

# GENERAL CONDITIONS

of

## Focus Amsterdam BV

having its registered office at Marostraat 80, 1060 LG Amsterdam, the Netherlands  
registered in the Trade Register the Netherlands, under number 34264576

hereinafter also (individually and/or jointly) referred to as "FOCUS".

### Clause 1 APPLICABILITY

- 1.1 These General Conditions shall apply to all offers and tenders of FOCUS, as well as to all agreements between FOCUS and the Other Party (as defined hereinafter), on the basis of which FOCUS delivers and/or leases one or more products to the Other Party and/or performs one or more specific activities and/or provides one or more specific services to the Other Party.
- 1.2 The services referred to in paragraph 1 inter alia include the provision of audio, video and lighting facilities for radio, television and theatre productions, as well as concerts, congresses, product presentations and events, all this in the broadest sense of the words used.
- 1.3 In these General Conditions the term "the Other Party" means each (legal) person with whom FOCUS has concluded an agreement, or wishes to conclude an agreement, and in addition thereto, his representative(s), attorney(s), successor(s) in title and heirs.
- 1.4 In these General Conditions the term "Goods" means: hardware and/or software and furthermore all that which can be the subject of an agreement, with due observance of the business activities of FOCUS.
- 1.5 Deviations from these General Conditions shall only have force and effect in so far as these have been agreed between FOCUS and the Other Party in writing, and shall apply only to the relevant agreement. Any conditions of the Other Party shall not be accepted by FOCUS, save after separate, written, acceptance thereof by FOCUS.
- 1.6 The Dutch text of these General Conditions shall prevail over any whether or not certified translations thereof.

### Clause 2 OFFERS

- 2.1 All offers shall be without engagement, unless agreed otherwise in writing. Offers shall be considered to be an invitation to the Other Party to make an offer. Unless this expressly appears to be otherwise, offers of FOCUS shall not include any assembly or installation. Unless stated otherwise, offers of FOCUS shall be no longer valid than forty-five (45) days, to be counted as from the date of the offer.
- 2.2 All drawings and data, such as measures, dimensions, weights, capacities and quantities, provided with an offer, shall be composed and determined as precisely as possible. These data shall only be binding in so far as this is expressly confirmed. Details do not have to be supplied.
- 2.3 In offers FOCUS assumes that all goods will be delivered in their usual version and that all activities can be performed in the normal manner. Special requirements and circumstances have to be stated to FOCUS in advance, in writing and sufficiently detailed. In its offer FOCUS shall as then expressly mention whether and to what extent FOCUS has taken that into account.
- 2.4 Offers, as well as drawings, designs, diagrams, models, computer programs and calculations made by FOCUS (or in commission of FOCUS) shall be the property of FOCUS and may without the express written permission of FOCUS not be passed on or made available for inspection to third parties.
- 2.5 FOCUS reserves the right to refuse commissions and/or orders without stating any reasons.

### Clause 3 AGREEMENT

- 3.1 Subject to the provisions set forth hereinafter, an agreement with FOCUS shall not come about until after FOCUS has accepted or confirmed a commission in writing, or by the implementation of the agreement. The acceptance or confirmation shall be deemed to reflect the agreement correctly and in full.
- 3.2 Any additional agreements or changes that have been made later, as well as agreements with and/or promises of staff of FOCUS, shall only bind FOCUS if these have been confirmed by FOCUS in writing.
- 3.3 For deliveries and/or activities for which given their nature and scope no quotation or offer or order confirmation is sent, the invoice is also considered to be an order confirmation, which is also deemed to reflect the agreement correctly and in full.
- 3.4 If an agreement regards the lease of equipment and/or technical staff for a series of productions (for example TV programmes), per production an agreement shall be deemed to have been concluded with regard to the services agreed for that production.
- 3.5 Each agreement shall be concluded under the suspending condition that the Other Party - exclusively at the discretion of FOCUS - appears to be sufficiently creditworthy for the financial performance of the agreement.
- 3.6 FOCUS shall have the right at or after the coming about of the agreement, before performing (any further), to require a security from the Other Party that both the payment obligations and the other obligations will be performed.
- 3.7 FOCUS shall have the right at or after the coming about of the agreement, before performing (any further), to require from the Other Party an advance, of any amount.
- 3.8 Without the prior permission of FOCUS the Other Party shall not have the right to transfer to third parties the rights arising from an agreement on services to be granted by FOCUS or goods to be delivered by FOCUS. Without prejudice to the provisions set forth in paragraph 9 of this Clause, FOCUS shall in any case not grant that permission if for this transfer a price is stipulated.
- 3.9 The use by the Other Party of services provided by FOCUS for co-productions with one or more third parties will have to be reported by the Other Party to FOCUS in writing. Towards FOCUS exclusively the Other Party shall be liable for the complete performance of the agreement.
- 3.10 Cancellation of an agreement by the Other Party shall only be possible if this is done in writing prior to the beginning of provision of services and/or the delivery of Goods. With due observance of the provisions set forth hereinafter, in case of cancellation at all times all preparation costs (if any) will be charged by FOCUS to the Other Party. If cancellation takes place earlier than 5 working days prior to the beginning of the provision of the services or the delivery of the Goods, the Other Party shall, in addition to the preparation costs referred to in the second sentence of this Clause, be due damages, which are set on 50% of the agreed compensation/price. If cancellation takes place later than 5 working days prior to the beginning of the provision of the services or the delivery of the Goods, the damages as referred to hereinbefore shall be equal to the full agreed compensation/price that is due.
- 3.11 The financial obligations of FOCUS towards third parties connected with the cancelled agreement that have to be performed by FOCUS, including purchased or ordered materials and/or leased equipment or technicians, shall also be charged to the Other Party in full.

### Clause 4 PRICES

- 4.1 Each quotation shall be subject to price changes, unless agreed otherwise in writing.

- 4.2 Unless stated otherwise, the prices of FOCUS:

- shall be based on the purchase prices, wages, wage costs, social and governmental charges, freight charges, insurance premiums and other costs applying at the time of the offer or order date;
- shall be based on "delivery ex works FOCUS";
- shall be exclusive of VAT, import duties, other taxes and other levies imposed by the government;
- shall be exclusive of the costs of packing, loading and unloading, transport and transport insurance, expressed in Euros. If expressed in another currency, any exchange rate changes compared to the Euro occurring in the period between offer and delivery shall be charged through.

- 4.3 If activities have been agreed also, FOCUS shall have the right to charge above the agreed price any costs connected with demonstrable additional or heavier activities than foreseen or with the fact that work had to be done on other than usual hours, or delays through no fault of FOCUS in the performance of the activities. FOCUS shall also have the right to index the wages component and to charge the thus calculated higher cost of labour.
- 4.4 If the Other Party during the performance of the agreement requires more services, or requires services for a longer period than agreed, and FOCUS is able to meet that need, this will be set out in writing in a supplement to the agreement. Only after signature of the supplement the additional services will be performed. The additional services shall be charged and will have to be paid in accordance with the provisions set forth in Clause 16.

### Clause 5 DELIVERY OR COMPLETION PERIOD AND DELIVERY OR COMPLETION

- 5.1 activities must have been performed.
- 5.2 The stated completion or delivery periods shall always be estimates, unless expressly agreed otherwise in writing.
- 5.3 An agreed completion or delivery period shall not enter into effect until after all necessary information is in the possession of FOCUS and the payment, if and in so far as this has to be made at the commission, has been made, or the requested security or the requested advance has been provided.
- 5.4 FOCUS shall be held to observe the stated delivery period as much as possible, but shall in no manner be liable for any reasonable excess thereof.
- 5.5 Any excess of the stated delivery period shall not oblige FOCUS to any compensation, and shall not give the Other Party the right to cancel the agreement or to refuse to accept delivery.
- 5.6 Unless agreed otherwise, delivery of Goods shall be "ex works / warehouse".
- 5.7 Delivery in parts (partial deliveries) shall always be permitted. FOCUS may invoice the aforementioned partial deliveries separately. As then the Other Party shall be held to pay in accordance with the provisions set forth in Clause 16 of these General Conditions.
- 5.8 If the Goods after the expiry of the delivery period have not been accepted by the Other Party, they shall be stored and kept at the disposal of the Other Party, for his own risk and account. In case of long-term storage resulting from not accepting delivery of the Goods at the agreed date, FOCUS shall charge storage costs.
- 5.9 Minor deviations of the delivered or leased Goods as to dimension, colour, capacity, form and packing shall never be a reason for the Other Party to cancel the order in full or in part, or to refuse payment in full or in part, or to claim damages.
- 5.10 The Other Party shall be held to check the delivered Goods or the packing immediately on receipt both as to quantity and to quality. This also applies in the situation referred to in paragraph 8 of this Clause. Any deficits or shortages will have to be notified to FOCUS in accordance with the provisions set forth in Clause 13 of these General Conditions.
- 5.11 If also activities outside the factory of FOCUS have been agreed, the Other Party shall see to it that the work can be commenced expeditiously, inter alia by making the workplace properly accessible for FOCUS staff and the materials that have to be brought in. Furthermore the Other Party shall be held to provide the required power supply and proper lighting to carry out the work, if necessary to provide auxiliary machines and tools such as hoisting equipment and scaffolding, and to see to it that no activities of third parties obstruct or slow down the progress of FOCUS work.
- 5.12 FOCUS shall have the right to call in the assistance of third parties (subcontractors) to make a delivery.
- 5.13 If at the request of the Other Party performance takes place within a period shorter than was agreed, the extra costs connected thereto shall be for the charge of the Other Party. FOCUS shall send a specification of those costs to the Other Party.
- 5.14 If the preparation for the provision of services (also) depends on data, instructions, documentation or materials, including scripts, texts, images, picture and sound carriers, etc. that are to be provided by the Other Party pursuant to the agreement, and the Other Party fails to perform its obligations in respect thereof in a timely manner, irrespective of the cause, the agreed dates and times shall if possible be changed accordingly. If a change is not possible or if a change leads to an excess of a fatal period, the Other Party shall have the right to cancel the agreement, and the provisions set forth in the Clauses 3.10 and 3.11 shall apply.

### Clause 6 LEASE

- 6.1 Lease agreements shall also be governed by these General Conditions, unless expressly provided otherwise in this Clause.
- 6.2 Where in these General Conditions mention is made of "Other Party", this term shall as the occasion arises also include "Borrower".
- 6.3 In this Clause the term "Lender" shall mean: Focus Amsterdam BV or one of the group companies Rent-All Holding BV. In this Clause the term "Borrower" shall mean: a (legal) person who rents equipment from the Lender or is otherwise provided with equipment from the Lender. In a similar manner as "the Other Party" mentioned in the other Clauses, the Borrower shall be subjected to all applicable Clauses of the General Conditions for delivery of Goods and provision of services. In this Clause the term "Equipment" shall mean: all (electric) equipment in the area of audio, video and lighting, as well as musical instruments and any other Goods that the Lender makes available for rental or other use, as well as all associated accessories, wiring, packing materials, etc.
- 6.4 The Borrower shall use the Equipment exclusively for the purpose for which the equipment has been manufactured. The Borrower shall treat the Equipment with all due care and shall provide a proper and safe storage place for the Equipment. The Borrower shall at all times give a person authorised by the Lender access to the buildings or premises where the Equipment is located, in order to inspect the condition of the Equipment.

- 6.5 The Borrower shall in case of theft or loss of or damage to the Equipment notify the Lender thereof immediately, by means of a detailed written report. The Borrower shall in case of theft or destruction report the same immediately to the police in the place where the theft or destruction took place, and shall provide a copy of the official record of the report to the Lender.
- 6.6 The Borrower shall not copy or disclose to third parties any data or information regarding the designs and/or the construction methods used by the Lender.
- 6.7 The Borrower shall not let the Equipment, give it in loan for use or otherwise make it available to third parties.
- 6.8 The Equipment shall be let for a period of at least one (1) day. The rental period shall start to run on the day that the Equipment leaves the warehouse of the Lender and shall end on the day that the Equipment returns in the warehouse of the Lender, unless agreed otherwise in writing.
- 6.9 The Equipment shall be transported for the risk and account of the Borrower, in the packing provided by the Lender.
- 6.10 The Borrower shall inspect whether the Equipment is handed over to him in a good condition. The Lender assumes that the Borrower has knowledge of the functioning and operation of the Equipment, and that the Equipment ordered by the Borrower is fit for the purpose for which the Equipment is rented.
- 6.11 The Equipment will have to be picked up by the Borrower at the warehouse of the Lender, and is to be returned there at the latest at the date that the agreed rental period ends, unless agreed otherwise in writing. By the sole fact of non-return at that date for whatever reason, or if the Equipment is damaged, the Borrower shall be in default without any reminder or notification of default being required. As then, the Borrower shall, without prejudice to his other obligations towards the Lender, be due to the Lender damages equal to the rent he should have paid for the number of days with which the agreed rental period has been exceeded, or the number of days it takes to repair the damage to the Equipment, increased with 50%, without prejudice to the entitlement of the Lender to full compensation of the damage suffered by it. The Borrower may derive no rights from this provision to demand any extension of the previously agreed rental period.
- 6.12 The Borrower shall be deemed to have taken note of and to have agreed with the rental rates of the Lender. Unless agreed otherwise, the Borrower shall pay the rental fees in cash before or at the start of the rental period. The Lender shall have the right to demand a security deposit from the Borrower and reserves the right to compensate due and payable rental fee instalments with the security deposit, as well as the costs of repairing and/or cleaning the rented Equipment.
- 6.13 The Lender has insured the Equipment. Within that framework the following shall apply:
- An excess of EUR 5,000 per incident applies. In case of damage the Lender shall charge this excess to the Borrower.
  - The cover area of the insurance shall be World.
  - Not insured shall be loss, theft without traces of forcible entry, and theft from a passenger car or truck that was left behind unattended.
  - Insurers of the policy shall in case of damage created by negligence have the right of recourse against the Borrower.
  - If the Equipment is exposed to a (possibly) higher risk for damage than at normal use and/or under normal circumstances, the Borrower shall be held to inform the Lender thereof in advance, and to assure whether the Lender in that case is prepared to let the Equipment, whether or not under cover of an additional insurance. The costs of an additional insurance shall be charged to the Borrower.
  - In case of loss, theft or damage, the Borrower shall act in accordance with the provisions set forth in Clause 6.5.
  - The Lender shall have the right to recover the damage to the Equipment from the Borrower, in so far as that damage is not covered by its insurer(s).

#### Clause 7 TESTING/COMPLAINTS PROCEDURE

- 7.1 Testing of the Goods to be delivered shall in general take place in the factory in accordance with standard procedures that are usual in view of the nature of the Goods. Testing of performed activities and/or provided services shall take place at the location where these have been carried out.
- 7.2 The Other Party shall only have the right to demand special testings or testings elsewhere if this has expressly been agreed.
- 7.3 FOCUS shall see to it that the services to be provided by it will be carried out properly and meticulously, and that the Goods to be delivered by it will be of a sound quality.
- 7.4 Concerning the Equipment that is made available: If the provision of services regards the making available of technical equipment and this equipment does not operate or function properly, does not meet reasonable requirements as to quality or deviates from what has been agreed, FOCUS shall without prejudice to the provisions set forth in paragraph 5 of this Clause and Clause 12 - to its discretion and at its own expense - look after an as soon as possible repair or replacement. Repair or replacement shall take place for the charge of the Other Party if FOCUS demonstrates that incorrect and/or inexperienced use or acts by the Other Party have made repair or replacement necessary. If repair or replacement is reasonably not possible within such a period that that which has been agreed with the Other Party can be realised, then FOCUS, as well as the Other Party, shall have the right to dissolve the agreement in so far it has not been carried out yet, without interference of the courts. In the latter case the Other Party shall be entitled to compensation of demonstrable damage, this with due observance of the provisions set forth in Clause 10. Complaints with regard to technical equipment that has been made available shall only be handled if they have been submitted to FOCUS at the latest 24 hours after the Equipment has been made available, or, if a defect is not visible on the outside, 24 hours after the defect was or could have been discovered, and in writing or orally and properly reasoned. Failing that, any entitlement to claim performance of the provisions set forth in paragraph 4 of this Clause shall lapse. Orally submitted complaints will have to be confirmed in writing at the latest within two days after the oral complaint.
- 7.5 Concerning staff that is made available: If the service concerns the making available of technical staff, FOCUS shall ensure that the staff members that are made available and that are charged with operating the equipment are able to perform the tasks that are to be carried out. With respect to the staff members that are made available by FOCUS, the rule applies that FOCUS when making its choice will as much take into account the information provided by the Other Party to FOCUS regarding the activities that have to be performed, as well as with the capacities and experience of the staff members who are candidates. FOCUS shall be entirely free in that. If a staff member of FOCUS that has been made available according to the Other Party reasonably does not meet the aforesaid requirements, FOCUS shall within four hours after it has appeared that the relevant staff member is not suited inform FOCUS thereof while stating its objections. FOCUS shall in that case if possible - in case of availability of other staff members - replace the relevant staff member. Any extra travel and subsistence expenses caused thereby shall be for the charge of the Other Party.
- 7.6 Concerning the manufacture or handling of Goods: If the provided services regard the manufacture or handling of Goods, FOCUS shall, in case of loss of or damage to the Goods that are being manufactured or handled, for its own account take care of repair or replacement of the Goods. If, however, the loss of or the damage to the Goods is the fault of the Other Party, the costs of repair or replacement shall be for the charge of the Other Party.
- 7.7 Concerning subcontracting: FOCUS obliges itself to only allow subcontracting if the quality standards of FOCUS are maintained. If FOCUS has contracted out its obligations to provide services in full or in part, it shall towards the Other Party never be held to more than to which the third party to whom FOCUS has contracted out, hereinafter in this paragraph referred to as: "the third party", is held towards FOCUS. FOCUS shall as much as possible promote that the third party will perform its obligations, and will if

necessary - at the discretion of FOCUS - for its own account initiate legal proceedings against that third party. If FOCUS is of the opinion that legal proceedings from a legal or financial perspective are not advisable, FOCUS shall at a request of the Other Party to that effect transfer its rights towards the third party to the Other Party.

#### Clause 8 REPAIRS AND MAINTENANCE

- 8.1 The provisions set forth in the paragraphs 1 up to and including 11 of this Clause shall be intended for repairs and maintenance, in so far as not arising from the warranty provisions of FOCUS.
- 8.2 FOCUS shall be free to deny requests for repairs and/or maintenance.
- 8.3 If the Other Party in advance wishes to receive an estimate of the costs of the repairs that are to be carried out, FOCUS shall provide that estimate to the best of its insight, without any obligation on our part, however, to carry out the repair for the estimated amount. FOCUS shall never carry out a repair against an agreed fixed price.
- 8.4 If, after the repair commission has been provided, the actual costs excessively threaten to exceed the estimated costs or if the suspected costs are in no reasonable proportion to the actual value of the Good, FOCUS shall, before carrying out any (further) repairs, consult with the Other Party. If this consultation for whatever reason has not taken place within a reasonable period of time, FOCUS shall yet carry out the (further) repairs.
- 8.5 The Other Party shall be held to pay in cash the actual costs of the repairs to FOCUS. The payment obligation shall arise at the moment that the Goods after having been repaired are available to the Other Party. FOCUS shall have the right to demand (partial) payment in advance of the estimated repair costs.
- 8.6 Repaired Goods shall be available to the Other Party in FOCUS's warehouse or factory, where the Other Party shall when picking up the Goods check whether the repair, within the limits of that which was (still) possible, has been carried out properly. To repairs no further warranty provisions apply, with exception of the usual warranty on added new components, in so far as these are no electronic components.
- 8.7 If, after a repair has been carried out, the Other Party does not pick up and pays the repaired Goods within 30 days, FOCUS shall be free to convert the Goods into cash and to transfer the proceeds to the Other Party, after deduction of the costs of repair.
- 8.8 FOCUS can only indicate the period within which a repair will be carried out approximately. The Other Party therefore has no right, in case of excess of that period, to refuse payment or to claim any damages.
- 8.9 Maintenance contracts can only be concluded with a detailed description of the maintenance activities, mutual obligations and warranty conditions (if any). This often regards repetitive activities against a fixed price, in which case FOCUS is bound to the price agreement.
- 8.10 Replacing materials or Goods shall only then be made available to the Other Party if this has expressly been agreed in the instruction to perform the repair or maintenance work.
- 8.11 The Good(s) repaired or to be repaired shall be kept at FOCUS for the risk of the Other Party.

#### Clause 9 TRANSPORTATION

- 9.1 If the Other Party FOCUS without any further indication requests to send the Goods, the manner of sending and packing shall be determined by FOCUS with all due care.
- 9.2 The transport of Goods shall always be for the risk and account of the Other Party, in packing provided by the Lender.
- 9.3 The Other Party shall during the entire rental period, therefore also during the transport of the rented Goods, bear the risk for loss of or damage to the equipment of the rented Goods. The Other Party shall be held to pack and load the rented Goods in accordance with the nature of the rented Goods and the manner of transport.

#### Clause 10 LIABILITY

- 10.1 FOCUS shall exclusively be liable for direct damage suffered by the Other Party that may arise from agreements between FOCUS and the Other Party pursuant to which FOCUS delivers and/or leases one or more products to the Other Party, and/or performs one or more activities and/or provides one or more services, in so far as provided in these General Conditions.
- 10.2 With due observance of the provisions set forth elsewhere in these General Conditions, FOCUS shall in any case not be liable for damage caused by inexpert use of the delivered Goods or by the use thereof for another purpose than for which it is fit under objective criteria.
- 10.3 In case of an imputable failure in the performance of an agreement between FOCUS and the Other Party on the basis of which FOCUS delivers and/or leases one or more products to the Other Party and/or performs one or more specific activities and/or services, FOCUS shall only be liable for replacement damages, meaning compensation of the value of the performance that was not carried out. Any liability of FOCUS for any other form of damage is excluded, including additional damages of whatever form, compensation of indirect damage or consequential damage or damage due to loss of profits.
- 10.4 FOCUS shall furthermore under no circumstances be liable for damage caused by any delays, for damage caused by excess of completion or delivery deadlines due to changed circumstances, and for damage as a result of rendering insufficient assistance or insufficient or defective information or materials by the Other Party.
- 10.5 The damages to be paid by FOCUS due to any imputable failure in the performance of an agreement between FOCUS and the Other Party on the basis of which FOCUS delivers and/or leases one or more products to the Other Party and/or performs one or more specific activities and/or services, shall under no circumstances amount to more than 50% of the invoiceable and invoiced amounts on the basis of the agreement by FOCUS to the Other Party (excluding VAT). If the relevant agreement is a continuing performance agreement, the damages shall under no circumstances amount to more than fifty percent (50%) of the invoiceable and invoiced amounts on the basis of the relevant partial agreement by FOCUS to the Other Party excluding VAT. The damages because of an imputable failure in the performance shall under no circumstances amount to more than the price (exclusive of VAT) stipulated in the relevant agreement for the performances of FOCUS in the period of three months preceding the default of FOCUS. The amounts and prices referred to in this paragraph shall be reduced with credit notes stipulated by the Other Party and granted by FOCUS.
- 10.6 In case of a tort of FOCUS, or of its employees or subordinates for which FOCUS can be held liable by right, FOCUS shall only be liable for compensation of the damage in so far as that damage was caused by intent or gross negligence.
- 10.7 Liability of FOCUS for damage because of tort otherwise than as referred to in the previous paragraph is herewith expressly excluded.
- 10.8 If and in so far as in spite of the provisions set forth in this Clause any liability should yet appear to rest on FOCUS on any account whatsoever, this liability shall at all times be limited to the contract interest of the relevant agreement, or at any rate to the amount paid out by an insurance of FOCUS.
- 10.9 Condition for the creation of any entitlement to damages shall always be that the Other Party after the creation thereof has reported the damage to FOCUS in writing as quickly as reasonably possible. Any claim of the Other Party towards FOCUS shall expire one (1) year after the termination and/or completion of the performance of the agreement to which the claim relates, save in the case that the fact on which the claim is based could not have been discovered within that period. In that case the relevant claim shall expire one year after the moment on which the relevant fact was or should have been discovered by the principal.
- 10.10 The Other Party guarantees to FOCUS that the Other Party has permission of the copyright owner(s) to

include parts on which a copyright of third parties rests in its product and allowing them to be recorded by FOCUS on sound and/or image and/or information carriers.

- 10.11 The Other Party shall indemnify FOCUS from and against any damage that FOCUS may suffer as a result of claims of third parties that relate to the Goods delivered or services provided by FOCUS, including: claims of third parties, employees of FOCUS included, who in connection with the performance of the agreement suffer damage that arises from actions or omissions of the Other Party or of unsafe situations in its enterprise; claims of third parties that suffer loss resulting from any defects in products delivered or services provided by FOCUS that were used, changed or delivered through by the Other Party, under addition of or in conjunction with own products or services of the Other Party, unless the Other Party proves that the defect is not the consequence of the use, change or redelivery as referred to hereinbefore; all claims of copyright owners arising from actions of FOCUS within the framework of a commission of and/or an agreement with the Other Party.

#### Clause 11 OBLIGATIONS AND LIABILITY OF THE OTHER PARTY

##### 11.1 General:

- 11.1.1 Subject to the prior written permission of FOCUS the Other Party shall not be permitted to (have others) use its own staff and/or equipment, or staff and/or equipment called in from third parties, in or in combination with a facility made available by FOCUS, if and in so far as these resources could also have been made available by FOCUS and in so far as this making available is usual in that situation.

- 11.1.2 FOCUS shall determine the manner of packing, transport, security and safekeeping of the technical equipment made available by FOCUS. The Other Party shall be held to carry out the instructions given by FOCUS in that respect. The Other Party shall be liable for any damage to the technical equipment made available by FOCUS that has arisen as a result of an incorrect performance of instructions of FOCUS.

##### 11.2 Concerning (non) permitted use:

- 11.2.1 The Other Party shall be held to ask FOCUS its prior written permission for each use that deviates from the normal circumstances under which the Goods/equipment that are to be made available and/or to be let, and which use leads or has led to destruction, loss or damage of Goods, nuisance, personal injury or death. If no permission has been asked or obtained, FOCUS shall have the right at each moment it deems fit with immediate effect to suspend the (further) provision of the relevant service, until a use that is acceptable for FOCUS has been guaranteed. FOCUS shall also have this right if after the granted permission it appears in the concrete situation that the use still cannot be qualified as acceptable or proper.

- 11.2.2 FOCUS may make the permission referred to in paragraph 2.1 of this Clause subject to the approval of the Other Party, with FOCUS for the charge of the Other Party concluding an incidental (supplemental) insurance to the insurance against standard risks that has been concluded by FOCUS.

- 11.2.3 FOCUS shall at its own discretion be free to deny the permission referred to in paragraph 2.1 of this Clause. A refusal shall not give the Other Party any right to claim damages and/or dissolution of the agreement, reduction of the agreed compensation or any other measure.

- 11.2.4 Also after granted permission by FOCUS exclusively the Other Party will remain responsible for the use of the relevant facility/facilities, and the Other Party will bear the risk in that respect. The Other Party shall both towards FOCUS and towards third parties be liable for any loss, damage, nuisance, injury or death that is not covered by any insurance(s) in full or in part or in connection with a use as referred to in paragraph 2.1 of this Clause, and shall indemnify FOCUS in respect thereof.

- 11.2.5 The permissions, denials and decisions referred to in the paragraphs 2.1, 2.2 and 2.3 of this Clause may be given or made respectively on behalf of FOCUS by the official of FOCUS who is present at the site, whether or not made available. If FOCUS denies permission, this shall be done in writing and while stating the reasons.

##### 11.3 Concerning technical equipment:

- 11.3.1 The Other Party shall not be permitted to use the technical equipment made available and/or let by FOCUS for another purpose than for which the relevant equipment was made available, to lease it to third parties, or to hand over the same for use, to pledge it or to encumber or alienate it otherwise. In case of violation of this prohibition, FOCUS shall have the right to terminate the agreement forthwith in the interim without any notification of default or interference of the courts being required, and to take back the equipment that was made available. The Other Party for that purpose already now for then grants FOCUS the right to access and enter its buildings and premises. The Other Party shall use the equipment while observing all due care, and shall return the same to FOCUS at the end of the agreement in the same condition as it was when it was received from FOCUS.

- 11.3.2 If third parties enforce rights in respect of technical equipment that has been made available and/or let, including levying a seizure, the Other Party shall be held to inform FOCUS in writing of those claims forthwith.

##### 11.4 Concerning technical staff:

- 11.4.1 The Other Party shall not have the right to let staff members that have been made available by FOCUS perform other activities than for which they have been made available. The Other Party shall not have the right to let those staff members work on any other times and places than agreed.

- 11.4.2 The Other Party shall not have the right to make staff members that have been made available to it available to third parties.

- 11.4.3 The Other Party shall be held to abide with the collective labour agreement applying to the staff members that have been made available.

- 11.4.4 The Other Party shall be held to insure and keep insured its liability pursuant to the Articles 6:170 and 6:171 of the Netherlands Civil Code in respect of staff members that have been made available, this for the period that the relevant staff members have been made available by FOCUS.

#### Clause 12 FORCE MAJEURE

- 12.1 In case of force majeure FOCUS shall have the right without interference of the courts to suspend the performance of the agreement, or to consider the agreement dissolved in full or in part, without FOCUS as a result being held to pay any damages.

- 12.2 For the purposes hereof the term "force majeure" shall mean: any circumstance as a result of which performance of the agreement reasonably can no longer be required from FOCUS by the Other Party. Force majeure shall in any case include: war, danger of war, civil war, riots, floods, water damage, acts of war, fire, plant occupations, strikes, exclusions, excessive sickness absence of FOCUS staff, transport problems, unforeseen technical complications, operational breakdowns at FOCUS or at our suppliers, imputable failures in the performance by our suppliers, as well as government measures among which in any case import and export bans and quota restrictions.

- 12.3 If due to force majeure the delivery is delayed with more than three (3) months, the parties may conclude a settlement concerning the dissolution of the agreement, in any case holding a compensation of the costs incurred by FOCUS.

- 12.4 If FOCUS at the occurrence of a force majeure situation has already partially performed its obligations resulting from an agreement, FOCUS shall have the right to invoice already carried out performances separately, whereas the Other Party shall be held to pay the relevant invoice as if it regarded a separate transaction.

#### Clause 13 COMPLAINTS

- 13.1 Without prejudice to the other provisions set forth in these General Conditions, complaints will have to be submitted to FOCUS in writing within eight (8) days after delivery of Goods, or after activities and/or

services have been performed.

- 13.2 If FOCUS is of the opinion that the complaint is justified, FOCUS shall exclusively be held to a free of charge repair or replacement of the defective (parts of) Goods or to improve the activities, without the Other Party being able to enforce any rights to any compensation. All replaced Goods shall be the property of FOCUS. Defective Goods will have to be sent to FOCUS immediately, carriage paid.

- 13.3 If invoices are handed over to the Other Party concurrently with the Goods, complaints concerning those invoices shall be notified to FOCUS immediately. If invoices are sent, complaints concerning those invoices will within eight (8) days after the invoice date have to be submitted to FOCUS in writing.

- 13.4 After expiry of the periods referred to in the paragraphs 1 and 3 of this Clause, the Other Party shall be deemed to have approved and accepted the performed activities and/or services, or the invoice. As then complaints shall no longer be handled. Submitting a complaint shall never release the Other Party from its payment obligations towards FOCUS specified elsewhere in these General Conditions.

#### Clause 14 WARRANTY

- 14.1 Unless expressly agreed otherwise in writing, FOCUS warrants that the activities and/or services performed by FOCUS, as well as new Goods delivered by FOCUS shall during a period of twelve (12) months be free from defects in material and workmanship.

- 14.2 FOCUS guarantees that all new Goods delivered by FOCUS, taken into account their nature, meet the normal requirements of usability, reliability and durability, and that the assembly and installation activities will be carried out in accordance with the requirements of proper workmanship and in accordance with the rules and regulations applying thereto. With respect to Goods that have not been manufactured by or for FOCUS, the scope of the warranty shall be determined by the warranty of the relevant supplier(s).

- 14.3 Repairs outside the framework of this warranty shall be charged by FOCUS.

- 14.4 All the warranty obligations of FOCUS shall expire if the Goods are or have not been used in accordance with their intended use, or have been used in an inept way, if instructions for use have not been observed, if inept repairs have been carried out, if inept changes have been made or if numbers or seals have been tampered with or removed.

- 14.5 If it appears that the Other Party has wrongly invoked the warranty, all costs of investigations and additional costs shall be at his/her expense.

- 14.6 Complete warranty provisions shall exclusively apply within the Netherlands. Warranty provisions with regard to replacement and/or repair of equipment or components outside the Netherlands shall apply to the costs of replacement and/or repair up to at most the amount that would have been spent if they would have been performed in the Netherlands.

- 14.7 Contrary to the provisions set forth hereinbefore, the following provisions shall apply in respect of "occasion" Goods:

- Occasion Goods shall be Goods that have been used as demonstration or showroom models or that have been used (for other purposes).
- In respect of occasion goods exclusively a reasonable operation and functioning at the moment of delivery is guaranteed, and otherwise no liability is accepted.

#### Clause 15 RESERVATION OF OWNERSHIP

- 15.1 FOCUS remains the owner of all Goods delivered to the Other Party until the purchase price for all those Goods has been paid in full. If FOCUS within the framework of (sale) agreements for the Other Party performs activities and/or services that are to be paid for by the Other Party, the reservation of ownership shall apply until the Other Party has also paid claims related to these activities and/or services of FOCUS in full. The reservation of ownership shall also apply to the claims that FOCUS may obtain against the Other Party for any failure by the Other Party to perform one or more of its obligations towards FOCUS.

- 15.2 As long as the ownership has not devolved on the Other Party, the Other Party shall not be permitted to pledge these Goods or grant any rights thereto to a third party.

- 15.3 On delivered Goods that have become the property of FOCUS by payment and that are still in the possession of the Other Party, the Other Party obliges itself at the first request of FOCUS to assist in (allowing others to) establish a right of pledge as referred to in Article 3:237 of the Netherlands Civil Code as a further security of claims, other than those referred to in Article 3:92 paragraph 2 of the Netherlands Civil Code, which FOCUS may have against the Other Party for any cause.

- 15.4 The Other Party shall be held to keep safe the Goods delivered under a reservation of ownership with all due care and to mark it as recognizable property of FOCUS.

- 15.5 The Other Party shall be held to insure the Goods for the duration of the reserved ownership period against fire, explosion and water damage, as well as against theft, and to surrender the policies of that insurance to FOCUS at its first request for inspection purposes. All claims of the Other Party on the insurers of the Goods on account of the aforementioned insurance shall, as soon as FOCUS requests the same, be pledged by the Other Party to FOCUS in the manner specified in Article 3:239 of the Netherlands Civil Code, as an additional security of the claims of FOCUS on the Other Party.

- 15.6 If the Other Party fails to perform its payment obligations towards FOCUS, or if FOCUS has good grounds to fear that the Other Party will so fail to perform its payment obligations, FOCUS shall have the right to take back the Goods delivered under reservation of ownership.

- 15.7 After the Goods have been taken back, the Other Party shall be credited for the market value, to a maximum of the original purchase price, less the costs incurred by FOCUS by and for the taking back of the Goods.

#### Clause 16 PAYMENT

- 16.1 Unless expressly agreed otherwise in writing, payment shall be made net in cash on delivery, without any discount or setoff. If FOCUS expressly and in writing has agreed another payment than in cash with the Other Party, then payment shall be made net without any discount or setoff, by means of deposit or transfer on a bank or Postbank account mentioned on the invoice, within the period set by FOCUS, but at the latest within 30 days after the invoice date. The currency date specified by the bank/giro shall be decisive and shall be considered to be the payment date.

- 16.2 Any payment of the Other Party shall primarily be applied for paying any interest due by him, as well as of the costs of collection incurred by FOCUS, and shall after that be applied for paying the oldest outstanding claim, also if the Other Party states that the payment regards a later invoice.

- 16.3 In cases that the Other Party:

- is declared bankrupt, rejects an estate, submits a petition to be granted a suspension of payments, or if a seizure is levied on all or any part of his property;
- dies or is placed under trusteeship;
- fails to perform any obligation resting on him under the law or these General Conditions;
- fails to pay an invoice amount or any part thereof within the period set for that;
- ceases or transfers its business or an important part thereof, or modifies the objects of its company or enterprise;
- FOCUS shall by the sole occurrence of one or more of the aforementioned circumstances have the right either to consider the agreement as having been dissolved, without any interference of the courts being required, or to suspend the (further) performance of the agreement, or to claim full payment of any amount due by the Other Party on the basis of services and/or activities performed and/or deliveries made by FOCUS, immediately and without any warning or notification of default being required, without prejudice to the right of FOCUS on compensation of costs, damages and interest.

- 16.4 FOCUS shall at all times have the right to demand that the Other Party will provide an (additional) security for the performance of its obligations. Any failure by the Other Party to comply with a written reminder of FOCUS shall give FOCUS the right to claim payment of the (remaining) amount immediately or to declare the agreement dissolved with immediate effect without interference of the courts, without prejudice to the right of FOCUS to claim damages.
- 16.5 If the Other Party is both debtor and creditor of FOCUS (being Rent-All Holding B.V. or one of its group companies), FOCUS shall have the right to set off its debt.

**Clause 17 INTEREST AND COSTS**

- 17.1 If payment has not taken place within the set period, the Other Party shall by right be in default, and as from the invoice date an interest shall be due of at least 1% per (part of a) month on the outstanding amount, also if a postponement of payment is agreed.
- 17.2 All judicial and extra-judicial costs to be incurred shall be for the charge of the Other Party, also in so far as these costs exceed that which on the basis of the statutory rules concerning costs of litigation would be due. The extra-judicial costs amount to at least 15% of the amount due by the Other Party, including the aforementioned interest and costs, with a minimum of EUR 250.--.

**Clause 18 SERVICE/ADVICE**

- 18.1 With respect to agreements to perform activities and/or to provide services, the project proposal/the project description (if drawn up) as agreed between the parties shall be decisive for the content and scope of the activities to be performed and/or services to be provided by FOCUS.
- 18.2 Advice shall be given by FOCUS to the best of its knowledge. FOCUS shall, however, with due observance of the provisions set forth in Clause 10 of these General Conditions, accept no liability for (oral or written) advice, inter alia, without limitation, advice concerning third parties to be called in by the Other Party and/or materials/goods to be purchased.
- 18.3 FOCUS's advice shall never release the customer or the principal from the duty to do own research of the Goods to be delivered as to their fitness for the intended purpose. The same shall apply to information regarding the composition of Goods and possibilities of application.

**Clause 19 SECRECY**

- 19.1 Without prejudice to the provisions set forth in these General Conditions, the parties shall be held, both during the term of an agreement and thereafter, to keep secret any confidential information that comes to their knowledge, and to refrain from disclosing and/or in any manner giving in use the same to third parties, and only to use it for the purpose for which it has been made available to them. Third parties shall also include all persons who work in the organisation of the parties who do not need to have knowledge of the information.
- 19.2 In these General Conditions the term "confidential information" means: all written, oral or in any other manner directly or indirectly provided information that has been marked as confidential and/or of which the Other Party knows or reasonably should understand that it is confidential, all product, marketing, customer and/or other company information that has been marked as confidential and/or of which the Other Party knows or reasonably should understand that it is confidential, irrespective of the manner in which it has been provided, all documentation, data, drawings, benchmark test(s) (data), specifications, object codes, source codes, production methods, technologies and/or other information that is related to software developed or to be developed by FOCUS or by third parties called in by FOCUS that has been marked as confidential and/or of which the principal knows or reasonably should understand that it is confidential, irrespective of the way in which it has been provided, and any copies in whatever form of the above.
- 19.3 The obligations of the Other Party shall not apply with respect to confidential information of which he can demonstrate that (i) it is generally known and/or accessible to the public, or (ii) was already known to him and not subject to any pledge of secrecy before it was supplied to him by FOCUS.

**Clause 20 GOVERNING LAW AND DISPUTES**

- 20.1 All offers and agreements of FOCUS, as well as the performance thereof by FOCUS, shall exclusively be governed by Dutch law.
- 20.2 All disputes shall in the first instance be settled by the competent court of the place where FOCUS has its registered office.
- 20.3 The provisions set forth in the preceding paragraph of this Clause shall not prejudice FOCUS's right to submit a dispute for settlement to a court that is competent under the normal rules of jurisdiction.

**Clause 21 AMENDMENTS OF OR SUPPLEMENTS TO THESE GENERAL CONDITIONS**

- 21.1 FOCUS shall at all times have the right to amend and/or supplement these General Conditions.
- 21.2 Amendments and/or supplements shall enter into force and effect after they have been notified to the Other Party and shall have no retroactive effect.
- 21.3 If any provision of these General Conditions appears to be invalid and/or loses its lawfulness, this shall not affect the other provisions of the General Conditions, and the parties shall be held as soon as possible to draw up a new provision of which the content and legal effect is as much as possible similar to the "old" provision.