

GENERAL TERMS AND CONDITIONS OF SALE OF SASOL SOUTH AFRICA LIMITED

1. FORMATION OF SALE

- 1.1 "Seller" means Sasol South Africa Limited. The Buyer must complete the Seller's business application prior to the Seller accepting any orders from the Buyer.
- 1.2 "Buyer" means the party entering into a business application, including credit or other, with the Seller.
- 1.3 The Buyer's order for the products and/or services ("Goods" or "Services") will be made in writing (including by e-mail) to the address/ number nominated by the Seller. Orders will constitute offers to purchase the Goods or Services at the prices or fees stipulated by the Seller in clause 2.1. The Goods or Services will be sold in accordance with the Seller's specification and quality standards in respect of the Goods or Services.
- 1.4 The Seller will not accept verbal orders.
- 1.5 The Seller's written acceptance (including by e-mail) of the Buyer's order; or the Seller's dispatch of the Goods or the Seller's performance of the Services, if the Seller has not sent the Buyer such written acceptance, is a formal acceptance of the Buyer's order.
- 1.6 The Buyer's order and the Seller's acceptance of it together constitute the sale of Goods or Services.
- 1.7 Notwithstanding anything to the contrary that may be contained in the Buyer's order, these terms and conditions of sale ("Agreement") will constitute the terms and conditions governing the sale of Goods and/or Services.

2. PRICE / PAYMENT

- 2.1 Unless the Seller has agreed the selling price of the Goods or the fees for the Services with the Buyer in writing, the price of the Goods or Services will be the Seller's current price or current fees, as set out in its list price schedule ("LPS") where applicable or agreed price on the date that the Goods are delivered or the Services are rendered. The LPS or agreed price will include the applicable Incoterm® 2020 (as amended from time to time) in respect of Goods. All prices quoted are exclusive of Value Added Tax. In the event of any conflict between Incoterm® 2020 (as amended from time to time) and this Agreement, the terms and conditions of this Agreement will prevail.
- 2.2 The Seller will be entitled to issue a separate invoice for each delivery of Goods that it makes to the Buyer or for each instance of the performance of Services.
- 2.3 The Seller, at its discretion, may issue monthly billing statements in lieu of separate delivery invoices.
- 2.4 All supply of Goods and/or rendering of Services is on a cash before delivery basis, unless credit terms for payment have been granted in writing by the Seller. All

credit terms of payment will be at the discretion of the Seller. The period of payment in the terms of payment granted by the Seller will be calculated from date of invoice or statement.

- 2.5 Payments by electronic transfer and letter of credit are the only accepted means of payment.
- 2.6 The date of payment by the Buyer will be the date on which the payment is received electronically or by swift and reflects as cleared in the Seller's bank account. Until the Seller receives such clearance of payment, risk of payment remains with the Buyer.
- 2.7 The Seller may appropriate all payments made by the Buyer to such invoices or accounts, capital, interest, costs or any other item of indebtedness of the Buyer to the Seller, as it may in its discretion decide.
- 2.8 Should any amount not be paid by the Buyer on its due date, then all amounts in respect of all purchases will become due, owing and payable irrespective of the dates when the Goods were purchased or the Services were rendered. The Buyer will be liable to pay compound interest in respect of such amounts unpaid as at the due date at a rate of prime interest charged by ABSA Bank Limited plus 3% per annum, compounded monthly, which will be levied on the unpaid amount from due date until date of payment. Furthermore, in the event of the Buyer failing to pay any amount due on the due date, the Seller may suspend or cease performance of any of its obligations to the Buyer and will not be liable for any loss or damage that may be suffered by the Buyer as a result thereof.
- 2.9 Any amounts owing to the Seller by the Buyer at any time, the fact that it is due and payable, the rate of interest payable thereon and the date from which interest is calculated, will be proven by a certificate under the signature of any of the credit managers or financial managers of the Seller. It will not be necessary to prove the appointment of the person signing any such certificate. Such certificate will be binding upon the Buyer and be *prima facie* proof of the facts stated in the certificate. The certificate will be deemed to be a liquid document for the purpose of obtaining any judgment or order against the Buyer.
- 2.10 To the extent that the provisions of the Consumer Protection Act No 68 of 2008 ("CPA") are applicable to this Agreement, the LPS or agreed price and specifications that the Seller distributes from time to time serve as information only and do not constitute an offer to sell the Goods or Services at a particular price or fee.
- 2.11 In the event of the Seller and the Buyer agreeing to payment terms other than cash before delivery, the Seller reserves the right to make such enquiries, from time to time, as it may deem necessary, to confirm the continuing financial status of the Buyer or any third party providing finance or security for the Buyer's payment obligations to

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the Seller. The Buyer will co-operate with the Seller and/or procure the co-operation of any third party for this purpose. The Seller will be under no obligation to supply the Goods or render the Services until it is satisfied with the Buyer's and/or the third party's ability to pay. Notwithstanding the Seller's satisfaction in this regard and the use of a third party's name in any documentation relating to the Buyer's order, the Buyer will in all instances remain liable for payment of the Goods and/or Services rendered.

- 2.12 Should the Buyer fail to dispute any entry on the Seller's monthly account within 30 (thirty) days of the date of such account, the entries shall be accepted as correct and constitute conclusive proof of any such entry.
- 2.13 The Buyer hereby cedes all the book-debts and/or other claims due to the Buyer currently, and that may become due hereafter, as security for the due and proper fulfilment of the Buyer's obligations towards the Seller arising from whatsoever cause with regard to any amount already due and payable or which may become due and payable in the future. This cession is not limited to but includes any amount due to the Buyer arising from the sale of any goods or services to third parties.

3. DELIVERY AND OWNERSHIP

- 3.1 The terms of delivery of the Goods will be specified by the applicable Incoterm® 2020 (as amended from time to time), as set out in clause 2.1.
- 3.2 Whilst the Seller will endeavour to deliver the Goods or perform the Services on the dates that the Buyer specifies, the Seller will not be liable for any damages that the Buyer may suffer as a result of the failure by the Seller or its agent to deliver the Goods or perform the Services timeously for any reason. Time for delivery will not be of the essence and will not be made of the essence by notice.
- 3.3 The Buyer warrants that the signatory to any documentation associated with the sale of Goods by the Seller or its transport agent or the performance of the Services made out in the name of the Buyer is duly authorised to bind the Buyer in relation to the sale or the performance of the Service and will also constitute prima facie proof of the proper delivery of the Goods to the Buyer or performance of the Services.
- 3.4 Should the Buyer fail to issue a notice in terms of clause 5.1, the Seller's determination of the quantity of the Goods delivered to the Buyer shall be deemed as correct.
- 3.5 Unless otherwise agreed in writing, ownership in respect of the Goods will pass from the Seller to the Buyer when the purchase price has been paid in full. Until such time that the full purchase price has been received by the Seller, the Buyer will at its own expense be responsible to protect and maintain the Seller's rights as the owner of the Goods and will forthwith notify the Seller in writing

of any occurrence which may threaten the Seller's rights and interests in the Goods.

- 3.6 Should the Goods be subject to excise duties, as amended from time to time, and the Buyer collects the Goods from the Seller in terms of the applicable Incoterm, the Buyer shall ensure that the transporter of the Goods is registered with the South African Revenue Service as a Remover of Goods in Bond to transport excisable Goods. The Buyer indemnifies the Seller and holds it harmless against all penalties, fines, losses, damages, costs and expenses, of whatever nature, arising from non-compliance by the Buyer with this requirement.
- 3.7 If, for any reason, the Buyer fails to take delivery of any of the Goods as ordered or fails to allow the Seller to render the Services, the Buyer will be liable for any and all expenses (including any storage and insurance costs) and/or damages and/or losses incurred by the Seller due to such failure. The contents of this clause 3.7 shall not prejudice any of the Seller's other rights resulting from such breach.

4. WARRANTIES

- 4.1 The Buyer warrants that it is and will continue to carry on its business in compliance with all applicable laws, in an ethical manner that is acceptable to the Seller, and is in possession of all the necessary permits, authorizations or any other official documents required for the purchase of the Goods or Services. Breach of this warranty entitles the Seller to suspend or terminate this Agreement with immediate effect. The Buyer indemnifies and holds the Seller harmless from any loss or damage, direct or consequential, caused by or arising from a breach of the warranty contained in this clause.
- 4.2 The Buyer warrants that it has been adequately warned by Seller of the risks associated with handling, packaging, using, transporting, storing, and disposing of the Goods, including, without limitation, those risks set forth in Seller's Safety Data Sheets for the Goods, and that Buyer warrants that it is familiar with the Goods and Services. The Buyer acknowledges its separate and independent knowledge of such risks, which are known in Buyer's industry. Buyer will maintain compliance with all safety and health related governmental requirements concerning the Goods or Services and will take all reasonable and practical steps to inform, warn, and familiarize its employees, agents, contractors, and customers with all hazards associated with the Goods or Services, including handling, shipment, storage, use, and disposal of the Goods and their packaging. The Buyer shall not deliver or consign commercial or sample quantities of Goods to any party whom the Buyer reasonably believes will handle, ship, store, use, or dispose of said Goods in a dangerous manner or contrary to law or the advice of the Seller.
- 4.3 **The Seller warrants that the Goods or Services will comply with the Seller's specification for the Goods or Services, however the Seller does not give any**

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warranties in respect of the Goods or Services, including any warranties as to their merchantability or fitness for any purpose or any warranty as to quality or correspondence with any description or sample. All other warranties or conditions as to quality, description (statutory or otherwise) are specifically excluded, unless the provisions of the CPA take precedence.

- 4.4 The Seller will not be liable for breach of the warranty set out in clause 4.3 where the defects of the Goods have been caused by or the quality of the Goods or Services has been affected by the negligence or fault of the Buyer, the Buyer's employees or any third parties.
- 4.5 The Buyer accepts that the Seller's determination, unless proven to be erroneous, will be accepted as conclusive evidence of the quality of the Goods delivered or Services rendered.
- 4.6 **The liability of the Seller for breach of the warranty in clause 4.3 (or for any other claim based on any defect in Goods or Services that the Seller supplies to the Buyer) will under no circumstances exceed the limits set out in clause 7.**
- 4.7 The Buyer warrants that it will comply with all (and not contravene any) export control and sanctions laws and regulations including of the USA, the UK, the EU as well as UN resolutions regarding the export, distribution, sale, transfer and/or re-export and end use of certain goods and services to certain countries and/or certain persons or entities as referred to in the aforesaid sanctions laws and regulations. The Buyer will require its customers to comply with these export control and sanctions laws and regulations.
- 4.8 The Buyer warrants that it is familiar with all applicable anti-bribery and anti-corruption legislation, including the US Foreign Corrupt Practices Act, and the UK Bribery Act and that it will comply with all applicable anti-bribery and anti-corruption laws. Breach of this warranty entitles the Seller to suspend or terminate this Agreement with immediate effect.
- 4.9 The Seller warrants free and clear title on all Goods produced by Seller and that the sale of the Goods sold hereunder shall be delivered free of the rightful claim by anyone of infringement of any patent covering the Goods themselves or the process for making them. The Seller does not warrant against any claim of infringement of any patent based on (a) any combination of the Goods with other materials or (b) the use of the Goods in the operation of any process.

5. COMPLAINTS

- 5.1 The Seller will investigate the Buyer's complaints in respect of the Goods or Services concerning the specification, quantity, quality, price, package failure or short delivery of Goods, which are lodged in writing to the Seller within 14 (fourteen) days of delivery of the Goods or performance of the Services to the Buyer.

Such notifications will on their own, not constitute proof of the defect complained of and the Buyer will bear the onus of proof.

- 5.2 The Seller will consider the Buyer's complaint as submitted in terms of clause 5.1 and will reply to the complaint as soon as reasonably possible.
- 5.3 If any dispute or complaint should arise between the Seller and the Buyer about any aspect of the Buyer's account with the Seller or any aspect of this Agreement, the Buyer will not be entitled to withhold any payments due and must continue to pay all amounts due to the Seller. The Seller will be entitled to recover and accept these payments.
- 5.4 The acceptance of the payments by the Seller will be without prejudice and will not in any manner whatsoever affect any other rights the Seller may have against the Buyer.

6. INDEMNITY

- 6.1 **The Buyer will indemnify, hold harmless, and, at the Seller's option, defend the Seller, and its employees and agents, from all claims for loss, cost, or damages (including reasonable attorneys' fees), that may be made, by any person or entity, (including the Buyer and its employees and agents, and any third party) arising from any matter relating to (a) any breach or misrepresentation by the Buyer under this sale of Goods or Services, (b) Goods or Services that conform to the specifications established hereunder, or (c) the operation or conduct of the Buyer's business; provided, however, that Buyer's liabilities hereunder will be proportionately reduced to the extent finally determined by a court to have been caused by the Seller's negligence. The Buyer's obligations will not be limited by applicable workers' compensation laws and will survive the fulfillment of this sale of Goods or Services.**
- 6.2 **The Buyer assumes as to its employees, independent contractors, and subsequent purchasers of the Product sold hereunder all responsibility for all such necessary warnings or other precautionary measures relating to hazards to person and property associated with the Product sold hereunder and, furthermore, Buyer shall defend at its own expense, indemnify fully and hold harmless Seller and its parents, subsidiaries, and affiliates and its and their agents, officers, directors, employees, representatives, successors, and assigns from and against any and all liabilities, losses, damages, demands, claims, penalties, fines, actions, suits, legal, administrative or arbitration proceedings, judgments, orders, directives, injunctions, decrees or awards of any jurisdiction, costs and expenses (including, but not limited to, legal costs on the attorney and own client scale) arising out of or in any manner related to Buyer's failure to provide necessary warnings or other precautionary measures in connection with the Product sold hereunder as provided above.**

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- 6.3 **The Seller will not be liable for and the Buyer agrees to indemnify and hold the Seller harmless from and against any loss, demand, liability, claim, cost or expense (including costs of defense and reasonable legal costs on the attorney and own client scale) of whatever kind, whether based in contract, delict, strict liability, or otherwise caused or resulting in whole or in part from any accidents, incidents, releases, spills, environmental damage, explosions, fires, or any other claims involving the Goods after delivery to the Buyer or involving the Services after the Seller has rendered same.**

7. LIMITATION OF LIABILITY

- 7.1 **Except only for warranties that may be implied in terms of the CPA (if applicable), the Seller does not give any warranties in respect of the Goods or Services, their use, and all warranties implied by law are, where possible, expressly excluded. The Buyer waives any claim for loss, damage or liability which it might have against the Seller arising from, but not limited to, claims based on the Goods or Services not being suitable for the Buyer's purposes.**
- 7.2 **Except only as may be prescribed by the CPA (if applicable), notwithstanding anything contained herein or elsewhere, the Seller will not be liable, whether in contract or in delict, for any consequential, special, incidental, punitive, or indirect damages and/loss such as, but not limited to loss of profit, loss of production and loss of market share. In all instances of the Goods or Services not complying with the specification or otherwise being defective, the Seller's liability will be limited to the replacement of the Goods concerned or a re-performance of the Services concerned at no cost to the Buyer, or reimbursement of the purchase price or service fee, in the Seller's discretion. Under no circumstances will the Seller's liability, whether arising in contract or in delict, exceed the payment of direct damages of up to an amount equal to the purchase price for the Goods or the fees for Services in the last order placed by the Buyer and confirmed by the Seller (whether such order was fulfilled or not) prior to the date of the arising of the cause of action giving rise to the claim.**
- 7.3 **The Buyer indemnifies and holds the Seller harmless against any claims from end users of the Goods or Services. To this end the Buyer warrants that it is/will be adequately insured against such claims.**

8. FORCE MAJEURE

- 8.1 Neither party will be liable to the other for failure or delay in performance to the extent that such failure or delay is due to any circumstances reasonably beyond the control of the affected party ("force majeure") which interfere with the production or transportation of the Goods or performance of the Services or with the supply of any

raw material or energy source used in connection therewith, or interfere with Buyer's ability to take delivery of such Goods or receive the performance of the Services, provided that in no event will Buyer be relieved of the obligation to pay in full for Goods delivered or Services performed. Without limitation on the foregoing, neither party will be required to remove any cause listed above or replace the affected source of supply or facility if it will involve additional expense or departure from its normal practices.

- 8.2 The Seller has the right to suspend the delivery of all or any Goods or the performance of any of the Services to the extent and for as long as such delay is caused by force majeure, including, but not limited to, sanctions, rebellion, strikes, breakdown of machinery, refinery shutdown, civil commotion or unrest, inadequate supply of means of transport, of labor or raw material; floods, storms, epidemic, pandemic, infectious diseases outbreak, official or unofficial boycotts or acts of State. If any of the events specified in this clause occurs, the Seller has the right to allocate any Goods the Seller has available for delivery at the time or for the duration of the event, at its sole discretion, for the Seller's own requirements and/or amongst its customers.
- 8.3 The Seller further has the right, if any of the circumstances mentioned in clause 8.2 persist for a period of 30 (thirty) days or longer, by written notice to the Buyer, to forthwith cancel the sale in respect of those Goods not delivered or Services not performed as at the date of cancellation. The Seller will not be liable for any losses or damages that the Buyer may suffer as a result of such suspension, cancellation or non-supply, but the Buyer will remain liable for the value of Goods delivered or Services rendered by the Seller up to the date of such suspension, cancellation or non-supply.
- 8.4 It is specifically agreed that the Buyer's financial inability to pay shall not be regarded as an event of Force Majeure.

9. INTELLECTUAL PROPERTY

- 9.1 Except as otherwise agreed in writing, the proprietary interests of all intellectual property in relation to the Goods or Services will remain vested in the Seller and no part of this Agreement will be construed as vesting in the Buyer any right, title or interest to such intellectual property.
- 9.2 **If the Buyer uses the Goods or the Services or sells the Goods in such a manner as to infringe any patent or other rights of any third party, the Seller will not be responsible for such infringement nor for any alleged infringement arising from the Buyer's action in relation to the Goods or Services and the Buyer hereby indemnifies the Seller from and against all such liability including legal costs (on the attorney and own client scale) arising therefrom.**
- 9.3 Except as permitted by express prior consent in writing by the Seller, the Buyer will not use or cause or allow to

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be used by any other person or entity over which it exercises control directly or indirectly ("Controlled Entity"), any trademark or trade name owned or used by the Seller or any entity in the Sasol group of companies (the "Sasol Trademarks"), whether directly or indirectly, in advertisements or as part of a Controlled Entity's name or in any manner whatsoever.

10. ADDRESS FOR LEGAL NOTICES AND CORRESPONDENCE

10.1 The Buyer chooses the address set out in the Seller's business application, which must be completed in terms of clause 1.1, to receive all legal notices and correspondence for all purposes.

10.2 The Seller chooses the following address (as its *domicilium citandi et executandi*) to receive all legal notices and correspondence for all purposes:

Seller: Sasol South Africa Limited
Physical Address: Sasol Place, 50 Katherine Street, Sandton, 2196, South Africa
E-mail: CreditRisk@sasol.com
Attention: Senior Credit Manager

Buyer: *domicilium citandi et executandi* as recorded in the Application to do Business/Credit Application.

10.3 Either party may change its chosen address, as set out above by written notice to the other party. Any notice addressed and sent by prepaid registered post to either party's *domicilium citandi et executandi* will be presumed (unless proven otherwise) to have been given and received on the 10th (tenth) working day after the date of posting, or, if delivered by hand, on the date of delivery, or if sent by e-mail before 16h30 on a business day in the country of the recipient, on the day of successful transmission (evidenced by electronic confirmation of transmission) or the following business day in the country of the recipient if transmitted after 16h30 or transmitted on a day other than a business day in the country of the recipient.

11. BREACH

11.1 In the event that any party commits a breach ("defaulting party") of any term or condition of this Agreement and fails to remedy such breach within 14 (fourteen) days of receipt of a written notice to that effect from the other party ("non-defaulting party") then and in such event the non-defaulting party will be entitled, without prejudice to any other rights which it may have in terms of this Agreement or in law, to cancel this Agreement and/or claim for specific performance and/or damages. Such breach notice period shall not apply in the event of default payment by the Buyer, and the Seller shall be entitled to immediately cancel this Agreement and/or claim for specific performance and/or damages.

11.2 The parties agree that all the terms and conditions of this Agreement are material.

11.3 No waiver by the Seller or Buyer of any breach of any of the terms and conditions contained in this Agreement shall be construed as a waiver of any subsequent breach of the same or any other term or condition.

12. DISPUTE RESOLUTION

12.1 Any dispute between Buyer and Seller which cannot be settled amicably within thirty (30) days of a written notice by one party to the other notifying it of the existence of a dispute and specifying the cause thereof, will be finally settled by a single arbitrator jointly selected by the parties. Such arbitration will be in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA"). Arbitration proceedings will be held in Sandton. Failing agreement by the parties, the arbitrator will be appointed by AFSA. Judgment upon the arbitral award may be entered in and enforced by a court of competent jurisdiction.

12.2 These provisions will not prevent either Party from approaching any court or other judicial forum in any country having appropriate jurisdiction to obtain interim relief in cases of urgency or any other order in aid of arbitration proceedings. Nothing herein contained will be construed as divesting the Buyer of any right it may have to refer any dispute to any ombud, court, tribunal or other forum for dispute resolution as contemplated in the CPA (if applicable).

13. GOVERNING LAW AND JURISDICTION

This Agreement is governed by and construed in accordance with the laws of the Republic of South Africa, excluding the application of any principles of conflict of laws that may direct the application of the laws of any other jurisdiction. In connection with matters relating to this Agreement, the Buyer hereby consents to the jurisdiction of the Gauteng Local Division of the High Court.

14. CESSION AND ASSIGNMENT

14.1 The Buyer will not, without the written consent of the Seller, cede or assign this Agreement or any part of it. The Seller will, at any time, be entitled to cede, assign or transfer any of its rights and obligations to any of its affiliates.

15. ENTIRE AGREEMENT

15.1 This Agreement contains all the provisions agreed on by the parties and the parties waive the right to rely on any alleged provision not contained in the Agreement. No party will have the right to represent or make decisions on behalf of the other party.

15.2 No relaxation, extension of time, latitude or indulgence which the Seller may show, grant or allow to the Buyer shall in any way constitute a waiver by the Seller of any

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of the Seller's rights in terms of this Agreement, and the Seller shall not thereby be prejudiced or estopped from exercising any of its rights against the Buyer which may have then already vested or which may vest thereafter.

15.3 This Agreement supersedes all previous agreements, negotiations and/or other arrangements.

15.4 Notwithstanding anything elsewhere contained, the parties agree that the Seller may from time to time notify the Buyer of new or amended General Terms and Conditions of Sale that may apply to any sales to the Buyer as from a specified date. The parties further agree that a letter sent by the Seller to the Buyer's last known physical address or e-mail address will constitute notice to the Buyer of such new or amended General Terms and Conditions of Sale. Should the Buyer purchase any Goods or Services from the Seller as from the date referred to above, such purchase shall be deemed to be an acceptance by the Buyer of such new or amended General Terms of Sale and same will apply to all further sales and will replace any prior General Terms of Sale that the Buyer may previously have traded with the Seller in terms of.

16. DISCLOSURE OF INFORMATION

16.1 The Buyer hereby consents and grants authority to the Seller to conduct credit checks, searches and the like with any credit agency or party which the Seller may at its discretion consider expedient or necessary, *inter alia*, for the purpose of ascertaining the creditworthiness of the Buyer or in order to trace the Buyer or any of its assets.

16.2 The Seller will be entitled to record any adverse credit reports with any agency or person. The Buyer consents that the application for an existence of any account with the Seller may be recorded by credit agencies and

details of the conduct of the account may be given to and duly recorded by and shared with other persons for various purposes.

16.3 The Buyer acknowledges that the Seller will be obliged to disclose and divulge such information and documentation as required by law regarding the Buyer, its operations and the nature of its transactions with the Seller. Such disclosures will *inter alia* include the provisions of the Financial Intelligence Centre Act No 38 of 2001, Competition Act No 89 of 1998, Promotion of Access to Information Act No 4 of 2003 and other statutes from time to time.

16.4 The Buyer acknowledges that the collection, collation, processing, storage and disclosure by the Seller of the Buyer's Personal Information shall be conducted for the purposes of conclusion and performance of this Agreement, as required by the Protection of Personal Information Act 4 of 2013.

17. TERMINATION

Either party may at any time terminate this Agreement on 30 (thirty) days' written notice to the other. Any outstanding obligations will survive the termination of this Agreement. If any provision of this Agreement is found by any court or administrative body of a competent jurisdiction to be invalid or unenforceable, or becomes a violation of any law, or any rule, order, or regulation, the Seller shall have the right, upon notice to the Buyer, to separate such provision as far as it shall not affect the validity or enforceability of the other provisions, alternatively, to terminate the Agreement in its entirety with immediate effect. Termination of this Agreement shall not release either party from any liability to the other arising pursuant to this Agreement, whether or not such liability was ascertained at the time of termination.