



Terms & Conditions

Warning: these Terms and Conditions, govern the supply of any products ordered by You, on the Site and Your use of the Site. By browsing, accessing, using the Site or ordering a product, You agree to be legally bound by these Terms and Conditions. We may change these Terms and Conditions at any time and the revised Terms and Conditions will be made available on Our Site.

1. Definitions

The following words have the following meaning:

- a. **Act** means the *Competition and Consumer Act 2010 (Cth)*.
- b. **Agreement** means these terms and conditions of engagement and the Schedule.
- c. **Delivery** means the Products sent from Us to Your nominated address.
- d. **Intellectual Property** means all copyrights, patents, trademarks, trade secrets, domain names, telephone numbers or anything similar whether arising under law, statute or in equity of Ours;
- e. **Product** means the goods sold by Us on Our Site.
- f. **Site** means: Currently No Site
- g. **Order** means using the Site to order a Product.
- h. Us means Fynko ACN 676 186 244 and referred to throughout this Agreement as 'Us', 'Our' or 'We'.
- i. **You** means the person entering into this Agreement with Us and referred to throughout this Agreement as 'I', 'My', 'You' or 'Your'.

2. Access and Use of the Site

- a. You must only use the Site in accordance with this Agreement and any applicable law.
- b. You must not (or attempt to):
 - a. interfere with or disrupt the Site, servers or networks that host the Site; or
 - b. interfere with security-related or other features of the Site.
- c. To place Orders on the Site or by email, you must be at least 18 years old and have the capacity to enter into a legally binding agreement with Us. If you are under the age of 18, You may only place an Order with the involvement of a parent or guardian.

3. Order and Formation of Contract

- a. When making an Order, You must follow the instructions on the Site or by email as to how to make Your Order.

- b. Once You select a Product that You wish to Order, You must pay the purchase price plus GST and any other charges as listed on the Site, email or quote/invoice at the time of the Order.
- c. You must pay for the Order in full at the time of ordering by one of the payment methods We accept on the Site or quote/invoice. The payment method must have sufficient funds to cover the purchase.
- d. Any bank transaction fees related to international payments or currency exchange are the responsibility of the customer.
- e. Despite clause 3(c), We may at our sole discretion accept payment after the time of Order by site or email, by issuing You with an invoice.
- f. If an invoice is issued in accordance with clause 3(e), You acknowledge and agree that payment must be made in accordance with the terms of the invoice. We will not release the Product to You until Our invoice has been paid in full.
- g. When You place an Order, You will receive an order confirmation by email. This email will only be an acknowledgement that We have received Your Order and will not constitute acceptance of Your Order. A contract between Us for the purchase of the Product ("**Contract**") will not be formed until you receive a shipment confirmation email from Us. We are not obliged to supply the Product to You until We have accepted Your Order.
- h. We are not obliged to supply the Product to You until we have accepted Your Order. We may, in Our sole discretion, refuse to accept an Order from You at any time, and for any reason, including but not limited to:
 - i. unavailability of stock;
 - ii. We suspect that You might on-sell Our products to other consumers; or
 - iii. if We suspect Your Order is fraudulent, or suspect credit card or payment related fraud.
- i. If We do not accept the Order in accordance with clause 3(e) above, We will refund any payment You have paid towards the Order to You.

4. Product

- a. You agree to use the Product at Your own risk.
- b. The Product is not designed to be placed or left in direct sunlight. We are not liable for any damage or loss caused to the Product if left in direct sunlight.
- c. The Product must be used and stored below a temperature of 50 degrees Celsius and above -20 degrees Celsius. If any damage is caused to the Product as a result of heat or cold, We are not liable.
- d. The Product may contain magnetics, small parts and other objects/materials which are not safe for the use by children under the age of 14 or individuals with pacemakers, defibrillators or other medical devices. The Product is designed for professional use only and not to be used as a children's toy.
- e. Each Product is handmade and made to order, resulting in unique variations in colour, materials, and appearance. These inherent differences are a

natural part of the manufacturing process. As such, any variations between Products due to this process do not qualify for returns or exchanges.

- f. Custom products are made to individual specifications, and as such, We do not offer refunds or exchanges on these items.

5. Delivery

- a. We aim to deliver the Products to You at the nominated address for Delivery requested by You within the time indicated by Us at the time of Your Order. We cannot absolutely guarantee firm Delivery dates or times.
- b. We will endeavour to let You know if We expect to be unable to meet our estimated Delivery date or time, but, to the extent permitted by law, We will not be liable to You for any losses, liabilities, costs, damages, charges or expenses arising out of late or delayed Delivery.
- c. Shipping Terms: We ship products under DAP (Delivered at Place) terms only.
- d. The customer is solely responsible for all customs duties, government taxes, import fees, and any other associated costs imposed by their country.
- e. If the customer fails to pay customs duties, taxes, or other import-related fees, the shipment may be delayed, returned, or abandoned at the destination.
- f. No refunds will be provided if the customer refuses to pay import duties or if the shipment is abandoned due to non-payment of required fees.
- g. Title of, and all risk in, the Product shall pass to You upon Delivery.

6. Cancellation

- a. We may cancel a Contract if the Product is not available for any reason. We will notify You if this is the case and return any payment that You have made. We will refund any money received from You in relation to the cancelled Order, using the same method originally used by You. If the refund transaction fails, We will advise You of this and make arrangements to process the refund via a different method.
- b. If You wish to cancel Your Order, please contact Us immediately. Once an Order has been accepted, it cannot be cancelled, and the Product must instead be returned to Us.

8. Faulty Product Returns

- a. We aim to provide You with Products of the highest standard and quality pursuant Our obligations under the Act. If You have received a Product with a defect, please contact Us as soon as possible.
- b. We may ask You to provide images of defective Product for assessment. You may be asked to provide further information to support Your claim to assist Us with assessment of the Product.
- c. If the Product is confirmed to have a defect, We will replace or repair the product (if repair is reasonably possible) or refund the price of the Product via Your original payment method.

- d. A defect will not be deemed a defect if in Our reasonable opinion a Product has become of unacceptable quality following the sale to You due to, misuse, failure to use in accordance with Our instructions, using it in an abnormal way or failure to take reasonable care.

9. Disclaimer and Liability

- a. To the extent permitted by law including under the Act, We hereby exclude any liability for:
 - i. the performance, non-performance or delayed performance of this Agreement or a Contract or the Site;
 - ii. otherwise in relation to this Agreement or the entering into or performing of the same;
 - iii. the accuracy, completeness, fitness for purpose or legality of any information accessed using the Site;
 - iv. the transmission, reception or failure to transmit or to receive any material of whatever nature;
 - v. relying on any information accessed using the Site to make a purchasing decision;
 - vi. ensuring the Product is sufficient and suitable for Your purposes and meet Your individual requirements; or
 - vii. incorrectly using Products; which should be used strictly in accordance with any instructions.

10. Intellectual Property

- a. All Intellectual Property of any nature in any products, designs, ideas, services, concepts, trade secrets, inventions, works, and subject matter, developed or generated, will vest in Us upon creation and You will have no claim to or interest of any nature in such Intellectual Property.
- b. You assign to Us all existing and future rights in all Intellectual Property.

11. Indemnity

- a. You indemnify and hold Us and Our related entities, officers, agents and employees harmless from and against any and all claims, demands, proceedings, losses and damages of every kind and nature, known and unknown, including reasonable legal fees, made by any third party due to or arising out of Your breach of this Agreement, law or the rights of a third party.

12. Limitation of Liability

- a. To the extent permitted by law, We hereby exclude any liability for any injury, loss or damage, costs, charges or expenses incurred by You, or any third party sustains, arising from or in connection with this Agreement and including any act or omission by Us.
- b. You expressly agree that this release is intended to be as broad and inclusive as permitted by law. If any part of this Agreement is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. You acknowledge that the remainder of this Agreement has full force and effect and the

validity or enforceability of that provision in any other jurisdiction is not affected.

- c. Refunds strictly will not be provided for failure to comply with import duties, taxes, or regulations.

13.Termination

- a. We may terminate a Contract and/or this Agreement if:
 - i. You have breached a material term; or
 - ii. We have given notice to You of Your breach, which has not been remedied for 14 days.

14.Court Proceedings

- a. We may commence proceedings against You without notice in relation to any claims, causes of action, debts, dues, claims, damages, losses, costs, and expenses of any description We may have against You under this Agreement or at law.
- b. If proceedings are commenced, You agree you are liable for all associated costs, including solicitor costs (on a full indemnity basis).

15.General

- a. This Agreement is the entire agreement between Us and You.
- b. A right or obligation may only be waived in advance and in writing.
- c. Neither party may assign any right or obligation without the other party's prior written consent.
- d. This Agreement is governed by the laws of the Australian Capital Territory.
- e. To the extent any term of this Agreement is void, it is severed, and the balance of the Agreement remains binding and in effect.