



Vendor remit to:
Protherm Industries, Inc.
 P.O. Box 8446, Hermitage, TN 37076
 Phone: (615) 834-4044 Fax: (615) 834-5834

Order Our Products Online at
www.heatingelementsplus.com

Credit Application for NET 30 Day Account

Company Name: _____ Authorized Purchaser: _____

Address: _____ City & State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Business Type: _____ Individual Partnership Corporation

Federal ID #: _____ Tax Exemption #: _____ P.O. Required?: _____
(Copy of tax exemption certificate must be included)

Years in Business: _____ DUNS #: _____

President: _____ V.P. Finance: _____

Bank & Trade References

Bank: _____

Trade #1: _____ Phone: _____ Fax: _____

Contact Name: _____ Address: _____

City, State & Zip _____ Email Address: _____

Trade #2: _____ Phone: _____ Fax: _____

Contact Name: _____ Address: _____

City, State & Zip _____ Email Address: _____

Trade #3: _____ Phone: _____ Fax: _____

Contact Name: _____ Address: _____

City, State & Zip _____ Email Address: _____

All applications must be complete in full AND signed. The undersigned has given the above information for open account consideration and represents that said information is accurate and complete. The applicant agrees to pay for all goods and services rendered within the attached terms and conditions.

*I, the undersigned, authorize the above creditors to release all information needed to this vendor for credit approval.
 I, the undersigned, also give my personal guarantee for any debts incurred.*

Authorized Signature: _____ Date: _____

Title: _____

Purchase Order Terms & Conditions

1. Acceptance. Any previous correspondence, bid, or quote from Seller characterized as an offer is hereby rejected in full, and in such situations this Purchase Order constitutes Buyer's counter-offer.

This Purchase Order constitutes Buyer's offer to Seller upon the terms and conditions stated herein and shall become a binding contract to the terms and conditions set forth herein when it is accepted either by Seller's acknowledgment or performance.

This Purchase Order expressly limits acceptance to the terms and conditions stated herein. Any additional or different terms or conditions proposed by the Seller are objected to and hereby rejected. Any reference in this Purchase Order to Seller's quotation or proposal does not imply acceptance of any terms or conditions in that quotation or proposal. Upon acceptance, this Purchase Order shall constitute the entire agreement between Buyer and Seller. Except as provided in paragraph 2 hereof, this Purchase Order may not be altered or modified except in writing, duly executed by an appropriate representative of each party.

2. Changes. The quantities, prices, terms, conditions or other pertinent specifications of the Purchase Order shall not be changed except by Buyer's written authorization. Where the supplies to be furnished are to be specifically manufactured in accordance with drawings and/or specifications, Buyer may, at any time by written order make changes in (i) drawings, designs, or specifications, (ii) method of shipment or packing, and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or time required for performance of the work under this Purchase Order, an equitable adjustment shall be made in the contract price or delivery schedule or both. Seller shall not suspend performance of this Purchase Order while Buyer and Seller are in the process of making such adjustment. Seller shall submit its claim within thirty days from the date of receipt of notification of change unless said period is extended in writing by Buyer.

3. Specifications. If the blueprints and specifications are furnished by the Buyer, this Purchase Order shall be based upon such blueprints and specifications. Approval of samples by the Buyer shall not relieve the Seller from strict and full compliance with such blueprints and specifications. Articles or goods not conforming to such blueprints and specifications may be rejected. Where the cost of property, which has become obsolete or excess as the result of any change is included in Seller's claim for adjustment, the Buyer shall have the right to prescribe the disposition of such property. The foregoing rights of the Buyer are not exclusive and shall not limit Buyer's right to avail itself of any other remedy provided by this Purchase order, law or equity.

4. Payment Not Constituting Acceptance. Payment for any item on this Purchase Order shall not constitute approval or acceptance of such material by Buyer, and Buyer's right of inspection shall survive payment. Seller shall repay Buyer the purchase price of any material found to be defective, not to conform to specifications, drawings or samples or not shipped in accordance with Buyer's delivery schedule and returned to Seller. Rejected material shall be returned at the expense of Seller upon rejection, and Seller shall bear all risk of loss as to rejected material. Buyer may elect to retain rejected material and remedy any defects or nonconformity to specifications, drawings or samples. Cost of affecting such remedy shall be negotiated between the parties, and the price to be paid by Buyer shall be adjusted accordingly. The foregoing rights of the Buyer are not exclusive and shall not limit Buyers right to avail itself of any other remedy provided by this Purchase order, law, or equity.

5. Delivery - Inventory Control. Deliveries shall be strictly in accordance with the schedule set out or referred to in this Purchase Order and in exact quantities ordered unless otherwise stated in the Purchase order or the Supplier Agreement. The Seller will limit and phase expenditures, incurrence of costs, and purchases and subcontract commitments for raw materials and components in such fashion to ensure continuity of production, and permit performance and completion of each production increment in sequence without creating any unreasonable accumulation of raw materials or components for any production increments. Shipments in excess of quantities or in advance of scheduled delivery dates as shown herein are not to be made without Buyer's written approval. Buyer reserves the right to return, at Seller's expense, any shipments received contrary to these instructions. Costs of premium freight required by the Buyer on past due shipments shall be the responsibility of the Seller.

6. Packing and Marking The goods shall be packed by Seller to ensure safe and proper delivery of the goods to Buyer in an undamaged condition. Seller shall be responsible for any loss or damage. The goods shall also be marked and packaged by Seller in accordance with Buyer's instructions and specifications. A packing list shall be included with each shipment.

7. Risk of Loss. Risk of loss to the goods shall pass to the Buyer when delivered at the delivery point specified by Buyer.

8. Taxes. All taxes arising out of the transactions shall be borne by Seller except as otherwise described herein.

9. Warranty. Seller warrants clear title to the goods, free of any lien or encumbrance; and that all goods shall be new, merchantable, of high quality and workmanship and free from defects; shall conform strictly and in all respects with the terms hereof and with the drawings, designs, specifications, descriptions and samples identified in this Purchase Order, and shall be fit for the purposes intended if the purpose is known or reasonably should be known to Seller. These warranties shall run to Buyer, its successors, assignees, customers, and users of the goods. Seller agrees, at its own expense and whenever reasonably requested by Buyer, to furnish and deliver to Buyer satisfactory evidence showing that each of said drawings, designs, specifications, descriptions and samples have been fully and completely complied with and that the goods supplied hereunder fully and completely conform thereto. Seller agrees, at its cost, to immediately replace, repair, grant credit for, or make good, as requested by Buyer, any goods not conforming to the foregoing warranties. The foregoing rights of Buyer are not exclusive and shall not limit Buyer's right to avail itself of any other remedy provided by this Purchase Order, law, or equity.

10. Cancellation by Buyer. Buyer reserves the right to cancel this Purchase Order, or any part thereof, at any time, even though the Seller is not in default hereunder, by giving written notice to the Seller. In the event of such cancellation, Buyer shall pay for all goods and services delivered and completed. An equitable settlement shall be arrived at for cost incurred by Seller for goods and materials in process not to exceed the aggregate committed quantity and/or price specified in this Purchase Order. Where cancellation is by reason of termination of a contract of the United States Government under which this Purchase Order has been placed, Buyer will pay the Seller at such time as Buyer is paid by the United States Government. Upon receipt of any notice of cancellation hereunder, Seller shall, unless otherwise directed, immediately discontinue all work in progress and immediately cancel all orders or subcontracts given or made pursuant to this Purchase Order. Exercise by Buyer of the rights of cancellation reserved in this Paragraph shall give rise to no liability on the part of the Buyer except as specified in this Paragraph and shall not have the effect of waiving damages the Buyer might otherwise be entitled to.

11. Default. In the event of any bankruptcy or insolvency proceedings involving Seller, or in the event of the appointment of an assignee for the benefit of creditors or of a receiver, or if Seller is insolvent or fails to perform any provision of this Purchase Order, or so fails to prosecute the work as to endanger performance of this Purchase Order and does not cure such failure within a period of five (5) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure, Buyer may, by written notice to Seller, without any liability whatsoever and without prejudice to any other rights or remedies which Buyer may have under this Purchase Order or in law or equity, terminate, in whole or in part, further performance by Seller of this Purchase Order.

12. Intellectual Property The Seller hereby warrants that the goods purchased hereunder and the sale or use of them will not infringe any patent, trademark, service mark, trade secret or copyright. Unless otherwise specifically agreed to in writing, the Seller agrees to indemnify and hold harmless the Buyer, its successors, assignees, and customers and users of its products against any and all loss, damage, liability, costs and expenses including, without limitations, reasonable attorney's fees which may be incurred as a result of or in defending or settling any suit, claim, judgment or demand involving infringement of any patent, trademark, service mark, trade secret or copyright by the sale or use of the goods purchased hereunder. The Seller agrees that it will, when so requested, provided it is given reasonable notice of the pendency of any such claim or demand, assume the defense of the Buyer, and/or its successors, assignees and customers, and users of its products against any such aforementioned suits, claims or demands.

13. Indemnification. Seller agrees to protect, defend, hold harmless and indemnify Buyer from and against any and all loss, damage, liability, cost and expense including, without limitation, reasonable attorneys fees which result from any alleged or claimed defect in goods purchased hereunder, whether latent or patent, including allegedly improper construction and design, or from the failure to such goods to comply with specifications, or with any express or implied warranties of Seller or arising out of the alleged violation of any statute, ordinance, administrative order, rule or regulation connected with the manufacture or sale of such goods, including but not limited to the Federal Occupational Safety and Health Act of 1970, as amended. At Buyer's request, Seller shall obtain and maintain during the life of this agreement at its expense, product liability insurance, with a vendor's endorsement in such form and amount, and in such company, as may be approved by Buyer in writing. Satisfactory evidence of such insurance shall be submitted to Buyer upon request. For the purpose of this paragraph, "goods" shall be deemed to include any packaging supplied by Seller.

14. Assignment. This Purchase Order or any portion of this Purchase Order or any duty or right herein or any claim arising hereunder shall not be assigned by the Seller without the prior written consent of the Buyer. Nor may this Purchase Order be assigned by operation of law or a merger or judicial sale or otherwise, without the prior written consent of Buyer. Any unauthorized assignment or attempted assignment by Seller shall constitute a material breach of this agreement. This Purchase order may be assigned by Buyer.

15. Sub-Contracting. Seller shall not sub-contract all, or substantially all of the work of the work of this Purchase Order without written approval of Buyer, with the exception of procurement of raw materials or standard commercial parts.

Continued on next page...

Purchase Order Terms & Conditions - Continued

16. Waivers. Failure of Buyer or Seller to insist on performance of any of the terms and conditions or requirements of this Purchase Order shall not be construed as a waiver of such terms, conditions, or requirements and shall not affect the right of either party thereafter to enforce each and every term, condition, or requirement hereof.

17. Labor Disputes. Neither party shall be held responsible for any delay or failure in performance hereunder caused by acts of God, war, riots, fire, explosion, flood, strike, lock-out, injunction, governmental laws or regulations, or any other cause beyond the control of such party, preventing the manufacture, shipment, acceptance, or use of the goods; provided that, the party who is affected or threatened by such event immediately notifies the other party of the nature and estimated effect upon its performance hereunder.

At Buyer's option, the period specified for delivery of goods hereunder shall be extended by the period of delay occasioned by any such cause, and deliveries omitted shall be made during such extension, or the total quantity shall be reduced by the deliveries affected by the suspension of such performance, but the balance of the Purchase Order shall otherwise remain unaffected. Buyer shall have the option to terminate this Purchase Order without liability to Seller if the period of suspension exceeds or is expected to exceed thirty (30) days. In the event of allocation by Seller as a result of the foregoing, Seller shall allocate its total available supply of goods among Buyer and Seller's regular customers on a fair and equitable basis.

18. Compliance With Laws. Seller represents and warrants that no applicable national, state, or local laws or regulations have been or will be violated in the manufacture, sale or delivery of goods sold or services provided. Seller further agrees to comply, when applicable, with the provisions of the U.S. Fair Labor Standards Act of 1938, and all amendments thereof, and Subparagraphs 1 through 7 Section 202 of Executive Order 11246, and the applicable provisions of 41 C.F.R. Chapter 60, the texts of which are hereby incorporated by reference. If any of the goods hereunder are purchased for incorporation into products sold under a Government contract or subcontract, the terms required to be inserted by that contract or subcontract shall be deemed to apply to this order. All certification requirements specified in the contract or of which the Seller has knowledge shall be complied with. Seller agrees to furnish Buyer a certificate of compliance with any such laws and certification requirements in such form as may be requested by Buyer.

19. Right of Entry. Buyer reserves the right to enter Seller's facilities, and that of their sub-tier suppliers to review parts, processes, tooling, equipment, and related paperwork with adequate notice to Seller for review of contracted work. This right will be extended also to Buyer's customers and the Government under Federal Acquisition Regulations, based upon requirements by said parties to review pertinent information.

20. Occupational Safety & Health Act. All items supplied under the terms of this Purchase Order shall be certified by Seller to be in compliance with requirements and standards of the Federal Occupational Safety & Health Act of 1970, as amended. In addition, where required, hazardous material data sheets will be supplied on all applicable products. Failure to Buyer to contest a citation resulting from non-compliance of these items will not relieve the Seller of liability under this warranty.

21. Remedies. No remedy herein provided shall be deemed exclusive of any other remedy allowed by this Purchase Order, law or equity.

22. Proprietary Rights. Seller agrees that Buyer's designs, specifications, formulas, and manufacturing information are proprietary data and shall not be utilized for purposes other than those intended in the Purchase Order.

23. Buyer-Owned Property. Unless Buyer and Seller otherwise agree in writing, the following provisions shall apply to any tools, tooling, patterns, equipment, materials or other properties used in the manufacture of goods for Buyer, or in the performance of this Purchase Order, that are either supplied to Seller by Buyer, or have been acquired by Seller and specifically paid for by Buyer. All such properties shall hereafter be referred to as Buyer-owned.

a) Seller shall have the right to use Buyer-owned property without payment for usage as required in the performance of this Purchase Order or other work for Buyer, but shall not use Buyer-owned property in the performance of any other work without prior written approval of the Buyer. Title to all Buyer owned property shall at all times remain with Buyer. Title to such property that is procured or manufactured by Seller for Buyer shall be fully vested in Buyer upon payment for same by Buyer.

b) Seller shall take necessary measures to preserve Buyer's title to Buyer-owned property, free of all encumbrances. Buyer retains the right, in addition to other rights provided by law, to enter Seller's premises and remove Buyer-owned property with or without a court order.

c) Seller shall, on written request of Buyer, properly pack and ship Buyer-owned property to such destination as designated by Buyer.

d) Seller shall at its expense, perform all maintenance work, repairs, and replacements necessary with respect to applicable Buyer-owned property so that such property remains suitable for the use intended.

e) The risk of loss or damage to all Buyer-owned property shall be left with Seller from the time that such property is delivered to Seller until that property is removed from Seller's place of business as directed by Buyer in writing. Proof of adequate insurance coverage on Buyer-owned property shall be provided to Buyer by Seller upon written request of Buyer.

f) Buyer shall not be liable for loss, damage, detention or delay resulting from causes beyond its control with respect to any Buyer-owned property to be delivered to Seller by Buyer.

g) Seller shall assume and shall protect, defend, hold harmless and indemnify Buyer against any and all liability, including reasonable attorneys fees, for damaged property or injury to, or death of any persons arising, from or incidental to the presence of, or use of Buyer-owned property, whether such damage, injury or death is caused by defects in the property, negligence in the use thereof, or otherwise.

f) Seller shall, upon receipt of written request, provide Buyer with a current listing of Buyer-owned property in its or its subcontractor's possession, indicating complete descriptions, quantities, and property conditions.

24. Chemical Substances. Seller warrants that each chemical substance sold hereunder shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the Administration of the Environmental Protection Agency pursuant to 15 U.S.C.A. Section 2607.

25. Price. This order may not be filled without Buyer's consent at a higher price than last requested by or charged by seller. If the price is not stated in this order, it is agreed that the goods shall be billed at the price last requested, or billed at the prevailing market price, whichever is lower.

26. Delivery Terms. Unless otherwise stated in the Purchase order or the Supplier Agreement, delivery term shall be F.O.,B Buyer's facility. Title, risk of loss and damage responsibility to insure shall pass from Seller to Buyer upon delivery at Buyer's facility.

27. Payment Terms. Unless otherwise stated in the Purchase Order or Supplier Agreement, payment shall be Net 30 from the date the goods are received at Buyer's facility.

28. Governing Law and Forum. This Purchase Order shall be governed and construed in accordance with the laws of the state of Tennessee. All disputes arising out of this Purchase order, including but not limited to any breach or enforcement of this Purchase Order and/or any terms thereof, shall be brought in a state or federal court having jurisdiction over the parties and/or dispute, which court shall be located in Davidson County, Tennessee or in the U.S. District Court for Tennessee.

29. Inspection. Seller shall provide Buyer with copies of all Seller inspection and test reports for the goods. Buyer shall have the right to inspect and test the goods received from Seller to determine if the goods conform to Buyer's instructions, drawings, and specifications. Any non-conforming goods will, at Buyer's election either be returned to Seller, freight collect, FOB Buyer's facility, or repaired by Seller, at Seller's sole cost and expense, at a location specified by Buyer within 5 days of a request for repair by Buyer. Seller shall provide to Buyer a Returned Goods Authorization (RGA) within 24 hours after notification by Buyer of non-conforming goods. Seller shall provide buyer with new replacement goods, FOB Buyer's facility, within ten days after notification of the non conforming goods. Seller shall assume all freight costs and any sales/use tax associated with the replacement goods. For purposes of this agreement, non conforming be deemed delivered on time, unless replacement goods are delivered within the on time period applicable to the original purchase order.

30. Limitation of Liability. In no event will Buyer be liable to Seller for any incidental, indirect, punitive, exemplary, consequential or liquidated damages of any nature whatsoever.

31. Customs Clearance. For orders destined for Buyer's Mexico facility Seller will provide appropriate documentation for customs clearance into Mexico. These documents include, but are not limited to: NAFTA Certificate of Origin, Material Safety Data Sheets (for chemicals), Chemical Composition (for metals) and invoice or packing slip containing the ProTherm Purchase order number, ProTherm part number, complete description of goods, unit price, extended price, quantity, unit of measure, gross weight, number of packages, country of origin, Seller tax ID number and INCOTERM.

32. Entire Agreement. These terms and conditions, any other special conditions contained in the schedule, and any specification or other documents referenced in the schedule hereto constitute and represent the complete and entire agreement between Buyer and Seller and supersede all previous communications, either written or verbal, with respect to the subject matter of this Purchase Order. Seller's request for exceptions to Buyer terms and conditions must be submitted to the Buyer in writing. Additions to, deletions from, or modification of Buyer terms and conditions shall not apply unless specifically accepted by the Buyer in writing.