

# UNOFFICIAL COPY



Doc#: 0325144095  
Eugene "Gene" Moore Fee: \$42.00  
Cook County Recorder of Deeds  
Date: 09/08/2003 11:11 AM Pg: 1 of 10

P168024-DJ  
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## ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT (this "Assumption Agreement") is made as of July 31, 2003 by and between FEDERATED PAINT MANUFACTURING CO., INC., an Illinois corporation ("Federated Paint"), with an office at 1521-29 North 31<sup>st</sup> Avenue, Melrose Park, Illinois 60160, and THE NORTHERN TRUST COMPANY, an Illinois banking corporation (together with any successor, assign or subsequent holder, the "Lender"), with its main banking office at 50 South LaSalle Street, Chicago, Illinois 60675.

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### RECITALS:

**A. MORTGAGE.** Pioneer Powder Products, L.L.C. an Illinois limited liability company ("Pioneer Powder Products"), has heretofore executed and delivered to the Lender that certain Mortgage (including Security Agreement, Assignment of Rents and Leases, and Fixture Filing), dated as of July 31, 2001, which was recorded on August 15, 2001 in the Recorder's Office of Cook County, Illinois as Document No. 0010750977 and encumbers the real estate described on Exhibit A hereto, all or part of which is commonly known as 1521 North 31<sup>st</sup> Avenue, Melrose Park, Illinois 60160, all improvements now and hereafter located thereon and the other property and interests comprising the Premises under and as defined in said Mortgage (collectively, the "Premises") (said Mortgage, as amended by a First Amendment thereto, dated as of July 31, 2002, which was recorded on November 4, 2002 in the Recorder's Office of Cook County, Illinois as Document No. 0021217476, and as it may be further amended, modified, supplemented or restated from time to time, being hereinafter called the "Mortgage"), which Mortgage secures the payment and performance of all obligations and liabilities of Pioneer Powder Products and Federated Paint to the Lender, whether now existing or hereafter arising, as more fully described in the Mortgage.

**B. ENVIRONMENTAL INDEMNITY AGREEMENT.** In connection with the execution and delivery of the Mortgage, Pioneer Powder Products also entered into that certain Environmental Indemnity Agreement, dated as of July 31, 2001, among Pioneer Powder

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Products, Marshall J. Wechter, Norman R. Wechter, John Bauchwitz and the Lender with respect to the Premises (said Environmental Indemnity Agreement, as amended by a First Amendment thereto, dated as of July 31, 2002, and as it may be further amended, modified, supplemented or restated from time to time, being hereinafter called the "Environmental Indemnity Agreement").

**C. SALE OF THE PREMISES.** Pioneer Powder Products and Federated Paint have informed the Lender that Pioneer Powder Products wishes to sell the Premises to Federated Paint and Federated Paint wishes to buy the Premises from Pioneer Powder Products, and have asked the Lender for its consent to such sale, which the Lender is willing to give, provided that the Premises are sold subject to the Mortgage and that Federated Paint assumes all of the obligations, liabilities and indemnities of Pioneer Powder Products under the Mortgage and the Environmental Indemnity Agreement and agrees to comply with and perform all of the agreements and covenants of Pioneer Powder Products contained in the Mortgage and the Environmental Indemnity Agreement (the sale of the Premises by Pioneer Powder Products to Federated Paint being hereinafter called the "Sale").

**D. THIS ASSUMPTION AGREEMENT.** Federated Paint desires to enter into this Assumption Agreement in order to induce the Lender to consent to the Sale.

**E. FEDERATED PAINT'S POWERS; DUE AUTHORIZATION.** The execution, delivery and performance of this Assumption Agreement are within Federated Paint's powers and have been authorized by all necessary corporate action.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Federated Paint and the Lender agree as follows:

**1. ASSUMPTION OF OBLIGATIONS AND AGREEMENT TO PERFORM COVENANTS.**

(i) Assumption of Obligations, Liabilities and Indemnities. Federated Paint hereby assumes all of the obligations, liabilities and indemnities of Pioneer Powder Products to the Lender under the Mortgage and the Environmental Indemnity Agreement nowsoever created, evidenced or arising, whether direct or indirect, absolute or contingent, now due or to become due, or now existing or hereafter arising (collectively, the "Assumed Obligations").

(ii) Agreement to Perform Assumed Obligations and Covenants. Federated Paint hereby agrees that it will punctually pay, perform and discharge, without setoff, deduction or counterclaim, all of the Assumed Obligations and punctually observe and perform each and every agreement or covenant of Pioneer Powder Products contained in the Mortgage and the Environmental Indemnity Agreement so long as the Mortgage and the Environmental Indemnity Agreement remain in effect.

**2. CONSENT TO SALE OF THE PREMISES.** The Lender hereby consents to the Sale and agrees that the Sale shall not constitute an "Event of Default" under Section 7(j) of the Mortgage.

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**3. REPRESENTATIONS AND WARRANTIES.** To induce the Lender to consent to the Sale, Federated Paint hereby represents and warrants to the Lender that:

(i) Organization. It is a corporation existing in good standing under the laws of the State of Illinois; it is duly qualified, in good standing and authorized to do business in each jurisdiction where, because of the nature of its activities or properties, such qualification is required; and it has the power and authority to own its properties and to carry on its business as now being conducted.

(ii) Authorization; No Conflict. The execution and delivery of this Assumption Agreement and the performance by Federated Paint of its obligations hereunder are within its legal powers, have been authorized by all necessary corporate action, and do not and will not contravene or conflict with any provision of law or its articles of incorporation or by-laws or any agreement binding upon it.

(iii) Enforceable Obligation. This Assumption Agreement constitutes the legal, valid and binding obligation of Federated Paint enforceable in accordance with its terms. Federated Paint acknowledges that the Premises are being acquired by it subject to the liens and security interests created by the Mortgage, which liens and security interests are hereby confirmed by Federated Paint.

## **4. MISCELLANEOUS.**

(i) Recitals. The recitals hereto are hereby made a part of this Assumption Agreement.

(ii) Further Assurances. Federated Paint will promptly execute and deliver all further instruments and documents, and take all further action that may be necessary or desirable, or that the Lender may request, in order effectuate the assumption and performance of the Assumed Obligations by Federated Paint or to enable the Lender to exercise and enforce its rights hereunder.

(iii) Waivers, Amendments, etc. The provisions of this Assumption Agreement may from time to time be amended, modified or waived, if such amendment, modification or waiver is in writing and consented to by the Lender and Federated Paint. No waiver or approval by the Lender under this Assumption Agreement shall, except as may be otherwise stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder.

(iv) Notices. All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made when deposited in the mail, postage prepaid, addressed if to the Lender to its main banking office set forth in the preamble hereto (Attention: Division Head, PFS Chicago, Credit Administration), and if to Federated Paint to its office set forth in the preamble hereto (Attention: John Bauchwitz), or to such other address as may be hereafter designated in writing by the respective parties hereto.

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(v) Successors. This Assumption Agreement shall, upon execution and delivery by Federated Paint, and acceptance by the Lender in Chicago, Illinois, become effective and shall be binding upon and inure to the benefit of the Lender, Federated Paint and their respective successors and assigns, except that Federated Paint may not transfer or assign any of its rights or interest hereunder without the prior written consent of the Lender.

(vi) Captions. Captions in this Assumption Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(vii) Singular and Plural. Unless the context requires otherwise, wherever used herein the singular shall include the plural and vice versa, and the use of one gender shall also denote the other where appropriate.

(viii) Counterparts. This Assumption Agreement may be executed by the parties on any number of separate counterparts, and by each party on separate counterparts; each counterpart shall be deemed an original instrument; and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

(ix) Fees. Federated Paint agrees, upon written request of the Lender, to pay or reimburse the Lender for all costs and expenses of preparing, seeking advice in regard to, and enforcing this Assumption Agreement, or preserving its rights hereunder (including legal fees and reasonable time charges of attorneys who may be employees of the Lender, whether in or out of court, in original or appellate proceedings or in bankruptcy).

(x) Severability. Any provision of this Assumption Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

(xi) Construction. **THIS ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF ILLINOIS, AND SHALL BE DEEMED TO HAVE BEEN EXECUTED IN THE STATE OF ILLINOIS.**

(xii) Waiver of Jury Trial, etc. **FEDERATED PAINT AND THE LENDER HEREBY IRREVOCABLY AGREE THAT ALL SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT TO, ARISING OUT OF OR IN CONNECTION WITH THIS ASSUMPTION AGREEMENT SHALL BE SUBJECT TO LITIGATION IN COURTS HAVING SITUS WITHIN OR JURISDICTION OVER THE STATE OF ILLINOIS AND COOK COUNTY, ILLINOIS. FEDERATED PAINT AND THE LENDER HEREBY CONSENT AND SUBMIT TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED IN OR HAVING JURISDICTION OVER SUCH COUNTY AND STATE, AND HEREBY IRREVOCABLY WAIVE ANY RIGHT THEY OR ANY OF THEM MAY HAVE TO REQUEST OR DEMAND TRIAL BY JURY, TO TRANSFER OR CHANGE THE VENUE OF ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION, OR TO CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN**

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**INCONVENIENT FORUM. NO PARTY HERETO MAY SEEK OR RECOVER PUNITIVE OR CONSEQUENTIAL DAMAGES IN ANY PROCEEDING BROUGHT UNDER OR IN CONNECTION WITH THIS ASSUMPTION AGREEMENT.**

**[Signature page follows]**

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**IN WITNESS WHEREOF**, this Assumption Agreement has been duly executed and delivered as of the day and year first above written.

FEDERATED PAINT:

FEDERATED PAINT MANUFACTURING CO.,  
INC., an Illinois corporation

By: *Norman R. Wechter*  
Norman R. Wechter, President

By: *Marshall J. Wechter*  
Marshall J. Wechter, Secretary

By: *John Bauchwitz*  
John Bauchwitz, Vice President

THE LENDER:

THE NORTHERN TRUST COMPANY, an  
Illinois banking corporation

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

Name: \_\_\_\_\_

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

This instrument was prepared  
by and after recordation should  
be returned to:

Edward R. Rabe, Jr., Esq.  
Mayer, Brown, Rowe & Maw LLP  
190 South LaSalle Street  
Chicago, Illinois 60603-3441

Property of Cook County Clerk's Office

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**IN WITNESS WHEREOF**, this Assumption Agreement has been duly executed and delivered as of the day and year first above written.

FEDERATED PAINT:

FEDERATED PAINT MANUFACTURING CO.,  
INC., an Illinois corporation

By: \_\_\_\_\_  
Norman R. Wechter, President

By: \_\_\_\_\_  
Marshall J. Wechter, Secretary

By: \_\_\_\_\_  
John Bauchwitz, Vice President

THE LENDER:

THE NORTHERN TRUST COMPANY, an  
Illinois banking corporation

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

Name: NELSON J. LEIDNER, JR.

Title: VICE PRESIDENT

This instrument was prepared  
by and after recordation should  
be returned to:

Edward R. Rabe, Jr., Esq.  
Mayer, Brown, Rowe & Maw LLP  
190 South LaSalle Street  
Chicago, Illinois 60603-3441

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STATE OF ILLINOIS        )  
                                       )  
 COUNTY OF COOK         )     SS.

I, DIANE J. PLETSCH, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Norman R. Wechter, President, Marshall J. Wechter, Secretary, and John Bauchwitz, Vice President, of FEDERATED PAINT MANUFACTURING CO., INC., an Illinois corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Illinois corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 14 day of AUGUST 2003.

Diane J. Pletsch  
 Notary Public

My commission expires:

6/26/07





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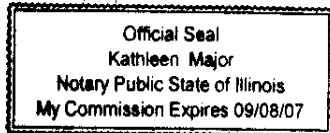
STATE OF ILLINOIS     )  
  )     SS.  
COUNTY OF COOK     )

I, Kathleen Major, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT \_\_\_\_\_, personally known to me to be a Nelson Leioner of THE NORTHERN TRUST COMPANY, an Illinois banking corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such \_\_\_\_\_, (s)he signed and delivered the said instrument pursuant to authority, as (his)(her) free and voluntary act, and as the free and voluntary act of said Illinois banking corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 26<sup>th</sup> day of August, 2003.

Kathleen Major  
Notary Public

My commission expires:



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## EXHIBIT A

### Legal Description of the Real Estate

PARCEL 1:

THE SOUTH 42 FEET OF LOT 6, ALL OF LOTS 7, 8, 13 AND 14 AND THE SOUTH 42 FEET OF LOT 15, ALL IN BLOCK 2 IN WILLIAM HEITMAN'S SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THE SOUTH 42 FEET OF LOT 6 AND ALL OF LOTS 7 AND 8 (EXCEPTING THEREFROM THAT PART CONVEYED TO THE INDIANA HARBOR BELT RAILROAD COMPANY BY DEEDS DATED MAY 15, 1913 AND RECORDED JUNE 6, 1913 AS DOCUMENTS 5200943 AND 5200944) IN BLOCK 1 IN WILLIAM HEITMAN'S SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

THAT PORTION OF THE VACATED 30<sup>TH</sup> AVENUE LYING BETWEEN PARCELS 1 AND 2 AFORESAID, IN COOK COUNTY, ILLINOIS

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 2 FOR INGRESS AND EGRESS AS CREATED IN WARRANTY DEED RECORDED DECEMBER 21, 1976 AS DOCUMENT 23755601 OVER, UNDER, UPON AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

THE EAST 40 FEET OF LOTS 9 AND 10 (EXCEPTING THEREFROM THAT PART CONVEYED TO THE INDIANA HARBOR BELT RAILROAD COMPANY BY DEEDS DATED MAY 15, 1913 AND RECORDED JUNE 6, 1913 AS DOCUMENTS 5200943 AND 5200944) IN BLOCK 1 IN WILLIAM HEITMAN'S SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Permanent real estate index numbers:15-04-207-007-0000

15-04-207-017-0000

15-04-207-030-0000

15-04-207-031-0000

15-04-207-032-0000

15-04-207-033-0000

15-04-207-035-0000

15-04-208-005-0000

Property address:

1521-29 North 31<sup>st</sup> Avenue, Melrose Park, Illinois 60160

13087089.1 97348916