

**In these general terms and conditions of sale (“Terms”):**

“Australian Consumer Law” means Schedule 2 to the Competition and Consumer Act 2010 (Cth) as amended from time to time.

“Buyer” means the customer, integrator, retailer, manufacturer or other person who accepts a quotation of the Seller for the sale of the Product and/or Service or whose order for the Product and/or Service is accepted by the Seller.

“Consequential Loss” means increased costs or expenses; loss of revenue; loss of profit or anticipated profit; loss of business; loss of business reputation; loss of opportunities; loss of anticipated savings; loss of goodwill; loss or expense resulting from a claim by a third party; special or indirect loss or damage of any nature whatsoever caused by the Seller’s failure to complete or delay in completing the order to deliver the Product; and any other loss suffered by a party as a result of a breach of this Contract that cannot reasonably be considered to arise directly and naturally from that breach.

“Contract” means the document governing the sales of the Product and/or Service and which is formed, in decreasing order of prevalence, by: any special conditions negotiated and signed by the Parties, offers submitted by Seller, the “Gravotech Australia Pty Ltd Customer Warranty Policy”, the user guide of the concerned Product, any order accepted by Seller and these Terms.

“Force Majeure” means any event outside of the reasonable control of the Seller, including acts of God, war, riots, strikes, lock outs, trade disputes, break downs, mechanical failures, interruptions of transport, government action, pandemic or epidemic or any other cause whatsoever whether or not of alike nature to those specified herein.

“Party(ies)” means the Buyer or the Seller individually or collectively.

“PPSA” means the Personal Property Securities Act 2009 (Cth).

“Product” means any (i) machines, spare parts, (ii) software and/or associated activation keys (material or immaterial lock), (iii) accessories and/or (iv) consumables, sold under a brand of the Gravotech Group.

“Seller” means Gravotech Australia Pty Ltd ABN 79 088 983 135. Seller is a company of the Gravotech group (“Gravotech Group”). Accordingly, Seller may perform any of its obligations or exercise any of its rights under the Contract by itself or through any other company of the Gravotech Group.

“Service” means any services performed by Seller related to the Product.

**1. BASIS OF THE SALE**

- 1.1. These Terms shall apply to all sales of the Product and/or Service between the Buyer and the Seller and shall prevail over any terms put forward by the Buyer in its order and/or in any other document, unless the Seller expressly agrees to them in writing. No conduct by the Seller shall be deemed to constitute acceptance of any terms put forward by the Buyer.
- 1.2. Unless otherwise agreed, quotes issued by Seller remain valid for a period of thirty (30) days from their issuance. Unless expressly agreed in writing, Seller shall not be bound, under any circumstances, by any declarations nor proposals made by a third party of its distribution network.
- 1.3. Acceptance by the Buyer of the quotes submitted by Seller shall constitute acceptance of these Terms. Any supply of the Product and/or Service by the Seller after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and any supply does not give rise to a new or separate agreement.
- 1.4. All orders of the Buyer against the Seller’s quotations are subject to the final acceptance of the Seller. The Contract is concluded upon Seller’s written confirmation of the Buyer’s order (email or order acknowledgement of receipt).
- 1.5. No variation of these Terms shall be valid unless accepted by a director of the Seller in writing.

**2. ORDERS AND SPECIFICATIONS**

- 2.1. The quantity and description of and any specification for the Product shall be those set out in the Seller’s quotation, under the condition that they are confirmed in writing through order acknowledgement of receipt issued by the Seller.
- 2.2. Seller’s minimum order requirement is \$40.00 excluding shipping costs and Goods and Services Tax (GST).
- 2.3. Any changes to the order shall be submitted before its delivery by written notice to the Seller who has a right either to accept or to refuse them. In case of approval, the delivery deadline may be extended and price could be increased. Such approval cannot be considered as giving the possibility to Buyer to cancel the order, to claim or to ask for prices reduction and being entitled to obtain any compensation. In case of refusal, and if the Buyer desires to cancel the order, instalments paid by Buyer shall be kept by Seller and represent a genuine pre-estimate of the costs incurred by the Seller as a result of the cancellation.
- 2.4. Orders that have been accepted by Seller cannot be cancelled or delayed, without Seller’s express and written consent. In case where cancellation of an order is accepted by the Seller, any part of the order already performed at the date of cancellation of the order will be invoiced accordingly to the Buyer for the accomplishment in the work carried out, delivery made, expenses of reports and miscellaneous. Any instalment received upon order is acquired permanently and non-refundable and represents a genuine pre-estimate of the costs incurred by the Seller.

- 2.5. In respect of software, it is the Buyer's responsibility to check compatibility with its hardware and its environment in compliance with the technical prerequisites notified by Seller. To the extent permitted by law, no cancellation of an order shall be accepted due to incompatibility.
- 2.6. The Seller reserves the right to make any changes in the Product's specification which are required to conform with any applicable statutory requirements or applicable laws, to the extent (i) the Product is to be supplied in accordance with the Seller's specification, and (ii) the changes do not materially affect the Product's quality or performance. This shall not apply for customized solutions.

### **3. DELIVERY – TRANSFER OF RISKS**

- 3.1. Unless otherwise agreed by the Parties in writing, delivery of the Product shall be made EXW Seller's premises (Incoterms 2020), i.e by the Buyer collecting, directly or through a carrier designated by the Buyer, the Product at the Seller's premises during the Seller's usual business hours within five (5) days after the Seller has notified the Buyer that the Product is ready for collection. As per EXW Incoterms, Buyer assumes all costs, insurances and risks of the shipment.
- 3.2. If some other place for delivery or any other Incoterm is agreed by the Seller, the costs of delivery (including packaging and insurance cost of the Product in transit as per the applicable Incoterms) shall be added to the price and invoiced additionally by Seller.
- 3.3. The times quoted for delivery are estimates only and the Seller accepts no liability for failure or delay in delivery of the Product and/or Service.
- 3.4. In all cases, late deliveries cannot lead to Buyer's payment withholding or the cancellation of the orders, either wholly or partly, nor they can give right to late delivery fees except when expressly and beforehand accepted by Seller and mentioned in the acknowledgment of receipt of the order with regard to their quantum and their conditions.
- 3.5. Shall Seller agree to apply fees for delays attributable solely to the Seller, such fees cannot under no circumstances exceed five percent (5%) of the EXW value of the non-delivered Product. Late delivery fees can only be applied after a notice given by Buyer at the effective delivery date that it intends to implement them. Those fees can in no case be applied if the late delivery is due to a reason outside Seller's control (specifically in the case of a fortuitous event, cases of Force Majeure or delay due to the carrier or any third party). To the extent permitted by law, the late delivery fees set out in this clause shall in any case be a full discharge of Seller's obligations. If the Seller incurs any costs (including storage charges) as a result of any delivery delay due to the Buyer's neglect or default, the Buyer must pay those costs in addition to the Contract price. In all cases, the Seller shall not be held liable for any direct or indirect damages resulting from such late delivery.
- 3.6. The Seller reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment. Any failure to deliver an instalment or any defect in an instalment shall not give the Buyer the right to cancel future instalments.
- 3.7. Any payment due by the Buyer for Product and/or Service cannot be delayed, cancelled or compensated wholly or partly as a consequence of applicable late delivery fees which could be due by Seller. Any accepted Seller's obligations with regard to delivery dates cease in case of: a) non respect of payment terms and conditions by Buyer, b) late communication by Buyer of any information, c) Force Majeure events.

### **4. PROVISION OF SERVICES**

- 4.1. In order to provide Services, Seller's personnel may need to have access to the Buyer's premises. In such a case, Seller's personnel shall comply with the health and safety internal rules and applicable procedure provided beforehand by the Buyer. The Buyer shall be insured against all risks and damages that may arise to the installation, the Buyer's or third party's personnel, and Seller's personnel if the latter are involved.
- 4.2. At the Buyer's request and upon acceptance of Seller's quote, Seller may install the Product. The Buyer shall provide the Seller with all access and any necessary services, utilities (including electrical and clean air supply) and information that the Seller may reasonably require to install the Product.
- 4.3. If the Buyer is installing the Product, installations must comply with Seller's installation and directions of use. Seller shall not be held liable in the event of faulty installation or damages resulting from installation if this has been undertaken by the Buyer or any appointed third party designated by the Buyer.
- 4.4. The Seller shall not be responsible for any structural or other alterations to the Buyer's premises necessary to permit the installation. To the extent permitted by law, the Seller shall not be liable for any lost profits, or of business opportunity arising from Product installation.
- 4.5. Whilst the Seller is installing the Product, the Buyer shall be responsible for providing such of its personnel, plant and other equipment as the Seller may reasonably request to assist in the installation. The Buyer shall also be responsible for providing a safe place and system of work for the Seller and its agents and for maintaining policies of insurance to provide full accident cover for the Seller and its agents whilst on the Buyer's premises.
- 4.6. Care and maintenance: the Buyer shall at all times maintain the Product in the manner described in the user guide. Said maintenance shall be undertaken by qualified and certified personnel. The Buyer may enter into a complementary maintenance contract with Seller.
- 4.7. Software training: except for individual training, trainings will take place with a minimum of three (3) Buyers (companies or individuals). The training dates shall be set by the Seller. Except in case of Force Majeure, training sessions may not be cancelled less than ten (10) business days prior to the scheduled date. If one or more Buyers have cancelled their participation

to the training session within this period and no replacement can be found, Seller reserves the right to postpone or even cancel the session. Any training session cancelled within less than ten (10) days of its scheduled date shall be integrally invoiced to the Buyer who cancelled, including expenses already incurred by Seller.

**5. CLAIMS UPON RECEIPT – ACCEPTANCE OF THE PRODUCT**

- 5.1. Transport claim: in the event of missing parts, lost or damaged Product resulting from transportation, Seller shall in all cases immediately issue its reservations at the time of receipt and lodge its claim against the carrier within the legal forms and time limits, in accordance with applicable laws.
- 5.2. Acceptance: to the extent permitted by law, any claim regarding non-compliance or obvious defects of the Product (not related to transport) and/or Service must be made within five (5) business days after receipt of the Product or performance of the Service, by e-mail, mail or phone (and confirmed by email).
- 5.3. The absence of formal claim within the aforementioned conditions shall constitute acceptance of the Product/Service and implies recognition by the Buyer of the conformity of the Product or Service to its order, its need and to the agreed purpose.

**6. PRICE**

- 6.1. The price of the Product shall be the price set forth in the orders acknowledgement of receipt sent by the Seller.
- 6.2. Seller reserves the right, by giving notice to the Buyer at any time before delivery to proceed with any change in delivery dates, quantities or specifications for the Product which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 6.3. Unless otherwise stated, all prices quoted or given in the Seller's price are exclusive of Goods and Services Tax (GST). To the extent that a supply made pursuant to a Contract is a taxable supply, the Buyer shall pay GST in addition to the Product's price set forth in the Contract.

**7. TERMS OF PAYMENT**

- 7.1. Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Product on or at any time after delivery unless the Product is to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Product, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Product is ready for collection or (as the case may be) the Seller has tendered delivery of the Product.
- 7.2. In the case of machine orders, the Buyer shall pay the Seller in advance prior to delivery or installation of order. For all other orders, the Buyer shall pay the price of the non-machine Product within thirty (30) days of the date of the Seller's invoice only if the Buyer has a pre-approved credit account.
- 7.3. Without prejudice to any other remedy, the Seller may charge interest on any overdue balances at an annual rate equal to five percent (5%) above the rate notified by National Australia Bank from time to time as being that Bank's indicator lending rate (to accrue from day to day).
- 7.4. The Seller may impose a credit limit at its discretion, and alter the credit limit without notice. Where the credit limit is exceeded, the Seller reserves the right to refuse to supply Product to the Buyer and suspend any pending orders or deliveries.
- 7.5. The Buyer will indemnify the Seller on demand against all costs, charges, expenses, fees and legal costs incurred by the Seller in recovering sums owed by the Buyer.
- 7.6. The Seller may appropriate any payment made by the Buyer and apply it in total or partial satisfaction of any debt then due from the Buyer to the Seller.
- 7.7. Where the amount paid by the Buyer is less than the amount due to the Seller under the Contract to which it is appropriated, the Seller may appropriate the payment to any individual goods or item supplied under any other contract.
- 7.8. Moreover, in cases where payment is not made (total or partial failure to pay) by the Buyer, the amount recovered through litigation may give rise to an additional payment equal to twenty percent (20%) of the amount due, in addition to the reimbursement by the Buyer to the Seller of any and all costs incurred in connection with the recovery, including litigation fees and expenses. The costs in this clause represent a genuine pre-estimate of the costs incurred by the Seller in enforcing payment.

**8. RETENTION OF TITLE**

- 8.1. Notwithstanding applicable Incoterms, ownership, title and property in the Product and in the proceeds of sale of the Product remain with the Seller until payment in full for the Product and all sums due and owing by the Buyer to the Seller on any account has been made. Until the date of payment:
  - (a) The Buyer has the right to sell the Product in the ordinary course of business;
  - (b) The Product is always at the risks of the Buyer;
- 8.2. The Buyer is deemed to be in default immediately upon the happening of any of the following events:
  - (a) If any payment to the Seller is not made promptly before the due date of payment;
  - (b) If the Buyer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the Buyer payable to Seller is dishonored

- 8.3. In the event of default by the Buyer, then without prejudice to any other rights which the Seller may give at law or under any Contract:
- (a) The Seller or its agents may without notice to the Buyer enter the Buyer's premises or any premises under the control of the Buyer for the purposes of recovering the concerned Product;
  - (b) The Seller may recover and resell the Product;
  - (c) If the Product cannot be distinguished from similar products which the Buyer has or claims to have paid for in full, the Seller may, in its absolute discretion, seize all products matching the description of the Product and hold same for a reasonable period so that respective claims of the Seller and the Buyer may be ascertained. The Seller must promptly return to the Buyer any products the property of the Buyer and the Seller is no way liable or responsible for any loss or damage to the Product or for any loss, damage or destruction of the Buyer's business howsoever arising from the seizure of the Product.
  - (d) In the event that the Buyer uses the Product in some manufacturing or construction process of its own or some third party, then the Buyer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Product in trust for the Seller. Such part will be an amount equal in dollar terms to the amount owing by the Buyer to the Seller at the time of receipt of such proceeds. The Buyer will pay the Seller such funds in trust upon the demand of the Seller.
  - (e) Separately, the Buyer hereby charges all its rights, title and interest to and in the proceeds of sale of the collateral (as defined in the PPSA) as original collateral, or any of it, in favour of the Seller.

#### 9. PPSA

- 9.1. Defined terms in this clause have the same meaning as given to them in the PPSA.
- 9.2. The Seller and Buyer acknowledge that these Terms constitute a Security Agreement and entitle the Seller to claim:
- 9.2.1. A Purchase Money Security Interest ("PMSI") in favour of Seller over the Collateral supplied or to be supplied to the Buyer as Grantor pursuant to these Terms; and
- 9.2.2. A security interest over the proceeds of sale of the Collateral referred to in 9.2.1 as original collateral.
- 9.3. The Product supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Buyer pursuant to these Terms.
- 9.4. The Proceeds of sale of the Collateral referred to in clause **Erreur ! Source du renvoi introuvable.** falls within the PPSA classification of "Account".
- 9.5. The Seller and Buyer acknowledge that the Seller, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Buyer pursuant to these Terms and in the relevant Proceeds.
- 9.6. To the extent permissible at law, the Buyer:
- 9.6.1. Waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Buyer to Seller.
- 9.6.2. Agrees to indemnify Seller on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
- registration or amendment or discharge of any Financing Statement registered by or on behalf of Seller; and
  - enforcement or attempted enforcement of any Security Interest granted to Seller by the Buyer;
- 9.6.3. Agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;
- 9.6.4. Agrees to waive its right to do any of the following under the PPSA:
- receive notice of removal of an Accession under section 95;
  - receive notice of an intention to seize Collateral under section 123;
  - object to the purchase of the Collateral by the Secured Party under section 129;
  - receive notice of disposal of Collateral under section 130;
  - receive a Statement of Account if there is no disposal under section 132(4);
  - receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
  - receive notice of retention of Collateral under section 135;
  - redeem the Collateral under section 142; and
  - reinstate the Security Agreement under section 143.

9.7. All payments received from the Buyer must be applied in accordance with section 14(6)(c) of the PPSA.

#### **10. FORCE MAJEURE**

If performance of any part of the Contract is delayed, hindered, prevented or rendered uneconomic by a Force Majeure event, the Seller shall be entitled to cancel the Contract or suspend his duty to perform for as long as the circumstances amounting to Force Majeure continue. The Seller shall not be liable for any cancellation of the Contract or suspension of its duty to perform under this clause.

#### **11. INTELLECTUAL PROPERTY RIGHTS**

- 11.1. The Seller and any other company of the Gravotech Group remain the sole owner of all its intellectual property rights, including without limitation its know-how, patents, trademarks, service or manufacturing brands, domains, business name or company name, copyright or drawings and models (altogether hereafter “IP Rights”) in connection with the Product and/or Service and/or activity. The sale of the Product to Buyer cannot be construed as a transfer of ownership of any IP Rights unless otherwise agreed in writing. Buyer shall not acquire any right express or implied upon Gravotech Group’s trademarks or any other IP Rights and undertakes to refrain from filing trademarks, names or domain names or more generally IP rights that might conflict with those used or filed by the Gravotech Group. Buyer shall act diligently to allow Seller or any other entity of the Gravotech Group to maintain the trademarks in their entirety, and avoid defamation, distortion, substitution, unauthorized commercial use, or use in association with another company name.
- 11.2. The Seller and any other company of the Gravotech Group as the case may be retain the exclusive property rights to blueprints and technical documents used for installation, maintenance, total or part manufacturing of the Product transmitted to Buyer before or after the conclusion of the sale. If the Buyer complies with its obligations under the Contract, the Seller grants the Buyer a non-exclusive and non-transferable license to use the software for the purpose of the use or operation of the Product. Except for a backup copy of the software made by and solely for the Buyer having legally acquired a user license, the software, documents or dongles supplied may neither be copied, duplicated or assigned against payment or free of charge, nor totally or partially transferred to third parties without Seller’s written authorization. Software is protected by copyright and by applicable international conventions. Any discompilation, dismantling, derivatives developments, reproduction or distribution of software, wholly or partly is forbidden. Buyer shall not give access to software except to its own employees for the performance of the Contract or use of the Product according to the licenses granted. These employees being submitted to the same obligation. Any breach of such provision would be punished under applicable law.
- 11.3. Unless otherwise agreed in writing between the Parties, the results of any customization or specific development carried out by the Seller for the Buyer during or in the view of the performance of the Contract, patentable or not, including without being limited to the Product, software, data, solutions, materials shall be and shall remain the sole and exclusive property of the Seller. To the exception of Buyer’s own intellectual property right, Seller reserves the right to use said customization, specific development, information, results or product at its own convenience and for whatever purpose it deems appropriate, including for applying any intellectual property rights.
- 11.4. Any data or intellectual property right provided or disclosed by the Buyer in the view of the manufacture or customization of the Product by the Seller shall be licensed on a non-exclusive, worldwide, royalty-free basis to the Seller in order for the Seller to be able to use, reproduce, modify or copy for the sole purpose of manufacturing the Product and/or providing the Service to the Buyer for the duration of the Contract.
- 11.5. The Buyer shall defend, indemnify and hold the Seller harmless against any claim brought against the Seller for infringement of a third party’s rights (including any IP Rights) arising out of, or in connection with, any IP Rights or specification provided to the Seller by the Buyer.
- 11.6. If in Seller’s reasonable opinion, Product is likely to become the subject of an infringement claim, Buyer hereby permit Gravotech Group, at Gravotech Group’s sole option and expense, either to (i) secure for Buyer the right to continue using the Product or software or (ii) to modify it, or (iii) replace it with another product or program which is functionally equivalent. If neither of the foregoing options is available on terms which are reasonable in Gravotech Group’s judgment, Buyer shall destroy or return said Product, and all copies thereof (if any), to Seller within one (1) month from Gravotech Group’s written request. In such a case, Seller shall grant Buyer a credit for the corresponding Product price.
- 11.7. This section states Seller and Gravotech Group’s entire liability and Buyer’s exclusive remedy for any claim of infringement of IP Rights under these Terms or any related Contract.

#### **12. REFERENCING**

The Buyer grants to the Seller and to the Gravotech Group a worldwide, non-exclusive, royalty-free, non-transferable right to use the Buyer’s trade name, trademark or logo only as a commercial reference on any communication medium during the Contract and for five (5) years afterward.

#### **13. CONFIDENTIALITY**

- 13.1. Any and all information disclosed by each Party is and shall remain confidential and property of its discloser and shall be treated and protected by the other Party as strictly confidential and solely disclosed on a need-to-know basis for the purpose of the contract for sale, installation and use of the Product supplied. Each Party undertakes not to use the confidential or proprietary information of the other Party, wholly or partly, for its own purpose or for any other purpose than the purpose of executing the sale related to.

13.2. Except as required by law, Buyer shall not disclose to a third party the terms or issue any public statement relating to the Seller without Sellers' prior written approval.

**14. CONDITIONS SPECIFIC TO SOFTWARE**

14.1. If the Buyer complies with its obligations under the Contract, the Seller grants the Buyer a non-exclusive and non-transferable license to use the software for the purpose of the use or operation of the Product in accordance with Seller's "End User License Agreement" (EULA) which contain licensing terms and conditions of Seller's software. The license relating to Seller's software enables Buyer to activate and use said software. The license is protected by an activation key (material or immaterial) which is essential for using the license.

14.2. Seller does not guarantee that the features contained in its software meet the needs of the Buyer unless they have been beforehand expressed and agreed between the Parties.

**15. PRODUCTS WARRANTY**

15.1. The Buyer shall benefit from warranty terms and conditions defined in the document "Gravotech Australia Pty Ltd Customer Warranty Policy" in force at the time the Contract is concluded, and which has been provided by the Seller. Warranty conditions shall apply provided that the Buyer complies with its contractual obligations.

15.2. A Product claim made under Gravotech Australia Customer Warranty Policy may be repaired, replaced or reimbursed at the sole discretion of the Seller. The costs and risks for shipping a Product under Gravotech Australia Customer Warranty Policy to the Seller's premises indicated in writing shall be borne by the Buyer. The Seller shall bear the costs and risks for sending back said Product to the Seller's concerned site. Defective items returned or exchanged under the warranty shall remain the property of the Seller, which shall retain them.

15.3. Product that has been specifically developed or customised or manufactured outside of catalogue standards or modified at the Buyer's request may not be returned or exchanged and may only be repaired.

15.4. It is agreed between the Parties that the warranty period (set out in Gravotech Australia Customer Warranty Policy) may be extended subject to the acceptance by the Buyer of the offer issued by Seller as per Seller's conditions. Such offer shall be governed by the terms and conditions defined and shall remain in force for the duration of the extended warranty period subscribed to by the Buyer.

15.5. The following statement applies if the supply of the Products to the purchaser is a consumer sale as defined in the Australian Consumer Law. In this statement, 'Our' means 'the Seller', 'You' means the 'Buyer' and 'goods' means 'the Product':

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

What constitutes a major failure is set out in the Australian Consumer Law.

**16. REPAIRS**

To the extent permitted by law, where the Product requires a repair and it is not covered by Gravotech Australia Customer Warranty Policy, repair works can only be carried out after Buyer has accepted in writing the quote provided by the Seller. Without such an agreement within one (1) month from the date of the assessment, all fitting and appraisal costs shall be borne by Buyer. Shall Buyer ask for repair before any assessment of the costs, fitting, repairs and tests works shall be carried out upon receipt of Buyer's written order, inducing a complete agreement on their costs in consideration of Seller's prices in force at the date of the repair.

**17. LIABILITIES**

17.1. To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms or in another warranty document given by the Seller are excluded and the Seller is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Buyer for:

- (a) any increased costs or expenses; or
- (b) any loss of profit, revenue, business, contracts or anticipated savings; or
- (c) any loss or expense resulting from a claim by a third party; or
- (d) any special, indirect or Consequential Loss or damage of any nature whatsoever caused by Seller's failure to complete or delay in completing the order to deliver the Product.

17.2. Pursuant to s64a of the Australian Consumer Law, where the Seller supplies products to a "consumer" as defined in the Australian Consumer Law, the Seller's liability for breach of a guarantee conferred by the Australian Consumer Law (other than those conferred by s51 to 53 of the Australian Consumer law) is limited to:

- (a) in relation to Product;
  - the replacement of the Product or the supply of equivalent products; or
  - the repair of the Product; or
  - the payment of the cost of replacing the Product or of acquiring equivalent products; or
  - the payment of the cost of having the Product repaired.

(b) in relation to Services:

- the supply of the Services again; or
- the payment of the cost of having the Services supplied again.

17.3. Other than claims made under clause 16.3, and to the maximum extent permitted by law, the Seller's total aggregate liability to the Buyer for all direct material losses or damages arising under or in connection with any Contract between the Parties and whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the amount of the order or part of the order which caused the damages or which was affected by said damages. 16.4. Both Parties shall take out appropriate and sufficient insurances policies to cover their risk of loss, damages and liabilities under any Contract. The Parties agree that on request by the other Party they shall prove by written records the existence and conditions of such an insurance policy.

#### **18. TERMINATION**

Any failure by Buyer to perform one of its obligations or to comply with any term of payment, or any undermining of Buyer's standing such as business pledging is likely to cause an event of default which entitles Seller, upon a notice by registered letter with acknowledgement of receipt remaining unremedied within fifteen (15) days, to ask for the payment of any due amounts, to stop or suspend any delivery and/or to terminate any Contract between the Parties. Buyer shall reimburse any cost sustained by Seller in order to obtain payment of Product, without prejudice of any damages which it shall be entitled to claim in the performance of the related Contract.

#### **19. LAW AND JURISDICTION**

These Terms and any Contract are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the Courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms.

#### **20. ANTI-CORRUPTION**

20.1. Each Party shall conduct its activities in strict compliance with the applicable standards and regulations regarding the prevention and fight against corruption and, in particular, the "Sapin II Law of December 9, 2016" as well as the provisions of the "Foreign Corrupt Practices Act" in the United States, the "Bribery Act" in the United Kingdom, Commonwealth Criminal Code Act 1995 (Cth) where applicable.

20.2. Each Party undertakes not to engage itself in practices prohibited by the aforementioned regulations and, in particular, not to promise, offer or grant to a public official or any other person, directly or indirectly, any undue advantage in order that such person performs or refrains from performing any act. Each Party undertakes not to make any facilitation payment consisting of unofficial payments of small amounts intended to facilitate or ensure the proper performance of simple procedure or necessary acts.

#### **21. PERSONAL DATA**

Each Party shall be responsible for personal data collection and use in connection with the execution of the Contract likely to fall under the terms of any local applicable regulation including the Privacy Act 1988 (Cth) and its Australian Privacy Principles.

#### **22. GENERAL**

22.1. The Seller's distributors or agents are not authorized to make any representations concerning the Product unless confirmed by a director of the Seller in writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

22.2. Neither Party excludes or limits the application of any statute (including but not limited to the Competition and Consumer Act 2010 (Cth) as amended from time to time and its Schedule 2, the Australian Consumer Law) where to do so would contravene that statute or cause a provision of these Terms to be void. Any stated exclusion or limitation in these Terms is only to the full extent permitted by law.

22.3. If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions and the remainder of the provision in question shall not be affected.

22.4. Nothing in these Terms shall entitle the Buyer to subrogate any third party in any benefit or right to enforce any term or condition pursuant to any Contract.

22.5. The benefit of the Contract is personal to the Buyer and cannot be transferred without the express agreement of Seller. Seller may transfer its rights and obligations under the Contract to another Gravotech Group subsidiary, distributor or sub-contractor. Seller will contact the Buyer to let the Buyer know if it plans to do so.

22.6. No waiver of any of these Terms or failure to exercise a right or remedy by the Seller will be considered to imply or constitute a further waiver by Seller of the same or any other term, condition right or remedy.