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To the Honorable Commissioner of 100857984

attached original documents or copy thereof.

1. Name of conveying party(ies):

ET WHITEHALL SEASCAPE, LLC

- Individual(s)
- General Partnership
- Corporation-State
- Other California limited liability company

- Association
- Limited Partnership

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

2. Name and address of receiving party(ies)

Name: THE BANK OF NOVA SCOTIA

Internal Address: San Francisco Agency

Street Address: 580 California Street,
Suite 2100

City: San Francisco State: CA ZIP: 94104

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State _____

Other Canadian Chartered Bank, licensed as an agency under California Law
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
- Security Agreement
- Other _____
- Merger
- Change of Name

Execution Date: July 14, 1998

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

A. Trademark Application No.(s)

75/459,977
75/459,978

10/22/1998 SBURNS 00000025 100440 75459977

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

Additional numbers attached? Yes No

B. Trademark Registration No.(s)

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

Name: Bernard R. Gans, Esq.

Internal Address: Jeffer, Maggels, Butler
& Marmaro LLP

Street Address: 2121 Avenue of the Stars
Tenth Floor

City: Los Angeles State: CA ZIP: 90067-5010

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

10-0440

(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.

Bernard R. Gans, Esq.
Name of Person Signing

Bernard R. Gans
Signature

10/9/98
Date

Total number of pages including cover sheet, attachments, and document: 15

TRADEMARK AND LICENSE SECURITY AGREEMENT

THIS TRADEMARK AND LICENSE SECURITY AGREEMENT ("**Agreement**") is entered into as of July 14, 1998, by and among ET WHITEHALL SEASCAPE, LLC, a California limited liability company ("**Borrower**"), and THE BANK OF NOVA SCOTIA, San Francisco Agency, ("**Agent**") as agent for the several financial institutions from time to time party to that certain Construction Credit Agreement, as defined below as "**Lenders**" (collectively, the "**Lenders**" and individually, a "**Lender**").

RECITALS

A. Lenders are the owners and holders of certain Notes dated as of the date hereof in the aggregate original principal amount of forty-two million United States dollars (U.S.\$42,000,000) (the one or more promissory notes evidencing such aggregate amount being hereinafter collectively referred to as the "**Note**"), made and payable by Borrower to the order of Lender(s) evidencing a construction and mini-permanent loan made in accordance with the terms of a Construction Credit Agreement dated as of July 14, 1998, by and between Borrower and Agent (as may be further amended or supplemented from time to time with the agreement of Agent, the "**Construction Credit Agreement**"). The Note may be evidenced by more than one promissory note in the event one or more other Lenders become signatories to the Construction Credit Agreement. Borrower's obligations under the Note and the Construction Credit Agreement are secured by, among other instruments, a certain Construction Deed Of Trust, Security Agreement, Fixture Filing And Assignment Of Rents dated as of the date hereof, executed by Borrower, as trustor, for the benefit of the Agent, as beneficiary, encumbering certain real estate located in the City of Santa Monica, County of Los Angeles, State of California (the "**Deed Of Trust**"), and more particularly described therein, together with, without limitation, all fixtures, real and personal property improvements situated thereon, and all personal property related thereto, including all plans and specifications, consulting and management agreements, leases, room revenues, licenses, concession agreements, rents, cash collateral, accounts, deposit accounts, inventory, equipment, general intangibles and other intangible personal property, commonly known as the Casa del Mar Hotel to be constructed thereon (the "**Project**"). The Note, the Deed Of Trust, the Construction Credit Agreement, and all other documents (including but not limited to the Security Documents as defined in the Construction Credit Agreement) evidencing and/or securing the indebtedness evidenced by the Note and the other Obligations, and all past, present or future amendments, modifications, extensions, replacements, or renewals thereof, are hereinafter referred to as the "**Security Documents**."

B. References to any instruments, documents and agreements, including, without limitation, the Note, the Security Documents, the Deed Of Trust, this Agreement, and the other Loan Documents, including this Agreement, shall be deemed to include such instruments, documents and agreements as the same are amended, modified, supplemented or extended from time to time.

C. Borrower either owns or has applied for the ownership of the Trademarks, Trademark registrations, and Trademark applications listed on Exhibit 1 annexed hereto.

D. Pursuant to the Construction Credit Agreement, as one of the conditions to agreeing to make the Loan to Borrower, Lenders have required, and Borrower has agreed, to grant a lien and security interest in all of Borrower's assets, including without limitation, all of right, title and interest of Borrower in, to and under all now owned and hereafter acquired Trademarks Collateral, as hereinafter defined, to secure the payment of all Obligations owing by Borrower under the Construction Credit Agreement.

E. Upon an Event of Default which is continuing under the Construction Credit Agreement, Agent may desire to use the Trademark Collateral in conjunction with the continued operation of the business and to benefit from the good will, or to sell the same along with the good will. In addition, Agent may itself or through a receiver desire to continue operating Borrower's business without interruption, and to use or sell the Trademark Collateral, together with the good will; and under such circumstances, Borrower is willing to allow Agent, or Agent's designee as Borrower's attorney-in-law and fact, to execute an assignment or assignments of Borrower's entire right, title and interest in and to the Trademark Collateral, including the good will, on Borrower's behalf;

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **RECITALS INCORPORATED.** The parties intend that the foregoing Recitals be considered and are hereby incorporated by this reference into, the Agreement as though fully set forth herein. Initially capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Construction Credit Agreement.

2. **DEFINITION OF TRADEMARK COLLATERAL.** As used herein, the term "Trademark Collateral" shall collectively mean the following property and interests in property in which Borrower may now or from time to time hereafter own any interest:

2.1 all trademarks and trademark applications and its service marks and service mark applications, if any, which are material to the operation of the Hotel, including, without limitation, all proceeds thereof, license royalties, proceeds of infringement suits, the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all renewals and extensions thereof, together with the good will of the business symbolized by such trademarks, all as may exist on this date being listed on Exhibit 1 hereto, and all such trademarks and trademark applications as may be applied for from time to time hereafter by or behalf of Borrower (the "**Trademarks**").

2.2 In addition to all other rights granted to Agent, Borrower further sells, assigns, transfers and conveys to Agent a security interest in any rights of Borrower under any license agreement with any other parties, whether Borrower is a licensor or licensee under any such license agreement, including those listed on Exhibit 2 and all such future licenses which may be entered into from time to time by Borrower (collectively, a "Trademark License"). Borrower agrees that it will not take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would affect the validity or enforcement of the interest transferred to Agent under this Agreement without Agent's prior written consent. Borrower hereby covenants that it will immediately notify Agent if any Trademark shall at any time hereafter become subject to a license agreement and that it will promptly provide Agent with full identification thereof and with such further documentation as Agent may reasonably request.

2.3 If, before the Obligations shall have been paid or satisfied in full, Borrower shall adopt or become entitled to the use of any trademark or service mark or have any rights in any trademark or service mark application, or shall become entitled to the benefit of any trademark or service mark, trademark application, service mark application or service mark registration shall automatically become subject to this Agreement and shall be deemed to be part of the Trademarks. Borrower shall give Agent prompt notice thereof in writing. Borrower authorizes Agent to modify this Agreement by amending Exhibit 1 to include any such future trademarks and trademark applications, service marks and service mark registrations.

3. **ASSIGNMENT OF TRADEMARKS.** Borrower does hereby assign and grant to Agent a continuing first priority security interest in and to all of Borrower's right, title and interest in, to and under the following (all of the following items or types of property being herein collectively referred to as the "Trademark Collateral"), whether presently existing or hereafter created or acquired:

3.1 Each Trademark, Trademark registration and Trademark application, including, without limitation, the Trademarks, Trademark registrations (together with any reissues, continuations or extensions thereof) and Trademark applications referred to in Exhibit 1 annexed hereto, and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark, Trademark registration and Trademark application;

3.2 Each Trademark License and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark License; and

3.3 All products and proceeds of the foregoing, including, without limitation, any claim by Borrower against third parties for past, present or future (a) infringement or dilution of any Trademark or Trademark registration including, without limitation, the Trademarks and Trademark registrations referred to in Exhibit 1 annexed hereto, the Trademark registrations issued with respect to the Trademark applications referred in Exhibit 1 and the Trademarks

licensed under any Trademark License, or (b) injury to the goodwill associated with any Trademark, Trademark registration or Trademark licensed under any Trademark License.

4. . **REPRESENTATION AND WARRANTIES AND COVENANTS.** Borrower represents and warrants to Agent as follows:

4.1 Borrower has the full right and power to make the assignment of the Trademark Collateral made hereby and that it has made no previous assignment, transfer, agreement in conflict herewith or constituting a present or future assignment or encumbrance of any or all of the Trademark Collateral.

4.2 If Borrower develops, adopts, uses or obtains rights to any trademark or trademark application, or service mark or service mark application or license not covered by this Agreement, or develops, adopts, uses or obtains rights to any copyright or patents not covered by this assignment, which Borrower believes is or is likely to be material to the operation of the business, Borrower shall promptly file and prosecute the necessary application and other documents and filings required to register or protect such rights. Upon the adoption and first use of any such trademark or service mark or copyright or patent, Borrower, as the case may be, shall execute such assignments or other documents as may be necessary to vest a security interest in and to such trademark or service mark or copyright or patent to Agent.

4.3 The Trademarks, if issued, are subsisting and have not been adjudged invalid or unenforceable, in whole or in part.

4.4 To the best of Borrower's knowledge, each of the Trademarks is valid and enforceable or will be upon its issuance.

4.5 Except for the security interest of Agent, Borrower is, and as to Trademarks acquired from time to time after the date hereof, will be, the owner of all such Trademarks, free from any lien, security interest, encumbrance or other right, title or interest, of any person, including shop rights and covenants not to sue third parties, and Borrower shall defend the Trademarks against any and all claims and demands of all persons at any time claiming the same or any interest therein adverse to Agent where the failure to do so would result in a material adverse event.

4.6 Borrower has the unqualified right to enter into this Agreement and perform its terms and shall adopt such measures with its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained. Borrower shall give Agent prompt written notice of any claim of infringement by or against Borrower with respect to any Trademark.

4.7 Use of the Trademarks by Borrower will not violate the rights of any third parties thereto except as to those persons listed on Exhibit 2, if any, as to whom Borrower makes no representation or warranty.

4.8 So long as any Obligations are not paid or otherwise satisfied in full, Borrower will not enter into any agreement which is inconsistent with Borrower's obligations under this Agreement, without Agent's prior written consent and there shall not be on file in any public office any assignments of the Trademarks subsequent to the Trademark Security Agreement filed or to be filed in respect of the security interest in favor of Agent.

4.9 The only office where Borrower keeps the records and other related documents (including, but not limited to, documents pertaining to existing, pending or contemplated trademark applications, service mark applications) concerning the Trademarks is 9301 Wilshire Boulevard, Suite 410, Beverly Hills, California 90210. Borrower will not, without the prior written consent of Agent, change the place at which such records and documents are kept.

4.10 Prior to Agent taking possession of any Trademarks pursuant to Section 5 (Event Of Default) hereof, Borrower shall defend Agent, unless waived by Agent, against any claimed infringement of any Trademark, provided that Agent gives Borrower prompt notice of any claimed infringement.

5. **EVENT OF DEFAULT.** Upon an Event of Default, upon Agent's request, Borrower agrees to promptly execute an assignment or assignments of Borrower's entire right, title and interest in and to each and all of the Trademarks then existing, including, without limitation, the trademarks specifically identified in Exhibit 1 and including each and all registrations thereof, then existing, along with the good will pertinent thereto.

5.1 This Agreement is an assignment for security purposes created by contract pursuant to California Uniform Commercial Code §9-102(2), and Agent shall have and possess, without limitation, any and all rights and remedies of a secured party provided at law or at equity.

5.2 Such assignment shall be executed by Borrower in a form and content prepared by and acceptable to Agent.

5.3 Upon an Event of Default, Borrower agrees that Agent, or Agent's designee, may exercise Borrower's irrevocable power of attorney to execute an assignment or assignments on Borrower's behalf and in Borrower's stead of Borrower's entire right, title and interest in and to each and all of the Trademarks then existing including, without limitation, the Trademarks specifically identified in Exhibit 1, and including each and all of the registrations thereof then existing, together with the good will appurtenant to each such

Trademark, and to record such assignment or assignments whenever and however required to perfect and confirm Agent's ownership interest in the Trademarks and all registrations thereof.

5.4 Upon the occurrence or any time after an Event Of Default, Agent may take any one or more of the actions permitted to it under the Security Documents with respect to the Project and the Trademark Collateral including, without limitation, the remedy provided in Section 4.2 above. Notwithstanding anything to the contrary contained in the Security Documents or this Agreement, if Agent acquires title to the Project and succeeds to Borrower's interest in the Trademark Collateral in connection with a foreclosure, or title to the Project and Borrower's interests in the Trademark Collateral are acquired by a third-party purchaser as a result of Foreclosure (such third-party purchasers, individually and collectively, "Subsequent Owner"), Borrower shall cooperate to transfer the Trademark Collateral to such Subsequent Owner or, if Borrower fails or refuses to do so in a timely manner, Agent may do so through the exercise of the power-of-attorney granted in Paragraph 5.3 above.

5.5 Borrower agrees that upon Agent's or a Subsequent Owner's acquiring title to the Project either through foreclosure or by acceptance of a deed in lieu of foreclosure or otherwise, or upon the appointment of a receiver pursuant to the terms of the Deed Of Trust (collectively, "Foreclosure"), Borrower shall immediately deliver to Agent or the Subsequent Owner originals of all Trademark Collateral documents, and will cooperate with Agent to effectuate a full assignment, conveyance and transfer of Trademark Collateral to Agent or the Subsequent Owner.

5.6 Neither the assignment as security contained herein nor any action or actions on the part of Agent under this Section 5 shall constitute an assumption by Agent of any of Borrower's obligations under any of the Trademark Collateral or give rise to any liability whatsoever of Agent to Borrower or Operator. Borrower shall continue to be liable for all obligations under the Trademark Collateral and Borrower hereby agrees to perform each and all of such obligations until Agent or a Subsequent Owner has obtained title to the Project through a foreclosure.

6. **MODIFICATION.** This Agreement cannot be altered, amended or modified in any way, except by a writing signed by the parties hereto.

7. **BINDING EFFECT; GOVERNING LAW.** This Agreement shall be binding upon Borrower and its successors and shall inure to the benefit of Agent and its successors and assigns. This Agreement shall, except to the extent that federal law applies to the Collateral or any part thereof, be governed by and construed in accordance with the choice of law provisions set forth in the Construction Credit Agreement.

8. **CONSENT TO JURISDICTION.** Borrower hereby irrevocably submits to the jurisdiction of any California, State or Federal court sitting in Los Angeles, California, in any action or proceeding arising out of or relating to this Agreement, and Operator hereby

irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such California State or Federal court. Borrower hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower agrees that it will not challenge the enforceability of any judgment based on this Agreement in another jurisdiction. Agent shall have the right to serve legal process in any manner permitted by law, and Agent may bring any action or proceeding against Borrower or the property of either of them in the courts of any other jurisdiction.

9. **NOTICES.** All notices served under this Agreement shall be in writing and shall be served by certified or registered mail, confirmed telephone facsimile, courier service or personal delivery, to the party at its address or fax number appearing below, or to such other address or fax number as specified by notice by such party to the other parties hereunder. Except as otherwise provided in this Agreement, service of any such notice shall be deemed effective on the earlier of the day of actual delivery, or seventy-two (72) hours after deposit in the United States mail, registered or certified, or receipt of fax confirmation.

The address for each party is as follows:

Agent and Lender:

The Bank of Nova Scotia
San Francisco Agency
580 California Street, Suite 2100
San Francisco, California 94104
Attn: Office Head-Real Estate Banking
Tel: (415) 986-1100
Fax: (415) 397-0791

with a copy to:

Jeffer, Mangels, Butler & Marmaro LLP
One Sansome Street, 12th Floor
San Francisco, California 94104
Attn: Dennis J. White, Esq.
Tel: (415) 398-8080
Fax: (415) 398-5584

Borrower:

ET Whitehall Seascapes, LLC,
9301 Wilshire Boulevard, Suite 410
Beverly Hills, California 90210
Attn: Mr. Thomas Slatkin
Tel: (310) 859-9366
Fax: (310) 859-0823

with a copy to:

Munger, Tolles & Olson LLP
355 South Grand Avenue, Suite 3500
Los Angeles, California 90071
Attn: O'Malley M. Miller, Esq.
Tel: (213) 683-9100
Fax: (213) 687-3702

and a copy to:

Whitehall Real Estate Limited Partnership IX
c/o Goldman, Sachs & Co.
100 Crescent Court, Suite 1000
Dallas, Texas 75201
Attn: Mr. Douglas Kessler, Vice President
Tel: (214) 855-6311
Fax: (214) 855-6305

and a copy to:

Sullivan & Cromwell
125 Broad Street
New York, New York 10004
Attn: Gary Israel, Esq.
Tel: (212) 558-4000
Fax: (212) 558-3588

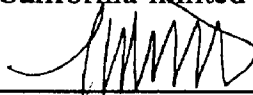
10. **INTEGRATION.** This Agreement, the Construction Credit Agreement, and other Security Documents referred to herein embody the entire agreement of the parties in relation to the subject matter hereof. There are no representations, promises, warranties, understandings or agreements, nor are there any known, asserted or reserved claims, express or otherwise, of any type, between the parties except as expressly referred to or set forth herein.

11. **NO THIRD PARTY BENEFICIARIES.** Except for the parties identified herein, there shall be no third party beneficiaries of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

BORROWER:

ET WHITEHALL SEASCAPE, LLC,
a California limited liability company



THOMAS SLATKIN,
Manager



DOUGLAS A. KESSLER,
Manager

AGENT:

THE BANK OF NOVA SCOTIA,
San Francisco Agency,
in its capacity as Agent



BRUCE GANONG,
Relationship Manager

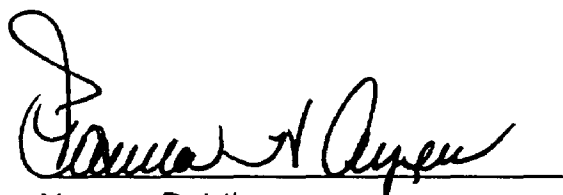
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

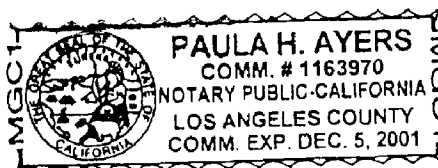
On July 17, 1998, before me, Paula Ayers, Notary Public, personally appeared, Thomas Slatkin, personally known to me (or proven to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public

(Seal)



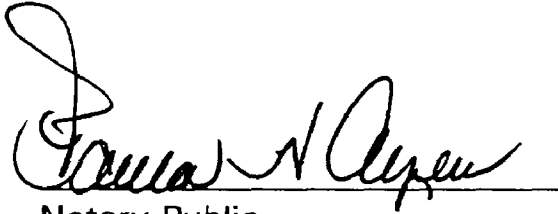
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

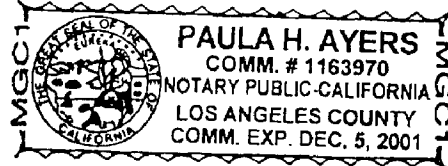
COUNTY OF LOS ANGELES)

On July 17, 1998, before me, Paula Ayers, Notary Public, personally appeared, Douglas A. Kessler, personally known to me (or proven to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public

(Seal)



STATE OF CALIFORNIA)

COUNTY OF San Francisco)

On July 28, 1998 before me, Margery Becker, personally appeared Bruce Hanson,

personally known to me proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Margery Becker
Signature of Notary

CAPACITY CLAIMED BY SIGNER:

- | | |
|--|---|
| <input type="checkbox"/> Individual(s) | <input type="checkbox"/> Attorney-In-Fact |
| <input type="checkbox"/> Partner(s) | <input type="checkbox"/> Subscribing Witness |
| <input type="checkbox"/> Trustee(s) | <input type="checkbox"/> Guardian/Conservator |
| <input type="checkbox"/> Corporate _____ | <input type="checkbox"/> Other: _____ |
| Officer(s) _____ | _____ |
| Title(s) | _____ |

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies): _____

EXHIBIT 1

TO

TRADEMARK AND LICENSE SECURITY AGREEMENT

Registered Trademarks

None

Registered Service Marks

None

Applications for Registered Trademarks

None

Applications for Registered Service Marks

None, except:

1. Serial Number: 75/459977
Filing Date: March 31, 1998
Register: Principal
Law Office: 107
Mark: CLUB CASA DEL MAR
Mark Type(s): Service Mark
Drawing Type: Words, letters, or numbers in typed form
Filing Basis: Section 1(b) (Intent to Use)

2. Serial Number: 75/459978
Filing Date: March 31, 1998
Register: Principal
Law Office: 107
Mark: CASA DEL MAR
Mark Type(s): Service Mark
Drawing Type: Words, letters, or numbers in typed form
Filing Basis: Section 1(b) (Intent to Use)

DJW SFDOCS\86838 2 55117 0038 07/13/98

DJW SFDOCS\86838 2 55117 0038 07/13/98

RECORDED: 10/13/1998

**TRADEMARK
REEL: 1802 FRAME: 0322**