

03-01-2002

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings



DEPARTMENT OF COMMERCE Patent and Trademark Office

101997331

To the Honorable Commissioner

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies)  
**National Heritage Academies, Inc.**

Individual(s)       Association  
 General Partnership     Limited Partnership  
 Corporation-State Michigan  
 Other

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

2. Name and address of receiving party(ies)  
Name: **FINOVA Public Finance, Inc.**  
Internal Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Street Address: **605 North Highway 169, Suite 250**  
City: **Plymouth** State: **MN** Zip: **55441**

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State **Delaware**  
 Other \_\_\_\_\_

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

3. Nature of conveyance:  
 Assignment       Merger  
 Security Agreement     Change of Name  
 Other: **Amended and Restated Collateral Assignment of Intellectual Property**

Execution Date: **August 23, 2001**

4. Application number(s) or registration number(s):  
A. Trademark Application No.(s) **75/470,697; 75/465,359; 75/791,174; 75/791,073; 75/791,050; and 75/562,656**  
Additional number(s) attached \_\_\_\_\_

B. Trademark Registration No.(s) \_\_\_\_\_  
 Yes     No

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: **Christopher J. Mugel, Esquire**  
Internal Address: **LeClair Ryan**  
Street Address: **707 East Main Street, Eleventh Floor**  
City: **Richmond** State: **VA** Zip: **23219**

6. Total number of applications and registrations involved: **6**

7. Total fee (37 CFR 3.41).....\$ **165.00**  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number: \_\_\_\_\_  
(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.

Christopher J. Mugel

*Christopher J. Mugel*  
Signature

*1/24/2002*  
Date

Name of Person Signing

12

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

02/28/2002  
01 FC:481  
02 FC:482

MUELLER 00000160 75470697

40.00 OP  
125.00 OP

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

TRADEMARK REEL: 002451 FRAME: 0197

**AMENDED AND RESTATED  
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY**

THIS AMENDED AND RESTATED COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY (the **“Amended Collateral Assignment”**) is entered into by and between National Heritage Academies, Inc., a Michigan corporation (**“NHA”**) and Charter Development Company, LLC, a Michigan limited liability company (**“CDC”**) (**collectively and on a joint basis, the “Borrower”**), and FINOVA Public Finance, Inc., a Delaware corporation (**“FINOVA”**).

WHEREAS Borrower entered into a Loan, Financing and Security Agreement dated January 6, 2000 (the **“Original Loan Agreement”**) and a Pledge and Security Agreement dated January 6, 2000 (the **“Original Pledge and Security Agreement”**), with FINOVA;

WHEREAS, the Original Loan Agreement was amended pursuant to that certain First Amendment to Loan, Financing and Security Agreement and Guaranty Agreement and Request for Waiver of Conditions and Indemnification Agreement (the **“First Amendment to Loan Agreement”**), and has been further amended and restated by that certain Amended and Restated Loan, Financing and Security Agreement dated as of August 23, 2001 (the **“Amended and Restated Loan Agreement”**)(**collectively, the Original Loan Agreement, as amended by the First Amendment to Loan Agreement and the Amended and Restated Loan Agreement, shall hereinafter be referred to as, the “Loan Agreement”**)

WHEREAS in the Original Pledge and Security Agreement as amended pursuant to that certain Amended and Restated Pledge and Security Agreement dated as of August 23, 2001, Borrower grants to FINOVA a security interest in certain tangible and general intangible assets of Borrower (**collectively, the “Collateral”**), including Borrower’s Intellectual Property, as that term is defined in the Loan Agreement; and

WHEREAS Borrower and FINOVA executed and delivered that certain Collateral Assignment of Intellectual Property dated as of January 6, 2001 (the **“Original Collateral Assignment”**) pursuant to which Borrower enabled FINOVA to record and perfect its security interest created by the Original Pledge Agreement to secure repayment of the Borrower’s obligations under the Original Loan Agreement, all as more specifically described in the Original Pledge Agreement and the Original Collateral Assignment; and

WHEREAS, Borrower and FINOVA now desire to amend and restate the terms of the Original Collateral Assignment to enable FINOVA to record and perfect its security interests as created by the Amended Pledge Agreement and to effectuate FINOVA’s ability to exercise its rights under the Loan Agreement and under the Amended Pledge and Security Agreement, all to further secure repayment of the Loan Facilities (as defined in the Loan Agreement) upon the occurrence of a Default and/or an Event of Default as defined therein,

NOW, THEREFORE, in consideration of the foregoing, in furtherance of the parties' prior agreements, and for other good and valuable consideration, the receipt and sufficiency of which Borrower and FINOVA each acknowledge, the parties hereby enter into this Amended Collateral Assignment of Intellectual Property Agreement, including the contingent power of attorney contained herein:

1. As used in this Amended Collateral Assignment, "Intellectual Property" shall have the same definition as set forth in the Loan Agreement. Such Intellectual Property shall include, but is not limited to, the trademarks and service marks and the associated applications and registrations owned by NHA as listed in Exhibit A to the Original Collateral Assignment, as supplemented by those trademarks and service marks and the associated applications and registrations owned by NHA as listed in Exhibit A to this Amended Collateral Assignment.

2. Borrower hereby grants and assigns to FINOVA, its successors, assigns and legal representatives in its capacity as a lender and to hold as agent for certain other lenders identified in Exhibit A to the Loan Agreement, as additional security in the Intellectual Property, this Amended Collateral Assignment of the security interest in all of the Borrower's right, title and interest in and to the Intellectual Property, presently owned or hereafter acquired, including without limitation the trademarks and service marks and the associated applications and registrations owned by NHA as listed in Exhibit A to this Amended Collateral Assignment along with all associated goodwill, and including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits, the right to sue for past, present and future infringement suits), all rights corresponding thereto throughout the world and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof, now or hereafter existing. Without limiting the effect of the foregoing, however, until the occurrence or existence of a "Default" and/or an "Event of Default" as those terms are defined in the Loan Agreement, Borrower shall retain title to the Intellectual Property, subject to this Amended Collateral Assignment, and FINOVA shall hold only a security interest in and the contingent right to full ownership of the Intellectual Property.

3. Subject to the limitations and provisions of Section 4 of this Amended Collateral Assignment, Borrower hereby appoints FINOVA as its attorney-in-fact and grants to FINOVA a contingent, limited power of attorney:

a. to modify and amend Exhibit A to include any after-acquired patents and patent applications, trademarks and associated applications and registrations, copyrights and associated copyright applications and registrations, and other Intellectual Property in the event that any such Intellectual Property is acquired by Borrower while the Loan Agreement and Pledge and Security Agreement remain in effect; and

b. to execute, through any of its duly appointed officers, on behalf of Borrower or any of its successors-in-interest, the "Assignment of Intellectual Property" appended hereto as Exhibit B.

4. FINOVA acknowledges and agrees that the foregoing contingent power of attorney extends to it the authority to execute the Assignment appended at Exhibit B, to seize the patent, trademark and copyright registrations and applications for registration, and to seize the incidents of the goodwill associated with the Intellectual Property only upon the occurrence of a Default and/or an Event of Default as defined by the Loan Agreement (and only if not cured within any applicable cure period or expressly waived by FINOVA) or as otherwise allowed by law. In the event FINOVA exercises its rights under the power of attorney granted herein and executes the assignment found at Exhibit B, Borrower agrees to provide FINOVA with all reasonable assistance in acquiring, assembling, maintaining and disposing of the Intellectual Property.

5. Upon execution of this Amended Collateral Assignment by both parties, FINOVA or its designee may record same with the U.S. Patent & Trademark Office, Assignment Division, with the U.S. Copyright Office and with such other federal and state agencies as is necessary or appropriate to memorialize and perfect its security interest in the Intellectual Property.

6. FINOVA agrees that, in the event that all obligations under the Loan Agreement and the Pledge and Security Agreement are satisfied and discharged by Borrower, the limited power of attorney granted herein shall automatically expire and FINOVA shall execute releases of its security interest at the request of Borrower, its successors or assigns.

7. Borrower agrees to execute such other documents and take such additional steps as may be reasonably necessary to secure and perfect FINOVA's rights under this Amended Collateral Assignment, the Loan Agreement and the Pledge and Security Agreement.

8. This Amended Collateral Assignment shall be binding upon any successor-in-interest to the parties.

9. No failure on the part of FINOVA to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by FINOVA preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or under the Loan Agreement or Pledge and Security Agreement.

10. This Amended Collateral Assignment shall in all respects be construed in accordance with and governed by the laws of the State of Michigan. This Amended Collateral Assignment may not be amended or modified except in a writing signed by FINOVA.

11. This Amended Collateral Assignment is intended only to memorialize or effectuate the rights and remedies available to the parties under the Loan Agreement and the Pledge and Security Agreement, and it does not amend, revise or rescind any provision of the Loan Agreement or the Pledge and Security Agreement.

FINOVA PUBLIC FINANCE, INC.

By: K. A. Griebnow

Print Name: Kriss A. Griebnow

Title: Director - Credit

Date: August 23, 2001

Acknowledgment

On this ~~23<sup>rd</sup>~~ day of August, 2001 before me appeared Kriss A. Griebnow, the person who signed the foregoing instrument, who acknowledged that he or she signed it as a free act on behalf of the identified corporation with authority to do so.

STATE OF Michigan )  
CITY OF KENT )

Subscribed and sworn to before me this ~~23<sup>rd</sup>~~ <sup>23<sup>rd</sup></sup> day of ~~January~~ <sup>August</sup>, 2000.

My commission expires: 12/5/01

[Signature]  
Notary Public

KAE JAE LINSCOTT  
NOTARY PUBLIC, Kent County, MI  
My Commission Expires 12-05-01

By: [Signature]

Print Name: Peter G. Ruppert

Title: President

Date: 8/23/01

Acknowledgment

On this 23<sup>rd</sup> day of August, 2001 before me appeared Peter G. Ruppert, the person who signed the foregoing instrument, who acknowledged that he or she signed it as a free act on behalf of the identified limited liability company with authority to do so.

STATE OF Michigan

CITY OF KENT

Subscribed and sworn to before me this 23<sup>rd</sup> day of August, 2001.


My commission expires: 12/5/01

[Signature]  
Notary Public

**KAE JAE LINSOTT  
NOTARY PUBLIC, Kent County, MI  
My Commission Expires 12-05-01**

IN WITNESS WHEREOF, the parties agree to the foregoing this 23<sup>rd</sup> day of August, 2001.

NATIONAL HERITAGE ACADEMIES, INC.

By: 

Print Name: Peter G. Ruppert

Title: President

Date: 8/23

Acknowledgment

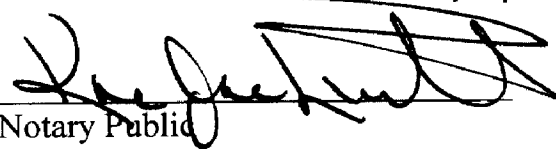
On this 23<sup>rd</sup> day of August, 2001 before me appeared Peter G. Ruppert, the person who signed the foregoing instrument, who acknowledged that he or she signed it as a free act on behalf of the identified corporation with authority to do so.

STATE OF Michigan)

CITY OF KENT)

Subscribed and sworn to before me this 23<sup>rd</sup> day of August, 2001.

My commission expires: 12/5/01

  
Notary Public

**KAE JAE LINSOTT  
NOTARY PUBLIC, Kent County, MI  
My Commission Expires 12-05-01**

**EXHIBIT A  
TO  
AMENDED COLLATERAL ASSIGNMENT OF SECURITY INTEREST**

**SCHEDULE OF PATENTS, TRADEMARKS, COPYRIGHTS  
AND ASSOCIATED APPLICATIONS AND REGISTRATIONS**

**Trademarks, Applications & Registrations**

<b><u>Mark</u></b>	<b><u>App. Serial No.</u></b>	<b><u>Filing Date</u></b>	<b><u>Owner</u></b>
NATIONAL HERITAGE ACADEMIES (& Design)	75/470,697	April 20, 1998	National Heritage Academies, Inc.
NATIONAL HERITAGE ACADEMIES	75/465,359	April 9, 1998	National Heritage Academies, Inc.
SCHOOLS FOR THE AMERICAN DREAM	75/562,656	September 21, 1998	National Heritage Academies, Inc.
ACADEMY LINK (& DESIGN)	75/791,174	September 2, 1999	National Heritage Academies, Inc.
ACADEMY LINK	75/791,073	September 2, 1999	National Heritage Academies, Inc.
A (DESIGN ONLY)	75/791,050	September 2, 1999	National Heritage Academies, Inc.

**Letters Patent and Patent Applications**

<b><u>Inventor</u></b>	<b><u>Assignee</u></b>	<b><u>Serial No.</u></b>	<b><u>Filing Date</u></b>
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**Copyrights, Applications & Registrations**

<b><u>Title</u></b>	<b><u>Filing Date &amp; No.</u></b>	<b><u>Regis. No. &amp; Issue Date</u></b>
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## EXHIBIT B

### ASSIGNMENT OF INTELLECTUAL PROPERTY

WHEREAS National Heritage Academies, Inc., a Michigan corporation ("NHA") and Charter Development Companies, LLC, a Michigan limited liability company ("CDC") (collectively and on a joint basis, the "Borrower"), have entered into a Loan, Financing and Security Agreement dated January 6, 2000, as amended pursuant to that certain First Amendment to Loan, Financing and Security Agreement and Guaranty Agreement and Request for Waiver of Conditions and Indemnification Agreement (the "First Amendment to Loan Agreement"), and has been further amended and restated by that certain Amended and Restated Loan, Financing and Security Agreement dated as of August 23, 2001 (the "Amended and Restated Loan Agreement")(collectively, the Original Loan Agreement, as amended by the First Amendment to Loan Agreement and the Amended and Restated Loan Agreement, shall hereinafter be referred to as, the "Loan Agreement") and a Pledge and Security Agreement dated January 6, 2000 as amended by that certain Amended and Restated Pledge Agreement dated as of August 23, 2001 (as so amended, the "Pledge and Security Agreement") with FINOVA Public Finance, Inc., a Delaware corporation ("FINOVA") in which Borrower granted to FINOVA a security interest in certain intangible collateral, including the Intellectual Property of Borrower, as that term is defined in the Loan Agreement;

WHEREAS, pursuant to said Loan Agreement and Pledge and Security Agreement, Borrower and FINOVA also have entered into a Collateral Assignment of Intellectual Property dated January 6, 2000, as amended and restated by that certain Amended and Restated Collateral Assignment of Intellectual Property dated as of August 23, 2001 (collectively, the "Collateral Assignment"), under which FINOVA is authorized to execute this Assignment as Borrower's attorney-in-fact upon the occurrence of a Default and/or an Event of Default as defined by the Loan Agreement and the Pledge and Security Agreement; and

WHEREAS a Default and/or an Event of Default has occurred; all conditions specified in the Loan Agreement and the Pledge and Security Agreement and otherwise in place, whether by agreement or by operation of law, have been satisfied; all contingencies upon the exercise of the contingent power-of-attorney have been satisfied; and FINOVA has elected to exercise its rights and remedies under the Loan Agreement, the Pledge and Security Agreement and the Collateral Assignment,

NOW THEREFORE, pursuant to the Loan Agreement, the Pledge and Security Agreement, the Collateral Assignment and the contingent power-of-attorney granted therein:

1. Borrower, by and through its attorney-in-fact as appointed by the contingent power of attorney set forth in the Amended Collateral Assignment, hereby assigns to FINOVA all right, title and interest in all of the Intellectual Property as defined in the Loan Agreement and secured

by the Pledge and Security Agreement. Without limiting the foregoing, Borrower specifically assigns to FINOVA all of its right, title and interest in and to the letters patents, patent applications, trademarks and service marks and associated applications and registrations, and copyrights and associated applications and registrations owned by NHA and identified in Exhibit A hereto.

2. Borrower agrees to execute such additional documents and provide such assistance as FINOVA may request to effectuate and perfect this assignment and to register, maintain, renew, enforce and defend the Intellectual Property.

Signed this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

NATIONAL HERITAGE ACADEMIES, OR  
SUCCESSOR-IN-INTEREST

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

ITS ATTORNEY-IN-FACT

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

Date: \_\_\_\_\_

Acknowledgment

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the foregoing instrument, who acknowledged that he or she signed it as a free act on behalf of the identified corporation with authority to do so.

STATE OF \_\_\_\_\_ )

)

CITY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

CHARTER DEVELOPMENT COMPANY, LLC

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

ITS ATTORNEY-IN-FACT

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

Date: \_\_\_\_\_

Acknowledgment

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the foregoing instrument, who acknowledged that he or she signed it as a free act on behalf of the identified limited liability company with authority to do so.

STATE OF \_\_\_\_\_ )

\_\_\_\_\_ )

CITY OF \_\_\_\_\_ )

Subscribed and sworn to before me this 6th day of January, 2000.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT A  
TO**

**ASSIGNMENT OF INTELLECTUAL PROPERTY**

**SCHEDULE OF PATENTS, TRADEMARKS, COPYRIGHTS  
AND ASSOCIATED APPLICATIONS AND REGISTRATIONS**

**Trademarks, Applications & Registrations**

<b><u>Mark</u></b>	<b><u>App. Serial No.</u></b>	<b><u>Filing Date</u></b>	<b><u>Owner</u></b>
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A (DESIGN ONLY)	75/791,050	September 2, 1999	National Heritage Academies, Inc.

**Letters Patent and Patent Applications**

<b><u>Inventor</u></b>	<b><u>Assignee</u></b>	<b><u>Serial No.</u></b>	<b><u>Filing Date</u></b>
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**Copyrights, Applications & Registrations**

<b><u>Title</u></b>	<b><u>Filing Date &amp; No.</u></b>	<b><u>Regis. No. &amp; Issue Date</u></b>
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