

Brother Plumbing Supply Inc., DBA **AguaPLUMBING SUPPLY**

Website: www.agua@plumbingsupply.com  
10816 Fawcett Ave., S El Monte CA 91733  
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**CREDIT APPLICATION**

**Confidential Customer Information:**

Company Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Customer Name: \_\_\_\_\_  
Bill-To Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ / Email: \_\_\_\_\_  
Business Is  Corporation  Partnership  Sole Proprietorship  LLC  
Are you a licensed contractor? Yes  No Contractor's License #: \_\_\_\_\_ State: \_\_\_\_\_

**How Do You Find Out About Agua Plumbing Supply?**

Referral  Drove By  Yellow Pages  Advertisement  Yield  Search Online  
Other: \_\_\_\_\_

**Contacts:**

Owner/Officer Name #1: Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Home Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Social Security #: \_\_\_\_\_ Driver's License #: \_\_\_\_\_  
Owner/Officer Name #2: Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Home Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Social Security #: \_\_\_\_\_ Driver's License #: \_\_\_\_\_  
All invoices and statements will be sent via email unless otherwise requested  
Account Payable Contact: \_\_\_\_\_ Email: \_\_\_\_\_  
Sales Tax Exemption #: \_\_\_\_\_ (Please Attach an Exemption Certificate)  
Purchasing: \_\_\_\_\_ P.O. Needed?  Yes  No Job Name Needed?  Yes  No

**Suppliers:**

Name:	Name:
Address:	Address:
Phone: Fax:	Phone: Fax:

**Bank:**

Bank Name: \_\_\_\_\_ Contact: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Account #: \_\_\_\_\_  Checking  Saving

## **TERMS AND CONDITIONS**

1. GENERAL. The Seller ("Seller") and the Purchaser ("Buyer") agree that the following terms and conditions apply to the materials, goods and/or products (the "Goods") listed on the front of this agreement "Agreement") or subsequently ordered pursuant to this Agreement.
2. ACCEPTANCE/SOLE TERMS. This order is expressly conditioned upon Buyer's acceptance to these terms. Buyer is on notice that no terms additional to or deviating from these terms shall become part of the order, unless and until letter acceptance of such additional or deviating terms, signed by an officer of Seller has been issued to Buyer. Buyer's acceptance of any goods supplied by Seller shall constitute acceptance of Seller's terms. If Buyer retains possession of the Goods for a period of ten (10) days or longer after the receipt of their shipment or makes use of the Goods at any time after their receipt, Buyer shall be deemed to have expressly assented to Seller's foregoing terms without condition or qualification, and in so doing, Buyer shall have confirmed its express intention to waive any conditions or qualifications on Buyer's acceptance of Seller's offer.
3. PRICE. All prices are as stated. No discount will be allowed unless specifically set forth on the face side hereof. Buyer agrees to pay a delinquency charge of 1-1/2% per month or if such rate shall exceed the maximum rate allowed by applicable law, then a delinquency charge calculated at such maximum rate on the outstanding balance not paid when due, from the date such balances were due until payment with respect thereof is made in full. If, in Seller's opinion, the financial condition of the Buyer at any time does not justify continuance of production or shipment on the terms of payment specified. Seller may require full or partial payment in advance. Terms or payment are those appearing on the reverse side of the invoice.
4. WARRANTY/REMEDY. Seller warrants that the materials, Goods manufactured by it will be free from defects in material and workmanship for ninety days (90) following the date of shipment THE FOREGOING WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE NOT EXPRESSLY STATED HEREIN, ARE HEREBY EXCLUDED. NO AFFIRMATION OR SELLER, BY WORDS OR ACTION, OTHER THAN AS SET FORTH IN THIS WARRANT CLAUSE SHALL CONSTITUTE A WARRANTY. GOODS WHICH MAY BE SOLD BY SELLER, BUT WHICH ARE NOT MANUFACTURED BY SELLER ARE NOT WARRANTED BY SELLER, BUT ARE SOLD ONLY WITH THE WARRANTIES ISSUED, IF ANY, OF THE MANUFACTURERS THEREOF. Seller's warranty does not apply to any Goods which have been subjected to misuse, mishandling, misapplication, neglect, accident, improper installation or modification (including but not limited to use of unauthorized parts or attachments).
  - a. If any of the goods are found by Seller to be defective, such Goods will, at Seller's option, be replaced or repaired at Seller's cost or Seller will refund the purchase price or give Buyer a reasonable allowance thereof. The parties hereto expressly agree to Buyer's sole and exclusive remedy against the Seller shall be for the repair or replacement of the defective Goods or the refund of the purchase price or allowances thereof. Buyer hereby agrees that this exclusive remedy shall not be deemed to have failed of its essential purpose so long as the Seller is willing and able to repair or replace defective Goods in the prescribed manner or refund the purchase price or give Buyer an allowance thereof.
  - b. Any warranty claim by Buyer with reference to the Goods sold hereunder shall be deemed waived by the Buyer unless submitted in writing to Seller with the earlier of (i) 30 days following the date Buyer discovered, or by reasonable inspection should have discovered, any claimed breach of the foregoing warranty, or (ii) 90 days following the date of shipment. Any cause of action for breach of the foregoing warranty shall be brought within one year from the date of alleged breach was discovered or should have been discovered, whichever occurs first.
  - c. Seller's remedies relating hereto shall be cumulative and in addition to any other remedies provided herein or by law or in equity.
5. LIMITATION OF LIABILITY. SELLER'S LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR STRICT LIABILITY) FOR ITS GOODS SHALL BE LIMITED TO REPAIRING OR REPLACING (AT SELLER'S OPTION) GOODS FOUND BY SELLER TO BE NONCONFORMING, OR AT SELLER'S OPTION, TO REFUNDING THE PURCHASE PRICE OF THE NON-CONFORMING GOODS. At Seller's request, Buyer will send at, Buyer's sole expense, any allegedly defective Goods to Seller's plant.
6. DISCLAIMER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES. IN NO EVENT SHOULD SELLER BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT INCLUDING WITHOUT LIMITATION BREACH OF ANY OBLIGATION IMPOSED ON SELLER HEREUNDER OR IN CONNECTION HEREWITH. THE REMEDY UNDER THE WARRANTY PROVISION IS LIMITED TO REPAIR OR REPLACEMENT. Consequential damages for purposes hereof shall include, without limitation, loss of use, income or profit or losses sustained as the result of injury (including death) to any person or loss of or damage to property (including without limitation, property handled or processed by use of the goods). Buyer shall indemnify Seller against all liability, cost or expense which may be sustained by Seller due to any such loss, damage or injury.
7. ACCEPTANCE OF GOODS, DELIVERY AND TRANSPORTATION. Upon buyer's receipt of shipment, buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice of any claim or shortages of or defects in the Goods eight (8) hours after receipt of shipment, such Goods shall be deemed finally inspected, checked and accepted by Buyer. In the absence of shipping and packing instructions, Seller shall use its own discretion in choice of carrier and method of packing. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance so requested shall be at Buyer's expense and valuation.
8. TITLE AND RISK OF LOSS. Title to any Goods sold and risk of loss of such Goods passes to Buyer upon delivery by Seller to carrier, and any claims for losses or damage shall be made by Buyer directly to carrier.
9. CREDIT TERMS. All orders and shipments shall be subject to the approval of the Seller's Credit Department. The Seller reserves the right to decline to make shipment whenever, for any reason, there is doubt as to Buyer's financial responsibility and Seller shall not in such event be liable for breach or nonperformance of this contract in whole or in part.
10. SECURITY INTEREST. To secure prompt payment of the purchase price for the goods identified on the face hereof. Buyer hereby grants to Seller a purchase money security interest in the goods purchased from Seller and all proceeds thereof (the "Collateral"). Buyer agrees to execute and deliver to Seller USS financing statements, together with all other documents, and shall take such other action, as may be required to perfect Seller's security interest in the Collateral.
11. COSTS OF COLLECTION. If, at any time or times, Seller incurs legal expenses or other costs of expenses in connection with: (i) any litigation, contest, suit, dispute, proceeding or action in any way relating to the Collateral: (ii) any attempt by Seller to enforce any rights of Seller against Buyer or any other person which may be obligated to seller hereunder, or (iii) any attempt to inspect, verify, protect, preserve, restore, collect, sell, liquidate or dispose of the Collateral; then, in any such event, the expenses and costs (including reasonable attorney's fees) relating to any of the foregoing events or actions shall be payable by Buyer on demand to Seller and shall be considered additional obligations hereunder secured by the Collateral. Seller reserves the right to revoke any credit extended to Buyer at any time, because of Buyer's failure to pay for any goods when due or for any reason deemed good and sufficient by Seller.
12. TAXES. Any sales, use or similar taxes, export charges, fees or other levies, taxes or surcharges now or hereafter imposed in connection with the production, sale, delivery, use or proceeds of the goods herein specified (except for taxes on seller's net income) shall be payable by Buyer, and if such taxes or fees are paid or are required to be paid by Seller, the amount thereof shall be added to and become part of the price payable by Buyer hereunder, unless Buyer provides Seller with a valid tax exemption certificate.
13. PACKAGING. Prices stated are based on Seller's standard packaging. Special customer packaging will be furnished only when specified and so stated herein, and the cost thereof shall be borne by Buyer.
14. DELAYS. Unless expressly specified to the contrary, Goods in stock will be shipped immediately, and Goods not in stock will be shipped as soon as possible. However, all shipping dates are approximate, and are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. Seller will not be liable for any damage, loss, fault, or expenses arising out of delays in shipment or other nonperformance of this Agreement caused by or imposed by: (a) strikes, fires, disasters, riots, acts of God, (b) acts of Buyer, (c) shortages of labor, fuel, power, materials, supplies, transportation, or manufacturing facilities, (d) governmental action, (e) subcontractor or supplier delay including, but not limited to failure by subcontractor or supplier to make timely delivery, or (f) any other cause of condition beyond Seller's reasonable control. In the event of any such delay or nonperformance, Seller may, at its option, and without liability, cancel all or any portion of this Agreement and/or extend any date upon which any performance hereunder is due.
15. TERMINATION, CANCELLATION AND CHANGES. Orders cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's written consent and subject to reasonable charges for expenses incurred and work executed by Seller or its

suppliers. Purchase shall be obligated to accept any portion of the goods shipped or delivered by Seller pending Seller's written approval of cancellation. Orders for custom made material may not be cancelled after Seller has been in production unless Seller agrees in writing.

16. RETURNED PRODUCTS. Delivered Goods returned to Seller require prior written approval from seller before such goods will be accepted. Handling, inspection, restocking and invoicing charges will be assessed, if applicable, plus any outgoing packing and freight expenditures paid by Seller.

17. NO WAIVER. Forbearance or failure of Seller to enforce any of the terms and conditions stated herein, or to exercise any right accruing from default of Buyer, shall not affect or impair Seller's rights arising from such defaults; nor shall such forbearance or failure be deemed a waiver.

18. SEVERABILITY. If any provision of this Agreement is unenforceable or invalid, this Agreement shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof.

19. ASSIGNMENT. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of buyer and Seller provided, however, that buyer may not assign or transfer this contract, in whole or in part, except upon the prior written consent of Seller.

20. GOVERNING LAW. This Agreement shall be construed in accordance with and governed by the laws of the State of California without regard to its conflict of law provisions. All actions or proceedings arising directly or indirectly from this sale shall be litigated only in the courts of the State of California and venue shall lie exclusively in the courts located in the County of Los Angeles, State of California, and the parties hereby consent to the jurisdiction and venue of such courts.

21. ENTIRE CONTRACT. Upon Seller's acceptance of buyer's order, the terms and provision set forth herein shall constitute the entire agreement between Buyer and Seller and no statement, correspondence, sample or other terms shall modify or effect those terms.

**I, THE UNDERSIGNED DECLARE THAT THE ABOVE INFORMATION IS TRUE AND CORRECT AND AGREE TO ABIDE BY THE TRADING CONDITIONS OF THE COMPANY.**

\_\_\_\_\_  
**Signature:**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Print Name:**

\_\_\_\_\_  
**Date:**

**Personal Guarantee**

I hereby personally guarantee payment of all indebtedness now and hereinafter owing by the company, whether an individual, partnership, corporation, or either. In consideration of extending credit, I/We the undersigned, hereby individually and personally guaranty to pay all the sums of money that, at any time hereinafter, become due, whether said indebtedness be in the form of notes, bills open accounts, or any other form. Guarantor(s) also agree(s) to pay all service and interest charge at legal rate, together with attorney fees, collection costs, and court costs. Cancellation of this continuing irrevocable personal guaranty must occur by serving notice via certified mail, return receipt requested.

\_\_\_\_\_  
**Signature:**

\_\_\_\_\_  
**Title:**

\_\_\_\_\_  
**Print Name:**

\_\_\_\_\_  
**Date:**