  - ii. any alteration, modification, variation or addition to any agreement in respect of the supply of goods and services; or
  - iii. any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, any obligations under the guarantee and indemnity in this clause or any powers or remedies conferred upon OSCS by this guarantee and indemnity or by law.
- e. indemnifies OSCS against all losses OSCS may incur or suffer should the Customer default in the performance of any obligations to be performed by the Customer under these Terms of Trade.

14. PRIVACY POLICY

14.1 The Customer and each Guarantor authorises OSCS to access, collect, retain, and use any information about the Customer and each Guarantor:
- a. (including name, address, date of birth, occupation, driver's licence details, electronic contact (email Facebook, or Twitter details), medical insurance details, or next of kin and other contact information (where applicable), previous credit applications, credit history, or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the creditworthiness of the Customer and/or any Guarantor; and
- b. for the purpose of marketing products and services to the Customer and each Guarantor; and

14.2 The Customer and each Guarantor authorises OSCS to disclose information about the Customer and each Guarantor, whether collected by OSCS from the Customer or a Guarantor directly or obtained by OSCS from any other source to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection, or notifying a default by the Customer or any Guarantor.

14.3 Where the Customer and/or Guarantors are an individual the authorities under clause 14.1 are authorities or consents for the purposes of the Privacy Act 2020.

14.4 The Customer and each Guarantor shall have the right to request from OSCS a copy of the personal information about the Customer and each Guarantor held by OSCS and the right to request OSCS correct any incorrect information held.

15. GENERAL

15.1 The failure by OSCS to enforce any provision of these Terms of Trade shall not be treated as a waiver, nor shall it affect OSCS' right to subsequently enforce these Terms of Trade. If any provision of these Terms of Trade is invalid, void, illegal, or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

15.2 These Terms of Trade and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the New Zealand courts.

15.3 OSCS shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by OSCS of these Terms of Trade or any matter whatsoever. OSCS' liability to the Customer is limited to damages which shall not exceed the Price of the Goods.

15.4 OSCS may license and/or assign all or any part of its rights and obligations without the Customer's consent. The Customer may not licence or assign without the prior written consent of OSCS. OSCS may subcontract any of its obligations under these Terms of Trade and the Customer acknowledges it may not give any instructions to any of OSCS' sub-contractors.

15.5 OSCS may amend these Terms of Trade at any time at its discretion by sending the amended Terms of Trade to the Customer which shall take effect and be binding on the Customer from the date on which the Customer accepts the changes or when the Customer subsequently submits an order for Goods.

15.6 Neither party shall be liable for any default due to any act of God, war, terrorism, lock-out, strike, industrial action fire flood, storm, pandemic, or other event beyond the reasonable control of the parties.