



06-13-2003



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6.9.03

1. Name of conveying party(ies):

NATIONAL SILICATES COMPANY/COMPAGNIE  
SILICATES NATIONAL

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

2. Name and address of receiving party(ies):

Name: NATIONAL SILICATES PARTNERSHIP

Internal Address: \_\_\_\_\_

Street Address: 429 Kipling Avenue  
Etobicoke, Ontario  
M8Z 5V7 CANADA

Additional name(s) & address(es) attached? ☐ Yes X No

3. Name of conveyance:

X Assignment ☐ Merger  
☐ Security Agreement Change of Name  
☐ Other \_\_\_\_\_

Execution Date: July 25, 2000

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

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

B. Patent No.(s)

5,998,138

(Our File: T929111)

Additional numbers attached? ☐ Yes X No

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

Name Arne I. Fors  
GOWLING LAFLEUR HENDERSON LLP

Street Address: SUITE 4900  
Commerce Court West  
Toronto, Ontario  
M5L 1J3  
CANADA

6. Total number of applications and patents: 1

7. Total fee (37CFR 3:41) .....\$ 40.00

☐ Enclosed

X Authorized to be charged to deposit account

8. Deposit account number:  
07/1750

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and Signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

ARNE I. FORS, Registration No. 20,775  
Name of Person Signing

Signature

June 4, 2003  
Date

06/12/2003 TDI/21 00000160 071750 5998138  
01 FC:8021 40.00 CH

Total number of pages comprising cover sheet: 8

PATENT  
REEL: 014154 FRAME: 0203

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

**THIS AGREEMENT** is made as of the 25<sup>th</sup> day of July, 2000

**BETWEEN:**

**NATIONAL SILICATES COMPANY/COMPAGNIE  
SILICATES NATIONAL**, a company existing under the laws of  
Nova Scotia,

(the "Transferor")

-and-

**NATIONAL SILICATES PARTNERSHIP**, a general  
partnership existing under the laws of Ontario,

(the "Transferee")

**RECITALS:**

- A. The Transferor has entered into a partnership agreement with NSL Potters Canada Company, dated as of June 15, 2000 (the "Partnership Agreement").
- B. The Partnership Agreement requires the Transferor to transfer all of the assets used by the Transferor in connection with the Business and the liabilities associated therewith to the Partnership on the Subsequent Contribution Date, other than the Employees and the Employee Benefit Plans (as such terms are defined in the Partnership Agreement) which the parties thereby determine to be July 25, 2000, such transfers to be completed in reliance on sections 97(2) of the *Income Tax Act* (Canada) (the "ITA");
- C. The Transferor wishes to assign to the Transferee and the Transferee wishes to assume such assets and liabilities as of noon (Toronto time) on the Subsequent Contribution Date (the "Effective Time.")

**NOW THEREFORE**, the parties agree as follows:

## ARTICLE 1

### DEFINITIONS AND PRINCIPLES OF INTERPRETATION

#### 1.1 Definitions

Whenever used in this Agreement, unless there is something inconsistent in the subject matter or the context, the following words and terms shall have the meanings set out below:

**"Agreement"** means this asset transfer agreement;

**"Assumed Liabilities"** means all of the liabilities and obligations of the Transferor incurred in connection with Transferred Assets and the Business other than those associated with the Employees and Employee Benefit Plans;

**"Business"** has the meaning ascribed to in the Partnership Agreement;

**"Effective Time"** has the meaning ascribed to it in the Recitals to this Agreement;

**"TTA"** has the meaning ascribed to it in the Recitals to this Agreement;

**"Partnership Agreement"** has the meaning ascribed to it in the recitals to this Agreement; and

**"Transferred Assets"** means all of the assets used by the Transferor in connection with the Business other than the Employees and Employee Benefit Plans.

#### 1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Time** - time is of the essence in the performance of the parties' respective obligations hereunder;
- (b) **Headings** - the descriptive headings of Articles and Sections are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of content; and

- (c) **Singular, etc.** - the use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such person or persons or circumstances as the context otherwise permits.

## **ARTICLE 2**

### **TRANSFER**

#### **2.1 Action by Transferor and Transferee**

- (a) **Transfer-** The Transferor hereby transfers, conveys, assigns and delivers to the Transferee, as of the Effective Time, and the Transferee hereby receives from the Transferor, as of the Effective Time, all of the Transferor's right, title and interest in and to the Transferred Assets.
- (b) **Assumption of Assumed Liabilities** - The Transferor hereby assigns the Assumed Liabilities to the Transferee as of the Effective Time and the Transferee hereby assumes the Assumed Liabilities as of the Effective Time and hereby agrees that thereafter, it will discharge or perform the Assumed Liabilities when due.
- (c) **Effective Time** - The parties agree that the transfer described in item (a) above and the assignment and assumption described in item (b) above will occur at the Effective Time without any further action by the Transferor or the Transferee, other than as expressly set forth herein.

#### **2.2 Consideration**

The parties agree that the consideration to be paid to the Transferor in connection with the transfer of the Transferred Assets to the Transferee shall be that specified in the Partnership Agreement.

**ARTICLE 3**  
**REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties of the Transferor**

The Transferor represents and warrants to the Transferee that:

- (a) the Transferor has all the necessary corporate power, authority and capacity to enter into this Agreement and to consummate the transactions contemplated hereby;
- (b) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Transferor; and
- (c) the Transferor is not a non-resident of Canada for the purposes of the ITA.

**3.2 Representations and Warranties of the Transferee**

The Transferee hereby represents and warrants to the Transferor that:

- (a) the Transferee has all the necessary corporate power, authority and capacity to enter into this Agreement and to consummate the transactions contemplated hereby;
- (b) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action of the Transferee; and
- (c) the Transferee is not a non-resident of Canada for the purposes of the ITA.

## ARTICLE 4 GENERAL

### 4.1 Further Assurances

The parties hereto shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated hereby, and each party shall provide such further documents or instruments required by the other party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

### 4.2 Effective Conveyance

- (a) This Agreement shall operate as:
  - (i) an actual conveyance, transfer, assignment and setting over of all the right, title and interest of the Transferor in and to the Transferred Assets; and
  - (ii) an actual assignment by the Transferor of the Assumed Liabilities to the Transferee and an actual assumption of the Assumed Liabilities by the Transferee.
- (b) The Transferor shall at the request of the Transferee, sign, execute, and deliver all documents, transfers, assignments, matters and things which are convenient and necessary or which counsel for the Transferee may recommend in order to more completely and effectively convey, assign and transfer to or vest the Transferred Assets in the Transferee and all the right, title and interest of the Transferor therein.
- (c) The Transferee shall, at the request of the Transferor, sign, execute and deliver all documents, transfers, assignments, matters and things which are convenient or necessary or which counsel for the Transferor may recommend in order to more completely and effectively provide for the assignment to and assumption of the Assumed Liabilities by the Transferee.

### **Sales Taxes**

The Transferee shall pay directly to the appropriate taxing authorities all federal and provincial sales, transfer and other similar taxes and charges payable in respect of the purchase of the Transferred Assets as and if applicable.

#### **4.4 Language**

The parties confirm that it is their wish that this Agreement, as well as any other documents relating to this Agreement, including notices, schedules and authorizations, be drawn up in the English language only. Les parties aux presentes confirment leur volonte que cette convention, de meme que tous les documents, y compris tous avis, cedulaes et autorisations s'y rattachant, soient rediges en anglais seulement.

#### **4.5 Counterparts/Facsimile**

This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. This Agreement may be executed by any party by facsimile and if so executed shall be legal, valid and binding on any party executing this Agreement in such manner.

#### **4.6 Governing Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

#### **4.7 Benefit of Agreement**

This Agreement shall ensure to the benefit of and be binding upon the parties and their successors and permitted assigns.

IN WITNESS WHEREOF, the Transferor and the Transferee have executed this agreement as of the date first written above.

**NATIONAL SILICATES COMPANY/  
COMPAGNIE SILICATES NATIONAL**

By: *W Warrick*  
Name: William Warrick  
Title: Treasurer

**NATIONAL SILICATES PARTNERSHIP**

By: *W Warrick*  
Name: William Warrick  
Title: Treasurer

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PHASE 1A

05/28/01 10:02 FAX 9 819 779 4369

RECORDED: 06/09/2003

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REEL: 014154 FRAME: 0210