



**Registration of a Charge**

Company name: **THERMASYS CS UK HOLDING LIMITED**

Company number: **07464159**



X822ISO0

Received for Electronic Filing: **26/03/2019**

---

**Details of Charge**

Date of creation: **22/03/2019**

Charge code: **0746 4159 0001**

Persons entitled: **CITIZENS BANK, N.A.**

Brief description: **LAND SEE CLAUSE 3.1 OF THE DEBENTURE, WHICH CREATES A FIXED CHARGE IN ANY RIGHT, TITLE OR INTEREST OVER LAND (AS DEFINED IN THE DEBENTURE) WHICH THE COMPANY HAS NOW OR SUBSEQUENTLY ACQUIRES. INTELLECTUAL PROPERTY SEE CLAUSE 3.7 OF THE DEBENTURE WHICH CREATES A FIXED CHARGE OVER ALL INTELLECTUAL PROPERTY RIGHTS (AS DEFINED IN THE DEBENTURE), INCLUDING ALL FEES, ROYALTIES AND OTHER RIGHTS OF EVERY KIND RELATING TO OR DERIVING FROM SUCH INTELLECTUAL PROPERTY RIGHTS.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

---

**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

## Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **NORTON ROSE FULBRIGHT LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 7464159

Charge code: 0746 4159 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd March 2019 and created by THERMASYS CS UK HOLDING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th March 2019 .

Given at Companies House, Cardiff on 27th March 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

CONFIDENTIAL

EXECUTION VERSION

Dated 22 March 2019

---

Covrad Heat Transfer Limited  
(and others as Chargors)

and

Citizens Bank, N.A.  
(as Collateral Agent)

## Guarantee and Debenture

BD-#32923239-v6

^  
NORTON ROSE FULBRIGHT

I certify that, save for material  
redacted pursuant to s.859G  
of the Companies Act 2006,  
this copy instrument is a correct copy  
of the original instrument.

*Norton Rose Fulbright LLP*  
Sign & Dated 26/3/19

## Contents

Clause	Page
1 Definitions and Interpretation .....	1
2 Covenant to pay .....	4
3 Creation of Security .....	4
4 Nature of Security Created .....	6
5 Conversion of Floating Charge .....	6
6 Restrictions .....	7
7 Representations and Warranties .....	7
8 Undertakings .....	8
9 Shares and Investments .....	11
10 Enforcement .....	11
11 Appointment and powers of Receivers .....	12
12 Protection of purchasers .....	13
13 Protection of the Secured Parties and Receivers .....	13
14 Further Assurances .....	15
15 Power of Attorney .....	15
16 Guarantee and Preservation of Security .....	16
17 Notices .....	19
18 Miscellaneous Provisions .....	20
19 Release .....	21
20 Governing Law and Jurisdiction .....	21
Schedule 1 The Chargors .....	22
Schedule 2 Forms of Notice to Banks and Acknowledgement .....	23
<b>Part I – Charged Accounts Notice</b> .....	<b>23</b>
<b>Part II – Charged Accounts Acknowledgement</b> .....	<b>24</b>
Schedule 3 Shares .....	26
Schedule 4 Charged Accounts .....	27
<b>Part I – Collection Accounts</b> .....	<b>27</b>

**Part II – Other Accounts.....27**

Schedule 5 Specified Intellectual Property.....28

Schedule 6 Deed of Accession .....29

## **Guarantee and Debenture**

**Dated** 22 March 2019

### **Between**

- (1) **Covrad Heat Transfer Limited** registered in England with number 00714170 (the **Company**);
- (2) **The companies** identified in Schedule 1 (together with the Company and each person which becomes a party to this Deed by executing a Deed of Accession, each a **Chargor** and together the **Chargors**);
- (3) **Citizens Bank, N.A.** as collateral agent and security trustee for the Secured Parties (the **Collateral Agent**).

### **Recitals**

- (A) The Lenders have agreed to make credit facilities available on the terms of the Loan Agreement.
- (B) The Chargors enter into this Deed to secure the repayment and satisfaction of the Secured Liabilities and to guarantee the obligations of the Foreign Loan Parties to the Secured Parties.
- (C) The Chargors and the Collateral Agent intend that this document take effect as a deed notwithstanding that it may be executed under hand.

**It is agreed:**

## **1 Definitions and Interpretation**

### **1.1 Definitions**

In this Deed:

**Act** means the Law of Property Act 1925.

**Book Debts** means:

- (a) all book and other debts in existence from time to time (including, without limitation, any sums whatsoever owed by banks or similar institutions) both present and future, actual or contingent, due, owing to or which may become due, owing to or purchased or otherwise acquired by any Chargor; and
- (b) the benefit of all rights whatsoever relating to the debts referred to in (a) above including, without limitation, any related agreements, documents, rights and remedies (including, without limitation, negotiable or non-negotiable instruments, guarantees, indemnities, legal and equitable charges, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all similar connected or related rights and assets).

**Cash Dominion Trigger Event** has the meaning given in the Loan Agreement.

**Charged Accounts** means the Collection Accounts and the Other Accounts.

**Collection Accounts** means the bank accounts of the Chargors (if any) specified in Part I of Schedule 4 (*Charged Accounts*) and/or in the Schedule to any Deed of Accession and/or such other bank accounts of the Chargors as the Collateral Agent may designate or approve.

**Deed of Accession** means a deed of accession substantially in the form set out in Schedule 6 (*Deed of Accession*).

**Distribution Rights** means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them.

**Equipment** means each Chargor's fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related authorisations, agreements and warranties.

**Insurance** means each contract or policy of insurance to which a Chargor is a party or in which it has an interest (excluding, in each case, contracts and policies of insurance which relate to liabilities to third parties).

**Intellectual Property Rights** means:

- (a) any patents, petty patents, trade marks, service marks, trade names, domain names, rights in designs, software rights, utility models, database rights, copyrights, rights in the nature of copyright, and all other forms of intellectual or industrial property;
- (b) any rights in or to inventions, formulae, confidential or secret processes and information, know-how and similar rights, goodwill and any other rights and assets of a similar nature; and
- (c) any other right to use (or which may arise from, relate to or be associated with), or application to register or protect, any of the items listed in paragraphs (a) or (b) above,

arising or subsisting in any jurisdiction and whether registered or not.

**Investments** means all or any stocks, shares, bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations).

**Land** has the same meaning as it has in section 205(1) of the Act.

**Loan Agreement** means the loan, security and guarantee agreement dated 31 December 2018 and made between, among others, API Heat Transfer Thermasys Corporation, API Heat Transfer Inc., Covrad Heat Transfer Limited and Arup Alu-Rohr Und Profil GmbH (as borrowers), API Heat Transfer Intermediated Holdings, LLC and certain of its subsidiaries (as guarantors) and Citizens Bank, N.A. (as administrative agent), as amended by way of a first amendment to loan, security and guaranty agreement dated on or about the date of this Deed.

**Other Accounts** means the bank accounts of the Chargors specified in Part II of Schedule 4 (*Charged Accounts*) and/or in the Schedule to any Deed of Accession and/or such other bank accounts of the Chargors as the Collateral Agent may designate or approve.

**Receiver** means a receiver appointed pursuant to this Deed or to any applicable law, whether alone or jointly, and includes a receiver and/or manager and, if the Collateral Agent is permitted by law to appoint an administrative receiver, includes an administrative receiver.

**Regulations** means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, and **Regulation** means any of them.

**Secured Liabilities** means the Foreign Facility Obligations and all other present and future obligations and liabilities, whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever, of each Foreign Loan Party to the Secured Parties under the



Loan Documents except for any obligation which, if it were so included, would result in a contravention of the prohibitions in Chapter 2 (*Financial assistance for purchase of own shares*) of Part 18 of the Companies Act 2006 (or its equivalent in any other jurisdiction).

**Secured Parties** means any Agent, any Lender, Issuing Bank, Bank or any of their respective Affiliates.

**Security Assets** means all assets of each Chargor the subject of any security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Secured Liabilities have been irrevocably and unconditionally satisfied in full and no Secured Party has any commitment or liability, whether present or future, actual or contingent, in relation to the credit facilities provided under the Loan Agreement in relation to any Loan Party.

**Security** means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.

**Shares** means all shares held by any Chargor in its Subsidiaries.

**Specified Intellectual Property** means the registered Intellectual Property Rights (if any) specified in Schedule 5 (*Specified Intellectual Property*) and/or in the Schedule to any Deed of Accession.

**Subsidiary** means:

- (a) a subsidiary within the meaning of section 1159 of the Companies Act 2006; and
- (b) any company which would be a subsidiary within the meaning of section 1159 of the Companies Act 2006 but for any Security subsisting over the shares in that company from time to time,

but on the basis that a person shall be treated as a member of a company if any shares in that company are held by that person's nominee or any other person acting on that person's behalf.

## 1.2 Construction

- (a) Any reference in this Deed to:
  - (i) **assets** includes present and future properties, revenues and rights of every description;
  - (ii) **an authorisation** means an authorisation, consent, approval, licence, resolution, filing or registration;
  - (iii) any **Loan Document** or any other agreement or instrument is a reference to that Loan Document or other agreement or instrument as amended, amended and restated, varied, novated supplemented or replaced from time to time;
  - (iv) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (v) a **person** includes one or more of that person's assigns, transferees or successors in title, delegates, sub-delegates and appointees (in the case of a Loan Party only, in so far as such assigns, transferees or successors in title, delegates, sub-

delegates and appointees are permitted in accordance with the Loan Documents) and any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);

- (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law, but if not having the force of law, being one with which it is customary to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (vii) a **guarantee** (other than the guarantee contained in Clause 16 (*Guarantee and Preservation of Security*)) includes any guarantee or indemnity, bond, letter of credit, documentary or other credit, or other assurance against financial loss;
  - (viii) a provision of law is a reference to that provision as amended or re-enacted;
  - (ix) words importing the singular shall include the plural and vice versa; and
  - (x) **writing** includes fax and email.
- (b) Clause and Schedule headings are for ease of reference only.
  - (c) An Event of Default is **continuing** if it has not been remedied or waived.
  - (d) Capitalised terms defined in the Loan Agreement have the same meaning when used in this Deed unless the context requires otherwise.
  - (e) The terms of the other Loan Documents and of any side letters between any parties in relation to any Loan Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
  - (f) Each of the charges in Clause 3 (*Creation of Security*) over each category of the assets, each asset and each sub-category of each asset specified in such clause shall be read and construed separately, as though each such category, asset and sub-category were charged independently and separately of each other and shall apply to both present and future assets.

## **2 Covenant to pay**

Each Chargor covenants with the Collateral Agent as trustee for the Secured Parties that it will on demand pay and discharge the Secured Liabilities when due in accordance with the terms of, and in the manner provided for, in the Loan Documents.

## **3 Creation of Security**

### **3.1 Land**

Each Chargor charges by way of fixed charge any right, title or interest which it has now or may subsequently acquire to or in any Land.

### **3.2 Shares**

Each Chargor mortgages or (if or to the extent that this Deed does not take effect as a mortgage) charges by way of fixed charge:

- (a) all Shares; and
- (b) all related Distribution Rights.

### **3.3 Investments**

Each Chargor mortgages or (if and to the extent that this Deed does not take effect as a mortgage) charges by way of fixed charge:

- (a) all Investments; and
- (b) all related Distribution Rights,  
including those held for it by any nominee.

### **3.4 Equipment**

Each Chargor charges by way of fixed charge all Equipment.

### **3.5 Book Debts**

Each Chargor charges by way of fixed charge:

- (a) its Book Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor but excluding the Charged Accounts and any amounts standing to the credit of any Charged Account; and
- (b) the benefit of all rights, Security and guarantees of whatsoever nature enjoyed or held by it in relation to anything referred to in paragraph (a) above.

### **3.6 Collection Accounts**

Each Chargor charges by way of fixed charge all of its right, title and interest (if any) in and to the Collection Accounts and all monies standing to the credit of any of the Collection Accounts and the debts represented by them.

### **3.7 Intellectual Property Rights**

Each Chargor charges by way of fixed charge all Intellectual Property Rights, including all fees, royalties and other rights of every kind relating to or deriving from such Intellectual Property Rights.

### **3.8 Goodwill**

Each Chargor charges by way of fixed charge its goodwill.

### **3.9 Uncalled capital**

Each Chargor charges by way of fixed charge its uncalled capital.

### **3.10 Authorisations**

Each Chargor charges by way of fixed charge the benefit of all authorisations held by it in relation to any Security Asset.

### **3.11 Insurance**

Each Chargor charges by way of fixed charge all of its benefits, claims and returns of premiums in respect of the Insurance.

### **3.12 Other assets**

- (a) Each Chargor charges by way of floating charge all its present and future business, undertaking and assets which are not effectively mortgaged, charged by way of fixed charge or assigned under this Clause 3 (*Creation of Security*).
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Deed.

### **3.13 Trust**

If or to the extent that for any reason the assignment, mortgaging or charging of any Security Asset is prohibited, each Chargor holds it on trust for the Collateral Agent.

## **4 Nature of Security Created**

The Security created under this Deed is created:

- (a) as a continuing security and will extend for the ultimate balance of sums payable in connection with the Secured Liabilities regardless of any intermediate payment or discharge in whole or part;
- (b) over all present and future assets of the kind described which are owned by any Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them;
- (c) in favour of the Collateral Agent as agent and trustee for the Secured Parties; and
- (d) with full title guarantee.

## **5 Conversion of Floating Charge**

### **5.1 Conversion on notice**

Subject to Clause 5.2 (*Limitation*), the Collateral Agent may by notice to a Chargor at any time during the Security Period convert the floating charge created by that Chargor under this Deed into a fixed charge in respect of any Security Asset specified in that notice if:

- (a) an Event of Default is continuing; or
- (b) the Collateral Agent considers that Security Asset to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy.

## **5.2 Limitation**

Clause 5.1 (*Conversion on notice*) shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

## **5.3 Automatic conversion**

The floating charge created by a Chargor under this Deed will convert automatically into fixed charges:

- (a) if the Collateral Agent receives notice of an intention to appoint an administrator of that Chargor;
- (b) if any steps are taken, (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of that Chargor over all or any part of its assets, or if such person is appointed;
- (c) if that Chargor creates or attempts to create any Security over all or any of the Security Assets (other than Permitted Liens);
- (d) on the crystallisation of any other floating charge over the Security Assets;
- (e) if any person seizes, attaches, charges, takes possession of or sells any Security Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and
- (f) in any other circumstances prescribed by law.

## **6 Restrictions**

No Chargor shall:

- (a) create or permit to subsist any Security of whatsoever nature on any Security Asset other than Permitted Liens or as created by this Deed; or
- (b) sell, transfer, grant, lease or otherwise dispose of any Security Asset, except for disposal:
  - (i) in the ordinary course of trade of any Security Asset subject to the floating charge created by Clause 3.12 (*Other assets*);
  - (ii) as permitted pursuant to the Loan Documents; or
  - (iii) with the consent of the Collateral Agent.

## **7 Representations and Warranties**

### **7.1 Making of representations**

Each Chargor makes the representations and warranties set out in this Clause 7 to the Collateral Agent and the Secured Parties. The representations and warranties so set out are made on the date of this Deed and are deemed to be repeated by the Chargors throughout the Security Period on those dates on which representations and warranties are to be repeated in accordance with the Loan Agreement with reference to the facts and circumstances then existing.

## **7.2 Shares**

All Shares beneficially owned by a Chargor as at the date of this Deed are described in Schedule 3 (*Shares*).

## **7.3 Specified Intellectual Property**

- (a) The details of the Specified Intellectual Property appearing or referred to in Schedule 5 (*Specified Intellectual Property*):
  - (i) are true, accurate, and complete in all material respects; and
  - (ii) no Chargor is the owner of any interest in any other registered Intellectual Property which is not identified in that Schedule.
- (b) Nothing has been done or has been omitted to be done by or with the consent of any Chargor whereby any person (including any relevant registrar or other applicable authority) might reasonably be expected successfully (i) to seek cancellation or rectification or any other modification of any registration of or application for registration, in any jurisdiction, of any Specified Intellectual Property which is registered or subject to an application for registration in such jurisdiction, or (ii) to challenge the legality or validity of any such registration or application.
- (c) No Chargor is aware of any circumstances which would be likely to entitle a third party to a licence, permission, consent or assignment of, or in respect of, any Specified Intellectual Property or other Intellectual Property Rights.

## **8 Undertakings**

### **8.1 Duration**

The undertakings in this Clause 8 shall remain in force throughout the Security Period and are given by each Chargor to the Collateral Agent and the Secured Parties.

### **8.2 Book debts and receipts**

Each Chargor (which is a Borrower) shall collect and realise its Book Debts and other monies and receipts and, save to the extent that the Collateral Agent otherwise agrees in writing, cause all proceeds thus realised to be paid into a Collection Account and, pending such payment into a Collection Account hold the proceeds thus realised upon trust for the Collateral Agent.

### **8.3 Collection Account Arrangements**

Each Borrower shall, on or before the date falling 30 days after the date of this Deed in respect of any Collection Account open on the date of this Deed or, in respect of any Collection Account opened after the date of this Deed, promptly following the opening of such Collection Account, either:

- (a) serve notice upon the bank at which each Collection Account is opened (in respect of the relevant Collection Accounts) in substantially the form set out in Part I of Schedule 2 (*Forms of Notice to Banks and Acknowledgement*) and procure the relevant bank returns the acknowledgement in substantially the form set out in Part II of Schedule 2 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the Collateral Agent in its absolute discretion; or
- (b) execute and deliver an account control agreement with the relevant account bank on terms acceptable to the Collateral Agent and the relevant account bank in their absolute discretion.

#### **8.4 Operation of Collection Accounts**

At any time after the Security created under this Deed has become enforceable or a Cash Dominion Trigger Event has occurred:

- (a) no Borrower shall be entitled to withdraw the whole or any part of any amount standing to the credit of any Collection Account and shall not take any action, claim or proceedings against the Collateral Agent or any other party for the return or payment to any person of the whole or any part of any amount standing to the credit of any Collection Account; and
- (b) the Collateral Agent may serve notice upon any bank at which a Collection Account is open, terminating the Chargor's right to operate such Collection Account and instructing the account bank to forward, by daily sweep, all amounts in the applicable Collection Account to an account of the Collateral Agent.

#### **8.5 Other Account Arrangements**

Each Chargor shall, promptly upon the execution of this Deed or, in respect of any Other Account opened after the date of this Deed, promptly following the opening of such Other Account serve notice upon the bank at which each Other Account is opened (in respect of the relevant Other Accounts) in substantially the form set out in Part I of Schedule 2 (*Forms of Notice to Banks and Acknowledgement*) and use reasonable endeavours to procure the relevant bank returns the acknowledgement in substantially the form set out in Part II of Schedule 2 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the Collateral Agent in its absolute discretion.

#### **8.6 Operation of Other Accounts**

Until the occurrence of an Event of Default which is continuing and notification by the Collateral Agent in writing to the contrary, the Chargors shall be entitled to operate the Other Accounts provided that the Chargors shall not at any time transfer the whole or any part of the amounts standing to the credit of any Other Account to any other bank account other than to another Charged Account or in the ordinary course of business to the extent permitted under the Loan Documents.

#### **8.7 Bank Accounts**

Until the security constituted by this Deed is discharged, no Chargor shall maintain any bank accounts which are not Charged Accounts.

#### **8.8 Shares and Investments**

Each Chargor covenants that, at all times during the Security Period:

- (a) if it forms or acquires any Subsidiary after the date of this Deed, it shall promptly notify the Collateral Agent; and
- (b) as soon as reasonably practicable after any Shares or Investments are registered in, or transferred into the name of, a Chargor, or held by or in the name of the Collateral Agent (and in any event as soon as the Collateral Agent so requests), it shall deposit with the Collateral Agent, in respect of or in connection with those Shares or Investments:
  - (i) all stock and share certificates and documents of or evidencing title;
  - (ii) signed undated transfers, completed in blank; and
  - (iii) any other documents which the Collateral Agent may from time to time reasonably require for perfecting its title, or the title of any purchaser,

all of which will be held by the Collateral Agent at the expense and risk of the Chargor;

- (c) it will promptly copy to the Collateral Agent, and comply with, all requests for information which is within its knowledge and which are made under section 793 of the Companies Act 2006 or any similar provision contained in any articles of association or other constitutional document relating to any of its Shares and Investments;
- (d) it will comply with all other conditions and obligations assumed by it in respect of any of the Shares and Investments where failure to so comply would in the reasonable opinion of the relevant Chargor adversely affect the interests of the Secured Parties; and
- (e) promptly following receipt, each Chargor shall forward to the Collateral Agent copies of all notices, documents and other communications received in connection with the Shares and Investments.

## **8.9 Land**

- (a) Each Chargor shall promptly give notice in writing to the Collateral Agent if:
  - (i) it receives any notice under section 146 of the Act; or
  - (ii) any proceedings are commenced against it for the forfeiture of any lease of any Land.
- (b) Each Chargor shall:
  - (i) perform all its obligations under any law or regulation in any way related to or affecting its Land, except to the extent that non-performance of those obligations would not materially adversely affect the value or marketability of any of its Land; and
  - (ii) within 14 days after receipt by it of any material application, requirement, order or notice served or given by any public or local or any other authority with respect to its Land (or any part of it):
    - (A) deliver a copy to the Collateral Agent; and
    - (B) inform the Collateral Agent of the steps taken or proposed to be taken to comply with the relevant requirements.

## **8.10 Intellectual Property**

- (a) Without prejudice to clause 14 (*Further Assurances*) if after the date of this Deed, any Chargor (i) proposes to apply to register any Specified Intellectual Property in any register in which it is not already identified as being registered in or (ii) proposes to apply to register any Intellectual Property Rights (which are material to the business and operations of the relevant Chargor or to the Loan Parties as a whole) not existing on the date of this Deed, such Chargor shall notify the Collateral Agent and, if the Collateral Agent reasonably requires and promptly notifies the Chargor, such Chargor shall ensure that application is made for the security created by this Deed to be recorded, and that any such security is recorded, at the same time as the application or registration (as the case may be) of such Intellectual Property Rights.
- (b) Each Chargor will promptly notify the Collateral Agent in writing upon becoming aware of any circumstances which would make any of the representations in clause 7.7 (*Specified Intellectual Property*) inaccurate or misleading in any material respect if those representations were then to be repeated.



## **9 Shares and Investments**

### **9.1 Before an Event of Default**

Until an Event of Default occurs, no Chargor shall exercise any voting and other rights and powers attached to the Shares and Investments in a manner which the Collateral Agent reasonably considers would materially prejudice the interests of the Secured Parties under the Loan Documents.

### **9.2 After an Event of Default**

After an Event of Default occurs and is continuing each Chargor shall promptly pay over to the Collateral Agent all monies arising from the Distribution Rights relating to the Shares and Investments which it may receive, and exercise all voting and other rights and powers attached to the Shares and Investments in any manner which the Collateral Agent may direct.

## **10 Enforcement**

### **10.1 When Security becomes enforceable**

The Security created by a Chargor under this Deed shall become enforceable:

- (a) on the occurrence of an Event of Default which is continuing; or
- (b) if a Chargor so requests.

### **10.2 Powers on enforcement**

At any time after the Security created by a Chargor under this Deed has become enforceable, the Collateral Agent may (without prejudice to any other of its rights and remedies and without notice to any Chargor) do all or any of the following:

- (a) serve notice upon any bank at which an Other Account is open, terminating the Chargor's right to operate such Other Account;
- (b) exercise all the powers and rights conferred on mortgagees by the Act, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the Act;
- (c) exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Security Asset, without the restrictions imposed by sections 99 and 100 of the Act;
- (d) to the extent that any Security Asset constitutes Financial Collateral, as defined in the Regulations, appropriate it and transfer the title in and to it to the Collateral Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18;
- (e) subject to Clause 11.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets; and
- (f) appoint an administrator of any Chargor.

### **10.3 Disposal of the Security Assets**

In exercising the powers referred to in Clause 10.2 (*Powers on enforcement*), the Collateral Agent or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

#### **10.4 Application of moneys**

- (a) The Collateral Agent or any Receiver shall apply moneys received by them under this Deed after the Security created under this Deed has become enforceable in the following order:
- (i) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Collateral Agent and any Receiver under this Deed or which are incidental to any Receiver's appointment, together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
  - (ii) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Collateral Agent and any Receiver;
  - (iii) **thirdly**, in or towards the discharge of all liabilities having priority to the Secured Liabilities;
  - (iv) **fourthly**, in or towards the discharge of the Secured Liabilities in accordance with the Loan Agreement; and
  - (v) **fifthly**, in the payment of any surplus to the relevant Chargor or other person entitled to it,

and section 109(8) of the Act shall not apply.

- (b) Clause 10.4(a) will override any appropriation made by a Chargor.

### **11 Appointment and powers of Receivers**

#### **11.1 Method of appointment and removal**

- (a) The Collateral Agent may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.
- (b) Every appointment or removal of a Receiver, of any delegate or of any other person by the Collateral Agent pursuant to this Deed may be made in writing under the hand of any officer or manager of the Collateral Agent (subject to any requirement for a court order in the removal of an administrative receiver).

#### **11.2 Powers of Receiver**

Every Receiver shall have all the powers:

- (a) of the Collateral Agent under this Deed;
- (b) conferred by the Act on mortgagees in possession and on receivers appointed under the Act;
- (c) in relation to, and to the extent applicable to, the Security Assets or any of them, the powers specified in schedule 1 of the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver within the meaning of that Act); and
- (d) in relation to any Security Asset, which he would have if he were its only beneficial owner.

### **11.3 Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

### **11.4 Receiver as agent**

Every Receiver shall be the agent of the relevant Chargor which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

### **11.5 Receiver's remuneration**

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Collateral Agent, and the maximum rate specified in section 109(6) of the Act shall not apply.

### **11.6 Delegation**

- (a) The Collateral Agent and any Receiver may, for the time being and from time to time, delegate by power of attorney or in any other manner (including, without limitation, under the hand of any manager of the Collateral Agent) to any person any right, power or discretion exercisable by the Collateral Agent or such Receiver (as the case may be) under this Deed.
- (b) Any such delegation may be made upon the terms (including, without limitation, power to sub delegate) and subject to any regulations which the Collateral Agent or such Receiver (as the case may be) may think fit.
- (c) Neither the Collateral Agent nor any Receiver will be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub delegate who shall be entitled to all the indemnities to which his appointor is entitled under this Deed.

## **12 Protection of purchasers**

No purchaser or other person dealing with the Collateral Agent or any Receiver shall be bound or concerned:

- (a) to see or enquire whether the right of the Collateral Agent or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;
- (b) with the propriety of the exercise or purported exercise of those powers; or
- (c) with the application of any moneys paid to the Collateral Agent, to any Receiver or to any other person.

## **13 Protection of the Secured Parties and Receivers**

### **13.1 Exclusion of liability**

None of the Collateral Agent, the other Secured Parties, any Receiver or any of their respective officers or employees shall have any responsibility or liability:

- (a) for any action taken, or any failure to take any action, in relation to all or any of the Security Assets;

- (b) to account as mortgagee in possession or for any loss upon realisation of any Security Asset;
- (c) for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies; or
- (d) for the loss or destruction of, or damage to, any of the Security Assets, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargors); or
- (e) for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable,

except in the case of gross negligence or wilful misconduct on the part of that person.

### **13.2 General indemnity**

Each Chargor shall indemnify the Collateral Agent, the other Secured Parties, any Receiver and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred by them in respect of all or any of the following:

- (a) any act or omission by any of them in relation to all or any of the Security Assets;
- (b) any payment relating to or in respect of all or any of the Security Assets which is made at any time by any of them;
- (c) any stamp, registration or similar tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;
- (d) carrying out or purporting to carry out any of the rights, powers and discretions conferred on them by or permitted under this Deed; and
- (e) any breach by the Chargor of any of its covenants or other obligations to the Collateral Agent or any other Secured Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

### **13.3 Indemnity out of the Security Assets**

The Collateral Agent, the other Secured Parties, any Receiver and their respective officers and employees shall be entitled to be indemnified out of the Security Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 13.2 (*General indemnity*).

### **13.4 Enforcement Expenses**

Immediately upon demand, each Chargor shall pay all other costs and expenses (including legal fees and VAT) incurred from time to time in connection with the enforcement of or preservation of rights under this Deed by the Collateral Agent, or any Receiver, attorney, manager, agent or other person appointed by the Collateral Agent under this Deed or by statute, and keep each of them indemnified against any failure or delay in paying the same.

## **14 Further Assurances**

### **14.1 Further action**

Each Chargor shall, at its own expense, promptly take any action and sign or execute any further documents which the Collateral Agent may require in order to:

- (a) give effect to the requirements of this Deed;
- (b) protect, preserve and perfect the Security intended to be created by or pursuant to this Deed;
- (c) protect and preserve the ranking of the Security intended to be created by or pursuant to this Deed with any other Security over any assets of any Chargor; or
- (d) facilitate the realisation of all or any of the Security Assets or the exercise of any rights, powers and discretions conferred on the Collateral Agent, any Receiver or any administrator in connection with all or any of the Security Assets,

and any such document may (i) disapply section 93 of the Act and (ii) contain an assignment to the Collateral Agent of the Book Debts in any manner reasonably required by the Collateral Agent.

### **14.2 Deposit of documents**

Each Chargor covenants that, within 10 Business Days of the date of this Deed and at all times during the Security Period, within 10 Business Days of receiving them (and in any event within 10 Business Days of the Collateral Agent so requesting), it shall deposit with the Collateral Agent, in respect of or in connection with the Security Assets:

- (a) all deeds, certificates and other documents of or evidencing title;
- (b) in respect of Shares and Investments mortgaged under Clause 3.2 (*Shares*) and 3.3 (*Investments*) respectively, signed undated transfers, completed in blank; and
- (c) any other documents which the Collateral Agent may from time to time require for perfecting its title, or the title of any purchaser,

all of which will be held by the Collateral Agent at the expense and risk of the relevant Chargor.

### **14.3 Law of Property (Miscellaneous Provisions) Act 1994**

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause 14 (*Further Assurances*).

## **15 Power of Attorney**

### **15.1 Appointment**

Each Chargor irrevocably and by way of security appoints each of:

- (a) the Collateral Agent;
- (b) any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Collateral Agent; and
- (c) any Receiver,

jointly and severally as that Chargor's attorney, in that Chargor's name, on its behalf and in such manner as the attorney may in its or his absolute discretion think fit following the occurrence of an Event of Default or following the failure by that Chargor to comply with a request from the Collateral Agent in accordance with the terms of this Deed, to take any action and sign or execute any further documents which that Chargor is required to take, sign or execute in accordance with this Deed.

## **15.2 Ratification**

Each Chargor agrees, promptly on the request of the Collateral Agent or any Receiver, to ratify and confirm all such actions taken and documents signed or executed.

## **16 Guarantee and Preservation of Security**

### **16.1 Guarantee and indemnity**

Each Chargor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Secured Party punctual performance by each Foreign Loan Party of all that Foreign Loan Party's obligations under the Loan Documents;
- (b) undertakes with each Secured Party that whenever a Foreign Loan Party does not pay any amount when due under or in connection with any Loan Document, that Chargor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of a Foreign Loan Party not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Loan Document on the date when it would have been due. The amount payable by a Chargor under this indemnity will not exceed the amount it would have had to pay under this Clause 16 (*Guarantee and Preservation of Security*) if the amount claimed had been recoverable on the basis of a guarantee.

### **16.2 Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Foreign Loan Party under the Loan Documents, regardless of any intermediate payment or discharge in whole or in part.

### **16.3 Reinstatement**

If any payment by a Chargor or any discharge given by the Collateral Agent (whether in respect of the obligations of any Chargor, any Foreign Loan Party or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of each Chargor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Collateral Agent shall be entitled to recover the value or amount of that security or payment from each Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

#### **16.4 Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 16.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or the Collateral Agent or any other Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor, any other Foreign Loan Party or other person;
- (b) the release of any other Chargor, Foreign Loan Party or any other person under the terms of any composition or arrangement with any creditor of any Chargor, Foreign Loan Party or any other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor, Foreign Loan Party or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor, Foreign Loan Party or any other person;
- (e) any amendment (however fundamental) or replacement of a Loan Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### **16.5 Chargor intent**

Without prejudice to the generality of Clause 16.4 (*Waiver of defences*), each Chargor expressly confirms that it intends that the guarantee and security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Loan Documents and/or any facility or amount made available under any of the Loan Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **16.6 Immediate recourse**

Each Chargor waives any right it may have of first requiring the Collateral Agent to proceed against or enforce any other rights or security or claim payment from any person before enforcing the security constituted by this Deed. This waiver applies irrespective of any law or any provision of a Loan Document to the contrary.

#### **16.7 Appropriations**

Until the expiry of the Security Period, the Collateral Agent may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by the Collateral Agent in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability in respect of the Secured Liabilities.

#### **16.8 Deferral of Chargors' rights**

Until the expiry of the Security Period, and unless the Collateral Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Loan Documents:

- (a) to be indemnified by any other Chargor or any other Foreign Loan Party;
- (b) to claim any contribution from any other guarantor of any Chargor's or Foreign Loan Party's obligations under the Loan Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any of the Collateral Agent's rights under the Loan Documents or of any other guarantee or security taken pursuant to, or in connection with, the Loan Documents by the Collateral Agent.

#### **16.9 Additional Security**

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to any Secured Party.

#### **16.10 New Accounts**

If a Secured Party receives notice (actual or otherwise) of any subsequent Security over or affecting all or any of the Security Assets it may open a new account or accounts with any Chargor and, if it does not do so, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that subsequent Security, and as from that time all payments made by the relevant Chargor to that Secured Party:

- (a) shall be credited or be treated as having been credited to the new account of that Chargor; and
- (b) shall not operate to reduce the Secured Liabilities at the time when the that Secured Party received or was deemed to have received such notice.



## **17 Notices**

### **17.1 Delivery and Receipt**

- (a) Any communications to be made under or in connection with this Deed shall be made in writing, may be made by letter or facsimile and shall be deemed to be given as follows:
  - (i) if by way of letter, when it has been left at the relevant address or two Business Days after being deposited in the post with postage prepaid in an envelope addressed to it at that address; and
  - (ii) if by facsimile, when received in legible form,save that any notice delivered or received on a non-Business Day or after business hours shall be deemed to be given on the next Business Day at the place of delivery or receipt.
- (b) Any communication or document made or delivered to the Company in accordance with this Clause 17.1 (*Delivery and Receipt*) will be deemed to have been made or delivered to each of the Chargors.

### **17.2 Company's Address**

The Company's and each other Chargor's address and facsimile number for notices are:

API Heat Transfer Inc.  
2777 Walden Avenue  
Cheektowaga, New York 14225

Facsimile: N/A  
For the attention of: Tom Strauss

With a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, New York 10019-6064

Facsimile: 212.492.0347  
For the attention of: Jeffrey D. Saferstein

And a copy to:

Sir Henry Parkes Road  
Canley  
Coventry  
CV5 6BN

Facsimile: N/A  
For the attention of: Michael Bremmer

or such as the Company may notify to the Collateral Agent by not less than 10 days' notice.

### **17.3 Collateral Agent's Address**

The Collateral Agent's address and facsimile number for notices are:

Citizens Bank, N.A.  
600 Washington Blvd.  
Stamford, CT 06901

Facsimile: 617.227.7995

For the attention of: Kenneth Wales

With a copy to:

Holland & Knight LLP  
200 Crescent Court, Suite 1600  
Dallas, Texas 75201

Facsimile: 214.964.9501

For the attention of: James Chadwick

or such as the Collateral Agent may notify to the Company by not less than 10 days' notice.

## **18 Miscellaneous Provisions**

### **18.1 Tacking**

For the purposes of section 94(1) of the Act and section 49(3) of the Land Registration Act 2002 the Collateral Agent confirms on behalf of the Lenders that the Lenders shall make further advances to the Borrowers on the terms and subject to the conditions of the Loan Documents.

### **18.2 Separate Charges**

This Deed shall, in relation to each Chargor, be read and construed as if it were a separate Deed relating to such Chargor to the intent that if any Security created by any other Chargor in this Deed shall be invalid or liable to be set aside for any reason, this shall not affect any Security created under this Deed by such first Chargor.

### **18.3 Invalidity**

If, at any time, any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

### **18.4 Rights and Remedies**

The rights of the Secured Parties under this Deed are cumulative, may be exercised as often as considered appropriate and are in addition to the general law. Such rights (whether arising hereunder or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing and, in particular, any failure to exercise or delay in exercising any of such rights shall not operate as a waiver or variation of that or any other such right, any defective or partial exercise of any such rights shall not preclude any other or further exercise of that or any other such right, and no act or course of conduct or negotiation by any Secured Party or on its behalf shall in any way preclude it from exercising any such right or constitute a suspension or any variation of any such right.

### **18.5 Accession of Affiliates**

- (a) To the extent that any Affiliate of the Company is required by the terms of the Loan Documents to provide Security over its assets under English law, it may do so by executing a Deed of Accession and such Affiliate shall on the date which such Deed of Accession is executed by it become a party to this Deed in the capacity of a Chargor and this Deed shall be read and construed for all purposes as if such company had been an original party to this Deed as a Chargor (but for the avoidance of doubt the security created by such company shall be created on the date of the Deed of Accession).

- (b) Each Chargor (other than the Company) by its execution of this Deed or any Deed of Accession, irrevocably appoints the Company to execute on its behalf any Deed of Accession without further reference to or the consent of such Chargor and such Chargor shall be bound by any such Deed of Accession as if it had itself executed such Deed of Accession.

## **19 Release**

### **19.1 Expiry of Security Period**

- (a) Upon the expiry of the Security Period (but not otherwise), the Collateral Agent shall, at the request and cost of the Chargors, take whatever action is necessary to release the Security Assets from the security constituted by this Deed and/or reassign the benefit of the Security Assets to the Chargors.

- (b) Section 93 of the Act shall not apply to this Deed.

### **19.2 Other Accounts**

At any time before the Security created by this Deed shall have become enforceable, in the absence of any directions from the Collateral Agent to the contrary, any amounts permitted by the terms of the Loan Documents to be paid into an Other Account shall upon payment into such account stand released from any fixed charge in respect of such amount created pursuant to Clause 3 (*Creation of Security*) and shall stand subject to the floating charge created by Clause 3.12(a) (*Other Assets*), provided that such release shall in no respect prejudice the continuance of any fixed charge created pursuant to Clause 3 (*Creation of Security*) in respect of any other amount.

## **20 Governing Law and Jurisdiction**

### **20.1 Governing Law**

English law governs this Deed, its interpretation and any non-contractual obligations arising from or connected with it.

### **20.2 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (**a Dispute**).
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) This Clause 20.2 (*Jurisdiction*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Secured Party may take concurrent proceedings in any number of jurisdictions.

**This Deed has been entered into as a deed on the date stated at the beginning of this Deed.**

**Schedule 1  
The Chargors**

Name of Chargor	Jurisdiction of incorporation	Registration number (if any)
Covrad Holdings Limited	England	05227529
Thermasys CS UK Holding Limited	England	07464159

**Schedule 2**  
**Forms of Notice to Banks and Acknowledgement**

**Part I – Charged Accounts Notice**

**[On Headed Notepaper of relevant Chargor]**

[Date]

[Bank]

[Branch]

Attention:   [\*]

Dear Sirs,

- 1     We hereby give you notice that by a guarantee and debenture dated [\*], we have charged to [Collateral Agent] (the **Collateral Agent**) all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [\*], sort code [\*]

Account No. [\*], sort code [\*]

**[Repeat as necessary]**

(the **Charged Account(s)**).

- 2     Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the Collateral Agent at [\*], Attention: [\*].

Yours faithfully

.....  
for and on behalf of  
**[the relevant Chargor]**

## Part II – Charged Accounts Acknowledgement

[On the Headed Notepaper of Bank]

[Date]

[Collateral Agent] (the **Collateral Agent**)

[Address]

Attention: [•]

Dear Sirs,

[Name of Chargor] (Company)

- 1 We refer to the notice, received today from the Company with respect to the charge which it has granted to you over the Charged Accounts (the **Notice**).
- 2 Terms not defined in this letter shall have the meanings given to them in the Notice.
- 3 We hereby acknowledge that the Company has charged to you all of its rights, title, interest and benefit in and to the Charged Accounts.
- 4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Charged Accounts we shall:
  - (a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Charged Accounts save for fees and charges payable to us for the operation of the Charged Accounts;
  - (b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Charged Accounts;
  - (c) upon request from you send to you copies with respect to all the Charged Accounts of all statements together with copies of all credits, debits and notices given or made by us in connection with such account;
  - (d) permit or effect any withdrawal or transfer from the Charged Accounts in accordance with the Chargor's mandate with us until we receive notice from you terminating the Chargor's right to operate the Charged Accounts;
  - (e) comply with all instructions received by us from you from time to time with respect to the conduct of the Charged Accounts provided that such instructions are given in accordance with the terms of this letter;
  - (f) comply with all instructions received by us from you from time to time with respect to the movement of funds from the Charged Accounts provided that:
    - (i) all instructions are received in writing, by facsimile, to us at facsimile number [•], attention: [•]; and
    - (ii) all instructions must be received by 2pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied with on the next Business Day following such receipt. Facsimile instructions will be deemed received at the time of transmission; and

- (iii) to the extent that an instruction is given which would in our opinion cause any Charged Account to become overdrawn we will transfer the cleared balance in the account.
  - (g) not be obliged to comply with any instructions received from you where:
    - (i) due to circumstances not within our direct control we are unable to comply with such instructions; and
    - (ii) that to comply with such instructions will breach a Court Order or be contrary to applicable law;and in each case we shall give notice thereof to you and the Company as well as reasons why we cannot comply with such instructions; and
  - (h) in the event that we are unable to comply with any instructions due to circumstances set out in paragraph (g), not be responsible for any loss caused to you or to the Company and in any event we shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused).
- 5 You acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by the Company other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we shall not be liable to you in any respect if the Company operates the Charged Accounts in breach of any agreement entered into by the Company with you.
- 6 We are irrevocably authorised by you to follow any instructions received from you in relation to the Charged Accounts from any person that we reasonably believe is an authorised officer of the Collateral Agent, without further inquiry as to the Collateral Agent's right or authority to give such instructions and we shall be fully protected in acting in accordance with such instructions.
- 7 This letter is governed by and shall be construed in accordance with English law.

Yours faithfully

We hereby acknowledge and accept the terms of this letter

.....  
for and on behalf of  
[Bank]

.....  
for and on behalf of  
[Collateral Agent]

### Schedule 3 Shares

Chargor	Company Name	Number of Shares
Thermasys CS UK Holding Limited	Covrad Holdings Limited	150,000 shares of £0.10 each
Covrad Holdings Limited	Covrad Heat Transfer Limited	362,975 shares of £1.00 each
Thermasys CS UK Holding Limited	Hallco 1516 Limited	9,100 ordinary A shares of £1.00 each
Thermasys CS UK Holding Limited	Hallco 1516 Limited	900 ordinary B shares of £1.00 each



**Schedule 4  
Charged Accounts**

**Part I – Collection Accounts**

<b>Chargor</b>	<b>Bank</b>	<b>Currency</b>	<b>Account No.</b>
Covrad Heat Transfer Limited	Barclays Bank PLC	GBP	████████
Covrad Heat Transfer Limited	Barclays Bank PLC	EUR	████████
Covrad Heat Transfer Limited	Barclays Bank PLC	USD	████████

**Part II – Other Accounts**

None at the date of this Deed.

**Schedule 5**  
**Specified Intellectual Property**

None at the date of this Deed.

## Schedule 6 Deed of Accession

THIS DEED OF ACCESSION is dated [•] and made

### BETWEEN

- (1) [•] Limited [registered in England with number [•] whose registered office is at [•]][a corporation organised and existing under the laws of [•] whose principal place of business is at [•]][of [•]] (the **New Chargor**);
- (2) [PARTY NAME 1] [registered in England with number [•] whose registered office is at [•]][a corporation organised and existing under the laws of [•] whose principal place of business is at [•]][of [•]] for itself and as agent for and on behalf of each of the other Chargors presently party to the Debenture (as defined below) (**Company**); and
- (3) [Collateral Agent] (the **Collateral Agent**)

### RECITALS

- (A) The Company and others as Chargors entered into a guarantee and debenture dated [•] (as supplemented and amended from time to time, the **Debenture**) in favour of the Collateral Agent.
- (B) The New Chargor has at the request of the Company and in consideration of the Secured Parties continuing to make facilities available to the Borrowers and after giving due consideration to the terms and conditions of the Loan Documents and the Debenture and satisfying itself that there are reasonable grounds for believing that the entry into this Deed by it will be of benefit to it, decided in good faith and for the purpose of carrying on its business to enter into this Deed and thereby become a Chargor under the Debenture.
- (C) The Chargors and the Collateral Agent intend that this document take effect as a deed notwithstanding that it may be executed under hand.

### IT IS AGREED:

- 1 Terms defined in the Debenture have the same meaning when used in this Deed.
- 2 The New Chargor agrees to become a party to and bound by the terms of the Debenture as a Chargor with immediate effect and so that the Debenture shall be read and construed for all purposes as if the New Chargor had been an original party to the Debenture in the capacity of Chargor (but so that the security created consequent on such accession shall be created on the date of this Deed).
- 3 The New Chargor undertakes to be bound by all of the covenants and agreements in the Debenture which are expressed to be binding on a Chargor.
- 4 The New Chargor grants to the Collateral Agent the assignments, charges, mortgages and other Security described in the Debenture as being granted, created or made by Chargors under the Debenture [and agrees to be bound by clause 16.1 (*Guarantee and indemnity*) of the Debenture] to the intent that its assignments, charges, mortgages and other Security shall be effective and binding upon it and its property and assets and shall not in any way be avoided, discharged or released or otherwise adversely affected by any ineffectiveness or invalidity of the Debenture or of any other party's execution of the Debenture or any other Deed of Accession, or by any avoidance, invalidity, discharge or release of any guarantee, assignment or charge contained in the Debenture or in any other Deed of Accession.

- 5 The Debenture and this Deed shall be read and construed as one to the extent and so that references in the Debenture to:
- (a) this Deed and similar phrases shall be deemed to include this Deed;
  - (b) Schedule 3 (*Shares*) shall be deemed to include a reference to Part II of the Schedule to this Deed;
  - (c) Schedule 4 (*Charged Accounts*) shall be deemed to include a reference to Part II of the Schedule to this Deed;
  - (d) Schedule 5 (*Specified Intellectual Property*) shall be deemed to include a reference to Part III of the Schedule to this Deed;
- 6 The parties agree that the bank accounts of the New Chargor specified in Part III of the Schedule to this Deed:
- (a) as Other Accounts shall be designated as Other Accounts; and
  - (b) as Collection Accounts shall be designated as Collection Accounts,
- for the purposes of the Debenture.
- 7 The Company, for itself and as agent for and on behalf of the other Chargors under the Debenture, agrees and consents to all of the matters provided for in this Deed.
- 8 Without limiting the generality of the other provisions of this Deed and the Debenture, pursuant to the terms of this Deed and the Debenture, the New Chargor as security for the payment and performance of the Secured Liabilities, and in the manner specified in clause 4 (*Nature of Security Created*) of the Debenture:
- (a) mortgages or (if to the extent that this Deed does not take effect as a mortgage) charges by way of fixed charge to the Collateral Agent all of the Shares (if any) brief descriptions of which are specified in Part I of the Schedule to this Deed (which shall from today's date form part of the Shares for the purposes of the Debenture) and all related Distribution Rights;
  - (b) charges to the Collateral Agent by way of a fixed charge all of its right, title and interest in and to:
    - (i) the Collection Account(s) specified in Part II of the Schedule to this Deed; and
    - (ii) all monies standing to the credit of such Collection Account(s) and the debts represented by them; and
  - (c) charges to the Collateral Agent by way of fixed charge its Intellectual Property Rights (if any) specified in Part III of the Schedule to this Deed (which shall from today's date form part of the Specified Intellectual Property of the Chargors for the purposes of the Debenture).
- 9 English law governs this Deed, its interpretation and any non-contractual obligations arising from or connected with it.

**This Deed has been entered into as a deed on the date stated at the beginning of this Deed.**

## **SCHEDULE**

### **Part I – Shares**

*[Insert details of all Shares of the New Chargor]*

### **Part II - Charged Accounts**

#### **Collection Accounts**

*[Insert details of all Collection Accounts of the New Chargor]*

#### **Other Accounts**

*[Insert details of all Other Accounts of the New Chargor]*

### **Part III – Specified Intellectual Property**

*[Insert details of any registered Intellectual Property owned by the New Chargor]*

**SIGNATORIES**  
**[to the Deed of Accession]**

**The New Chargor**

Executed as a deed by )  
**[•] LIMITED** )  
acting by a Director in the presence of: )

Signature of witness: .....

Name of witness: .....

Address: .....

.....

**The Company**

for itself and as agent for the other  
Chargors party to the Debenture

Executed as a deed by )  
**COVRAD HEAT TRANSFER LIMITED** )  
acting by a Director in the presence of: )

Signature of witness: .....

Name of witness: .....

Address: .....

.....

**The Collateral Agent**

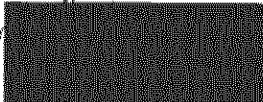
**CITIZENS BANK, N.A.**

By:

## SIGNATORIES

### The Chargors


Executed as a deed by  
**COVRAD HEAT TRANSFER LIMITED**  
acting by a director in the presence of:

)   
)  
)

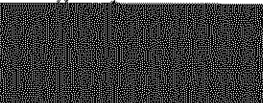
Signature of witness:

Name of witness:

Address:

  
.....  
Kelly Reperone  
2777 Walden Ave.  
Buffalo, N.Y. 14225


Executed as a deed by  
**THERMASYS CS UK HOLDING LIMITED**  
acting by a director in the presence of:

)   
)  
)

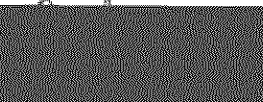
Signature of witness:

Name of witness:

Address:

  
.....  
Kelly Reperone  
2777 Walden Ave.  
Buffalo, N.Y. 14225


Executed as a deed by  
**COVRAD HOLDINGS LIMITED**  
acting by a director in the presence of:

)   
)  
)

Signature of witness:

Name of witness:

Address:

  
.....  
Kelly Reperone  
2777 Walden Ave.  
Buffalo, N.Y. 14225

The Collateral Agent

CITIZENS BANK, N.A.

By: 

Name: *Kenneth Wales*

Title: *Vice President*