

## 1. Definitions

- 1.1 “**Agitator**” means the machine that combines the raw materials to produce the concrete.
- 1.2 “**Client**” means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting Bullocks Group to provide the Works or the Space on hire as specified in any proposal, quotation, order, invoice, or other documentation, and:
- (a) if there is more than one Client, is a reference to each Client jointly and severally; and
  - (b) if the Client is a partnership, it shall bind each partner jointly and severally; and
  - (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
  - (d) includes the Client’s executors, administrators, successors and permitted assigns.
- 1.3 “**Contract**” means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.4 “**Bullocks Group**” means B. Bullock (2009) Limited T/A Bullocks Group, its successors, and assigns.
- 1.5 “**Cookies**” means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website and can be accessed either by the web server or the client’s computer. **If the Client does not wish to allow Cookies to operate in the background when using Bullocks Group’s website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.**
- 1.6 “**Intended Use**” means a product and the use thereof, for which the product is intended to be, or is reasonably likely to be, associated with the Works.
- 1.7 “**Non-Conforming Building Product**” means building products that are regarded as Non-Conforming for an Intended Use if, when associated with a building:
- (a) the product is not, or will not be, safe; or
  - (b) does not, or will not, comply with the relevant regulatory provisions; or
  - (c) the product does not perform, or is not capable of performing, for the use to the standard it is represented to conform by or for a person in the chain of responsibility for the product.
- 1.8 “**Plant**” means all stationary and mobile equipment (including all associated accessories, attachments, ancillary equipment, machinery, motor vehicles and agitators).
- 1.9 “**Price**” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Works as agreed between Bullocks Group and the Client in accordance with clause 7 below.
- 1.10 “**Works**” means all Works (including consultation, manufacturing and/or installation services) or Materials supplied by Bullocks Group to the Client at the Client’s request from time to time (where the context so permits the terms ‘Works’ or ‘Materials’ shall be interchangeable for the other).
- 1.11 “**Worksite**” means the address nominated by the Client to which the Materials are to be supplied by Bullocks Group.

## 2. Acceptance

- 2.1 The parties acknowledge and agree that:
- (a) they have read and understood the terms and conditions contained in this Contract; and
  - (b) the parties are taken to have exclusively accepted and are immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of any Works.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges that the supply of Works on credit shall not take effect until the Client has completed a credit application with Bullocks Group and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Works requested exceeds the Client’s credit limit and/or the account exceeds the payment terms, Bullocks Group reserves the right to refuse delivery.
- 2.6 In the event of a mechanical breakdown of the Plant, Bullocks Group shall make every reasonable effort to repair the Plant or to supply other Plant to complete the Works. In the event of such breakdown, the liability of Bullocks Group whether in contract, tort or otherwise shall be specifically limited to a maximum amount of damages equal to the Price of the Works accrued up to the time of the breakdown. Bullocks Group shall not be liable for any loss whatsoever suffered by the Client or others. Bullocks Group shall not be liable for any loss caused by the breakdown of the Plant due to defective or un-pumpable concrete.
- 2.7 In the event that Bullocks Group is required to provide the Works outside Bullocks Group’s standard working hours of operation, (including, but not limited to, working through lunch breaks, weekends and/or Public Holidays), then Bullocks Group reserves the right to charge the Client additional labour charges (penalty rates will apply), unless otherwise agreed between Bullocks Group and the Client. The Client further acknowledges that the operating hours of the Plant may be subject to statutory requirements.
- 2.8 The Client accepts and acknowledges that Bullocks Group shall only supply the Plant in accordance with the Client’s booking and shall transfer concrete supplied at ground level to such parts of the Worksite as the Client shall direct. This shall be affected by pipeline from a portable pumping Plant.
- 2.9 The Client further accepts that Bullocks Group will supply, and the Client will receive the Plant at the kerb alignment. If at the Client’s request the Plant enters the Worksite, the Client will indemnify and hold indemnified Bullocks Group, its servants, and agents against all liability and against all actions, suits, proceedings, claims, demands, costs and expenses incurred by Bullocks Group to its servants or its agents out of or in any way relating to the presence of the Plant on the Worksite.
- 2.10 Any advice, recommendation, information, assistance or service provided by Bullocks Group in relation to Materials or Works supplied (including, but not limited to, the suitability of the Worksite for the laying of concrete slabs, foundations or similar Works) is given in good faith to the Client, or the Client’s agent and is based on Bullocks Group’s own knowledge and experience and shall be accepted without liability on the part of Bullocks Group. Where such advice or recommendations are not acted upon then Bullocks Group shall require the Client or their agent to authorise commencement of the Works in writing. Bullocks Group shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Works.

2.11 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

### **3. Authorised Representatives**

3.1 Unless otherwise limited as per clause 3.2 the Client agrees that should the Client introduce any third party to Bullocks Group as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Materials or Works on the Client's behalf and/or to request any variation to the Works on the Client's behalf (such authority to continue until all requested Works have been completed or the Client otherwise notifies Bullocks Group in writing that said person is no longer the Client's duly authorised representative).

3.2 In the event that the Client's duly authorised representative as per clause 3.1 is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise Bullocks Group in writing of the parameters of the limited authority granted to their representative.

3.3 The Client specifically acknowledges and accepts that they will be solely liable to Bullocks Group for all additional costs incurred by Bullocks Group (including Bullocks Group's profit margin) in providing any Materials, Works or variation/s requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 3.2 (if any)).

### **4. Errors and Omissions**

4.1 The Client acknowledges and accepts that Bullocks Group shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):

- (a) resulting from an inadvertent mistake made by Bullocks Group in the formation and/or administration of this Contract; and/or
- (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Bullocks Group in respect of the Works.

4.2 If such an error and/or omission occurs in accordance with clause 4.1, and is not attributable to the negligence and/or wilful misconduct of Bullocks Group; the Client:

- (a) shall not be entitled to treat this Contract as repudiated nor render it invalid; but
- (b) shall not be responsible for any additional costs incurred by Bullocks Group arising from the error or omission.

### **5. Change in Control**

5.1 The Client shall give Bullocks Group not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, change of trustees, or business practice). The Client shall be liable for any loss incurred by Bullocks Group as a result of the Client's failure to comply with this clause.

### **6. Credit Card Information**

6.1 Bullocks Group will:

- (a) keep the Client's personal details, including credit card details for only as long as is deemed necessary by Bullocks Group;
- (b) not disclose the Client's credit card details to any third party; and
- (c) not unnecessarily disclose any of the Client's personal information, except in accordance with the Privacy Act (clause 24) or where required by law.

6.2 The Client expressly agrees that, if pursuant to this Contract, there are any unpaid charges, other amounts due and outstanding by the Client, Bullocks Group is entitled to immediately charge the Client's nominated credit card for these amounts, and is irrevocably authorised to complete any documentation and take any action to recover from the credit card issuer any and all amounts which may be due by the Client pursuant to the terms of this Contract.

### **7. Price and Payment**

7.1 At Bullocks Group's sole discretion, the Price shall be either:

- (a) as indicated on invoices provided by Bullocks Group to the Client in respect of Works performed or Materials supplied; or
- (b) Bullocks Group's Price at the date of delivery of the Works according to Bullocks Group's current price list; or
- (c) Bullocks Group's quoted Price (subject to clause 7.2) which shall be binding upon Bullocks Group provided that the Client shall accept Bullocks Group's quotation in writing within thirty (30) days.

7.2 Bullocks Group reserves the right to change the Price:

- (a) if a variation to the Materials which are to be supplied is requested; or
- (b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or
- (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather, limitations to accessing the Worksite, obscured building/Worksite defects, availability of Plant, incorrect measurements, plans and/or specifications provided by the Client, as a result of delays from third party suppliers, safety considerations, prerequisite work by any third party not being completed, remedial work required due to existing workmanship being of a poor quality or non-compliant to the building code, latent soil conditions, hard rock barriers below the surface, iron reinforcing rods in concrete or hidden pipes and wiring, etc.) which are only discovered on commencement of the Works; or
- (d) in the event of increases to Bullocks Group in the cost of labour or Materials (including, but not limited to, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or freight and insurance charges) which are beyond Bullocks Group's control.

7.3 Variations will be charged for on the basis of Bullocks Group's quotation, and will be detailed in writing, and shown as variations on Bullocks Group's invoice. The Client shall be required to respond to any variation submitted by Bullocks Group within ten (10) working days. Failure to do so will entitle Bullocks Group to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

7.4 At Bullocks Group's sole discretion, a reasonable non-refundable deposit may be required.

7.5 Time for payment for the Works being of the essence, the Price will be payable by the Client on the date/s determined by Bullocks Group, which may be:

- (a) on completion of the Works;

- (b) detailed payment claims at intervals not less than monthly for work performed up to the end of each month. The value of work so performed shall include the reasonable value of authorised variations and the value of Materials delivered to the Worksite but not installed.
  - (c) for certain approved Clients, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;
  - (d) the date specified on any invoice or other form as being the date for payment; or
  - (e) failing any notice to the contrary, the date which is fourteen (14) days following the date of any invoice given to the Client by Bullocks Group.
- 7.6 No allowance has been made in the Price for the deduction of retentions. In the event that retentions are made, Bullocks Group reserves the right to treat all retentions as placing the Client's account into default.
- 7.7 Payment may be made by cash, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Client and Bullocks Group.
- 7.8 Bullocks Group may in its discretion allocate any payment received from the Client towards any invoice that Bullocks Group determines and may do so at the time of receipt or at any time afterwards. On any default by the Client Bullocks Group may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Bullocks Group, payment will be deemed to be allocated in such manner as preserves the maximum value of Bullocks Group's Purchase Money Security Interest (as defined in the PPSA) in the Materials.
- 7.9 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Bullocks Group nor to withhold payment of any invoice because part of that invoice is in dispute, unless the request for payment by Bullocks Group is a claim made under the Construction Contracts Act 2002. Nothing in this clause 7.9 prevents the Client from the ability to dispute any invoice.
- 7.10 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to Bullocks Group an amount equal to any GST Bullocks Group must pay for any supply by Bullocks Group under this or any other agreement for the sale of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

## 8. Provision of the Works

- 8.1 Subject to clause 1.1 it is Bullocks Group's responsibility to ensure that the Works start as soon as it is reasonably possible.
- 1.1 The Works' commencement date will be put back and the completion date extended by whatever time is reasonable in the event that Bullocks Group claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond Bullocks Group's control, including, but not limited to, government interference, industrial dispute, breakdown of Plant, transport delays, accidents, or any failure by the Client to:
- (a) make a selection; or
  - (b) have the Worksite ready for the Works; or
  - (c) notify Bullocks Group that the Worksite is ready.
- 8.2 The cost of delivery is either included in the Price or is in addition to the Price as agreed between the parties.
- 8.3 Bullocks Group may deliver the Works by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 8.4 The Client shall take delivery of the Materials tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that:
- (a) such discrepancy in quantity shall not exceed 5%, and
  - (b) the Price shall be adjusted pro rata to the discrepancy or to the value that has been delivered.
- 8.5 Any time specified by Bullocks Group for delivery of the Works is an estimate only and Bullocks Group will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Works to be supplied at the time and place as was arranged between both parties. In the event that Bullocks Group is unable to supply the Works as agreed solely due to any action or inaction of the Client, then Bullocks Group shall be entitled to charge a reasonable fee for re-supplying the Works at a later time and date, and/or for storage of the Materials.

## 9. Worksite Access and Condition

- 9.1 The Client shall ensure that:
- (a) Bullocks Group has clear and free access to the Worksite at all times to enable them to undertake the Works (including carrying out Worksite inspections, gain signatures for required documents, and for the delivery and installation of the Materials). Bullocks Group shall not be liable for any loss or damage to the Worksite (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of Bullocks Group;
  - (b) access is suitable to accept the weight of laden trucks, or other heavy equipment as may be deemed necessary by Bullocks Group. The Client agrees to indemnify Bullocks Group against all costs incurred by Bullocks Group in recovering such vehicles in the event they become bogged or otherwise immovable; and
  - (c) the Client provides Bullocks Group with a suitable free power source.
- 9.2 The Client agrees to be present at the Worksite when and as reasonably requested by Bullocks Group and its employees, contractors and/or agents.
- 9.3 *Worksite Inductions*
- (a) in the event the Client requires an employee or sub-contractor of Bullocks Group to undertake a Worksite induction during working hours, the Client will be liable to pay the hourly charges for that period. If any induction needs to be undertaken prior to the commencement date then the Client shall be liable to pay Bullocks Group's standard (and/or overtime, if applicable) hourly labour rate; or
  - (b) where Bullocks Group is in control of the Worksite, the Client and/or the Client's third-party contractors must initially carry out Bullocks Group's Health & Safety induction course before access to the Worksite will be granted. Inspection of the Worksite during the course of the Works will be by **appointment only** and unless otherwise agreed, in such an event the Client and/or third party acting on behalf of the Client must at all times be accompanied by Bullocks Group.

## 10. Risk

- 10.1 If Bullocks Group retains ownership of the Materials under clause 15 then:
- (a) where Bullocks Group is supplying Materials only, all risk for the Materials shall immediately pass to the Client on delivery and the Client must insure the Materials on or before delivery. Delivery of the Materials shall be deemed to have taken place immediately at the time that either:
    - (i) the Client or the Client's nominated carrier takes possession of the Materials at Bullocks Group's address; or
    - (ii) the Materials are delivered by Bullocks Group or Bullocks Group's nominated carrier to the Client's nominated delivery address (even if the Client is not present at the address).
  - (b) unless otherwise agreed, where Bullocks Group is to both supply and install Materials then Bullocks Group shall maintain a Contract works insurance policy until the Works are completed. Upon completion of the Works all risk for the Works shall immediately pass to the Client.
- 10.2 Notwithstanding the provisions of clause 10.1 if the Client specifically requests Bullocks Group to leave Materials outside Bullocks Group's premises for collection or to deliver the Materials to an unattended location then such Materials shall always be left at sole risk of the Client and it shall be the Client's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Client's expense.
- 10.3 The Client:
- (a) must be on Worksite to supervise the marking out of the fence line, placement of boundary pegs and during the installation of the fence. If the Client fails to comply with this clause, then Bullocks Group accepts no responsibility for installation decisions that need to be made by Bullocks Group in the Client's absence; and
  - (b) acknowledges that it is the Client's responsibility to remove any existing fence (including existing footings), trees, vines and shrubs to allow Bullocks Group clear access along the proposed fence line prior to commencement of work by Bullocks Group unless otherwise agreed in writing between Bullocks Group and the Client. Under no circumstances will Bullocks Group handle removal of asbestos product.
- 10.4 Whilst Bullocks Group will take all due care during installation Bullocks Group will not accept any responsibility for tiles or pavers damaged during installation.
- 10.5 Where fencing is installed on a retaining wall Bullocks Group shall not be liable for any movement in the fence due to consolidation, or the movement of soil or any other component of the retaining wall.
- 10.6 Bullocks Group:
- (a) shall not be responsible for removal of soil from the Worksite; and
  - (b) reserves the right to touch-up all products supplied and installed on the Worksite to rectify minor blemishes or damage to paintwork.
- 10.7 Detailed drawings of any services that will be embedded in the concrete are to be provided to Bullocks Group prior to commencement of any Works. Whilst all due care will be taken no liability will be accepted by Bullocks Group for damage to the Works or any other element embedded in the concrete.
- 10.8 The Client acknowledges that:
- (a) the curing time for concrete can be affected by elements such as temperature or the weather as such Bullocks Group offers no guarantee as to the length of time the curing process will take;
  - (b) Bullocks Group offers no guarantee against cracking of concrete; and
  - (c) Bullocks Group shall act in accordance with the Client's instructions and therefore Bullocks Group shall not be liable for any loss or damage arising from following the Client's instructions.
- 10.9 Bullocks Group shall not be held responsible for any damage to the Materials caused by outside parties. Where the Client requests Bullocks Group to repair such damage then Bullocks Group reserves the right to charge the Client for any costs incurred in rectifying such damage.
- 10.10 The Client acknowledges and accepts that:
- (a) variations of colour and texture are inherent in concrete. Bullocks Group shall not be liable for any loss, damages or costs howsoever arising resulting from any variation of the colour or texture between different batches of product; and
  - (b) concrete is a porous material and as a consequence Bullocks Group cannot be held responsible for holes and pinholes, however numerous, that appear on the surface after completion of the Works; and
  - (c) Materials supplied may
    - (i) exhibit variations in shade, texture, markings and may contain natural fissures, occlusions, lines, indentations and may fade or change colour over time;
    - (ii) expand, contract or distort as a result of exposure to heat, cold, weather;
    - (iii) mark or stain if exposed to certain substances; and
    - (iv) be damaged or disfigured by impact or scratching.
- 10.11 Bullocks Group accepts no liability for:
- (a) the slump, strength and quality or suitability of the concrete pumped by it, nor for any defects, inadequacy, or failing of foundations, form work or any other part of the Worksite, or the Client's instructions, and may complete the Works without reporting any apparent defect or failing aforesaid; and
  - (b) problems that may arise when water is added, either before or after discharge from the agitator, without the approval of Bullocks Group's representative.
- 10.12 It is the Client's responsibility to:
- (a) warrant that the structure of the premises or equipment in or upon which the Materials are to be installed or erected is sound and will sustain the installation incidental thereto and Bullocks Group shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation;
  - (b) undertake all necessary preparatory work on the Worksite to enable Bullocks Group to provide the Works;
  - (c) ensure that the right Plant is ordered to provide the Works;
  - (d) that a maximum clearance of three and a half metres (3.5m) is allowed in respect of overhead obstacles, tress, or power lines;
  - (e) that only pumpable concrete is supplied to the Plant, and that the inclusion of additives is notified to Bullocks Group. The specifications of the concrete mix shall be provided to Bullocks Group at the time of the booking where additives are included or when the compression is less than twenty megapascals (20MPa) or exceeds twenty-five megapascals (25MPa); and
  - (f) provide suitable hardstand parking for the Plant. Bullocks Group may at the Client's request and expense provide towing of the Plant from the Worksite to hard standing ground. Where such parking is on a public roadway, the Client shall be responsible for any traffic

management and obtain (at the expense of the Client) all relevant permits as may be required and shall be responsible for any/all notices or infringements received by Bullocks Group as a result of Bullocks Group's attendance at the Worksite.

10.13 Bullocks Group can only visually check the concrete and cannot guarantee the mix is free of foreign objects.

10.14 If the concrete is divided into more than one truck Bullocks Group cannot guarantee the texture is consistent between trucks.

10.15 At the completion of the Services the Client or the representative of the Client shall be in attendance and the Works shall then be duly measured. In the absence of either the Client or their representative Bullocks Group shall carry out the necessary measurements and forward to the Client their calculations. If the Client does not object to the calculations within seven (7) days of receipt of the same, then it shall be deemed acceptance of the same and the Works completed.

## **11. Accuracy of Client's Plans and Measurements**

11.1 All customary building industry tolerances shall apply to the dimensions and measurements of the Materials unless the Client and Bullocks Group agree otherwise in writing.

11.2 Bullocks Group shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client.

11.3 If the giving of an estimate or quotation for the supply of Materials involves Bullocks Group estimating measurements and quantities, it shall be the responsibility of the Client to verify the accuracy of Bullocks Group's estimated measurements and quantities, before the Client places an order based on such estimate or accepts such quotation.

11.4 Should the Client require any changes to Bullocks Group's estimated measurements and quantities, the Client shall request such changes in writing, in the case of an estimate before placing an order based on that estimate and in the case of a quotation before acceptance of that quotation.

## **12. Underground Locations**

12.1 Prior to Bullocks Group commencing any work the Client must advise Bullocks Group of the precise location of all underground services on the Worksite and clearly mark the same. The underground mains and services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the Worksite.

12.2 Whilst Bullocks Group will take all care to avoid damage to any underground services the Client agrees to indemnify Bullocks Group in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 12.1.

## **13. Compliance with Laws**

13.1 The Client and Bullocks Group shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works, including any WorkSafe health and safety laws relating or any other relevant safety standards or legislation pertaining to the Works.

13.2 Both parties acknowledge and agree:

(a) to comply with the Building Act 2004 (including any subsequent Amendments) and Code of Ethics, in respect of all workmanship and building products to be supplied during the course of the Works; and

(b) that Works will be provided in accordance with any current relevant Australian/New Zealand Standards applicable.

13.3 Where the Client has supplied products for Bullocks Group to complete the Works, the Client acknowledges that it accepts responsibility for the suitability of purpose and use for their products and the Intended Use and any faults inherent in those products. However, if in Bullocks Group's opinion, it is believed that the materials supplied are Non-Conforming products and will not conform with New Zealand regulations, then Bullocks Group shall be entitled, without prejudice, to halt the Works until the appropriate conforming products are sourced and all costs associated with such a change to the plans and design will be invoiced in accordance with clause 7.2.

13.4 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Works.

13.5 Notwithstanding clause 13.1 and pursuant to the Health & Safety at Work Act 2015 (the "HSW Act"), Bullocks Group agrees at all times to comply with sections 28 and 34 of the "HSW Act" with meeting their obligations for health and safety laws in the workplace regardless of whether they may be the party in control of the Worksite or where they may be acting as a sub-contractor for the Client who has engaged a third party head contractor.

## **14. Insurance**

14.1 Bullocks Group shall have public liability insurance of at least five million dollars (\$5m). It is the Client's responsibility to ensure that they are similarly insured.

## **15. Title**

15.1 Bullocks Group and the Client agree that ownership of the Materials shall not pass until:

(a) the Client has paid Bullocks Group all amounts owing to Bullocks Group; and

(b) the Client has met all of its other obligations to Bullocks Group.

15.2 Receipt by Bullocks Group of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

15.3 It is further agreed that:

(a) until ownership of the Materials passes to the Client in accordance with clause 15.1 that the Client is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to Bullocks Group on request;

(b) the Client holds the benefit of the Client's insurance of the Materials on trust for Bullocks Group and must pay to Bullocks Group the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed;

(c) the production of these terms and conditions by Bullocks Group shall be sufficient evidence of Bullocks Group's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with Bullocks Group to make further enquiries;

(d) the Client must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Materials then the Client must hold the proceeds of any such act on trust for Bullocks Group and must pay or deliver the proceeds to Bullocks Group on demand;

- (e) the Client should not convert or process the Materials or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of Bullocks Group and must sell, dispose of or return the resulting product to Bullocks Group as it so directs;
- (f) unless the Materials have become fixtures the Client irrevocably authorises Bullocks Group to enter any premises where Bullocks Group believes the Materials are kept and recover possession of the Materials;
- (g) Bullocks Group may recover possession of any Materials in transit whether or not delivery has occurred;
- (h) the Client shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of Bullocks Group; and
- (i) Bullocks Group may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Client.

## **16. Personal Property Securities Act 1999 (“PPSA”)**

- 16.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
  - (b) a security interest is taken in all Materials that have previously been supplied and that will be supplied in the future by Bullocks Group to the Client and the proceeds from such Materials as listed by Bullocks Group to the Client in invoices rendered from time to time.
- 16.2 The Client undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Bullocks Group may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
  - (b) indemnify, and upon demand reimburse, Bullocks Group for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Materials charged thereby;
  - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials or the proceeds of such Materials in favour of a third party without the prior written consent of Bullocks Group; and
  - (d) immediately advise Bullocks Group of any material change in its business practices of selling Materials which would result in a change in the nature of proceeds derived from such sales.
- 16.3 Unless otherwise agreed to in writing by Bullocks Group, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 16.4 The Client shall unconditionally ratify any actions taken by Bullocks Group under clauses 16.1 to 16.3.
- 16.5 Subject to any express provisions to the contrary (including those contained in this clause 16), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 16.6 Only to the extent that the hire of the Space exceeds a six (6) month hire period shall clause 16 apply as a security agreement in the form of a PPS Lease in respect of Section 36 of the PPSA, in all other matters this clause 16 will apply generally for the purposes of the PPSA.

## **17. Security and Charge**

- 17.1 In consideration of Bullocks Group agreeing to supply the Works, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, and the Client grants a security interest in all of its present and after-acquired property, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.
- 17.2 The Client indemnifies Bullocks Group from and against all Bullocks Group’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Bullocks Group’s rights under this clause.
- 17.3 The Client irrevocably appoints Bullocks Group and each director of Bullocks Group as the Client’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 17 including, but not limited to, signing any document on the Client’s behalf.

## **18. Defects**

- 18.1 The Client shall inspect the Materials on delivery and shall within three (3) days of delivery (time being of the essence) notify Bullocks Group of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford Bullocks Group an opportunity to inspect the Materials within a reasonable time following delivery if the Client believes the Materials are defective in any way. If the Client shall fail to comply with these provisions the Materials shall be presumed to be free from any defect or damage. For defective Materials, which Bullocks Group has agreed in writing that the Client is entitled to reject, Bullocks Group’s liability is limited to either (at Bullocks Group’s discretion) replacing the Materials or repairing the Materials.
- 18.2 Materials will not be accepted for return other than in accordance with 18.1 above.

## **19. Warranties**

- 19.1 Subject to the conditions of warranty set out in clause 19.2 Bullocks Group warrants that if any defect in any workmanship provided by Bullocks Group becomes apparent and is reported to Bullocks Group within six (6) months of the date of delivery (time being of the essence) then Bullocks Group will either (at Bullocks Group’s sole discretion) replace or remedy the defect.
- 19.2 The conditions applicable to the warranty given by clause 19.1 are:
- (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
    - (i) failure on the part of the Client to properly maintain any Materials or serviced item; or
    - (ii) failure on the part of the Client to follow any instructions or guidelines provided by Bullocks Group; or
    - (iii) any use of any Materials or serviced item otherwise than for any application specified on a quote or order form; or
    - (iv) the continued use of any Materials or serviced item 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 Bullocks Group shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without Bullocks Group's consent.
  - (c) in respect of all claims Bullocks Group shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.
- 19.3 For Materials not manufactured by Bullocks Group, the warranty shall be the current warranty provided by the manufacturer of the Materials. Bullocks Group shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Materials.

## **20. Consumer Guarantees Act 1993 and the Fair Trading Act 1986**

- 20.1 If the Client is acquiring Materials for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 ("**CGA**") do not apply to the supply of Materials by Bullocks Group to the Client.
- 20.2 Bullocks Group agrees to abide by the provisions of the Fair Trading Act 1986 ("**FTA**").

## **21. Intellectual Property**

- 21.1 Where Bullocks Group has designed, drawn, written plans or a schedule of Works, or created any products for the Client, then the copyright in all such designs, drawings, documents, plans, schedules, and products shall remain vested in Bullocks Group, and shall only be used by the Client at Bullocks Group's discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of Bullocks Group.
- 21.2 The Client warrants that all designs, specifications, or instructions given to Bullocks Group will not cause Bullocks Group to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Bullocks Group against any action taken by a third party against Bullocks Group in respect of any such infringement.
- 21.3 The Client agrees that Bullocks Group may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which Bullocks Group has created for the Client.

## **22. Default and Consequences of Default**

- 22.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Bullocks Group's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 22.2 If the Client owes Bullocks Group any money the Client shall indemnify Bullocks Group from and against all costs and disbursements incurred by Bullocks Group in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Bullocks Group's collection agency costs, and bank dishonour fees).
- 22.3 Further to any other rights or remedies Bullocks Group may have under this Contract, if a Client has made payment to Bullocks Group, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Bullocks Group under this clause 22, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- 22.4 Without prejudice to Bullocks Group's other remedies at law Bullocks Group shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Bullocks Group shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Bullocks Group becomes overdue, or in Bullocks Group's opinion the Client will be unable to make a payment when it falls due;
  - (b) the Client has exceeded any applicable credit limit provided by Bullocks Group;
  - (c) the Client becomes insolvent or bankrupt, 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
  - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## **23. Cancellation**

- 23.1 Without prejudice to any other remedies the parties may have, if at any time either party is in breach of any obligation (including those relating to payment) under these terms and conditions the other party may suspend or terminate the supply or purchase of Materials or Works to the other party. Neither party will be liable for any loss or damage the other party suffers because one of the parties has exercised its rights under this clause.
- 23.2 If Bullocks Group, due to reasons beyond Bullocks Group's reasonable control, is unable to deliver any Materials or Works to the Client, Bullocks Group may cancel any contract to which these terms and conditions apply or cancel delivery of Materials or Works at any time before the Materials or Works are delivered by giving written notice to the Client. On giving such notice Bullocks Group shall repay to the Client any money paid by the Client for the Materials or Works. Bullocks Group shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 23.3 The Client may cancel delivery of the Materials and/or Works by written notice served within forty-eight (48) hours of placement of the order. Failure by the Client to otherwise accept delivery of the Materials and/or Works shall place the Client in breach of this Contract.
- 23.4 Cancellation of orders for products made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

## **24. Privacy Policy**

- 24.1 All emails, documents, images, or other recorded information held or used by Bullocks Group is "**Personal Information**" as defined and referred to in clause 24.3 and therefore considered confidential. Bullocks Group acknowledges its obligation in relation to the handling, use, disclosure, and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in the Act. Bullocks Group acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by Bullocks Group that may result in serious harm to the Client, Bullocks Group will notify the Client in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Client by written consent, unless subject to an operation of law.

- 24.2 Notwithstanding clause 24.1, privacy limitations will extend to Bullocks Group in respect of Cookies where the Client utilises Bullocks Group's website to make enquiries. Bullocks Group agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
- (a) IP address, browser, email client type and other similar details;
  - (b) tracking website usage and traffic; and
  - (c) reports are available to Bullocks Group when Bullocks Group sends an email to the Client, so Bullocks Group may collect and review that information ("collectively Personal Information")
- If the Client consents to Bullocks Group's use of Cookies on Bullocks Group's website and later wishes to withdraw that consent, the Client may manage and control Bullocks Group's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.
- 24.3 The Client authorises Bullocks Group or Bullocks Group's agent to:
- (a) access, collect, retain and use any information about the Client;
    - (i) (including, name, address, D.O.B, occupation, driver's license 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 Client's creditworthiness; or
    - (ii) for the purpose of marketing products and services to the Client.
  - (b) disclose information about the Client, whether collected by Bullocks Group from the Client directly or obtained by Bullocks Group 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 Client.
- 24.4 Where the Client is an individual the authorities under clause 24.3 are authorities or consents for the purposes of the Privacy Act 2020.
- 24.5 The Client shall have the right to request (by e-mail) from Bullocks Group, a copy of the Personal Information about the Client retained by Bullocks Group and the right to request that Bullocks Group correct any incorrect Personal Information.
- 24.6 Bullocks Group will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 24.7 The Client can make a privacy complaint by contacting Bullocks Group via e-mail. Bullocks Group will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Privacy Commissioner at <http://www.privacy.org.nz>.

## **25. Suspension of Works**

- 25.1 Where the Contract is subject to section 24A of the Construction Contracts Act 2002, the Client hereby expressly acknowledges that:
- (a) Bullocks Group has the right to suspend work within five (5) working days of written notice of its intent to do so if a payment claim is served on the Client, and:
    - (i) the payment is not paid in full by the due date for payment in accordance with clause 7.5 and/or any subsequent amendments or new legislation and no payment schedule has been given by the Client; or
    - (ii) a scheduled amount stated in a payment schedule issued by the Client in relation to the payment claim is not paid in full by the due date for its payment; or
    - (iii) the Client has not complied with an adjudicator's notice that the Client must pay an amount to Bullocks Group by a particular date; and
    - (iv) Bullocks Group has given written notice to the Client of its intention to suspend the carrying out of construction work under the construction Contract.
  - (b) if Bullocks Group suspends work, it:
    - (i) is not in breach of Contract; and
    - (ii) is not liable for any loss or damage whatsoever suffered, or alleged to be suffered, by the Client or by any person claiming through the Client; and
    - (iii) is entitled to an extension of time to complete the Contract; and
    - (iv) keeps its rights under the Contract including the right to terminate the Contract; and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.
  - (c) if Bullocks Group exercises the right to suspend work, the exercise of that right does not:
    - (i) affect any rights that would otherwise have been available to Bullocks Group under the Contract and Commercial Law Act 2017; or
    - (ii) enable the Client to exercise any rights that may otherwise have been available to the Client under that Act as a direct consequence of Bullocks Group suspending work under this provision;
  - (d) due to any act or omission by the Client, the Client effectively precludes Bullocks Group from continuing the Works or performing or complying with Bullocks Group's obligations under this Contract, then without prejudice to Bullocks Group's other rights and remedies, Bullocks Group may suspend the Works immediately after serving on the Client a written notice specifying the payment default or the act, omission or default upon which the suspension of the Works is based. All costs and expenses incurred by Bullocks Group as a result of such suspension and recommencement shall be payable by the Client as if they were a variation.
- 25.2 If pursuant to any right conferred by this Contract, Bullocks Group suspends the Works and the default that led to that suspension continues un-remedied subject to clause 23.1 for at least ten (10) working days, Bullocks Group shall be entitled to terminate the Contract, in accordance with clause 23.

## **26. Service of Notices**

- 26.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
  - (b) by leaving it at the address of the other party as stated in this Contract;
  - (c) by sending it by registered post to the address of the other party as stated in this Contract;
  - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
  - (e) if sent by email to the other party's last known email address.

26.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

## 27. Trusts

27.1 If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust or as an agent for a trust ("Trust") then whether or not Bullocks Group may have notice of the Trust, the Client covenants with Bullocks Group as follows:

- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust, the trustees and the trust fund;
- (b) the Client has full and complete power and authority under the Trust or from the Trustees of the Trust as the case maybe to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust, the trustees and or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (c) the Client will not during the term of the Contract without consent in writing of Bullocks Group (Bullocks Group will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
  - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
  - (ii) any alteration to or variation of the terms of the Trust;
  - (iii) any advancement or distribution of capital of the Trust; or
  - (iv) any resettlement of the trust fund or trust property.

## 28. General

28.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.

28.2 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality, and enforceability of the remaining provisions shall not be affected, prejudiced, or impaired.

28.3 These terms and conditions and any Contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Wanganui, New Zealand.

28.4 Subject to the CGA, the liability of Bullocks Group and the Client under this Contract shall be limited to the Price.

28.5 Bullocks Group may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent provided the assignment does not cause detriment to the Client.

28.6 The Client cannot licence or assign without the written approval of Bullocks Group.

28.7 Bullocks Group may elect to subcontract out any part of the Works but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Bullocks Group's sub-contractors without the authority of Bullocks Group.

28.8 The Client agrees that Bullocks Group may amend their general terms and conditions for subsequent future Contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for Bullocks Group to provide Works to the Client.

28.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Client to make any payment due to Bullocks Group, following cessation of a Force Majeure.

28.10 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

## Additional Terms & Conditions Applicable to Hire Only

These terms and conditions hereunder are to be read in conjunction with the terms and conditions above for the hire of Space by Bullocks Group to the Client (the subject of both this, and that, contract). If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality, and enforceability of the remaining provisions shall not be affected, prejudiced, or impaired.

## 29. Definitions

29.1 "**Fees**" means the periodic charges payable (plus any Goods and Services Tax (GST) where applicable) for the Client's use of the Space, as agreed between Bullocks Group and the Client in accordance with clause 31 of this Contract.

29.2 "**Goods**" means the Client's personal property to be stored in the Space.

29.3 "**Space**" means the storage space (as supplied by Bullocks Group) used by the Client to store the Goods.

## 30. Acceptance

30.1 The Client:

- (a) expressly warrants to Bullocks Group that the Client is either the owner or the authorised agent of the owner of the Goods which are the subject matter of this Contract, and by entering into this Contract, the Client accepts these terms and conditions for all other persons on whose behalf the Client is acting;

- (b) acknowledges and agrees that this Contract does not create an interest in land and the Client has merely the right to store Goods in the Space allocated to the Client by Bullocks Group for the term of this Contract;
  - (c) are deemed to have knowledge of the Goods stored in the Space;
  - (d) shall not be entitled to assign this Contract to any other person (or persons); and
  - (e) acknowledges that Bullocks Group shall be entitled to enter the Space at any time, and by any method, where required to by law or by any legal authority.
- 30.2 Bullocks Group:
- (a) does not, and will not be deemed to, have knowledge of the Goods stored in the Space;
  - (b) is not a bailee or warehouseman of the Goods, and the Client acknowledges that Bullocks Group does not take possession of the Goods (subject to clauses 34.3 and 30.5(b));
  - (c) reserves the right to relocate the Client to another Space under certain circumstances.
- 30.3 The Client acknowledges and accepts that the Fee is subject to an annual revision.
- 30.4 Notices will usually be given in writing and provided as per clause 26. The Client may also give notice over the telephone. In the event of not being able to contact the Client, notice is deemed to be given to the Client by Bullocks Group if Bullocks Group serves that notice on any of the person/s authorised to access the Space by the Client as identified herein.
- 30.5 Without prejudice to any other remedies Bullocks Group may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions:
- (a) Bullocks Group may refuse access to the Space by the Client and/or enact their right to terminate this Contract under clause 34.1; and
  - (b) in the event the Fees (or any other monies owing) are not paid in full within twenty-eight (28) days of the due date for payment, Bullocks Group may (without further notice) enter the Space and take possession and/or sell or dispose of any Goods in the Space on such terms that Bullocks Group may determine. Bullocks Group may also require the payment of any costs associated with the seizure of the Space. Any excess monies recovered by Bullocks Group on the disposal of the Goods will be returned to the Client; and
  - (c) Bullocks Group will not be liable to the Client for any loss or damage the Client suffers because Bullocks Group has exercised its rights under this clause.
- 31. Space Storage Fees**
- 31.1 The fees (subject to clause 31.2) shall be payable in advance on the first day of each month or weekly as arranged. Where the Contract commences part way through a month the initial advance payment shall be calculated on a pro-rata basis commencing from the date the Contract is signed to the end of that month, and monthly in advance thereafter.
- 31.2 Bullocks Group reserves the right to:
- (a) change the fees at any time by giving the Client not less than one (1) months' written notice;
  - (b) charge the Client:
    - (i) a cleaning fee, where the Client has failed (in the opinion of Bullocks Group) to adhere to clause 32.1(c); and
    - (ii) a late payment fee, which shall become payable each time the Fees are not received by Bullocks Group within seven (7) days of when they are due and payable.
- 31.3 The Client must pay to Bullocks Group immediately upon acceptance of the Contract:
- (a) the initial weekly, fortnightly and/or monthly Fees; and
  - (b) a deposit, in the form of a bond to the value of one (1) month of the fee for storage, which shall be refunded to the Client within thirty (30) days of termination of the storage contract, provided that the Client has complied with their obligations hereunder; and
  - (c) an admin fee, at the sole discretion of Bullocks Group.
- 32. Access and Use of the Space**
- 32.1 The Client:
- (a) shall be entitled to access and use the Space during the normal access hours. No access outside of normal hours is acceptable unless otherwise agreed;
  - (b) will be solely responsible for the securing of the Space (and shall secure the Space at all times when the Client is not accessing/using the Space), and when entering or leaving the premises outside access hours will secure the external gates or doors thereof, in a manner which is acceptable to Bullocks Group;
  - (c) must maintain the Space by ensuring it is clean and in a state of good repair;
  - (d) must have consideration for other Clients and neighbouring properties when accessing Bullocks Group's premises, and in particular the Client must avoid excessive noise;
  - (e) shall not:
    - (i) use the Space for any purpose other than storage of the Goods (including carrying on business or other activity in the Space, human habitation, the keeping of animals);
    - (ii) store, or use in the Space, any Goods that are inflammable, hazardous, illegal, stolen, explosive, environmentally harmful, perishable, dangerous or that are a risk to the property of any person, and ensure the Goods are dry, clean, free from vermin and food scraps;
    - (iii) obstruct or interfere with the use of Bullocks Group's premises by other Clients;
    - (iv) use the Space for any illegal or immoral purpose, or carry out any business activity at Bullocks Group's premises; or
    - (v) carry out any alterations to the Space, (including, but not limited to, attaching nails, screws, etc. to any part of the Space), or damage the Space, without Bullocks Group's prior written consent. In the event of damage to the Space, Bullocks Group shall be entitled to charge the Client for any repairs required.
- 32.2 The Client acknowledges and agrees to comply with all relevant laws, including Acts, Ordinances, Regulations, By-laws, and Orders, as are or may be applicable to the use of the Space; this includes laws relating to the Goods which are stored, and the manner in which they are stored. The liability for any (and all), breach of such laws rests absolutely with the Client, and includes any (and all) costs resulting from such breach. If Bullocks Group has reason to believe that the Client is not complying with all relevant laws, it may take any action it believes to be necessary to so comply, including the action outlined in clauses 32.4 and 34, and/or immediately dispose of, or remove, the Goods at the Client's expense, and/or submit the Goods to the relevant authorities. The Client agrees that Bullocks Group may take such action at any time, even though it could have acted earlier.

- 32.3 Deliveries and removals from the Space will not be permitted by any person other than the Client (and the Client's authorised persons as specified thereby in writing to Bullocks Group), unless the Client gives personal or telephone instruction to Bullocks Group. The Client must identify them by use of the password (if any) and name the person/s authorised by the Client to enter the Space.
- 32.4 The Client consents to inspection and entry of the Space by Bullocks Group, provided that Bullocks Group gives the Client five (5) days written notice. In the event of an emergency (that is where property, the environment or human life is, in Bullocks Group's opinion, threatened), Bullocks Group may enter the Space using all necessary force without the written consent of the Client; but Bullocks Group shall notify the Client as soon as practicable.

### **33. Insurance and Indemnity**

- 33.1 The Goods are at all times stored at the Client's sole risk. Bullocks Group shall not be responsible for any damage to the Goods stored in the Space. It is the Client's responsibility to ensure that the Goods stored in the Space are insured against all possible damage (including, but not limited to, the perils of accident, fire, flood theft, burglary, leakage or overflow of water, heat, spillage of material from any other unit, removal or delivery of the Goods, pest or vermin or any other reason whatsoever, including acts or omissions of Bullocks Group or persons under its control, and all other usual risks) and deterioration.
- 33.2 The Client agrees to use the Space at their own risk and releases (to the full extent permitted by law) Bullocks Group, its employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property arising out of the use of the Space.
- 33.3 Unless specifically covered by insurance, the Client will not store Goods which are irreplaceable, such as currency, jewellery, furs, deeds, paintings, curios, works of art and items of personal sentimental value.
- 33.4 Any Goods left unattended in common areas or outside the hired Space at any time may, at Bullocks Group's reasonable discretion, be sold, disposed, moved, or dumped and at the expose and liability of the Client.

### **34. Expiry/Termination**

- 34.1 The hire of the Space shall continue monthly, unless terminated by way of the either party providing the other with five (5) days' written notice. Bullocks Group shall be entitled to:
- (a) charge the Client additional Fees (on a pro rata basis) if less than the requisite notice is given by the Client;
  - (b) terminate this Contract without giving prior notice (but will send notice to the Client in writing within seven (7) days) if Bullocks Group enters the Space under clause 32.4 and there are no Goods stored therein.
- 34.2 Upon expiry/termination, the Client must:
- (a) remove all Goods from the Space and leave it in a clean condition, and in a good state of repair, to Bullocks Group's satisfaction, on the specified date;
  - (b) pay any outstanding monies and any expenses on default, or other monies owed to Bullocks Group up to the date of termination, or clauses 22 and 30.5 may apply.
- 34.3 In the event of illegal or environmentally harmful activities on the part of the Client, Bullocks Group may terminate this Contract without notice, and Bullocks Group may advise the Client that unless the Goods are removed (within fourteen (14) days of the date of such advice) those Goods shall be forfeited to Bullocks Group without payment or compensation. If the Client fails to comply with such notice, ownership of the Goods in the Space shall immediately pass to Bullocks Group.