

08-20-2002

2 SHEET

Docket No.:



ONLY

12207.0168

Tab settings

To the Honorable Commissioner

102195856

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

NAC INTERNATIONAL, INC.

7-26-02

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

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: **June 26, 2002**

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

Name: **EL DORADO INVESTMENT COMPANY**

Internal Address:

Street Address: **400 North 5th Street**

City: **Phoenix** State: **AZ** ZIP: **85004**

Individual(s) citizenship

Association

General Partnership

Limited Partnership

Corporation-State **Arizona**

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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

~~2,184,444~~

~~2,240,933~~

Additional numbers attached?  Yes  No

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

Name: **Shahpar Shahpar, Reg. No. 45,875**

Internal Address: **SNELL & WILMER LLP**

Street Address: **One Arizona Center**

**400 East Van Buren**

City: **Phoenix** State: **AZ** ZIP: **85004**

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

2

7. Total fee (37 CFR 3.41):.....\$ **\$80.00**

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

19-2814

08/19/2002 DBYRNE 0011173200  
01 FC:481 40.00 OP  
02 FC:482 25.00 OP  
App. Ref: 08/19/2002 DBYRNE 0011173200  
App. No: 192814 Name/Number: 218444  
FC: 704 \$15.00 CR

08/19/2002 DBYRNE 00000140 2184444

DO NOT USE THIS SPACE

01 FC:481 40.00 OP  
02 FC:482 25.00 OP

9. Statement and signature.

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

**Shahpar Shahpar, Reg. No. 45,875**

Name of Person Signing

*S. Shahpar*

Signature

7-12-02

Date

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

TRADEMARK

REEL: 002565 FRAME: 0843

THIS AGREEMENT IS SUBJECT TO THE TERMS OF THE SUBORDINATION AND CONSENT AGREEMENT, OF EVEN DATE HERewith, EXECUTED BY AND BETWEEN THE SECURED PARTY AND WACHOVIA BANK, N.A.

**CONDITIONAL ASSIGNMENT AND  
PATENT/INTELLECTUAL PROPERTY SECURITY AGREEMENT**

**THIS CONDITIONAL ASSIGNMENT AND PATENT/INTELLECTUAL PROPERTY SECURITY AGREEMENT** (the "Agreement") is made as of the 26 day of June, 2002, by **NAC International Inc.**, a Delaware corporation (the "Borrower"), in favor of **El Dorado Investment Company**, an Arizona corporation (the "Secured Party").

WHEREAS, the Borrower, NAC Holding Inc., a Delaware corporation ("Holding"), and the Secured Party are parties to a Convertible Promissory Note, dated as of June 26, 2002, in the original maximum principal amount of \$30,000,000 (as amended, restated, supplemented or otherwise modified from time to time, the "Note"), pursuant to which the Secured Party has made, and may continue to make certain loans and other financial accommodations available to the Borrower (the "Loans"); and

WHEREAS, in order to induce the Secured Party to make the Loans, the Borrower has agreed to assign to the Secured Party certain intellectual property rights as described herein.

NOW, THEREFORE, in consideration of the premises, the Borrower hereby agrees with the Secured Party as follows:

1. Grant of Security Interest.

To secure the complete and timely payment and performance of all Secured Obligations (as used herein, "Secured Obligations" shall mean the aggregate obligations arising under the Note), the Borrower hereby grants, assigns and conveys to the Secured Party a security interest in the Borrower's entire right, title and interest in and to the patents, patent applications, trademark registrations, and any other intellectual property listed in Schedule A attached hereto and by reference made a part hereof and in any further patents, patent applications, trademark applications or registrations, or any other intellectual property which may exist, issue, or be filed during the duration hereof, together with any and all licenses now or hereafter relating thereto and all royalty payments or rights to royalty payments now or hereafter arising therefrom (collectively, the "Intellectual Property").

2. Representations and Warranties.

The Borrower represents and warrants that:

(a) Except as set forth on Schedule B, the Intellectual Property is subsisting (e.g., for patents, they have issued and have not subsequently lapsed or prematurely expired) and to the best knowledge of the Borrower have not been adjudged invalid or unenforceable, in whole or in part, in the U.S. or in any of the respective states and countries thereof;

(b) The Intellectual Property listed on Schedule A constitute all of the intellectual property owned by the Borrower including all of the patents and patent applications that are owned by the Borrower;

(c) To the best of the Borrower's knowledge, each of the subsisting Intellectual Property is valid and enforceable in the U.S. and the respective states and countries thereof and all claims by others to rights in the Intellectual Property of which the Borrower is aware, including, without limitation, licenses, are noted on Schedule B attached hereto and by reference made a part hereof, except that this paragraph shall not be construed as a representation or warranty that the Borrower has heretofore marked the number of its patents on all goods covered by the claims of such patents;

(d) Except as noted on Schedule B, the Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to such Intellectual Property, free and clear of any liens, charges, encumbrances, mortgages, hypothecations, pledges, liens, security interests or claims of any kind, including, without limitation, covenants by the Borrower not to sue third persons and licenses;

(e) The Borrower has made all necessary applications, filings and recordations to protect and maintain its interest in the subsisting Intellectual Property, including, without limitation, all necessary filings and recordations in the U.S. Patent and Trademark Office and any foreign office; and

(f) The Borrower has the unqualified right, power and authority to execute, deliver and perform this Agreement.

### 3. Conditional Grant of Security Interest in Additional Intellectual Property.

If, before the Secured Obligations shall have been satisfied in full, the Borrower shall have or obtain ownership or any other interest of any intellectual property, the provisions of Paragraph 1 shall automatically apply thereto. This Paragraph 3 shall not apply to Intellectual Property which is owned by others and licensed to the Borrower. The Borrower shall perform all acts and execute all documents reasonably requested by the Secured Party at any time and from time to time to evidence, perfect, maintain, record, and enforce the Secured Party's security interest in the Intellectual Property, including, without limitations, any falling under this Paragraph 3.

4. Modification of Agreement.

The Borrower authorizes the Secured Party to modify this Agreement by amending Schedule A to include any additional Intellectual Property pursuant to Paragraphs 1 and 3 hereof, together with any then-existing limitations or licenses or claims to rights therein that have been made known to the Secured Party, and to have this Agreement, as amended, or any other document evidencing the security interest granted therein, recorded in the U.S. Patent and Trademark Office, any relevant state entity, and/or any relevant foreign office at the expense of the Borrower. The representations and warranties of the Borrower shall be deemed to be remade and restated by the Borrower as of the date of the amendment of Schedule A with respect to all Intellectual Property listed on the amended Schedule A at that time.

5. Covenants of the Borrower.

(a) The Borrower covenants as follows: (i) it will not do any act or omit to do any act that may cause or contribute to the abandonment of any Intellectual Property, or permit the premature expiration of any Intellectual Property without the prior written consent of the Secured Party (which consent shall not be unreasonably withheld); (ii) the Borrower shall give the Secured Party written notice, and a complete copy, of any license or sublicense of any Intellectual Property; and (iii) all uses of any Intellectual Property by it or its permitted sublicensees will include such notices of registration as are required or authorized from time to time under applicable law.

(b) With respect to the Intellectual Property, the Borrower agrees to take all necessary steps, including, without limitation, in the U.S. Patent and Trademark Office, any foreign office, or in any court, to: (i) maintain each such Intellectual Property, and (ii) pursue any application now or hereafter included in the Intellectual Property under this Agreement, including, without limitation, filing of responses to correspondence issued by the U.S. Patent and Trademark Office and payment of all maintenance fees or taxes as they become due during the life of each patent and trademark, provided that, if the Borrower determines that any Intellectual Property is not material to its business, the Borrower may, if no Event of Default under the Note exists, abandon or not pursue any Intellectual Property with prior written notice to the Secured Party. The Borrower agrees to take corresponding steps with respect to each new or acquired Intellectual Property covered by Paragraph 3 hereof. Any expenses incurred in connection with such activities shall be borne by the Borrower, and the Borrower agrees to as soon as practicable provide the Secured Party with written notice of any such actions or proceedings.

(c) The Borrower agrees that it shall notify the Secured Party as soon as practicable after it becomes aware of any alleged infringement of any of the Intellectual Property by a third party. The Borrower further agrees to pursue all commercially reasonable and appropriate causes of action against all infringers of the Intellectual Property, and the Borrower shall be liable for all costs associated with such causes of action, including, but not limited to, attorneys' fees. Notwithstanding the foregoing, if the Borrower determines that any such Intellectual Property is not material to the Borrower's business, the Borrower may, if no Event of

Default under the Note exists, elect not to pursue any such infringement action with prior written notice to the Secured Party.

(d) Upon the Secured Party's reasonable request from time to time, the Borrower shall provide to the Secured Party an up-to-date list of all license agreements relating to or affecting any of the Intellectual Property, together with the names and addresses of each licensee and, if requested by the Secured Party, a copy of each license agreement.

(e) Until all of the Secured Obligations shall have been satisfied in full, the Borrower will not enter into any agreement which is inconsistent with the Borrower's obligations under this Agreement without the Secured Party's prior written consent.

(f) The Borrower shall perform all acts and execute all documents reasonably requested by the Secured Party at any time and from time to time to evidence, perfect, maintain, record and enforce the Secured Party's security interest in the Intellectual Property, including, without limitation, any patents falling under Paragraph 3.

6. Remedies Upon Default; Power of Attorney.

(a) In addition to the grant of the security interest contained in Paragraphs 1 and 3 hereof, if any Event of Default under the Note shall have occurred and be continuing, or if the Borrower fails to perform any agreement or to meet any of its obligations hereunder, upon the election of the Secured Party and subject to any superior interest held by Wachovia Bank, N.A., as set forth in Schedule B, all right, title and interest in and to the Intellectual Property shall be automatically granted, assigned, conveyed and delivered to the Secured Party or its designee. The Borrower hereby irrevocably constitutes and appoints the Secured Party and any officer, agent or employee thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or the Secured Party's own name or the name of the Secured Party's designee, all acts of said attorney being hereby ratified and confirmed, upon the occurrence and during the continuation of an Event of Default under the Note: (i) to complete, date, execute and file, or cause to be filed, the Assignment attached hereto as Exhibit A and by reference made a part hereof (the "Assignment") in the U.S. Patent and Trademark Office and in all other applicable offices, and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purpose of the Assignment, including, without limitation, the right (but not the obligation) to prosecute applications in the name of the Borrower or the Secured Party, and to take any other actions deemed necessary by the Secured Party to maintain such registration in effect; (ii) to collect all proceeds from the Intellectual Property (including, without limitation, license royalties and proceeds of infringement suits); (iii) to convey, in any transaction authorized by the Note, any goods covered by the Intellectual Property to any purchaser thereof; and (iv) to make payment or to discharge taxes or liens levied or placed upon or threatened against any goods covered by the Intellectual Property, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Secured Party in its sole discretion, and such payments made by the Secured Party to become the obligations of the Borrower to the Secured Party, due and payable immediately without demand. Such power,

being coupled with an interest, is irrevocable until the Secured Obligations have been paid in full.

(b) The Secured Party shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Intellectual Property may be enforceable, and, without limiting the generality of the foregoing, the Secured Party may, if any Event of Default under the Note shall have occurred and be continuing, immediately, without demand or performance and without other notice (except as set forth below) or demand whatsoever to the Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the Intellectual Property, and after deducting from the proceeds of sale or other disposition of the Intellectual Property all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds in accordance with the terms of the Note. Notice of any sale or other disposition of the Intellectual Property shall be given to the Borrower at least five (5) business days before the time of any intended public or private sale or other disposition of the Intellectual Property is to be made, which the Borrower hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, the Secured Party may, to the extent permissible under applicable law, purchase the whole or any part of the Intellectual Property sold, free from any right of redemption on the part of the Borrower, which right is hereby waived and released. The Borrower hereby agrees to execute any documents reasonably requested by the Secured Party in connection with any disposition hereunder.

(c) Upon the occurrence of the conditional assignment provided for herein, the Borrower will have no right, title, or interest in or to any of the Intellectual Property, and the Borrower shall cease and desist in the use of the Intellectual Property, and shall, upon written demand of the Secured Party, or pursuant to the terms of the Note and related agreements, documents and instruments, deliver to the Secured Party all goods covered by the Intellectual Property.

7. Termination of Agreement.

At such time as the Borrower shall completely satisfy all of the Secured Obligations, the Secured Party shall execute and deliver to the Borrower all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Borrower title to the Intellectual Property, subject to any disposition thereof which may have been made by the Secured Party pursuant hereto.

8. Limitation of Liability and Indemnification.

The Borrower hereby releases the Secured Party from, and agrees to hold the Secured Party free and harmless for, from and against, any claims arising out of any action taken or omitted to be taken with respect to the Intellectual Property (except to the extent of the Secured Party's gross negligence or willful misconduct), and the Borrower agrees to indemnify the Secured Party from and against any and all claims, demands, suits, losses, damages or other

expenses (including reasonable attorneys' fees) arising from or in any way related to the Intellectual Property.

9. Waiver and Amendment.

(a) No course of dealing between the Borrower and the Secured Party nor any failure to exercise, nor any delay in exercising, on the part of the Secured Party, any right, power or privilege hereunder or thereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement is subject to modification only by a writing signed by the parties hereto.

10. Cumulative Rights.

All of the Secured Party's rights and remedies with respect to the Intellectual Property, whether established hereby or under the Loan Agreements, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

11. Severability.

The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

12. Survival.

The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

13. Counterparts.

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

14. Choice of Law.

The validity, construction and enforcement of this Agreement, and the determination of the rights and duties of the parties shall be governed by the laws of the State of Arizona regardless of any choice of law or other provision that would result in the application of the laws of any other jurisdiction.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

NAC INTERNATIONAL INC.

By: [Signature]  
Name: James H. Levine  
Title: Pres. & CEO

EL DORADO INVESTMENT COMPANY

By: [Signature]  
Name: John Finn  
Title: \_\_\_\_\_



## SCHEDULE A

### U.S. Utility Patent

Title: Closure Arrangement for Spent Nuclear Fuel Shipping  
Patent No. 4,883,637  
Issue Date: November 28, 1989

### U.S. Utility Patent

Title: Spent Nuclear Fuel Shipping Basket & Cask  
Patent No. 4,827,139  
Issue Date: May 2, 1989

### U.S. Utility Patent

Title: Grid Gusher Apparatus & Method  
Patent No. 5,278,879  
Issue Date: January 11, 1994

### U.S. Utility Patent

Title: Method and Apparatus for Storing Nuclear Fuel Rods  
Patent No. 5,274,682  
Issue Date: December 28, 1993

### U.S. Utility Patent

Title: Spent Nuclear Fuel Shipping Basket  
Patent No. 4,930,650  
Issue Date: June 5, 1990

### U.S. Utility Patent

Title: Guide Plate For Locating Rods In An Array  
Patent No. 5,194,216  
Issue Date: March 16, 1993

### Japanese Patent

Title: Spent Nuclear Fuel Shipping Basket  
Patent No. 2823201  
Issue Date: September 4, 1998

U.S. Trademark  
Mark: NAC UMS  
Registration No. 2,184,444

U.S. Trademark  
Mark: NAC Universal MPC System  
Registration No. 2,240,933

U.S. Provisional  
Patent  
Title: Vessels Using Compression Linkages  
Serial No. 60/175,444  
Issue Date: January 11, 2000

U.S. Utility Patent Application  
Title: Systems and Methods for Storing Exothermic Materials  
Serial No. 09/748,333  
Filing Date: December 21, 2000

Japanese Patent  
Title: Transportation Basket For Spent Nuclear Fuel And Cask For  
Containing Basket  
Patent No. 2,293,698  
Issue Date: December 4, 1990

Japanese Patent  
Title: Basket And Cask For Carrying Nuclear Spent Fuel  
Patent No. 1,026,194  
Issue Date: January 27, 1989

**SCHEDULE B**

**LIENS AND CLAIMS OF THIRD PARTIES**

Security interest in the Intellectual Property, pursuant to the terms of the Conditional Assignment and Patent Security Agreement, dated as of June 26, 2002, by NAC International Inc. and Wachovia Bank, N.A.

**EXHIBIT A**

**ASSIGNMENT OF INTELLECTUAL PROPERTY**

THIS ASSIGNMENT dated the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, from NAC INTERNATIONAL INC., a Delaware corporation (the "Assignor"), to EL DORADO INVESTMENT COMPANY (the "Assignee"), recites and provides:

WHEREAS, the Assignor is owner of all right, title and interest in and to certain patents, patent applications, and other intellectual property listed in **Schedule A** attached hereto and by reference made a part hereof and in any further patents, patent applications, trademark applications or registrations, or any other intellectual property which may exist, issue, or be filed during the duration of this Agreement (the "Intellectual Property"); and

WHEREAS, the Assignee desires to obtain all of the Assignor's right, title and interest in all such Intellectual Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor hereby grants, assigns and conveys to Assignee, its successors and assigns, the entire right, title and interest of Assignor in and to the Intellectual Property including any other intellectual property rights, any provisional, non-provisional, continuation, continuation in part, divisional, reissue, reexamination, foreign, PCT or other patent application or like document, or any other application which claims priority to a patent or application listed in **Schedule A**, in the United States and all foreign countries, together with the right of priority under the International Convention for the Protection of Industrial Property, Inter-American Convention Relating to Patents, Designs and Industrial Models, and any other international agreements to which the United States adheres, and any and all licenses now or hereafter relating thereto, including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements, together with the goodwill of the business symbolized by the Intellectual Property. Assignor acknowledges that it has granted Assignee the right to secure the assets of the Assignor associated with the Intellectual Property under separate agreement.

The Assignor further agrees to execute such further instruments and documents and perform such further acts as the Assignee may deem necessary to secure to the Assignee the rights herein conveyed.

The Assignor warrants and represents that it is the sole owner of the interest conveyed hereunder and that such interest is not the subject of any prior transfer, assignment, lien, mortgage or other transaction which would affect the Assignor's ability to transfer such interest.

The Assignor further agrees to indemnify the Assignee for any breach of the above warranty.

IN WITNESS WHEREOF, the Assignor has executed this Assignment as of the day and year first above written.

**NAC INTERNATIONAL INC.**

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

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

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