

## QUOTATION TERMS AND CONDITIONS

**RETURNS:** U.P. Concrete Pipe Company may, but is not obligated to, take return of the pipe and related products wrongfully rejected by Buyer. If Buyer returns rejected concrete pipe and related products in their original condition, U.P. Concrete Pipe Company may credit 80 percent of the net sales price. If U.P. Concrete Pipe Company picks up the wrongfully rejected concrete pipe and related products in their original condition, it may credit 60 percent of the net sales price. If the wrongfully rejected concrete pipe and related products are not in their original condition, U.P. Concrete Pipe Company may adjust its credit to the value it appraises, in good faith. All other sellers' rights and remedies provided by law or contract are reserved.

**NO WARRANTY AS TO ACCURACY OF ITEMS OR QUANTITIES:** This quote is being issued based upon specifications, estimates of quantity and engineering done by others than U.P. Concrete Pipe Company. U.P. Concrete Pipe Company is relying on their accuracy in preparing this quote. It is the contractor's responsibility to review all plans, specifications, and engineering to be sure that the product types and quantities are, in fact, accurate. **U.P. Concrete Pipe Company assumes no responsibility for and specifically disclaims any implied warranties of merchantability or fitness for a particular use.** U.P. Concrete Pipe Company does not warrant that all quantities as needed are included. Items may be missing.

**FORCE MAJEURE:** The delivery of products and prices quoted or accepted are subject to the limitation that U.P. Concrete Pipe Co.'s obligations are excused to the extent of circumstances beyond its control. Such circumstances would include, without limitation, strikes, national emergencies, natural disasters, governmentally imposed restrictions, rationing or outright bans, or any other circumstance beyond U.P. Concrete Pipe Co.'s control which would make U.P. Concrete Pipe Co.'s performance materially more burdensome, expensive, difficult, or impossible. Under such circumstances, U.P. Concrete Pipe Co.'s obligation to deliver materials, and its obligation to deliver them at prices quoted before the force majeure. Under such circumstances, BUYER would be responsible to pay the agreed upon prices for any materials actually delivered and accepted by BUYER, and the remainder of the contract would be deemed null and void.

**TIME SENSITIVE PRICING:** WHEN U.P. Concrete Pipe Co. submits fixed price bids for materials, its quotes will have specific deadlines which must be met in order to insure that the prices remain fixed. In the event such deadlines are not met, any cost increases incurred by U.P. Concrete Pipe Co. will be added to the cost of the material, and the BUYER agrees to pay such additional costs.

**LATE PAYMENT:** Buyer must pay in full the amount of each statement within terms stated after receiving U.P. Concrete Pipe's invoice. The amount billed is the cash price. If Buyer pays later than thirty days after receiving a statement, Buyer must pay a time-price differential calculated at the rate of 1.5 percent per month of the balance from the due date until paid.

**EXCLUSIVE LIMITED WARRANTY:** U.P. Concrete Pipe Company warrants to any direct purchaser of U.P. Concrete Pipe products that goods manufactured by it are free from manufacturing defects of any kind for 90 days after delivery. This express warranty is the sole and exclusive warranty applicable to any sale. **THIS EXPRESS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR USE.** Under no circumstances shall U.P. Concrete Pipe Company, Inc.'s liability exceed the purchase price of goods manufactured by it. If circumstances are found to have caused U.P. Concrete Pipe Company, Inc.'s exclusive warranty to have failed of its essential purpose, then U.P. Concrete Pipe Company, Inc.'s liability for damages shall not exceed the purchase price of goods manufactured by it.

**EXCLUSION OF WARRANTIES REGARDING GOODS MANUFACTURED BY OTHERS:** U.P. Concrete Pipe Company also distributes goods manufactured by others. With respect to such goods, U.P. Concrete Pipe Company agrees to assign all right, title and interest in warranties, if any, that may be extended by the manufacturer or distributor of such products to U.P. Concrete Pipe Company. If such manufacturer or distributor extends warranties directly to the ultimate purchaser, then U.P. Concrete Pipe Company does not extend any warranty or transfer any warranty relative to such goods. Any assignment of a manufacturer's warranty is subject to any terms including exclusions, limitations or conditions contained in such other manufacturer's warranties, including any exclusions of warranties of merchantability or fitness for a particular use. **U.P. CONCRETE PIPE COMPANY SHALL BE DEEMED TO HAVE EXTENDED NO EXPRESS WARRANTIES RELATIVE TO GOODS MANUFACTURED BY OTHERS, AND U.P. CONCRETE PIPE COMPANY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE RELATIVE TO GOODS MANUFACTURED BY OTHERS.** Under no circumstances shall U.P. Concrete Pipe Company's liability exceed the purchase price of the goods manufactured by others. If circumstances are found to have caused U.P. Concrete Pipe Company's disclaimers of warranties relative to goods manufactured by others to be partially or totally invalid, U.P. Concrete Pipe Company, Inc.'s liability shall not exceed the purchase price of such goods manufactured by others.

**LIMITATIONS ON LIABILITY AND DAMAGES:** U.P. Concrete Pipe Company's liability for breach of its express warranty is limited to repair or replacement of any defective goods at U.P. Concrete Pipe Company's sole option. Under no circumstances shall U.P. Concrete Pipe Company's liability include incidental or consequential damages of any kind, including, but not limited to, damages arising out of delay, repair or replacement expenses, lost profits, or any other incidental or consequential damages. If, and only if, circumstances are found to have caused U.P. Concrete Pipe Company's exclusive warranty to have failed of its essential purpose, then, and only then, U.P. Concrete Pipe Company's liability for damages shall not exceed the purchase price of the goods manufactured by it. Under no circumstances shall U.P. Concrete Pipe Company, Inc.'s liability exceed the purchase price of any defective goods.

**ACCEPTANCE:** By accepting this Quotation, Buyer agrees to the terms and conditions herein which shall prevail over any inconsistent provisions in any form or other paper submitted by Buyer. The terms of this Quotation shall constitute the entire agreement between the parties unless modified in writing by U.P. Concrete Pipe Company. Any additional terms or conditions contained in any acknowledgement of this order by Buyer shall be deemed objected to by U.P. Concrete Pipe Company without need of further notice of objection, and shall be of no effect nor under any circumstances binding upon U.P. Concrete Pipe Company unless accepted by U.P. Concrete Pipe Company in writing. Acceptance of this order must be without qualification. All shipments are made pursuant to this agreement. By accepting the goods, Buyer agrees to U.P. Concrete Pipe Company's terms and conditions of sale contained in this offer.

This quote is not an offer to sell. If contractor wishes to reach an agreement with U.P. Concrete Pipe Company, the latter shall have the right, even if the quote contained herein is acceptable, to accept or reject any purchase order or offer. Any purchase order or contract offer must and will be deemed to include the terms and conditions stated on the face and reverse side of this quote. Any additional terms or conditions contained in any acknowledgement of this order by Buyer shall be deemed objected to by U.P. Concrete Pipe Company without need of further notice of objection, and shall be of no effect nor under any circumstances binding upon U.P. Concrete Pipe Company unless accepted by U.P. Concrete Pipe Company in writing.

**ENTIRE AGREEMENT:** No agreement or other understanding purporting to add or modify the terms and conditions hereof shall be binding upon U.P. Concrete Pipe Company unless agreed to by U.P. Concrete Pipe Company in writing on or subsequent to the date of this Quotation.