

FYSIK. Co., Ltd ("FYSIK")  
General Terms and Conditions of Warranty, Sale and Delivery for FYSIK.

### **General Remarks**

These general terms and conditions of sale and delivery ("Terms of Sale") apply to your purchase of FYSIK products and services from FYSIK at [www.FYSIK.com](http://www.FYSIK.com) or via an official FYSIK sales partner. Together with the description of FYSIK products and services stated in your order, these Terms of Sale constitute the entire agreement between you and FYSIK for your purchase of FYSIK products. No amendment to these Terms of Sale shall be effective unless agreed upon in writing by you and FYSIK.

### **Prices and Delivery Costs**

Product and order prices are subject to discretion at the time of quotation and may change at any time. All orders submitted through the FYSIK Online Shop are based on the prices that are listed on our website at the time of your purchase. FYSIK reserves the right to list different prices for purchases in-store, via sales partners and in the Online Shop.

Unless expressly otherwise indicated in writing, our listed prices do not include the cost of transport, customs duty, import tax, delivery, special handling, storage, insurance and assembly.

The buyer shall report and pay any and all taxes (including any sales, use, excise or similar taxes) fees, duties and other charges imposed currently or in the future with respect to the purchase, shipment, delivery, installation, assembly, storage, or use of any of the products you purchase, and indemnify, defend and hold FYSIK harmless therefrom.

### **Payment Terms**

Unless otherwise agreed, for direct custom orders with a lead time of production, a 50% deposit of the total amount is required to confirm the order with the remaining 50% balance due at completion of the order, prior to shipment. All payments shall be made with bank transfer and in the currency agreed. For online orders at [www.fysik.com](http://www.fysik.com), all orders shall be paid at the time of purchase and prior to delivery, and all payments and other financial requirements under your order shall be in the currency of the United States and made by credit card. By submitting credit card information, you represent and warrant that you are at least eighteen years of age and have the legal authority to use the credit card that you submit for payment, and you authorize our use of such information in accordance with our Privacy Policy, including without limitation our provision of such information to third parties for the purposes of payment processing. Because FYSIK uses a third-party payment processor to process credit card payments on our behalf, when you supply payment information in connection with a purchase you agree that FYSIK is not responsible for the security of such information when it is in the control of the third-party payment processor.

### **Delivery; Transfer of Ownership**

Delivery will be made to the delivery address indicated on your order and via the transportation mode (air, ocean, ground) agreed upon at the time of purchase. For direct sales, the standard delivery terms are Delivered At Place (DAP), meaning that the seller delivers the goods at a named place of destination, but the buyer is responsible for unloading the goods and clearing them through customs. This means when the products have arrived at destination, the courier is not contracted nor obligated to bring the goods inside, upstairs, unpack and/or help with moving the package inside. For white glove delivery service, arrangements will have to be made prior to purchase and delivery with additional fees applies.

Delivery dates are only binding if FYSIK has expressly agreed to them in writing. Otherwise, any delivery dates indicated on the website or on any order or other document provided by FYSIK are estimates only. Delays in delivery do not entitle you to refuse to accept the product, to cancel your order or to claim damages. Partial deliveries are permitted and do not entitle you to refuse to accept the product.

You will be contacted by FYSIK or a third party engaged by FYSIK prior to delivery in order to set the delivery time.

If FYSIK or the third party engaged by FYSIK is not able to deliver your order at the time agreed with you to make the delivery because the delivered product(s) do not fit into any entrance, doorway or stairs, because you are not present at the agreed time or you otherwise refuse delivery, you will be required to bear all costs incurred in connection with any subsequent transfer, restocking, storage and delivery of the product(s).

If FYSIK is unable to contact you for delivery of the product(s), they will be returned to the place of origin and all costs associated will be at the expense of the buyer.

### **Benefit and Risk**

Benefit and all risk of loss or damage to any product you order passes to you when the product is delivered to you.

### **Product Inspection, Acceptance and Returns**

FYSIK products must be checked upon delivery without delay to ensure they are complete and free of defects. You must provide written notice to FYSIK within fourteen (14) days of delivery of any incorrect deliveries, missing parts or defects which are ascertainable by reasonable inspection.

If such notification is not given in a timely manner, you will be deemed to have accepted the FYSIK products and you will be conclusively deemed to have waived all such claims and complaints other than claims covered by the FYSIK product warranty then in effect.

In the event of any defect, you shall retain the broken or damaged product and its original packaging for inspection by FYSIK. The basis for acceptance of the warranty claim for consideration is written or, alternatively, via e-mail, to the following address: info@fysik.com, warranty claim by the Purchaser containing: product name, date of purchase, detailed description of the defect or damage along with additional information concerning the creation of a defect or damage to the product, good resolution photos depicting the defect or damage, the form of the expected compensation. The faulty product needs to be delivered to the Guarantor's premises at the Ordering Party's expense. After the repair/replacement, the product shall be delivered to the Ordering Party at the Guarantor's expense.

### **Limited Warranty, Exclusive Remedies and Disclaimer:**

#### **A. Limited Warranty.**

FYSIK WARRANTS THAT THE MATERIAL AND WORKMANSHIP OF THE PRODUCTS WILL CONFORM TO FYSIK'S PUBLISHED PRODUCT SPECIFICATIONS IN EFFECT ON THE DATE OF DELIVERY TO YOU FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF DELIVERY.

THIS LIMITED WARRANTY DOES NOT COVER:

1. SURFACE CONDITIONS, NORMAL WEAR AND TEAR, NEGLIGENCE, ACCIDENTS, ACTS OF GOD, ACTS OF TERRORISM, DAMAGE IN TRANSIT, ABUSE, IMPROPER MAINTENANCE OR STORAGE, OR ANY ADDITION OF OR COMBINATION WITH YOUR OWN MATERIALS AFTER PRODUCT INSTALLATION;
2. DAMAGES RESULTING FROM THE ASSEMBLY, INSTALLATION, REPAIR, RECONFIGURATION OR ALTERATION OF THE PRODUCT OTHER THAN BY FYSIK OR A FYSIK AUTHORIZED PERSON, OR THE PRODUCT NOT BEING USED IN ACCORDANCE WITH FYSIK INSTRUCTIONS;
3. MINOR DEVIATIONS IN THE CONSTRUCTION, COLOR OR MATERIAL USED OR FROM THE SPECIFICATIONS PUBLISHED ON THE INTERNET OR ELSEWHERE (ESPECIALLY WITH REGARD TO SURFACES);
4. NATURAL VARIATIONS TO COLOR, GRAIN OR TEXTURE OF WOOD, METAL OR OTHER MATERIAL OVER WHICH FYSIK HAS NO CONTROL;
5. THE MATCHING OR COMPATIBILITY OF COLOR, GRAIN OR TEXTURE UNLESS EXPRESSLY AGREED TO BY FYSIK IN WRITING.

#### **B. Exclusive Remedies.**

IN CASE OF BREACH OF WARRANTY OR ANY OTHER DUTY RELATED TO THE QUALITY OF THE PRODUCTS AND SERVICES DELIVERED BY FYSIK, YOU SHALL PROMPTLY NOTIFY FYSIK AND MAKE SUCH PRODUCT AVAILABLE FOR CORRECTION. FYSIK SHALL, AT ITS OPTION, REPAIR OR REPLACE THE DEFECTIVE PRODUCT. IF FYSIK DETERMINES THAT A DEFECTIVE PRODUCT CANNOT BE REPAIRED OR REPLACED WITHIN A REASONABLE PERIOD OF TIME, YOU WILL RECEIVE A REDUCTION IN THE PRICE OR, IN THE CASE OF SERIOUS DEFECTS, A REFUND OF THE PRICE THAT YOU ACTUALLY PAID TO FYSIK FOR SUCH PRODUCT. THE FOREGOING ARE YOUR EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY OR ANY OTHER DUTY RELATED TO THE QUALITY OF THE PRODUCTS AND SERVICES DELIVERED BY FYSIK.

#### **C. Disclaimer.**

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION OR EXCEPT AS MAY BE OTHERWISE PROHIBITED BY APPLICABLE LAWS, ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE PRODUCTS, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY FYSIK OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE) ARE HEREBY EXCLUDED AND DISCLAIMED.

### **Limitation of Liability and No Consequential Damages**

FYSIK'S LIABILITY FOR ANY CLAIM OF ANY KIND, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE FOR ANY EXPENSE, INJURY, LOSS OR DAMAGE

ARISING OUT OF OR IN CONNECTION WITH THE DESIGN, MANUFACTURE, SALE, DELIVERY, INSPECTION, ASSEMBLY, INSTALLATION, MAINTENANCE, REPAIR, APPLICATION OR USE OF ANY PRODUCT FURNISHED TO YOU HEREUNDER SHALL IN NO CASE EXCEED THE PURCHASE PRICE OF THE PRODUCT WHICH GIVES RISE TO THE CLAIM.

UNDER NO CIRCUMSTANCES SHALL FYSIK BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON YOUR CLAIMS, ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. SOME JURISDICTIONS DO NOT ALLOW EXCLUSIONS OR LIMITATIONS OF LIABILITY AND CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT COMPLETELY APPLY TO YOU.

#### **Data Privacy**

The FYSIK Privacy Policy ("Privacy Policy") is a part of these Terms of Use and is incorporated herein by this reference. By accepting these Terms of Use you agree to the collection and use of your information as described in the [Privacy Policy](#) on our website.

#### **Force Majeure**

FYSIK shall not be liable for any loss or damage as a result of any failure to perform or any delay in delivery or installation due to any cause beyond FYSIK's control, including but not limited to acts of God, strikes or other labor difficulties, disruption of operations, natural disasters, war, epidemics, governmental acts or orders or transportation.

#### **Indemnification**

If (a) a product is subjected to, or a claimed defect thereof arises as a result of, accident, misuse, neglect, alteration, unauthorized relocation, improper repair or maintenance, failure to install, or removal of safety devices provided or required by FYSIK or any other act or omission by you; or (b) a product is installed, maintained or used contrary to FYSIK's instructions or recommendations; or (c) a change is made to any FYSIK trademarks located on the product, then you agree to indemnify, defend, and hold FYSIK, its affiliates and business partners and each of their respective directors, officers, employees, contractors and agents harmless from and against any and all claims of any kind whether based on contract, tort (including negligence or strict liability), or otherwise, for any losses, expenses (including reasonable attorneys' fees), damages, and liabilities, whether direct, indirect, special, incidental or consequential, which may arise out of the use or misuse of such product, except those caused solely by defects in materials or workmanship, or by the sole negligence of FYSIK.

#### **Partial invalidity**

Should any provision of these Terms of Sale be or become ineffective, invalid or unenforceable, the validity or enforceability of the other provisions shall not be affected. In such a case, the parties shall agree on a valid and enforceable provision that is as close as possible in its economic equivalent to the ineffective, invalid or unenforceable provision.

#### **No Assignment:**

You may not assign your rights hereunder without FYSIK's prior written consent.

Matters not addressed in the above warranty conditions shall be governed by the provisions of the Civil Code.

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