

FABCO PLASTICS WHOLESALE (ONTARIO) LIMITED

(herein referred to as "Fabco")

**TERMS AND CONDITIONS OF SALE**

1. **Warranty** – Fabco warrants that the goods supplied will be free from defects in workmanship by Fabco for a period of one (1) year from date of shipment. Fabco will not be responsible for any defects in workmanship or materials attributed to defects, errors or omissions in any drawings, specifications, plans or descriptions whether written or oral, supplied to Fabco by the Buyer. Fabco does not warrant and shall have no liability whatever for defects in goods manufactured by third parties except only to assign to Buyer any warranty which Fabco may have with respect to such goods to the extent that such warranty is assignable by Fabco. Fabco assumes no responsibility for any defects that are attributable to moulds supplied by Buyer. Orders are accepted with the understanding that moulds are in suitable working condition for regular production.  
THE FOREGOING WARRANTY IS THE SOLE WARRANTY OF FABCO AND FABCO HEREBY DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS EITHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
2. **Limitation of Liability** – Fabco's liability shall be limited, at Fabco's option, after the return of the goods to its plant, to repair or replace the goods at Fabco's expense or to credit buyer with the selling price of the goods. Neither Fabco nor Buyer shall be liable to the other for special, indirect, incidental or consequential damages or damages for loss of use arising directly or indirectly from any breach of contract, fundamental or otherwise, or from any tortious act or omission, and in no event shall Fabco's liability exceed the unit price of the defective item. For greater certainty and without restricting the generality of the foregoing, Fabco shall have no liability for any claim based upon the combination, operation or use of goods supplied hereunder with goods not supplied by Fabco or as a result of the alteration or modification of any goods supplied hereunder.
3. **Shipment** – Promised shipping dates are approximate and are not guaranteed and are from the point of manufacture. Fabco will not be liable for any loss, damage or delay in manufacture or delivery resulting from causes beyond its control including, but not limited to, war, fire, strikes, lockouts or other labour difficulties. In the event of any such delay, delivery shall be extended for a period equal to the time lost by reason of that delay. Unless otherwise specified Buyer will pay for any special packing and shipping requirements. Acceptance of material by common carrier constitutes delivery to Buyer. Fabco shall not be responsible for goods damaged or lost in transit.
4. **Prices** – All prices are F.O.B. Fabco Plant unless otherwise specified and all taxes and duties are extra where applicable. Unless otherwise specified, prices quoted are firm for 30 days.
5. **Orders** – Orders cannot be cancelled except upon terms that will compensate Fabco against loss.
6. **Termination** – Fabco may, by notice, terminate the order if Buyer becomes bankrupt or insolvent or fails to perform any obligation hereunder.
7. **Terms of Payment** – Net 30 Days on open credit accounts, 2-1/2% interest per month charged on all overdue accounts.
8. **Customer's Property** – Fabco is not liable for any loss, damage, or wear, caused to any moulds or other property of Buyer by fire, water leakage, theft, negligence, or any other cause whatsoever and all such property is a Buyer's sole risk.
9. **Title** – The risk of loss and title to goods shall pass to Buyer on shipment.
10. **Returns** – No item may be returned without Fabco's prior written authorization and is subject to a 25% re-stocking charge. Returns may not exceed 10% of original order quantity. Custom-fabricated or special order items may not be returned. Returned goods must be in new and saleable condition and be shipped transportation prepaid.
11. **Taxes** – Buyer shall be responsible for the payment of all taxes and duties. Prices quoted are subject to increase or decrease to reflect changes prior to delivery of the goods.
12. **Assignment** – Buyer may not assign this order without the prior written approval of Fabco.
13. **Order of Precedence** – In the event of any inconsistency or conflict between any of these terms and conditions and the contents of any other document these terms and conditions shall take precedence.
14. **Indemnity** – Buyer shall indemnify and keep Fabco harmless from all actions, suits, claims, and demands arising out of allegations of infringement of patent, copyright, industrial design or any other proprietary right resulting from compliance with Buyer's designs, specifications or instructions.
15. **Contract** – This contract is to be governed by the laws of the Province of Ontario, Canada.
16. **Lien** – All moulds or other property of the Buyer in the possession of Fabco are subject to a lien and may be retained by Fabco as security for any unpaid amount.