

07-21-1998

UNITED STA

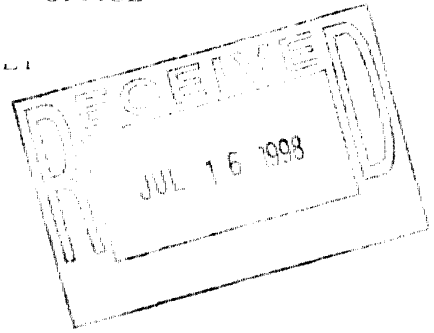


OFFICE

100768853

RECORDATION FORM COVER SHEET

TRADEMARKS ONLY



To the Assistant Commissioner for Trademarks:

Please record the attached original document or copy thereof.

1. Name and address of conveying party(ies):

Atlantic Coast Fisheries Corporation
33 Cape Street
New Bedford, MA 02740

A Massachusetts corporation.

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

Fleet National Bank
One Federal Street
Boston, MA 02110

A national banking association.

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes

(Designation must be a separate document from Assignment)

3. Nature of conveyance: Trademark Security Agreement

Execution date: July 6, 1998

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

A. Trademark application number(s):

<u>Mark</u>	<u>Application No.</u>	<u>Filing Date</u>
ATLANTIC COAST FISHERIES	74/732,251	September 21, 1995

7/15/98

07/17/1998 TTON11 00000142 781502

01 FC:481
02 FC:482

40.00 OP
150.00 OP

B. Trademark registration number(s):

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
CAPEWAY	781,502	November 8, 1964
DEEP DEEP OCEAN BRAND	1,324,862	March 12, 1985
CAPEWAY BRAND	1,679,545	March 17, 1992
AC & Design	2,031,780	January 21, 1997
DEEP DEEP OCEAN BRAND & Design	2,082,991	July 29, 1997
CAPEWAY & Design	2,090,459	August 26, 1997

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

David O. Johanson, Esq.
Bingham Dana LLP
150 Federal Street
Boston, Massachusetts 02110


6. Total number of applications and registrations involved: 7

7. Total fee enclosed: \$190.00

8. Deposit account number: [Not applicable]

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.


Sarah K. Gagan

Date: July 15, 1998

Total number of pages submitted (including cover sheet and any attached Schedules, and conveyance document and any attached Schedules): 15

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box ASSIGNMENT FEE
Washington, D.C. 20231

cc: David O. Johanson, Esq.
Joseph H. Hicks, Esq.
Henry S. Healy, Esq.
Jonathan M. Sachs, Esq.

ATLANTIC COAST FISHERIES CORPORATION
TRADEMARK
SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT** dated as of July 6, 1998 between **ATLANTIC COAST FISHERIES CORPORATION**, a Massachusetts corporation having its principal place of business at 33 Cape Street, New Bedford, Massachusetts 02740 (the "Borrower"), and **FLEET NATIONAL BANK**, a national banking association having an office at One Federal Street, Boston, Massachusetts 02110 (hereinafter the "Bank") is given pursuant to that certain Loan and Security Agreement dated as of July 6, 1998 (as amended and in effect from time to time, the "Loan Agreement"), between the Borrower and the Bank.

Pursuant to the Loan Agreement, the Borrower has granted to the Bank a security interest in all of the Borrower's personal property, including without limitation the trademarks, service marks, trademark and service mark registrations, and trademark and service mark registration applications listed on **Schedule A** attached hereto, all to secure the payment and performance of the Obligations. This Trademark Agreement is intended to supplement the provisions of the Loan Agreement with respect to such trademarks, service marks, trademark and service mark registrations, and trademark and service mark registration applications:

In consideration of the foregoing, of the undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

I. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Loan Agreement. In addition, the following terms shall have the meanings set forth in this Section I or elsewhere in this Trademark Agreement:

Associated Goodwill. All goodwill of the Borrower and its business, products and services appurtenant to, associated with or symbolized by the Trademarks and the use thereof.

Pledged Trademarks. All of the Borrower's right, title and interest in and to all of the Trademarks, the Trademark Registrations, the Trademark License Rights, the Trademark Rights, the Associated Goodwill, the Related Assets, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

PTO. The United States Patent and Trademark Office.

Related Assets. All assets, rights and interests of the Borrower that uniquely reflect or embody the Associated Goodwill, including the following:

(a) all patents, inventions, copyrights, trade secrets, confidential information, formulae, methods or processes, compounds, recipes, operating systems, drawings, descriptions, formulations, manufacturing and production and delivery procedures, quality control procedures, product and service specifications, catalogs, price lists, and advertising materials, relating to the manufacture, production, delivery, provision and sale of goods or services under or in association with any of the Trademarks; and

(b) the following documents and things in the possession or under the control of the Borrower, or subject to its demand for possession or control, related to the production, delivery, provision and sale by the Borrower, or any affiliate, franchisee, licensee or contractor, of products or services sold by or under the authority of the Borrower in connection with the Trademarks or Trademark Rights, whether prior to, on or subsequent to the date hereof:

(i) all lists, contracts, ancillary documents and other information that identify, describe or provide information with respect to any customers, dealers or distributors of the Borrower, its affiliates or franchisees or licensees or contractors, for products or services sold under or in connection with the Trademarks or Trademark Rights, including all lists and documents containing information regarding each customer's, dealer's or distributor's name and address, credit, payment, discount, delivery and other sale terms, and history, pattern and total of purchases by brand, product, style, size and quantity; and

(ii) all agreements and documents constituting or concerning the present or future, current or proposed advertising and promotion by the Borrower (or any of its affiliates, franchisees, licensees or contractors) of products or services sold under or in connection with the Trademarks or Trademark Rights.

Trademark Agreement. This Trademark Security Agreement, as amended from time to time.

Trademark License Rights. Any and all past, present or future rights and interests of the Borrower pursuant to any and all past, present and future franchising or licensing agreements in favor of the Borrower, or to which the Borrower is a party, pertaining to any Trademarks, Trademark Registrations, or Trademark Rights owned or used by third parties in the past, present or future, including the right (but not the obligation) in the name of the Borrower or the Bank to enforce, and sue and recover for, any breach or violation of any such agreement to which the Borrower is a party.

Trademark Registrations. All past, present or future federal, state, local and foreign registrations of the Trademarks, all past, present and future applications for any such registrations (and any such registrations thereof upon approval of such applications), together with the right (but not the obligation) to apply for and prosecute such registrations in the name of the Borrower or the Bank, and to take any and all actions necessary or appropriate to maintain such registrations in effect and renew and extend such registrations.

Trademark Rights. Any and all past, present or future rights in, to and associated with the Trademarks throughout the world, whether arising under federal law, state law, common law,

foreign law or otherwise, including the following: all such rights arising out of or associated with the Trademark Registrations; the right (but not the obligation) to register claims under any state, federal or foreign trademark law or regulation; the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of the Borrower or the Bank for any and all past, present and future infringements or dilution of or any other damages or injury to the Trademarks, the Trademark Rights, or the Associated Goodwill, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, dilution, damage or injury; and the Trademark License Rights.

Trademarks. All of the trademarks, service marks, designs, logos, indicia, trade names, corporate names, company names, business names, fictitious business names, trade styles, elements of package or trade dress, and other source and product or service identifiers, used or associated with or appurtenant to the products, services and businesses of the Borrower, that (i) are set forth on **Schedule A** hereto, or (ii) have been adopted, acquired, owned, held or used by the Borrower or are now owned, held or used by the Borrower, in the Borrower's business, or with the Borrower's products and services, or in which the Borrower has any right, title or interest, or (iii) are in the future adopted, acquired, owned, held and used by the Borrower in the Borrower's business or with the Borrower's products and services, or in which the Borrower in the future acquires any right, title or interest.

Use. With respect to any Trademark, all uses of such Trademark by, for or in connection with the Borrower or its business or for the direct or indirect benefit of the Borrower or its business, including all such uses by the Borrower itself, by any of the affiliates of the Borrower, or by any franchisee, licensee or contractor of the Borrower.

2. GRANT OF SECURITY INTEREST.

2.1. Security Interest, Assignment of Marks. As collateral security for the payment and performance in full of all of the Obligations, the Borrower hereby unconditionally grants to the Bank, a continuing security interest in and first priority lien on the Pledged Trademarks, and pledges and mortgages (but does not transfer title to) the Pledged Trademarks to the Bank. In addition, the Borrower has executed in blank and delivered to the Bank an assignment of federally registered trademarks in substantially the form of **Exhibit 1** hereto (the "Assignment of Marks"). The Borrower hereby authorizes the Bank to complete in the Borrower's name or in the Bank's name as assignee and record the Assignment of Marks with the PTO upon the occurrence and during the continuance of an Event of Default.

2.2. Conditional Assignment. In addition to, and not by way of limitation of, the grant, pledge and mortgage of the Pledged Trademarks provided in 2.1, the Borrower grants, assigns, transfers, conveys and sets over to the Bank, the Borrower's entire right, title and interest in and to the Pledged Trademarks; provided that such grant, assignment, transfer and conveyance shall only become effective (i) upon or after the occurrence and during the continuance of an Event of Default and (ii) either (A) upon the written demand of the Bank at any time during such

continuance or (B) immediately and automatically (without notice or action of any kind by the Bank) upon an Event of Default for which acceleration of the Loans is automatic under the Loan Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Loan Agreement and applicable law (including the transfer or other disposition of the Collateral by the Borrower to the Bank or its nominee in lieu of foreclosure).

2.3. Supplemental to Loan Agreement. Any and all rights and interests of the Bank in and to the Pledged Trademarks (and any and all obligations of the Borrower with respect to the Pledged Trademarks) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Bank (and the obligations of the Borrower) in, to, or with respect to the Collateral (including the Pledged Trademarks) provided in or arising under or in connection with the Loan Agreement and shall not be in derogation thereof.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS.

The Borrower represents, warrants and covenants that: (i) **Schedules A** and **A-1** set forth a true and complete list of all Trademarks and Trademark Registrations now owned by the Borrower; (ii) the Trademark Registrations are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, and there is no litigation or proceeding pending concerning the validity or enforceability of the Trademarks owned by the Borrower or Trademark Registrations; (iii) to the best of the Borrower's knowledge, each of the Trademarks and Trademark Registrations is valid and enforceable; (iv) to the best of the Borrower's knowledge, there is no infringement by others of the Trademarks owned by the Borrower, Trademark Registrations or Trademark Rights; (v) no claim has been received by the Borrower that the use of any of the Trademarks by Borrower does or may violate the rights of any third person, and to the best of the Borrower's knowledge, there is no infringement by the Borrower of the trademark rights of others; (vi) to the best of the Borrower's knowledge, the Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks listed in **Schedule A**, free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by the Borrower not to sue third persons, other than the security interest and assignment created by the Loan Agreement and this Trademark Agreement; (vii) the Borrower has the unqualified right to enter into this Trademark Agreement and to perform its terms and has entered and will enter, or use its best efforts to enter, into written agreements with each of its present and future licensors and licensees that will enable it to comply with the covenants herein contained; (viii) the Borrower has used, and will continue to use, in accordance with reasonable commercial practices, proper statutory and other appropriate proprietary notices in connection with its use of the Trademarks; (ix) the Borrower has used, and will continue to use for the duration of this Trademark Agreement, reasonably consistent standards of quality in its manufacture and provision of products and services sold or provided under the Trademarks; (x) this Trademark Agreement, together with the Loan Agreement, will create in favor of the Bank a valid and perfected first priority security interest in the Pledged Trademarks upon making the filings referred to herein; and (xi) except for the filing of financing statements with the Secretary of State for the Commonwealth of Massachusetts and required local filings under the Uniform

Commercial Code and the recording of this Trademark Agreement with the PTO, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (A) for the grant by the Borrower or the effectiveness of the security interest and assignment granted hereby or (B) for the perfection of or the exercise by the Bank of any of its rights and remedies hereunder.

4. INSPECTION RIGHTS.

The Borrower hereby grants to the Bank and its employees and agents the right to visit the Borrower's plants and facilities that manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours on reasonable notice, which need not be written, from the Bank.

5. NO TRANSFER OR INCONSISTENT AGREEMENT.

Without the Bank's prior written consent, the Borrower will not (i) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license (other than in the ordinary course of business as conducted in the past by Borrower and its assignor) or alienate any of the Pledged Trademarks, or (ii) enter into any agreement that is inconsistent with the Borrower's obligations under this Trademark Agreement or the Loan Agreement.

6. AFTER-ACQUIRED TRADEMARKS, ETC.

6.1. After-Acquired Trademarks. If, before the Obligations shall have been finally paid and satisfied in full, the Borrower shall obtain any right, title or interest in or to any other or new Trademarks, Trademark Registrations or Trademark Rights, the provisions of this Trademark Agreement shall automatically apply thereto and the Borrower shall promptly provide to the Bank notice thereof in writing and execute and deliver to the Bank such documents or instruments as the Bank may reasonably request further to implement, preserve or evidence the Bank's interest therein.

6.2. Amendment to Schedule. The Borrower authorizes the Bank to modify this Trademark Agreement and the Assignment of Marks, without the necessity of the Borrower's further approval or signature, by amending Schedule A hereto and the Annex to the Assignment of Marks to include any future or other Trademarks, Trademark Registrations or Trademark Rights.

7. TRADEMARK PROSECUTION.

7.1. Borrower Responsible. The Borrower shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Pledged Trademarks, and shall hold the Bank harmless from any and all costs, damages, liabilities and expenses that may be incurred by the Bank in connection with the Bank's interest in the Pledged Trademarks or any other action or failure to act in connection with this Trademark

Agreement or the transactions contemplated hereby. In respect of such responsibility, the Borrower shall retain Bingham Dana LLP or other trademark counsel reasonably acceptable to the Bank.

7.2 Borrower's Duties, etc. The Borrower shall have the right and the duty, through such trademark counsel, and provided it is commercially reasonable to do so, to prosecute diligently any trademark registration applications of the Trademarks pending as of the date of this Trademark Agreement or thereafter, to preserve and maintain all rights in the Trademarks and Trademark Registrations, including the filing of appropriate renewal applications and other instruments to maintain in effect the Trademark Registrations and the payment when due of all registration renewal fees and other fees, taxes and other expenses that shall be incurred or that shall accrue with respect to any of the Trademarks or Trademark Registrations. Any expenses incurred in connection with such applications and actions shall be borne by the Borrower. The Borrower shall not abandon any filed trademark registration application, or any Trademark Registration or Trademark, without the consent of the Bank, which consent shall not be unreasonably withheld.

7.3. Borrower's Enforcement Rights. The Borrower shall have the right and the duty, provided it is commercially reasonable to do so, to bring suit or other action in the Borrower's own name to maintain and enforce the Trademarks, the Trademark Registrations and the Trademark Rights. The Borrower may require the Bank to join in such suit or action as necessary to assure the Borrower's ability to bring and maintain any such suit or action in any proper forum if (but only if) the Bank is completely satisfied that such joinder will not subject the Bank to any risk of liability. The Borrower shall promptly, upon demand, reimburse and indemnify the Bank for all damages, costs and expenses, including legal fees, incurred by the Bank pursuant to this Section 7.3.

7.4. Protection of Trademarks, etc. In general, the Borrower shall take any and all such commercially reasonable actions (including institution and maintenance of suits, proceedings or actions) as may be necessary or appropriate to properly maintain, protect, preserve, care for and enforce the Pledged Trademarks. Except to the extent that it is commercially reasonable to do so, the Borrower shall not take or fail to take any action, nor permit any action to be taken or not taken by others under its control, that would adversely affect the validity, grant or enforcement of the Pledged Trademarks.

7.5. Notification by Borrower. Promptly upon obtaining knowledge thereof, the Borrower will notify the Bank in writing of the institution of, or any final adverse determination in, any proceeding in the PTO or any similar office or agency of the United States or any foreign country, or any court, regarding the validity of any of the Trademarks or Trademark Registrations or the Borrower's rights, title or interests in and to the Pledged Trademarks, and of any event that does or reasonably could materially adversely affect the value of any of the Pledged Trademarks, the ability of the Borrower or the Bank to dispose of any of the Pledged Trademarks or the rights and remedies of the Bank in relation thereto.

8. REMEDIES.

Upon the occurrence and during the continuance of an Event of Default, the Bank shall have, in addition to all other rights and remedies given it by this Trademark Agreement, the Loan Agreement and the other Loan Documents, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts, and, without limiting the generality of the foregoing, the Bank may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Borrower, all of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Trademarks, or any interest that the Borrower may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Trademarks all expenses incurred by the Bank in attempting to enforce this Trademark Agreement (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations as set forth in the Loan Agreement. Notice of any sale, license or other disposition of the Pledged Trademarks shall be given to the Borrower at least ten (10) days before the time that any intended public sale or other public disposition of the Pledged Trademarks is to be made or after which any private sale or other private disposition of the Pledged Trademarks may be made, which the Borrower hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Bank may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Trademarks or interests therein sold, licensed or otherwise disposed of.

9. COLLATERAL PROTECTION.

If the Borrower shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of the Borrower shall be breached, the Bank, in its own name or that of the Borrower (in the sole discretion of the Bank), may (but shall not be obligated to) do such act or remedy such breach (or cause such act to be done or such breach to be remedied), and the Borrower agrees promptly to reimburse the Bank for any cost or expense incurred by the Bank in so doing.

10. POWER OF ATTORNEY.

The Borrower does hereby make, constitute and appoint the Bank (and any officer or agent of the Bank as the Bank may select in its exclusive discretion) as the Borrower's true and lawful attorney-in-fact, with full power of substitution and with the power to endorse the Borrower's name on all applications, documents, papers and instruments necessary for the Bank to use the Pledged Trademarks, or to grant or issue any exclusive or nonexclusive license of any of the Pledged Trademarks to any third person, or to take any and all actions necessary for the Bank to assign, pledge, convey or otherwise transfer title in or dispose of any of the Pledged Trademarks or any interest of the Borrower therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts that the Borrower is obligated to execute and do hereunder. The Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof and releases the Bank from any claims, liabilities, causes of action or

demands arising out of or in connection with any action taken or omitted to be taken by the Bank under this power of attorney (except for the Bank's gross negligence or willful misconduct). This power of attorney is coupled with an interest and shall be irrevocable for the duration of this Trademark Agreement, but may only be used by the Bank after the occurrence and during the continuance of an Event of Default.

11. FURTHER ASSURANCES.

The Borrower shall, at any time and from time to time, and at its expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Bank may reasonably request or as may be reasonably necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of this Trademark Agreement, or to assure and confirm to the Bank the grant, perfection and priority of the Bank's security interest in the Pledged Trademarks.

12. TERMINATION.

At such time as all of the Obligations have been finally paid and satisfied in full, this Trademark Agreement shall terminate and the Bank shall, upon the written request and at the expense of the Borrower, execute and deliver to the Borrower all deeds, assignments and other instruments as may be necessary to reassign and reconvey to and re-vest in the Borrower the entire right, title and interest to the Pledged Trademarks previously granted, assigned, transferred and conveyed to the Bank by the Borrower pursuant to this Trademark Agreement, as fully as if this Trademark Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Bank pursuant hereto or the Loan Agreement

13. COURSE OF DEALING.

No course of dealing between the Borrower and the Bank, nor any failure to exercise, nor any delay in exercising, on the part of the Bank, any right, power or privilege hereunder or under the Loan Agreement or any other agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. EXPENSES.

Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Bank in connection with the preparation of this Trademark Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Trademarks, or in defending or prosecuting

any actions or proceedings arising out of or related to the Pledged Trademarks, shall be borne and paid by the Borrower.

15. NO ASSUMPTION OF LIABILITY: INDEMNIFICATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE BANK DOES NOT ASSUME ANY LIABILITIES OF THE BORROWER WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE BORROWER'S OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED TRADEMARKS OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE BORROWER, AND THE BORROWER SHALL INDEMNIFY THE BANK FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING REASONABLE LEGAL FEES, INCURRED BY THE BANK WITH RESPECT TO SUCH LIABILITIES, EXCEPT TO THE EXTENT THAT SUCH COSTS, EXPENSES, DAMAGES OR CLAIMS ARISE DIRECTLY OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK.

16. NOTICES.

All notices and other communications made or required to be given pursuant to this Trademark Agreement shall be in writing and shall be given in accordance with the provisions of the Loan Agreement.

17. AMENDMENT AND WAIVER.

This Trademark Agreement is subject to modification only by a writing signed by the Bank and the Borrower, except as provided in Section 6.2. The Bank shall not be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the Bank. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

18. GOVERNING LAW; CONSENT TO JURISDICTION.

This Trademark Agreement is intended to take effect as a sealed instrument and shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts. The Borrower agrees that any suit for the enforcement of this Trademark Agreement may be brought in the courts of the Commonwealth of Massachusetts or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Borrower by mail. The Borrower hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

19. WAIVER OF JURY TRIAL.

THE BORROWER WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS TRADEMARK AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. EXCEPT AS PROHIBITED BY LAW, THE BORROWER WAIVES ANY RIGHT WHICH IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION REFERRED TO IN THE PRECEDING SENTENCE ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER (I) CERTIFIES THAT NEITHER THE BANK NOR ANY REPRESENTATIVE, AGENT OR ATTORNEY OF THE BANK HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE BANK WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (II) ACKNOWLEDGES THAT, IN ENTERING INTO THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS TO WHICH THE BANK IS A PARTY, THE BANK IS RELYING UPON, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION.

20. MISCELLANEOUS.

The headings of each section of this Trademark Agreement are for convenience only and shall not define or limit the provisions thereof. This Trademark Agreement and all rights and obligations hereunder shall be binding upon the Borrower and its respective successors and assigns, and shall inure to the benefit of the Bank and their respective successors and assigns. In the event of any irreconcilable conflict between the provisions of this Trademark Agreement and the Loan Agreement, the provisions of the Loan Agreement shall control. If any term of this Trademark Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall be in no way affected thereby, and this Trademark Agreement shall be construed and enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Borrower acknowledges receipt of a copy of this Trademark Agreement.

IN WITNESS WHEREOF, this Trademark Agreement has been executed as of the day and year first above written.

**ATLANTIC COAST FISHERIES
CORPORATION**

By: 

President

FLEET NATIONAL BANK

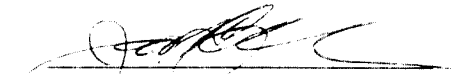
By: 

Asst Vice President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 6th day of July, 1998 personally appeared Jens O. Eysteinnsson, to me known personally, and who, being by me duly sworn, deposes and says that he is the President of ATLANTIC COAST FISHERIES CORPORATION and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Jens O. Eysteinnsson acknowledged said instrument to be the free act and deed of said corporation.


Notary Public John L. Hackett
My commission expires: 12-15-00

SCHEDULE A

ISSUED TRADEMARK REGISTRATIONS

TRADEMARK		
MARK	Registration or Application Number	Registration or Filing Date
CAPEWAY & Design	2,090,459	8/26/97
DEEP DEEP OCEAN BRAND & Design	2,082,991	7/29/97
AC & Design	2,031,780	1/21/97
ATLANTIC COAST FISHERIES	741,732,251	9/21/95
CAPEWAY BRAND	1,679,545	3/17/92
DEEP DEEP OCEAN BRAND	1,324,862	3/12/85
CAPEWAY	781,502	11/8/64

SCHEDULE A-1
UNREGISTERED TRADEMARKS

The Borrower is not aware of any unregistered marks owned by it.