

## TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

## CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Martin Marietta Magnesia Specialties, LLC		06/30/2003	Limited Liability Company: DELAWARE

## RECEIVING PARTY DATA

Name:	Midwest Industrial Supply, Inc
Street Address:	1101 3rd Street, SE
City:	Canton
State/Country:	OHIO
Postal Code:	44707
Entity Type:	CORPORATION:

## PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Registration Number:	1493758	DUST-BUSTER

## CORRESPONDENCE DATA

Fax Number: (919)783-4535

*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*

Phone: 9195104776

Email: matt.pasulka@martinmarietta.com

Correspondent Name: Matt Pasulka

Address Line 1: 2710 Wycliff Rd

Address Line 4: Raleigh, NORTH CAROLINA 27607

NAME OF SUBMITTER:

Matthew P. Pasulka

Total Attachments: 5

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REEL: 002916 FRAME: 0956

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of this 30th day of June, 2003 by and between MARTIN MARIETTA MAGNESIA SPECIALTIES, LLC ("Seller") and MIDWEST INDUSTRIAL SUPPLY, INC. ("Buyer").

### WITNESSETH:

WHEREAS, Seller currently owns and operates a dust suppression and control business, with products and services sold under the "Dust-Buster"® trademark (the "Business");

WHEREAS, Seller wishes to transfer certain assets used exclusively in the Business to Buyer in exchange for cash and other consideration as herein provided;

WHEREAS, Buyer wishes to acquire from Seller certain assets used exclusively in the Business as heretofore operated, all as hereinafter more fully set forth;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually covenant and agree, with the intent to be legally bound, as follows:

### ARTICLE 1: ASSETS TO BE PURCHASED

**Section 1.1 Purchased Assets.** On the terms and subject to the conditions herein expressed, Seller agrees to sell, assign, transfer, convey, and deliver to Buyer on the Closing Date, effective as of the Effective Time (as said terms are defined in Section 4.2 hereof), the assets listed on Schedule 1.1 to this Agreement (the "Purchased Assets"), other than the Retained Assets (as defined in Section 1.2), then owned by Seller, free and clear of any and all liens, except for the Permitted Exceptions (as defined in Section 7.4).

**Section 1.2 Retained Assets.** The Purchased Assets do not include and Seller shall retain on the Closing Date the real property and other assets used in the conduct of the Business listed or described on Schedule 1.2 to this Agreement (the "Retained Assets").

### ARTICLE 2: PURCHASE PRICE

**Section 2.1 Amount.** The aggregate consideration for the Purchased Assets shall be the sum of Three Hundred and Fifty Thousand Dollars (\$350,000) (the "Purchase Price") and the assumption of the Assumed Liabilities (as defined in Section 3.1). The Purchase Price shall be paid by Buyer at the Closing by wire transfer of immediately available

authority or other person on the part of Seller is required in connection with the execution or delivery of, or the performance of its obligations under this Agreement, the agreements and instruments to be executed and delivered pursuant to this Agreement, or the consummation of any transaction contemplated hereby or thereby.

**Section 7.12 Brokers.** No broker, finder, or investment banker is entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

**Section 7.13 Intellectual Property.** Schedule 7.13 sets forth a list of (a) all patents and patent applications owned by Seller and used exclusively in the Business (collectively, the "Patents"), (b) all registered trademarks and trademark registration applications owned by Seller and used exclusively in the Business, and (c) all registered copyrights and copyright registration applications owned by Seller and used exclusively in the Business (collectively, the "Intellectual Property"). To the knowledge of Seller, there are no claims or suits against the Intellectual Property or involving the Intellectual Property. Anything herein to the contrary notwithstanding, the term "Intellectual Property" shall not include the words "Martin Marietta," "Martin Marietta Magnesia Specialties," or any combination of such name, or any trade name, logo, or trademark currently employed by Seller containing or using such name. Nothing in this Agreement shall be construed as: (i) a representation or warranty by Seller as to the patentability, validity, scope, or usefulness of the Patents; or (ii) a representation or warranty by Seller that anything covered by the Patents and made, used, sold, or otherwise disposed of is or will be free from infringement of patents or proprietary rights of others. EXCEPT AS SET FORTH IN THIS SECTION, SELLER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, RELATING TO THE INTELLECTUAL PROPERTY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

**Section 7.14 Certain Financial Information.** Schedule 7.14 sets forth a schedule of Seller's pro forma unaudited profits and losses ("P&L") for the Business for the years 1998 through 2002 and estimated for year 2003. The P&L for the years 1998 through 2002 were prepared or extracted from the unaudited income statements of Seller and include allocations of expenses deemed reasonable by Seller and consistent in preparation from year to year. The estimated P&L for 2003 was prepared in a manner consistent with the years 1998 through 2002, but is based on assumptions that Seller believes in good faith to be reasonable, but which may be materially different from actual results. Buyer understands and agrees that (i) the P&L information with respect to the Business provided by Seller in Schedule 7.14 (the "Schedule 7.14 Information") was not information of the type prepared by Seller periodically in the ordinary course of the Business in accordance with its past practices but instead was prepared by Seller in connection with the proposed sale of the Business; (ii) while the Schedule 7.14 Information was not prepared in accordance with United States generally accepted

IN WITNESS WHEREOF, Seller and Buyer has each executed or caused this Agreement to be duly executed on their respective behalves by their respective duly authorized officers, all as of the day and year first above written.

**SELLER:**

**MARTIN MARIETTA MAGNESIA  
SPECIALTIES, LLC**


By: \_\_\_\_\_

  
John Harman

Vice President and General Manager  
- Chemicals

Attest:

By: \_\_\_\_\_

  
Asst Secretary

**BUYER:**

**MIDWEST INDUSTRIAL SUPPLY, INC.**

By: \_\_\_\_\_

Bob Vitale  
President

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
Secretary

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John Harman  
Vice President and General Manager  
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Secretary

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**MIDWEST INDUSTRIAL SUPPLY, INC.**

By: \_\_\_\_\_  
Bob Vitale  
President

Attest:

By: \_\_\_\_\_  
\_\_\_\_\_  
Secretary

*Schedule 7.13*

*Intellectual Property*

1. **Patents:**

Japanese Patent, No. 3,137,931, Dust Suppression Apparatus, issued December 8, 2000, issued to Mentec (also known as Mentek, Inc.) and Seller.

2. **Patent Applications:**

None

3. **Trademarks and Trademark Applications:**

Mark	Country	Status	Due Date	Goods
DUST-BUSTER	India	Pending Application (Ser. No. 695188; Filed on 1/22/96)	Awaiting further developments	Foam dust suppressants. (Class 1)
DUST-BUSTER	Indonesia	Registered (No. 303,731)	Renewal due: April 27, 2003. Local associate advised client does not wish to renew.	Foam dust suppressant. (Class 1)
DUST-BUSTER	Japan	Registered (No. 4370045)	Renewal due: March 24, 2010	Foam dust suppressants. (Class 1)
DUST-BUSTER	Korea (South)	Registered (No. 293,170)	Renewal due: July 8, 2004	Foam dust suppressant. (Korean Class 10)
DUST-BUSTER	Mexico	Registered (No. 468,979); 6/00 mark still in use	Renewal due: April 12, 2013	Foam dust suppressant. (Class 1)
DUST-BUSTER	Taiwan	Registered (No. 639,264)	Renewal due: April 15, 2004	Foam dust suppressant. (Class 1)
DUST-BUSTER	United States	Registered (No. 1,493,758)	Renewal due: June 28, 2008	Foam dust suppressant. (Class 1)