

## **General Conditions of BLACK STALLION B.V. – February 2020**

### **article 1. General**

- a. The present general conditions apply to every offer, quotation and agreement between the limited liability company according to Dutch law BLACK STALLION B.V. (hereafter referred to as “BLACK STALLION”), and Customer, whereby BLACK STALLION has declared these conditions applicable unless, and except to the extent that, parties have explicitly and in writing deviated from these conditions.
- b. These general conditions are equally applicable to agreements, for the execution of which BLACK STALLION needs to involve third parties.
- c. These general conditions have also been formulated for the employees of BLACK STALLION and its management.
- d. The applicability of any purchasing conditions or other stipulations from Customer’s side is explicitly rejected by BLACK STALLION.
- e. If one or more stipulations in these general conditions would become null and void, or annulable, at any point in time, then all other stipulations in these general conditions will remain in force entirely. In that case BLACK STALLION and Customer will discuss with each other about the amendment or replacement of the null and void or annulable stipulations, whereby the purpose and scope of the original stipulations will be considered to the maximum.
- f. If a situation arises between the parties which has not been considered in these general conditions, or if unclarity arises about the interpretation of one or more of the stipulations in these general conditions, then the reasonable consideration needs to take place “in the spirit” of these stipulations.
- g. If BLACK STALLION does not demand the strict adherence to these conditions in all cases, this will neither mean that they are not applicable, nor that BLACK STALLION would forfeit any right to demand strict adherence to these conditions in other cases.

### **article 2 Offers and Quotations**

- a. All offers and quotations by BLACK STALLION are non-binding, unless in the offer or quotation a deadline has been mentioned for acceptance. If such deadline has not been mentioned, no right can be based upon the offer or quotation, if the service to which the offer or quotation relates, can no longer be delivered.
- b. BLACK STALLION cannot be bound to its offers or quotations if the Customer could reasonably have understood that the offers or quotations, or any part thereof, contain an obvious error or omission.
- c. The prices mentioned in an offer or quotation are always exclusive of BTW, VAT or any foreign equivalent thereof, or other levies, duties and taxes by any authority, unless clearly indicated otherwise.

- d. If the acceptance deviates from the proposal in the offer or quotation, then BLACK STALLION will not be bound to that deviation, unless BLACK STALLION confirms explicitly in writing to agree with that deviation.
- e. A quotation comprised of several elements does not bind BLACK STALLION to perform one element of the assignment for a corresponding element of the total price. Offers and quotations are not automatically applicable for future orders.

### **article 3 Contract duration; delivery deadline; risk transfer; execution and change of the agreement; price increase**

- a. The agreement between BLACK STALLION and Customer is bound for an undetermined period, unless the nature of the agreement dictates otherwise, or unless parties agree explicitly otherwise in writing
- b. If a deadline has been agreed or indicated for the execution of certain assignments or the delivery of certain goods, then this will never be a fatal deadline. Therefore, in case of passing any deadline Customer needs to put BLACK STALLION in default in writing. In this case, BLACK STALLION has to be given a reasonable period of time in order to still execute the agreement.
- c. BLACK STALLION will execute the agreement to its best insights and capabilities, and in accordance with the requirements of good craftsmanship. This in compliance with the state of the art at that time.
- d. BLACK STALLION has the right to subcontract certain activities to third parties. The applicability of the articles 7:404, 7:407 sub 2 and 7:409 of the Dutch Civil Code is explicitly excluded.
- e. If in relation to the assignment activities are performed by BLACK STALLION, or by third parties on behalf of BLACK STALLION, at the location or premises of Customer, then Customer will at its own costs provide the reasonably necessary facilities to perform the activities.
- f. If the delivery of certain goods has been agreed, then the delivery will take place ex works BLACK STALLION, unless agreed otherwise. The Customer has the duty to accept the goods at the moment that these are made available to him. In case that the Customer refuses the acceptance, or is negligent in providing the information or instructions needed to perform the delivery, BLACK STALLION will be entitled to store the goods for account and at the risk of the Customer. The risk of loss, damage or devaluation of the goods will transfer to the Customer at the moment that the goods become available to the Customer.
- g. BLACK STALLION is entitled to execute the agreement in separate phases, and to invoice the executed phases separately, unless it has been agreed explicitly otherwise.

- h. If the agreement is executed in phases, BLACK STALLION can suspend the execution of those parts of the agreement that belong to a next phase, until the Customer has approved the results of the preceding phase in writing.
- i. The Customers that all data and information which BLACK STALLION considers necessary, or of which Customer should reasonably understand that they are necessary for the execution of the agreement, are provided in a timely fashion. If the data and information necessary for the execution of the agreement have not been provided timely to BLACK STALLION, then BLACK STALLION is entitled to suspend the execution of the agreement and/or to invoice the extra costs, resulting from the delay, to Customer in accordance with the usual rates. The period of execution only starts to run after Customer has provided the data and information to BLACK STALLION. BLACK STALLION is not liable for loss or damage of any kind, due to the fact that BLACK STALLION had to start working with incorrect or incomplete data or information that has been provided by Customer.
- j. If it emanates during the execution of the agreement that it is necessary to change or expand the agreement in order to achieve a correct execution, the parties will move to amend the agreement in time and in mutual consultation. If the nature, extent or contents of the agreement is changed, on request of the Customer or not, or on request of authorized instances etc., and the agreement is changed in quantitative or qualitative sense as a result thereof, then this may have consequences for what had been agreed originally. As a result, also the originally agreed amount may be increased or decreased. BLACK STALLION, to the best of its ability, will always make a quotation for that beforehand. As a result of a change of the agreement, also the deadline for execution may change. The Customer accepts the possibility of a needed amendment of the agreement, including the change of the originally agreed price and deadline.
- k. If the agreement is amended or expanded, BLACK STALLION only needs to execute it after BLACK STALLION has agreed with the change, and after the Customer has accepted the eventual change in price and deadline for the execution. If BLACK STALLION does not, or not immediately, execute the amended agreement, this will not be considered as breach of contract and will not provide the Customer with a ground to cancel or annul the agreement.
- l. Without being in default, BLACK STALLION can refuse a request to change the agreement, if this might have consequences in qualitative or quantitative sense, for example for the services or goods to be delivered in this context.
- m. If the Customer fails to correctly meet its obligations as agreed with BLACK STALLION, then the Customer is liable for all damages, loss and costs which as a result of this will be incurred by BLACK STALLION directly or indirectly.
- n. If BLACK STALLION agrees on a hourly or fixed fee or price with Customer, then BLACK STALLION will nevertheless be entitled to increase this fee or price, without Customer having the right to cancel the agreement for this reason
- i. if the price increase results from an entitlement or obligation resulting from legislation or regulation, or is caused by increase of prices of raw materials, wages etc. or on other grounds that at the time of the signing of the agreement could not reasonably be foreseen;
- ii. if the price increase results from an entitlement or obligation on BLACK STALLION's side resulting from the law;
- iii. if it has been agreed that delivery will take place more than three months after the signing of the agreement;
- iv. or, in case of delivery of goods, if it has been agreed that delivery will take place more than three months after the purchase.
- o. If the price increase otherwise does not result from an amendment of the agreement, amounts to more than 10%, and takes place within three months after signing of the agreement, then only the Customer who is amenable in the sense of Title 5, Section 3, Book 6 of the Dutch Civil Code, will be entitled to cancel the agreement in writing, unless BLACK STALLION is prepared to execute the agreement nevertheless within a reasonable period of time.

**article 4 Suspension, cancellation and interim termination of the agreement**

- a. BLACK STALLION is entitled to suspend meeting its obligations or to nullify the agreement
- i. if the Customer fails to meet its obligations from the agreement, or fails to do so in time or completely, and if BLACK STALLION acquires knowledge after signing the agreement, which give good reasons to fear that the Customer will not meet its obligations;
- ii. if the Customer at signing the agreement has been demanded to post a security for the compliance to meet its obligations, and this security is not or insufficiently provided;
- iii. if, due to delay on the Customer's side, BLACK STALLION can no longer reasonably be expected to meet its obligations from the agreement at the original conditions.
- b. BLACK STALLION is entitled to cancel the agreement if circumstances arise which render the compliance to meet its obligations of the agreement impossible, or if otherwise circumstances arise under which the sustaining of the agreement without amendment cannot reasonably be expected from BLACK STALLION anymore.

- c. If the agreement is cancelled, any claims by BLACK STALLION will be collectible immediately. If BLACK STALLION suspends its obligations from the agreement, it will retain its claims based on the law or the agreement.
- d. If BLACK STALLION decides to suspend or cancel the agreement, it will not be bound to compensate any damages or costs resulting from this, in any form.
- e. If the cancellation is reproachable to the Customer, BLACK STALLION will be entitled to compensation of damages, including costs, resulting from this directly or indirectly.
- f. If the Customer does not comply with its obligations resulting from the agreement, and justifies the noncompliance, then BLACK STALLION is entitled to cancel the agreement without delay and with immediate effect without any obligation on its side to compensate any indemnity or indemnification, while the Customer, because of contract breach, will be bound to pay indemnity or indemnification.
- g. If the agreement is terminated by BLACK STALLION in the interim, BLACK STALLION will in close consultation with the Customer, ensure the transfer of activities that still were to be performed, to third parties, except if the interim termination is reproachable to Customer. If the transfer of the activities ensues extra costs to BLACK STALLION, these will be invoiced to the Customer. The Customer is bound to pay these extra costs within the deadline applicable for that, unless BLACK STALLION indicates otherwise.
- h. If the Customer is no longer in the position to dispose freely of its assets due to liquidation, (filing for) bankruptcy protection or bankruptcy, seizure of assets at the charge of Customer, – if and to the extent not lifted within three months – debt rehabilitation or any other circumstance, BLACK STALLION is entitled to terminate the agreement in the interim immediately, or cancel any order or agreement, without any obligation to compensate indemnity or indemnification to the Customer. The claims of BLACK STALLION against Customer will then be collectible immediately.
- i. If the Customer cancels or partially cancels an order that has already been made, all labor already done, and all ordered goods or prepared items, the possible delivery and return costs, and the time that had been reserved for the execution of the agreement, will be entirely invoiced to the Customer.

**article 5 Force Majeure**

- a. BLACK STALLION is not bound to comply with any obligation vis-a-vis Customer, if he is hindered in that by any circumstance not attributable to negligence, and which according to the law, legal act or common perception is not for its responsibility or account.
- b. Apart from what is considered so by law and jurisprudence, Force Majeure, in the context of these general conditions, will also include any external causes, foreseen or unforeseen, on which BLACK STALLION cannot exercise any influence, but which

make it impossible for BLACK STALLION to meet its obligations, including strikes and workers' actions within BLACK STALLION's business or third parties, BLACK STALLION also is entitled to invoke Force Majeure if the circumstance, which makes (further) compliance with the agreement impossible, commences after the moment BLACK STALLION should have met its obligation.

- c. BLACK STALLION is entitled to suspend its obligations from the agreement for the period that the state of Force Majeure continues. If this period exceeds two calendar months (60 days), then each of the parties is entitled to cancel the agreement without obligations to compensate or indemnify the other party for any losses or damages.
- d. In as far as BLACK STALLION, at the commencement of the situation of Force Majeure, already met its obligations from the agreement partially, or if it will still be able to meet these partially, and if the already realized (or still to be realized) part of the agreed work represents an independent value, then BLACK STALLION will be entitled to invoice the Customer for the already realized, resp. still realizable part of the work agreed. The Customer is bound to pay these invoices as if they resulted from a separate agreement.

**article 6 Payment and Collection Costs**

- a. Payments are due within 14 days after date of invoice, through the payment method indicated by BLACK STALLION in the currency of the invoice, unless indicated otherwise by BLACK STALLION. BLACK STALLION is entitled to invoice periodically.
- b. If the Customer fails to pay an invoice timely, then the Customer is considered in default legally. Customer then is obliged to pay an interest of 1% per month, unless the legal interest is higher, in which case the legal interest is due. The interest on the outstanding amount will be charged from the moment that the payment by Customer is overdue to the moment of payment of the entire outstanding amount.
- c. In case of an overdue payment as meant in sub b. BLACK STALLION is entitled to designate payments by the Customer primarily to compensate the costs, subsequently to compensate outstanding interest, and finally to pay the principal amount plus the current interest. BLACK STALLION is entitled, without being considered in breach, to refuse any offer to pay, if the Customer designates a different sequence of allocation the payments. BLACK STALLION is entitled to refuse the payment to be considered as payment for the principal outstanding sum, if not at the same time the outstanding and current interest and the collection costs are being paid.
- d. The Customer is never entitled to offset against the amounts due to BLACK STALLION. Objections against the amount of an invoice do not suspend the obligation to pay the invoice. Any Customer who is not entitled invoking Section 6.5.3 of Dutch Civil Code (articles 231through 247, Book 6, Civil Code) are also not permitted to suspend payment of an invoice for any other reason.

- e. If the Customer fails in the (timely) compliance of its obligations, then all reasonable costs made to collect the outstanding out of court, will be for account of the Customer. A failure to pay (timely) by a Customer who is an individual, not acting in connection with his occupation of business (private customer), commences to be in default within fourteen days after the day of a reminder summons and after he continues to fail to pay. In the reminding summons it will be clearly indicated what will be the consequences from continuous failure to pay. The out of court collection costs will be calculated on the basis of what is common in the collection practice in the Netherlands. However, if BLACK STALLION in reality has to make higher costs to collect the outstanding, and the Customer is not an individual who does not act outside of his occupation or business, then the costs that have actually been incurred will be claimed for compensation against the Customer. Any legal costs, court costs and verdict enforcement costs will also be charged against the Customer. The interest will also be charged on all outstanding collection costs.

#### **article 7 Reservation of Ownership**

- a. In case of the delivery of goods, all goods delivered by or through BLACK STALLION will remain BLACK STALLION's sole property until the Customer has properly met all obligations resulting from the agreement concluded with BLACK STALLION
- b. None of the property delivered by BLACK STALLION that, in connection with sub a. above, falls under the reservation of ownership can be re-sold and never can be used as a means of payment. The Customer is not allowed to pledge, mortgage or pawn the goods falling under the reservation of ownership, or to burden it in any other way.
- c. The Customer is obliged to always do anything that can reasonably be expected from him to secure and protect the property rights of BLACK STALLION. In third parties seize the goods that have been delivered under the reservation of ownership, or attempt to exercise rights thereon, then Customer is obliged to inform BLACK STALLION immediately. Also, the Customer is obliged to insure these goods delivered under the reservation of ownership, and to keep them insured, against fire, explosion and water damage, as well as theft, and to provide the insurance policy to BLACK STALLION for verification at the first request. In case of any payments by the insurer, BLACK STALLION will be entitled to such payment. In as far as necessary, Customer binds itself to the obligation to BLACK STALLION to co-operate in every action that might be necessary or required in this context.
- d. In case that BLACK STALLION wants to exercise its ownership rights described in this article, Customer proactively commits unconditionally and irrevocably to allow access to BLACK STALLION or to third parties authorized to act in BLACK STALLION's behalf, to all locations and premises where BLACK STALLION's property is located, and to repossess these.

#### **article 8 Warranty, investigation and complaints, statute of limitation**

- a. BLACK STALLION's core activities are services. If however BLACK STALLION is involved in the delivery of goods, then the goods delivered by BLACK STALLION will meet all common requirements and norms that can reasonably be demanded thereof at the time of delivery, and for which they are intended for normal use within the Netherlands. The fitness for use referred to in this article applies to goods intended for use within the Netherlands. In case of use outside the Netherlands the Customer himself has the duty to verify whether the goods are suitable for use in that location and meet the requirements that are demanded thereof. In that case, BLACK STALLION is entitled to use different conditions for the goods to be delivered or for the activities to be carried out.
- b. If the goods delivered by BLACK STALLION have been produced or manufactured by a third party, any warranty will be limited to the warranty granted by the producer or manufacturer of this, unless stipulated otherwise.
- c. Any form of warranty will be null and void if a defect has occurred as a result of, or is the consequence from, negligent or improper use of the goods or use after the expiry date, incorrect storage thereof, or incorrect maintenance thereon by the Customer, if without BLACK STALLION's written permission the Customer and/or any third parties have made modifications or changes to the delivered goods, or have tried to do so, if other goods were connected thereto that should not have been connected, or if these goods have been processed or manipulated in any other way than prescribed. The Customer is also not entitled to warranty if the defect has occurred due to, or is the consequence of, any circumstances that are outside of the control of BLACK STALLION, including meteorological conditions (such as, but not limited to, extreme precipitation or temperatures), etcetera.
- d. The Customer has the duty to investigate or to have investigated the delivered goods, immediately at the moment that the goods have been made available to him, respectively the relative works have been completed. This includes Customer's duty to inspect, whether the quality and/or quantity of the delivered goods or work meets what has been agreed and complies with the requirements that parties have agreed on in this context. Any visual defects have to be reported in writing to BLACK STALLION within seven calendar days following the date of delivery. Any hidden defects have to be reported in writing to BLACK STALLION immediately, or in any event ultimately fourteen days after the discovery thereof. The notification has to include a description of the defect that is as detailed as possible, thus enabling BLACK STALLION to react as adequately as possible. The Customer needs to facilitate BLACK STALLION to investigate a complaint or to have it investigated.
- e. Any service provided by BLACK STALLION is based on a commitment of best effort, without any guarantee of the result for the Customer, unless explicitly agreed

otherwise between the parties, In relation to complaints by the Customer about services delivered, the same applies as has been described above under subs a. through d. of this article.

- f. If the Customer lodges a complaint timely, this does not release him from any payment obligation. In this case the Customer also remains bound to accept and pay any other ordered good or services and anything that he has assigned BLACK STALLION to deliver.
- g. If a defect good or service is reported later than stipulated above, the Customer will forfeit his right to repair, replacement or indemnification.
- h. If it has been established that a good or a service has been delivered defectively, and that this has been timely reported, BLACK STALLION will replace or repair the delivered defective good within a reasonable period, or pay a compensatory amount of this to Customer, or will it provide the agreed service after all. In case of a replace good, the Customer has the duty to return the replaced good to BLACK STALLION and to give back property thereof to BLACK STALLION, unless BLACK STALLION decides otherwise,
- i. If it is established that a complaint is unfounded, then the costs incurred on BLACK STALLION's side as a result thereof, including examination, inspection and research costs, will be entirely for account of the Customer.
- j. After the expiry of any warranty period, all costs for the repair or replacement, including the cost of administration, client visit and shipping costs, will be for account of the Customer.
- k. In deviation of the legal statute of limitations, the prescription period regarding all claims and defenses against BLACK STALLION and the third parties that have been acting on BLACK STALLION's behalf, will be limited to one year.

#### **article 9 Liability**

- a. BLACK STALLION provides its services on the basis of a commitment of best effort only, unless explicitly agreed otherwise. In as far as BLACK STALLION has any involvement in the delivery of goods, anything stipulated below also applies for such delivery of goods.
- b. Except for reproachable fault that can be proven with evidence, BLACK STALLION will not be liable for any defects in delivered goods or provided services,
- c. If BLACK STALLION might nevertheless be found liable, then this liability will be limited to the maximum amounts stipulated in this article.
- d. BLACK STALLION will under no circumstance be liable for damage or costs regardless their nature, occurred because BLACK STALLION has in good faith worked with incorrect and/or incomplete data or information provided by Customer.
- e. If BLACK STALLION might be liable for any damage or loss or costs of any kind, then this liability on the side of BLACK STALLION will be limited to a maximum of

twice the value of the invoice of the order or that part of an order to which the liability relates.

- f. BLACK STALLION has taken out commercial liability insurance with a well reputable insurer, based on market conform conditions for insured small and mid-sized companies. If BLACK STALLION might be liable for any damage, loss or costs, then the maximum amount of this liability will be limited to the amount that the liability insurer will pay out for the related liability claim.
- g. BLACK STALLION can only be liable for direct damage. Direct damage is defined as material damage to goods or injury to individuals caused directly by the defective goods or service only, as well as the reasonable costs to investigate the cause and extent of such damage or injury, and reasonable costs made to prevent or mitigate this damage or injury, to the extent that the Customer proves that these costs have led to mitigation of the direct damage meant in this article.
- h. BLACK STALLION will never be liable for indirect damage, including consequential damage, loss of profit, missed savings or business interruption loss.
- i. The limitations to liability stipulated in this article do not apply if the damage, loss or costs have been caused due to intentional tort, or gross recklessness bordering intentional tort, on the side of BLACK STALLION or its managing directors or executives.

#### **article 10 Hold Harmless and Indemnification**

- a. The Customer holds BLACK STALLION harmless for any claims by third parties who in connection with the execution of this agreement incur damages, injuries, loss or costs, and for which the cause is reproachable to other parties than BLACK STALLION. If BLACK STALLION might be implied or held liable by third parties in this sense, then Customer will be obliged to support BLACK STALLION in court and out of court, and to do immediately everything that can reasonably be expected from him. If the Customer would fail to take the adequate measures, then BLACK STALLION will be entitled to do what it deems necessary, without first putting Customer in breach or default. All costs and losses which are incurred on the side of BLACK STALLION or third parties as a result thereof, will be entirely for the account and risk of Customer.

#### **article 11 Intellectual Property**

- a. BLACK STALLION reserves all its rights and authorities that it is entitled to on basis of the Dutch "Auteurswet" and any other intellectual property legislation and regulation. BLACK STALLION is entitled to use the knowledge that it has expanded by the execution of an agreement, also in relation to other purposes, provided that no confidential information that is property of the Customer will be shared with third parties.

#### **article 12 Applicable Law and Dispute Resolution**

- a. To all legal relationships in which BLACK STALLION is a party, the law of The Netherlands will be applicable, with exclusion of any other law, also if any agreed activity will be executed wholly or partly outside of the Netherlands, or if the other involved party holds residence or is domiciled abroad. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (1980), also known as "CISG" or "Vienna Treaty", is excluded from this agreement.
- b. The services or goods offered by BLACK STALLION are also available for legal entities domiciled in or subject to the jurisdiction of any other country outside of the Netherlands, or for individuals holding a nationality or citizenship other than Dutch, or holding residence outside of the Netherlands, but only if they explicitly accept the choice of law stipulated under sub a. of this article and the forum choice stipulated under sub c. of this article.

Due to stipulations in its liability insurance policy BLACK STALLION does not deliver goods or services in countries or territories falling under the jurisdiction of the United States of America. BLACK STALLION denounces the applicability of American law to any agreements it has entered to, explicitly does not elect to enjoy the privileges of any American Federal or State Law, and denounces the competence of any American court or other forum in relation to disputes that are directly or indirectly connected to any goods or services delivered by BLACK STALLION.

- c. The court of The Hague ('s-Gravenhage) in the Netherlands is, under exclusion of any other forum, deemed competent to judge on disputes, unless the law mandatorily prescribes otherwise. Nevertheless, BLACK STALLION retains the right to present any dispute to a forum of its own choice that is competent according to the law.
- d. Parties will only resort to a court of law after they have done their utmost to resolve any dispute amicably by negotiations between themselves.

#### **article 13 Location and Modification of General Conditions**

- a. These general conditions have been filed at the Chamber of Commerce (Kamer van Koophandel) of The Hague ('s-Gravenhage) in the Netherlands.
- b. Applicable will always be the latest filed version respectively the version that was in force at the time that the legal relationship with BLACK STALLION was established.
- c. If these general conditions are also available in other languages than English, and if there is a possible difference in text or interpretation between these versions, the English text of the general conditions will always be prevailing for the interpretation of these conditions, if the Customer (or the Customer's entity) with whom the agreement has been entered to, is located outside of the Netherlands. In all cases where the Customer is located in the Netherlands, the Dutch version will apply.

- d. In case of a dispute about the content, interpretation or execution of any agreement between BLACK STALLION and Customer, the parties will not present the case to any court of law or other forum before they have first done their utmost to resolve the dispute amicably through negotiations.