

3/25/02

04-15-2002

Form PTO-1594
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)
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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

102055439 ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Hypotherm, Inc.

- Individual(s)
- General Partnership
- Corporation-State
- Other _____ a New Hampshire corporation
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other _____
- Merger
- Change of Name

Execution Date: November 30, 2001

2. Name and address of receiving party(ies)

Name: Brown Brothers Harriman & Co.

Internal Address: _____

Street Address: 40 Water Street

City: Boston State: MA Zip: 02109

- Individual(s) citizenship
- Association
- General Partnership New York
- Limited Partnership
- Corporation-State
- Other _____

if assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 75/798110;
75/797526; 75/886367; 75/886203

B. Trademark Registration No.(s) 2132429;

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Denis King

Internal Address: c/o Goulston & Storrs

Street Address: 400 Atlantic Avenue

City: Boston State: MA Zip: 02110

6. Total number of applications and registrations involved: _____

21

7. Total fee (37 CFR 3.41).....\$ 540

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

Denis King
Name of Person Signing

Signature

3/22/02
Date

30

Total number of pages including cover sheet, attachments, and document.

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

04/12/2002 T0IAZ1 00000117 75798110

01 FC:481 40.00 DP
02 FC:482 500.00 DP

**CONTINUATION SHEET
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY**

Item 4.

REGISTERED TRADEMARKS

Case No.	Country Name	Trademark Name	Appl No.	Reg No.	Class(es)
HYP-601M	United States	HYPERTHERM	73/587,368	1,419,756	7
HYP-602M	United States	MAX	74/157,006	1,683,671	9
HYP-603M	United States	HYDEFINITION	74/378,847	1,814,727	7
HYP-604M	United States	HT	74/385,067	1,862,249	7
HYP-605	United States	LOGLIFE	74/487,223	1,906,853	7&9
HYP-605A	United States	LOGLIFE	75/105,163	2,122,913	7, 9
HYP-608	United States	POWERMAX	74/699,031	2,051,934	7
HYP-609A	United States	ARCWRITER	75/066,072	2,178,956	7
HYP-609B	United States	ARCWRITER	75/066,074	2,178,957	9
HYP-610	United States	COMMAND	75/226,072	2,189,899	9
HYP-611	United States	HYPERTHERM	75/322,908	2,197,703	25 and 18
HYP-612	United States	HYPERTHERM (Stylized/Design)	75/532,231	2,299,698	7
HYP-613	United States	HYLIFE	75/788,924	2,377,494	9
HYP-614	United States	COOLCORE	75/788,966	2,383,055	9
HYP-615	United States	HD	75/877,996	2,486,929	7
HYP-615A	United States	HD	75/878,474	2,486,931	9

HYPERTHERM, INC.

PATENT AND TRADEMARK SECURITY AGREEMENT (U.S.)

PATENT AND TRADEMARK SECURITY AGREEMENT (U.S.) (this "*Agreement*") is dated as of November 30, 2001 by and between HYPERTHERM, INC. (the "*Borrower*"), a New Hampshire corporation having its chief executive office at 21 Great Hollow Road, Hanover, New Hampshire 03755, and BROWN BROTHERS HARRIMAN & CO. (the "*Secured Party*"), acting as agent under the terms of that certain Revolving Credit and Term Loan Agreement dated as of the date hereof (the "*Loan Agreement*") by and among the Borrower, the Secured Party and the banks that are parties thereto (the "*Banks*").

WHEREAS, the Borrower has requested that the Banks enter into the Loan Agreement with the Borrower, and to make Loans and extend other credit to the Borrower, upon the terms and subject to the conditions set forth therein; and

WHEREAS, it is a condition precedent to the Banks' agreement to enter into the Loan Agreement that the Borrower execute and deliver this Agreement and grant the security interest herein provided.

NOW, THEREFORE, in order to induce the Banks to enter into the Loan Agreement and extend credit to the Borrower thereunder, and in consideration thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article 1. Definitions; Interpretation.

1.01 Defined Terms Generally. All capitalized terms used without definition herein (including those terms used in the Preamble above) or in any certificate, report or other document delivered pursuant hereto, but defined in the Loan Agreement, shall have the meanings ascribed to such terms in the Loan Agreement. Except as otherwise defined herein, terms defined in the MA UCC (as defined below) and used herein shall have the meanings ascribed to such terms in the MA UCC; provided, however, that if a term is defined in Article 9 of the MA UCC differently than in another Article thereof, the term shall have the meaning set forth in Article 9.

1.02 Terms Defined in this Agreement. For purposes of this Agreement, the following terms have the meanings set forth below:

"Agreement" shall have the meaning set forth in the Preamble.

"Assignment of Marks" shall have the meaning set forth in Article 3.

"Assignment of Patents" shall have the meaning set forth in Article 3.

"Banks" shall have the meaning set forth in the Preamble.

"Damages" shall have the meaning set forth in Article 11.

"Indemnified Persons" shall have the meaning set forth in Article 11.

"IP Collateral" shall have the meaning set forth in Article 2.

"Loan Agreement" shall have the meaning set forth in the Preamble.

"Patents" means collectively all of the following now owned or hereafter created or acquired by the Borrower: (a) all patents, patent applications and Patent Licenses (as defined below), including, without limitation, those listed on Schedule A hereto, which issue or have issued in any country or jurisdiction upon any patent applications which correspond with any of such patents or patent applications; (b) all letters patent of the United States or any other country, and all applications for letters patent of the United States or any other country; (c) the reissues, divisions, continuations, renewals, extensions and continuations-in-part of any of the foregoing which issue or have issued in any country or jurisdiction; (d) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages and payments for past, present and future infringements of any of the foregoing; (e) the right to sue for past, present and future infringements of any of the foregoing; (f) all rights corresponding to any of the foregoing throughout the world; and (g) all goodwill associated with any of the foregoing.

"Patent License" means any oral or written agreement now or hereafter in existence granting to the Borrower any right to use any invention on which a patent is in existence, all as may be amended, supplemented or otherwise modified from time to time, including, without limitation, those listed on Schedule A hereto.

"Secured Party" shall have the meaning set forth in the Preamble.

"Trademarks" means collectively all of the following now owned or hereafter created or acquired by the Borrower: (a) all trademarks, Trademark Licenses (as defined below), trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, service marks, logos, other business identifiers, prints and labels on which any of the foregoing have appeared or appear, all registrations and recordings thereof in the United States, any state in the United States or any foreign jurisdiction, and all applications in connection therewith, including, without limitation, those listed on Schedule B hereto, whether or not any of the foregoing is registered or the subject of an application for registration under federal law, state law, foreign law or

otherwise; (b) all renewals thereof; (c) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages and payments for past, present and future infringements of any of the foregoing; (d) the right to sue for past, present and future infringements of any of the foregoing; (e) all rights corresponding to any of the foregoing throughout the world; and (f) all goodwill associated with and symbolized by any of the foregoing.

"Trademark License" means any oral or written agreement now or hereafter in existence granting to the Borrower any right to use any trademark, all as may be amended, supplemented or otherwise modified from time to time, including, without limitation, those listed on Schedule B hereto.

"Uniform Commercial Code" means, in reference to any jurisdiction, the Uniform Commercial Code as adopted and in effect in such jurisdiction, as it may be amended from time to time.

1.03 Matters of Interpretation and Construction. The following rules of interpretation shall apply to this Agreement:

(a) The language of this Agreement, having been negotiated by the parties hereto, shall not be construed against any party hereto by reason of the extent to which such party or its counsel participated in the drafting hereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof.

(b) Use of the singular shall be deemed to include the plural and use of the plural shall be deemed to include the singular. Use of any gender shall be deemed to include all other genders.

(c) A reference to any law, agreement or other document includes any amendment or modification to such law, agreement or document.

(d) A reference to any Person includes its successors and permitted assigns.

(e) Unless the context clearly requires otherwise, reference to a particular "Article" or "Section" refers to the corresponding article or section of this Agreement.

(f) Unless the context clearly requires otherwise, use of the word "including" shall mean "including, without limitation"; use of the words "and" and "or" shall in each case mean "and/or."

Article 2. Grant of Security Interest. As security for the prompt and unconditional payment and performance of the Obligations, and for the benefit of the Secured Party and the Banks, the Borrower hereby grants, assigns, transfers and conveys to the Secured

Party a continuing security interest in and first priority lien on all Patents and all Trademarks, whether now owned or hereafter acquired, and all Proceeds thereof (collectively, the "*IP Collateral*").

Article 3. Deliveries and Filing. With respect to the Trademarks, the Borrower has executed in blank and delivered to the Secured Party an assignment of federally registered trademarks in substantially the form of Exhibit 1 hereto (the "*Assignment of Marks*"), and, with respect to the Patents, the Borrower has executed in blank and delivered to the Secured Party an assignment of patents, patent applications and related patent property in substantially the form of Exhibit 2 hereto (the "*Assignment of Patents*"), with the exception of U.S. Patent No. 5,070227 which is the subject of a patent infringement lawsuit pending in the United States District Court for the District of New Hampshire. Notwithstanding the foregoing, the Borrower hereby agrees to execute and deliver to the Secured Party an assignment of U.S. Patent No. 5,070227, in form and substance substantially identical to Exhibit 2, upon resolution of the aforementioned lawsuit to the extent that the Borrower continues to have rights in such patent. The grant, assignment, transfer and conveyance reflected in the Assignment of Marks and the Assignment of Patents shall be binding on the Borrower only following the occurrence and during the continuance of an Event of Default and under the circumstances stated in the following sentence. Such grant, assignment, transfer and conveyance shall become effective upon the written notice of the Secured Party to the Borrower at any time during such continuance, provided, however, that it shall become effective immediately and automatically (without notice or action of any kind by the Secured Party) (i) upon an Event of Default if such Event of Default is one for which acceleration of the Loans is automatic under the Loan Agreement or , (ii) upon the sale or other disposition by the Borrower (except as permitted by this Agreement) and (iii) upon the foreclosure upon, or sale or disposition of, the Collateral by the Secured Party or the Banks pursuant to this Agreement and the other Loan Documents and applicable law (including the transfer or other disposition of the Collateral by the Borrower to the Secured Party or its nominee in lieu of foreclosure). The Borrower hereby authorizes the Secured Party to complete as assignee (including completion of the Annexes attached thereto) and record with the U.S. Patent and Trademark Office either or both of the Assignment of Marks and the Assignment of Patents following the effectiveness of such documents in accordance with this Article 3.

Article 4. Representations and Warranties of Borrower. The Borrower represents and warrants to the Secured Party as follows:

4.01 Ownership of Collateral; Absence of Liens and Restrictions. As of the date hereof, the IP Collateral listed on Schedule A and Schedule B constitutes Patents and Trademarks now owned or used by the Borrower. The Borrower is the sole owner in the United States and all other applicable jurisdictions of the entire right, title and interest in and to each of the Patents and Trademarks comprising the IP Collateral, free from any mortgage, pledge, lien, security interest, charge, adverse claim or other encumbrance including, without limitation, licenses, shop rights (with regard to the Patents) and

covenants not to sue, except the security interest herein granted and as otherwise permitted by the Loan Agreement.

4.02 Validity of Collateral; No Infringement. All of the IP Collateral is subsisting, and none of the IP Collateral has been adjudged invalid or unenforceable, in whole or in part. No claim has been made that the use of any of the IP Collateral violates or may violate the rights of any third Person and, to the best of the Borrower's knowledge, there is no infringement by the Borrower of any patent or trademark rights of others.

4.03 Due Authorization; Non-Contravention. The execution, delivery and performance of this Agreement are within the power of the Borrower, have been duly authorized by all necessary corporate action of the Borrower, and do not contravene any law, rule, regulation or any judgment, decree or order of any arbitrator, court or other adjudicatory or regulatory body, or any agreement to which the Borrower is a party or by which any of its property is bound.

Article 5. No Liens, Etc. The Borrower shall not, without the prior written consent of the Secured Party, (a) assign or transfer, pledge, mortgage, license, or create or suffer to exist a security interest or lien by any Person other than the Secured Party in the IP Collateral, (b) enter into any license, sublicense or other agreement relating to the use of any of the IP Collateral, except for the security interests and licenses granted hereby, and liens, sales, leases or licenses expressly permitted under the Loan Agreement, (c) take any action contrary to or inconsistent with the rights of the Secured Party under this Agreement, or (d) cease the use of any Trademark or take or refrain from taking any action which would result in the cancellation or expiration of any of the Patents or Trademarks covered by this Agreement except as permitted under this Agreement.

Article 6. Borrower's Obligation to Obtain and Maintain Rights. The Borrower may abandon any filed patent application or trademark registration, or abandon any pending patent application or patent or any trademark registration without the consent of the Secured Party provided that the President of the Borrower shall have determined in his reasonable business judgment that such action is in the best interests of the Borrower.

Article 7. Borrower's Obligation to Enforce and Defend Rights.

(a) In the event of any material infringement of any of the Patents or Trademarks caused by the actions of a third party, the Borrower shall give the Secured Party prompt written notice thereof and shall take all reasonable steps to recover damages resulting therefrom.

(b) The Borrower shall promptly notify the Secured Party of the institution of, or any adverse determination in, any proceeding in the United States Patent and Trademark Office or any other foreign or domestic governmental agency, court or body, regarding

the Borrower's claim of ownership in any of the Patents and Trademarks which could reasonably be expected to have a material adverse effect on the Borrower.

Article 8. After Acquired Property. If the Borrower shall obtain rights or become entitled to the benefit of any new Patent, patentable inventions patent improvement, or Trademark before the Borrower's Obligations to the Secured Party and the Banks have been satisfied in full, the Borrower shall give the Secured Party prompt written notice thereof and the provisions of this Agreement shall automatically apply thereto. The Borrower authorizes the Secured Party to modify this Agreement, without the necessity of the Borrower's further approval or signature, by amending Schedule A and Schedule B to include any new IP Collateral required to be disclosed to the Secured Party pursuant to this Article.

Article 9. Further Assurances. The Borrower shall, at its sole expense, do, make, execute and deliver all such additional and further acts, things, deeds, assurances, and instruments, in each case in form and substance reasonably satisfactory to the Secured Party, relating to the creation, validity, or perfection of the security interests and assignments provided for in this Agreement under 35 U.S.C. Section 261, 15 U.S.C. Section 1051 et seq., the Uniform Commercial Code, or other laws of the United States or the Commonwealth of Massachusetts, or of any other countries or states, as the Secured Party may from time to time reasonably request, and shall take all such other action as the Secured Party may reasonably require to more completely vest in and assure to the Secured Party its rights hereunder or in any of the Patents or Trademarks.

Article 10. Authorizations.

(a) The Borrower hereby irrevocably appoints the Secured Party as its lawful attorney and agent, with full power of substitution, (i) to execute and deliver on behalf of and in the name of the Borrower such financing statements and other documents and agreements, and to take such other action as the Secured Party may deem necessary for the purpose of perfecting, protecting, effecting or enforcing the security interests granted herein and effected hereby, under any applicable law, and the Secured Party is hereby authorized to file on behalf of and in the name of the Borrower at the Borrower's sole expense, such financing statements and other documents in any appropriate governmental office, provided that the Secured Party shall deliver to the Borrower copies of all such filings, (ii) to commence, prosecute and defend any legal proceedings in which the Secured Party is permitted under the terms of this Agreement or the other Loan Documents to participate in the Borrower's stead and (iii) following the occurrence and during the continuance of an Event of Default, to take all actions necessary or appropriate to facilitate the exercise of the Secured Party's remedies under this Agreement, any of the other Loan Documents, or applicable law.

(b) The Borrower hereby authorizes the Secured Party to include reference to the Borrower, the Patents and the Trademarks (and to utilize any logo or other distinctive symbol associated with the Borrower) in connection with any advertising, promotion, marketing or sale undertaken by the Secured Party or the Banks at any time during the effectiveness of the Assignment of Marks and the Assignment of Patents.

(c) The Borrower hereby grants to the Secured Party the right and non-exclusive license to make, have made, use and sell the inventions and marks disclosed and claimed in the Patents and the Trademarks for the benefit and account the Secured Party and the Banks, provided, that such license shall have force and effect only following the occurrence and during the continuance of an Event of Default.

Article 11. Indemnification. The Borrower shall indemnify and hold harmless the Secured Party and the Banks, and their respective officers, directors, agents, servants, employees and affiliates (collectively, the "*Indemnified Persons*") for, and will pay to the Indemnified Persons the amount of, any loss, liability, claim, demand, suit, legal or arbitration proceeding, damage (including incidental and consequential damages), expense (including costs of investigation and defense and reasonable attorneys' fees) or diminution of value, whether or not involving a third-party claim (collectively, "*Damages*"), arising, directly or indirectly, from or in connection with this Agreement or any of the other Loan Documents, and the transactions contemplated hereby and thereby, except for any Damages resulting from the Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction, which determination is not subject to further appeal. The indemnification obligation set forth in this Article is not exclusive of, and shall not limit, any other remedies that may be available to Secured Party, the Banks or the other Indemnified Persons.

Article 12. Fees, Costs and Expenses. The Borrower will pay any and all (i) reasonable charges and costs and all taxes incurred in implementing or subsequently amending this Agreement, including, without limitation, recording and filing fees, appraisal fees, stamp taxes, and reasonable fees and disbursements of the Secured Party's counsel incurred by the Secured Party, in connection with this Agreement, and (ii) fees and disbursements reasonably incurred by the Secured Party in the preparation, execution and delivery of any waiver or consent by the Secured Party relating to this Agreement, and in the enforcement of this Agreement and in the enforcement or foreclosure of any liens, security interests or other rights of the Secured Party under this Agreement, or under any other documentation at any time given to the Secured Party in furtherance of the transactions contemplated hereby. In addition, following the occurrence and during the continuance of an Event of Default, the Borrower shall also pay all reasonable costs and expenses of the Secured Party in connection with the enforcement of this Agreement and with the enforcement or foreclosure of any liens, security interests or other rights of the Secured Party under this Agreement, or under any other documentation at any time given to the Secured Party in furtherance of the transactions contemplated hereby, except those resulting from the gross negligence or willful misconduct of the Secured Party as finally determined by a court of competent jurisdiction, which determination is not subject to further appeal.

Article 13. Remedies. Following the occurrence and during the continuance of an Event of Default, the Secured Party may without notice or demand declare this Agreement to be in default, and the Secured Party shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code, including, without limitation, the right to dispose of the Patents and Trademarks at public or private sale. The Secured Party shall give to the Borrower at least ten (10) days' prior written notice (which the Borrower agrees is "reasonable notification" under the Uniform Commercial Code) of the time and place of any such public sale or of the time after which any such private sale or any other intended disposition is to be made.

Article 14. Remedies Cumulative. Each right, power and remedy of the Secured Party provided for in this Agreement, the other Loan Documents, or now or hereafter existing at law or in equity, or otherwise, shall be cumulative and concurrent and shall be in addition to every other such right, power or remedy. The exercise or beginning of the exercise by the Secured Party of one or more of such rights, powers or remedies shall not preclude the simultaneous or subsequent exercise of all such other rights, powers or remedies, and no failure or delay on the part of the Secured Party to exercise any such right, power or remedy shall operate as a waiver thereof.

Article 15. Marshalling. The Secured Party may exercise its rights with respect to the IP Collateral without resorting or regard to other collateral or sources of reimbursement. The Secured Party shall not be required to marshal any present or future collateral security for, or other assurances of payment of, the Obligations or any of them, or to resort to such collateral security or other assurances of payment in any particular order. To the extent that it may lawfully do so, the Borrower hereby (a) agrees that it will not invoke any law relating to the marshalling of collateral that might cause delay in or impede the enforcement of the Secured Party's rights with respect to the Obligations or any of the Collateral and (b) irrevocably waives the benefits of all such laws.

Article 16. Application of Moneys by the Secured Party; Waiver of Certain Rights. All moneys collected upon any sale of the IP Collateral hereunder, together with all other moneys received by the Secured Party hereunder, shall be applied as follows (i) first, to the payment of all reasonable costs and expenses incurred by the Secured Party in connection with such sale, the delivery of the IP Collateral or the collection of any such moneys (including, without limitation, reasonable attorneys' fees and all other expenses reasonably incurred); (ii) second, to satisfy the Obligations in such manner as the Secured Party shall determine in its sole discretion consistent with the Loan Agreement; and (iii) third, to the extent of any surplus Proceeds, to the Borrower or to such other Person(s) as may be legally entitled to same.

Article 17. Borrower's Obligations Absolute; Certain Waivers. The Obligations of the Borrower under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended,

discharged, terminated or otherwise affected by any circumstance or occurrence whatsoever, including, without limitation: (a) any renewal, extension, amendment or modification of or addition or supplement to or deletion from the other Loan Documents, or any assignment or transfer of the other Loan Documents; (b) any waiver, consent, extension, indulgence or other action or inaction under or in respect of the Loan Documents; (c) any furnishing of any additional collateral security to the Secured Party or its assignee or any acceptance thereof or any release of any collateral security by the Secured Party or its assignee; (d) any limitation on any party's liability or obligations under the Loan Documents or any invalidity or unenforceability, in whole or in part, of the same; or (e) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to the Borrower or any other Person, or any action taken with respect to this Agreement by any trustee or receiver or by any court, in any such proceeding; whether or not the Borrower shall have notice or knowledge of any of the foregoing. The Borrower expressly consents to any and all of the foregoing and, to the maximum extent permitted by law, waives any rights or defenses relating to the enforcement of this Agreement that the Borrower may have in connection therewith. Except for notices specifically provided for herein, the Borrower hereby expressly waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description.

Article 18. Exoneration of Secured Party. Under no circumstances shall the Secured Party be deemed to assume any responsibility for, or obligation or duty with respect to, any part or all of the IP Collateral of any nature or kind, or any matter or proceedings arising out of or relating thereto, other than (i) to exercise reasonable care in the physical custody of the IP Collateral and (ii) following the occurrence and during the continuance of an Event of Default, to act in a commercially reasonable manner. The Secured Party shall not be required to take any action of any kind to collect, preserve or protect its or the Borrower's rights in the IP Collateral or to take action against any other Person. The Secured Party's prior recourse to any part or all of the IP Collateral shall not constitute a condition of any demand, suit or proceeding for payment or collection of the Obligations.

Article 19. Termination. The obligations of the Borrower hereunder shall terminate when the commitment of the Banks to extend credit under the Loan Agreement shall have terminated and all of the Borrower's Obligations under the Loan Agreement have been indefeasibly paid in full in cash and discharged; provided, however, that:

(a) if a claim is made upon the Secured Party or the Banks at any time for repayment or recovery of any amounts or any property received by the Secured Party or the Banks from any source on account of any of the Obligations and the Secured Party or the Banks repay or return any amounts or property so received (including interest thereon to the extent required to be paid by the Secured Party or the Banks) or

(b) if the Secured Party or the Banks become liable for any part of such claim by reason of (i) any judgment or order of any court or administrative authority having competent jurisdiction, or (ii) any settlement or compromise of any such claim,

then the Borrower shall remain obligated under this Agreement with respect to the amounts so repaid or property so returned and the amounts for which the Secured Party or the Banks become liable (such amounts being deemed part of the Obligations), and the security interest granted herein shall apply with full force and effect with to such Obligations, to the same extent as if such amounts or property had never been received by the Secured Party or the Banks, notwithstanding any termination hereof or the cancellation of any instrument or agreement evidencing any of the Obligations. Notwithstanding anything to the contrary set forth herein, this Agreement shall terminate upon the second anniversary of the Closing Date, provided, that (i) no Default or Event of Default shall have occurred and then be continuing under Section 6.1(a) or Section 6.1(b) (but only to the extent based upon a failure to comply with any of the financial covenants set forth in Section 5.16) of the Loan Agreement and (ii) the Agent and the Borrower shall have executed and delivered, in substitution of this Agreement, a negative pledge agreement, in form and substance reasonably satisfactory to the Agent, the Banks and the Borrower, in respect of the Collateral that is the subject of this Agreement. The Agent hereby agrees to execute such documents and take such actions as the Borrower may reasonably request to evidence or give effect to such termination.

Article 20. Overdue Amounts. Until paid, all amounts due and payable by the Borrower hereunder shall constitute an Obligation under the Loan Documents and shall be secured by the IP Collateral. Such amounts shall bear interest at the rate *per annum* provided in the Loan Agreement to be paid on Base Rate Loans after the occurrence of an Event of Default.

Article 21. Miscellaneous.

21.01 Notices All notices hereunder shall be in writing and shall be given as provided in the Loan Agreement.

21.02 Relationship to Security Agreement. Any and all rights and interests of the Secured Party in and to the Patents and Trademarks (and any and all obligations of the Borrower with respect to the same) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Secured Party (and the obligations of the Borrower) in, to or with respect to the Collateral provided in or arising under or in connection with the Security Agreement and shall not be in derogation thereof.

21.03 Successors and Assigns. This Agreement be binding upon the Borrower, the Secured Party and the Banks and their respective successors and assigns permitted pursuant to the Loan Agreement, and shall inure to the benefit of the Secured Party and the Banks and their respective successors, transferees and assigns, as permitted by

Section 9.6 of the Loan Agreement. The Borrower may not assign any of its obligations hereunder.

21.04 Survival. All representations, warranties, covenants and agreements contained in this Agreement shall survive the execution and delivery of the Loan Documents and shall continue for so long as this Agreement shall remain in effect.

21.05 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that holding shall not invalidate or render unenforceable any other provision hereof.

21.06 Amendments; Waiver, Etc. No provision of this Agreement, or any right of the Secured Party in respect of the Obligations, can be changed, waived, modified, discharged or terminated except by an instrument in writing signed by the Secured Party and the Borrower expressly referring to the provision of this Agreement or the right to which such instrument relates; and no such waiver shall extend to, affect or impair any right with respect to any obligation which is not expressly dealt with therein. No course of dealing or delay or omission on the part of the Secured Party or the Banks or any of them in exercising any right shall operate as a waiver of such right or any other right, or otherwise be prejudicial thereto. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

21.07 Execution and Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

21.08 Captions. Captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of the provisions hereof.

21.09 Notices. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when given in the manner prescribed in the Loan Agreement and delivered to a party at its address for notice set forth in the Loan Agreement or to such other address as a party shall furnish by notice to the other parties.

21.10 Governing Law. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts (without regard to principles relating to choice and conflicts of laws).

21.11 CONSENT TO JURISDICTION. THE BORROWER AGREES THAT ANY SUIT FOR THE ENFORCEMENT OF THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE COMMONWEALTH OF MASSACHUSETTS LOCATED IN SUFFOLK COUNTY, OR IN THE UNITED STATES DISTRICT COURT SITTING IN BOSTON, MASSACHUSETTS, OR ANY APPELLATE COURT

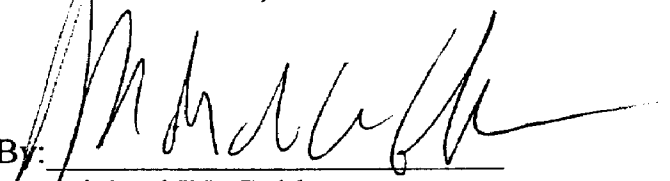
TO WHICH APPEALS MAY BE TAKEN FROM ANY OF THE FOREGOING COURTS, AND CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF SUCH COURTS AND TO SERVICE OF PROCESS IN ANY SUCH SUIT BEING MADE UPON THE BORROWER BY MAIL AT ITS ADDRESS FOR NOTICE SET FORTH IN THE LOAN AGREEMENT. THE BORROWER HEREBY WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS BROUGHT IN AN INCONVENIENT FORUM.

21.12 WAIVER OF JURY TRIAL. EACH OF THE BORROWER AND THE SECURED PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE SECURED PARTY TO ENTER INTO THIS AGREEMENT AND FOR THE BANKS TO MAKE LOANS AND EXTEND CREDIT TO THE BORROWER. EXCEPT AS PROHIBITED BY LAW, THE BORROWER WAIVES ANY RIGHT WHICH IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION REFERRED TO IN THE FIRST SENTENCE OF THIS SECTION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER (i) CERTIFIES THAT NEITHER THE SECURED PARTY, NOR ANY BANK, NOR ANY REPRESENTATIVE, AGENT OR ATTORNEY OF THE SECURED PARTY OR ANY BANK HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE SECURED PARTY OR ANY BANK WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (II) ACKNOWLEDGES THAT, IN ENTERING INTO THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS TO WHICH THE SECURED PARTY IS A PARTY, THE SECURED PARTY AND THE BANKS ARE RELYING UPON, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION.

(Signatures on next page)

IN WITNESS WHEREOF, the Borrower has caused this Agreement to be executed as a contract under seal by its duly authorized officer as of this 30th day of November 2001.

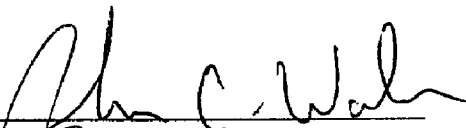
HYPERTHERM, INC.

By: 
Michael W. Golden
Vice President, Chief Financial
Officer and Treasurer
Hereunto Duly Authorized

Accepted in Boston, Massachusetts
as of the date and year first above written.

SECURED PARTY:

**BROWN BROTHERS HARRIMAN &
CO.**

By: 
Name: John C. Walsh
Title: Senior Vice President
Hereunto Duly Authorized

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

Then personally appeared the above-named Michael W. Golden, who being duly sworn stated that he is the Vice President, Chief Financial Officer and Treasurer of HYPERTHERM, INC and acknowledged the foregoing instrument to be the free act and deed of HYPERTHERM, INC., before me, this 30th day of November, 2001.

Christina J. Fulham
Notary Public
My commission expires:

CHRISTINA J. FULHAM, Notary Public
My Commission Expires January 3, 2003

IN WITNESS WHEREOF, the Borrower has caused this Agreement to be executed as a contract under seal by its duly authorized officer as of this 30th day of November 2001.

HYPERTHERM, INC.

By: 

Michael W. Golden
Vice President, Chief Financial
Officer and Treasurer
Hereunto Duly Authorized

Accepted in Boston, Massachusetts
as of the date and year first above written.

SECURED PARTY:

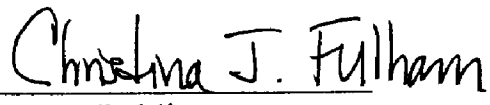
**BROWN BROTHERS HARRIMAN &
CO.**

By: 

Name: John C. Walsh
Title: Senior Vice President
Hereunto Duly Authorized

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

Then personally appeared the above-named Michael W. Golden, who being duly sworn stated that he is the Vice President, Chief Financial Officer and Treasurer of HYPERTHERM, INC and acknowledged the foregoing instrument to be the free act and deed of HYPERTHERM, INC., before me, this 30th day of November, 2001.


Notary Public

My commission expires:

CHRISTINA J. FULHAM, Notary Public
My Commission Expires January 3, 2003

**SCHEDULE A TO
PATENT AND TRADEMARK SECURITY AGREEMENT (U.S.)**

PATENTS

<u>Name/Inventors</u>	<u>Country</u>	<u>Status</u>	<u>Application No.</u>
IMPROVED COOLING AND HEIGHT SENSING FOR A PLASMA ARC CUTTING TOOL <i>(Couch) (Divisional of HYP-002)</i>	United States	Issued	4,421,970
ARC PLASMA TORCH AND METHOD USING CONTACT STARTING <i>(Sanders, Couch)</i>	United States	Issued	4,791,268
APPARATUS AND PROCESS FOR COOLING A PLASMA ARC ELECTRODE <i>(Sanders, Couch) (Continuation-in-Part of HYP-005)</i>	United States	Issued	4,902,871
NOZZLE SHIELD FOR A PLASMA ARC TORCH <i>(Sanders, Couch)</i>	United States	Issued	B1 4,861,962
PLASMA ARC TORCH WITH IMPROVED NOZZLE SHIELD AND STEP FLOW <i>(Sanders, Couch)</i>	United States	Issued	5,120,930
	United States	Issued	5,132,512
PNEUMATIC-ELECTRIC QUICK DISCONNECT CONNECTOR FOR A PLASMA ARC TORCH <i>(Gratziani, Sanders)</i>	United States	Issued	5,074,802
PROCESS AND APPARATUS FOR REDUCING ELECTRODE WEAR IN A PLASMA ARC TORCH <i>(Luo, Sanders, Couch)</i>	United States	Issued	5,070,227
PROCESS AND APPARATUS FOR REDUCING ELECTRODE WEAR A PLASMA ARC TORCH <i>(Luo, Sanders, Couch)</i>	United States	Issued	5,166,494
SWIRL RING WITH FLOW CONTROL PROCESS FOR A PLASMA ARC TORCH <i>(Couch, Luo, Sanders)</i>	United States	Issued	5,170,033
PLASMA ARC CUTTING PROCESS AND APPARATUS USING AN OXYGEN-RICH GAS SHIELD <i>(Couch, Sanders, Luo, Sobr)</i>	United States	Issued	5,396,043
	United States (Continuation Application)	Issued	5,695,662
	United States (Divisional Application)	Issued	5,591,357
IMPROVED NOZZLE AND METHOD OF OPERATION OF A PLASMA ARC TORCH <i>(Couch, Sanders, Luo, Sobr, Backander)</i>	United States	Issued	5,317,126

Patents, cont.

IMPROVED ELECTRODE FOR HIGH CURRENT DENSITY PLASMA ARC TORCH <i>(Couch, Sanders, Luo, Lu, Backander, Sobr)</i>	United States	Issued	5,310,988
PROCESS FOR HIGH QUALITY PLASMA ARC CUTTING OF STAINLESS STEEL AND ALUMINUM <i>(Couch, Sanders, Lu, Luo, Stenfelt)</i>	United States	Issued	5,414,236
	United States	Issued	5,380,976
	United States	Issued	5,558,786
	United States	Issued	5,653,896
PLASMA ARC TORCH IGNITION CIRCUIT AND METHOD <i>(Luo, Peterson, Rhodes)</i>	United States	Issued	5,416,297
ELECTRODE FOR A PLASMA ARC TORCH <i>(Luo, Couch)</i>	United States	Issued	5,464,962
	United States (Continuation Application)	Issued	5,601,734
PROVIDING A FORCED ARC TRANSFER FUNCTION <i>(Couch, Luo, Peterson)</i>	United States	Issued	5,548,097
ALIGNMENT DEVICE AND METHOD FOR A PLASMA ARC TORCH SYSTEM <i>(Couch, Luo, Peterson)</i>	United States	Issued	5,624,586
CIRCUITRY AND METHOD FOR MAINTAINING A PLASMA ARC DURING OPERATION OF A PLASMA ARC TORCH SYSTEM <i>(Borowy et al.)</i>	United States	Issued	5,620,617
GAS MIXTURES FOR PLASMA ARC TORCH CUTTING AND MARKING SYSTEMS <i>(Lu, Hackett)</i>	United States	Issued	5,773,788
APPARATUS AND METHOD FOR STARTING AND STOPPING A PLASMA ARC TORCH USED FOR MECHANIZED CUTTING AND MARKING APPLICATIONS <i>(Hackett, Brewer, Lu, Couch, Jr.)</i>	United States	Issued	5,760,363
PLASMA ARC TORCH AND METHOD USING BLOW FORWARD CONTACT STARTING SYSTEM <i>(Lu)</i>	United States	Issued	5,994,663
INTEGRAL SPRING CONSUMABLES FOR PLASMA ARC TORCH USING BLOW FORWARD CONTACT STARTING SYSTEM <i>(Lu, Couch, Jr., Currier)</i>	United States	Issued	5,897,795

Patents, cont.

APPARATUS AND METHOD FOR IMPROVED ASSEMBLY CONCENTRICITY IN A PLASMA ARC TORCH <i>(Lu, Couch, Jr., Freeman)</i>	United States	Issued	5,841,095
SAFETY CIRCUIT FOR A BLOW FORWARD CONTACT START PLASMA ARC TORCH <i>(Borowy, Lindsay)</i>	United States	Issued	5,900,169
BLOW FORWARD CONTACT START PLASMA ARC TORCH WITH DISTRIBUTED NOZZLE SUPPORT <i>(Lu, Lindsay, Eickhoff, Kornprobst)</i>	United States	Issued	5,886,315
PLASMA ARC TORCH WITH VENTED FLOW NOZZLE RETAINER <i>(Lindsay, Eickhoff, Vandiver)</i>	United States	Issued	6,084,199
PLASMA ARC TORCH POSITION CONTROL <i>(Lu, Sobr, LeBlanc, Peterson)</i>	United States	Issued	5,866,872
PLASMA ARC TORCH POSITION CONTROL <i>(Passage, Sobr, Peterson)</i>	United States	Issued	6,028,287
NOZZLE FOR A PLASMA ARC TORCH WITH AN EXIT ORIFICE HAVING AN INLET RADIUS AND AN EXTENDED LENGTH TO DIAMETER RATIO <i>(Lindsay)</i>	United States	Issued	5,977,510
ELECTRODE FOR A PLASMA ARC TORCH HAVING AN IMPROVED INSERT CONFIGURATION <i>(Lu, Couch)</i>	United States	Issued	6,130,399
PLASMA ARC TORCH TIP PROVIDING A SUBSTANTIALLY COLUMNAR SHIELD FLOW <i>(Lindsay)</i>	United States	Issued	6,207,923 B1
SYSTEM AND METHOD FOR DUAL THRESHOLD SENSING IN A PLASMA ARC TORCH <i>(Borowy, Lindsay, Ren)</i>	United States	Issued	6,133,543

PATENT APPLICATIONS

Name/Inventors	Country	Status	Application No.
ELECTRODE FOR A PLASMA ARC TORCH HAVING AN ENHANCED COOLING CONFIGURATION <i>(Cook, Landry, Scheaefer)</i>	United States	Allowed	09/652,444
COMPOSITE ELECTRODE FOR A PLASMA ARC TORCH <i>(Cook, Ferland, Hackett, Yang, Couch, Lu)</i>	United States	Pending	60/274,837
CENTRALIZED CONTROL ARCHITECTURE FOR A PLASMA ARC TORCH <i>(Picard, Young, Wilson, Huppe)</i>	United States	Pending	09/546,036
CENTRALIZED CONTROL ARCHITECTURE FOR A PLASMA ARC TORCH <i>(Picard, Young, Wilson, Huppe)</i>	United States	Pending	09/546,155
CENTRALIZED CONTROL ARCHITECTURE FOR A PLASMA ARC TORCH <i>(Picard, Young, Wilson, Huppe)</i>	United States	Pending	09/546,470
PROCESS AND APPARATUS FOR CUTTING OR WELDING A WORKPIECE <i>(Couch, Sanders, Sobr, Lu, Dean, Woods, Hackett, Connally)</i>	United States	Pending	09/665,650
DSP BASED PLASMA CUTTING SYSTEM <i>(Borowy, Ren)</i>	United States	Allowed	09/515,139
NOZZLE FOR USE IN LASER MATERIALS PROCESSING <i>(Woods, Hackett, Dean, Garg)</i>	United States	Pending	09/717,775
APPARATUS AND METHOD OF IMPROVED CONSUMABLE ALIGNMENT IN MATERIAL PROCESSING APPARATUS <i>(Hackett, Nakano, Lu, Brandt, Currier, Woods)</i>	United States	Pending	09/631,814
EASY RELEASE STRAIN RELIEF <i>(Eickhoff, Morris)</i>	United States	Pending	09/849,446
PLASMA PROCESS AND APPARATUS FOR CUTTING A CABLE <i>(Sanders, Currier)</i>	United States	Pending	60/323,242

PATENT LICENSES

<i>Type</i>	<i>Date</i>	<i>Parties</i>
Generic Technology Grant Agreement No. 15061 Collaborative Research and Development and License Agreement (1993) Collaborative Research and Development and License Agreement (1995)	1992	The Industry Research and Development Board, CSIRO Divisions of Manufacturing Technology, Farley Cutting Systems Australia Pty Ltd., and Hypertherm, Inc
Technology Development and Supply Agreement	08/94	Miller Electric MFG. Co. and Hypertherm, Inc.
Memorandum of Understanding regarding Sponsored Research	11/19/96	Hypertherm, Inc. and Materials Innovation Inc.
Settlement Agreement regarding Powermax Opposition	11/25/97	Coleman Powermate, Inc. and Hypertherm, Inc.
Patent Cross-License Agreement	11/16/98	Hypertherm, Inc. and Illinois Tool Works Inc.
Prior Rights Agreement regarding Powermax	03/03/99	Hypertherm, Inc. and Castolin S.A.
Proposed Resolution	05/09/00	Hypertherm, Inc. and CSIRO
Prior Rights Declaration	05/24/00	Siemens Solar GmbH and Hypertherm, Inc.

**SCHEDULE B TO
PATENT AND TRADEMARK SECURITY AGREEMENT (U.S.)**

REGISTERED TRADEMARKS

Case No.	Country Name	Trademark Name	Appl No.	Reg No.	Class(es)
HYP-601B	United States	HYPERTHERM	75/230,014	2,132,429	9
HYP-601M	United States	HYPERTHERM	73/587,368	1,419,756	7
HYP-602M	United States	MAX	74/157,006	1,683,671	9
HYP-603M	United States	HYDEFINITION	74/378,847	1,814,727	7
HYP-604M	United States	HT	74/385,067	1,862,249	7
HYP-605	United States	LOGLIFE	74/487,223	1,906,853	7&9
HYP-605A	United States	LOGLIFE	75/105,163	2,122,913	7, 9
HYP-608	United States	POWERMAX	74/699,031	2,051,934	7
HYP-609A	United States	ARCWRITER	75/066,072	2,178,956	7
HYP-609B	United States	ARCWRITER	75/066,074	2,178,957	9
HYP-610	United States	COMMAND	75/226,072	2,189,899	9
HYP-611	United States	HYPERTHERM	75/322,908	2,197,703	25 and 18
HYP-612	United States	HYPERTHERM (Stylized/Design)	75/532,231	2,299,698	7
HYP-613	United States	HYLIFE	75/788,924	2,377,494	9
HYP-614	United States	COOLCORE	75/788,966	2,383,055	9
HYP-615	United States	HD	75/877,996	2,486,929	7
HYP-615A	United States	HD	75/878,474	2,486,931	9

TRADEMARK APPLICATIONS

Case No.	Country Name	Status	Trademark Name	Appl No.	Reg No.	Class(es)
HYP-601O	United States	Resolved	OPPOSITION V. HYPER-THERM	75/075,375		
HYP-608B/O	United States	Resolved	POWERMAX	75/059,148		9
HYP-616	United States	Allowed	HYSPEED	75/798,110		7
HYP-616A	United States	Pending	HYSPEED	75/797,526		9
	United States	Pending	HYPERTHERM AUTOMATION	75/886367		
	United States	Pending	HYPERTHERM AUTOMATION	75/886203		

EXHIBIT 1

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, HYPERTHERM, INC., a corporation organized and existing under the laws of the State of New Hampshire, having a place of business at 21 Great Hollow Road, Hanover, New Hampshire 03755 (the "*Assignor*"), has adopted and used and is using the trademarks and service marks (the "*Marks*") identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS, Brown Brothers Harriman & Co., a New York general partnership having an office located at 40 Water Street, Boston, Massachusetts 02109 (the "*Assignee*"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (a) the registrations of and registration applications for the Marks, (b) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (c) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks (U.S.) is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks (U.S.) below.

IN WITNESS WHEREOF, the Assignor, by its duly authorized officer, has executed this assignment, as an instrument under seal, on this ____ day of _____, _____.

HYPERTHERM, INC.

By: _____
Name: _____
Title: _____

The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Assignor to the Assignee is hereby accepted as of the ____ day of _____, _____.

BROWN BROTHERS HARRIMAN & CO.

By: _____
Name: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

On this the ____ day of _____, _____, before me appeared _____, the person who signed this instrument, who acknowledged that he is _____ of HYPERTHERM, INC. and that being duly authorized he signed such instrument as a free act on behalf of HYPERTHERM, INC.

Notary Public
My commission expires:

ANNEX

**Trademark/Service Mark Registrations
U.S. Patent and Trademark Office**

Mark

Registration Date

Registration No.

**Trademark/Service Mark Registrations
U.S. Patent and Trademark Office**

Mark

Application Date

Application No.

EXHIBIT 2

ASSIGNMENT OF PATENTS

WHEREAS, HYPERTHERM, INC., a corporation organized and existing under the laws of the State of New Hampshire, having a place of business at 21 Great Hollow Road, Hanover, New Hampshire 03755 (the "*Assignor*"), owns the patents, patent applications and related patent property (the "*Patents*") identified on the Annex hereto; and

WHEREAS, Brown Brothers Harriman & Co., a New York general partnership having an office located at 40 Water Street, Boston, Massachusetts 02109 (the "*Assignee*"), is desirous of acquiring the Patents;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Patents and to any and all continuations, continuations in-part, divisions, patents of addition, renewals, extensions, foreign counterparts, utility models, reexaminations and reissues of any of said Patents for the full term thereof, this assignment including the Assignor's entire right to bring suit and recover damages for past infringement of any of said Patents and to assert any claim, action or cause of action that may have arisen prior to the date of this assignment or thereafter under any of said Patents.

This Assignment of Patents is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Patents below.

IN WITNESS WHEREOF, the Assignor, by its duly authorized officer, has executed this assignment, as an instrument under seal, on this ____ day of _____, _____.

HYPERTHERM, INC.

By: _____
Name: _____
Title: _____

The foregoing assignment of the Patents by the Assignor to the Assignee is hereby accepted as of the ____ day of _____, _____.

BROWN BROTHERS HARRIMAN & CO.

By: _____
Name: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

On this the ____ day of _____, _____, before me appeared _____, the person who signed this instrument, who acknowledged that he is _____ of HYPERTHERM, INC. and that being duly authorized he signed such instrument as a free act on behalf of HYPERTHERM, INC.

Notary Public
My commission expires:

ANNEX

**Patent Registrations
U.S. Patent and Trademark Office**

Description of Patent

Patent No.

**Patent Applications
U.S. Patent and Trademark Office**

Description of Requested Patent

Patent ApplicationNo.