

02-20-2002



SHEET

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101987683

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

Conveyance Type

New

2-20-02

Assignment

License

Resubmission (Non-Recordation)
Document ID#

Security Agreement

Nunc Pro Tunc Assignment

Correction of PTO Error
Reel # Frame #

Merger

Effective Date
Month Day Year

Corrective Document
Reel # Frame #

Change of Name

Other

Conveying Party(ies)

Mark if additional names of conveying parties attached

Name FIRST WAVE MARINE, INC.

Execution Date
Month Day Year
2 7 2002

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization State of Delaware

Receiving Party

Mark if additional names of conveying parties attached

Name FOOTHILL CAPITAL CORPORATION

DBA/AKA/TA

Composed of

Address (line 1) 2450 Colorado Avenue, Suite 3000 West

Address (line 2)

Address (line 3)

Santa Monica

California USA

90409

City

State/Country

Zip Code

Individual General Partnership Limited Partnership

Corporation Association

Other

Citizenship/State of Incorporation/Organization State of California

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment)

FOR OFFICE USE ONLY

02/20/2002 DBYRNE 00000159 76338154

01 FC:481
02 FC:482

40.00 OP
175.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB nation Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK

REEL: 002446 FRAME: 0055

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name Arturo J. Velez, Esq.

Address (line 1) Otterbourg, Steindler, Houston & Rosen, P.C.

Address (line 2) 230 Park Avenue

Address (line 3) New York, New York 10169

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

212-661-9100 X709

Name Helen M. Linehan

Address (line 1) Otterbourg, Steindler, Houston & Rosen, P.C.

Address (line 2) 230 Park Avenue

Address (line 3) New York, New York 10169

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

15

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)
SEE ATTACHED EXHIBIT A

Registration Number(s)
SEE ATTACHED EXHIBIT A

Grid of 9 empty boxes for Trademark Application Numbers.

Grid of 6 empty boxes for Registration Numbers.

Number of Properties

Enter the total number of properties involved.

8

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

\$ 215.00

Method of Payment:

Enclosed Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes No

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. Charges to deposit account are authorized, as indicated herein.

Helen M. Linehan

Helen M. Linehan

Signature

2/19/02

Date

Name of Person Signing

TRADEMARK

EXHIBIT A
TO
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TRADEMARK APPLICATION NUMBER	TRADEMARK REGISTRATION NUMBER
76/338,154	2,215,853
76/338,155	2,225,839
	2,296,669
	2,296,670
	2,352,371
	2,296,668

EXHIBIT A

Trademarks

FIRST WAVE MARINE, INC.

Trademark Report by Mark

Printed: 02/01/2002

Page 1

COUNTRY	REFERENCE#	FILED	APPL#	REGDT	REG#	STATUS	CLASSES
Design (Three ships)							
TEXAS	30801.000048			10/22/1997	57233	REGISTERED	37
37 - SHIPBUILDING, SHIPYARD AND REPAIR SERVICES FOR VESSELS							
UNITED STATES	30801.000043	05/07/1997	75/287,949	01/05/1999	2,215,853	REGISTERED	37
37 - CUSTOM AND NAVAL SHIPBUILDING AND MARINE VESSEL REPAIR SERVICES							
UNITED STATES	30801.000044	01/21/1998	75/421,289	02/23/1999	2,225,839	REGISTERED	39
39 - NAVAL SHIPYARD SERVICES							
Design (wave)							
UNITED STATES	30801.000037	11/15/2001	76/338,154			PENDING	37
37 - CUSTOM AND NAVAL SHIPBUILDING SERVICES AND REPAIR SERVICES FOR VESSELS							
Design (wave in a beaker)							
UNITED STATES	30801.000041	10/20/1997	75/376,313	11/30/1999	2,296,669	REGISTERED	42
42 - ENVIRONMENTAL SERVICES IN CONNECTION WITH THE MARITIME AND SHIPPING INDUSTRIES, NAMELY, HAZARDOUS WASTE MANAGEMENT AND REVIEWING STANDARDS AND PRACTICES TO ASSURE COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS							
FIRST WAVE							
TEXAS	30801.000046			10/22/1997	57232	REGISTERED	37
37 - SHIPBUILDING, SHIPYARD AND REPAIR SERVICES FOR VESSELS							
UNITED STATES	30801.000039	10/20/1997	75/376,320	11/30/1999	2,296,670	REGISTERED	42
42 - ENVIRONMENTAL SERVICES IN CONNECTION WITH THE MARITIME AND SHIPPING INDUSTRIES, NAMELY, HAZARDOUS WASTE MANAGEMENT AND REVIEWING STANDARDS AND PRACTICES TO ASSURE COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS							
UNITED STATES	30801.000040	10/20/1997	75/376,319	05/23/2000	2,352,371	REGISTERED	37
37 - CUSTOM AND NAVAL SHIPBUILDING AND REPAIR SERVICES FOR VESSELS							
FIRST WAVE and design							
UNITED STATES	30801.000042	10/20/1997	75/376,309	11/30/1999	2,296,668	REGISTERED	42
42 - ENVIRONMENTAL SERVICES IN CONNECTION WITH THE MARITIME AND SHIPPING INDUSTRIES, NAMELY, HAZARDOUS WASTE MANAGEMENT AND REVIEWING STANDARDS AND PRACTICES TO ASSURE COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS							
FIRST WAVE and wave logo							
UNITED STATES	30801.000038					MAILED	37
37 - CUSTOM AND NAVAL SHIPBUILDING SERVICES AND REPAIR SERVICES FOR VESSELS							
FIRST WAVE NEWPARK SHIPBUILDING and wave design							
UNITED STATES	30801.000045	11/15/2001	76/338,155			PENDING	37
37 - CUSTOM AND NAVAL SHIPBUILDING SERVICES AND REPAIR SERVICES FOR VESSELS							
NEWPARK							
TEXAS	30801.000047			10/22/1997	57231	REGISTERED	37
37 - SHIPBUILDING, SHIPYARD AND REPAIR SERVICES FOR VESSELS							

END OF REPORT

TOTAL ITEMS SELECTED 12

**AMENDED AND RESTATED TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT**

THIS AMENDED AND RESTATED TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT ("**Agreement**"), dated as of February 7, 2002, is by and between **FIRST WAVE MARINE, INC.**, a Delaware corporation ("**Debtor**"), with its chief executive office at 2012 Broadway, Houston, Texas 77012 and **FOOTHILL CAPITAL CORPORATION** ("**Secured Party**"), having an office at 2450 Colorado Avenue, Suite 3000 West, Santa Monica, California 90409.

WITNESSETH:

WHEREAS, Debtor has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the trademarks, trade names, terms, designs and applications therefor described in Schedule A hereto and made a part hereof; and

WHEREAS, Secured Party and Debtor and certain affiliates of Debtor have entered into or are about to enter into financing arrangements pursuant to which Secured Party may make loans and advances and provide other financial accommodations to Debtor as set forth in the Second Amended and Restated Loan and Security Agreement, dated on or about the date hereof, by and among Secured Party, Debtor and the other Borrowers thereto and as defined therein (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "**Loan Agreement**") and other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto, including, but not limited to, this Agreement (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "**Loan Documents**"); and

WHEREAS, the proceeds of such loans and advances to be made by Secured Party to Debtor shall be used by Debtor and the other Borrowers to, inter alia, substantially consummate the Plan of Reorganization as confirmed by the Bankruptcy Court pursuant to the Confirmation Order in the Borrowers' Chapter 11 Cases (as such capitalized terms are defined in the Loan Agreement);

WHEREAS, in order to induce Secured Party to enter into the Loan Agreement and the other Loan Documents and to make loans and advances and provide other financial accommodations to Debtor and the other Borrowers pursuant thereto, Debtor has agreed to grant to Secured Party certain collateral security as set forth herein;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees as follows:

1. GRANT OF SECURITY INTEREST

As collateral security for the prompt performance, observance and indefeasible payment in full of all of the Obligations (as hereinafter defined), Debtor hereby grants to Secured Party a continuing security interest in and a general lien upon, and a conditional assignment of, the following (being collectively referred to herein as the "**Collateral**"): (a) all of Debtor's now existing or hereafter acquired right, title, and interest in and to: (i) all of Debtor's trademarks, trade names, trade styles and service marks and all applications, registrations and recordings relating to the foregoing as may at any time be filed in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country, including, without limitation, the trademarks, terms, designs and applications described in Schedule A hereto, together with all rights and privileges arising under applicable law with respect to Debtor's use of any trademarks, trade names, trade styles and service marks, and all reissues, extensions, continuation and renewals thereof (all of the foregoing being collectively referred to herein as the "**Trademarks**"); and (ii) all prints and labels on which such trademarks, trade names, tradestyles and service marks appear, have appeared or will appear, and all designs and general intangibles of a like nature; (b) the goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks; (c) all income, fees, royalties and other payments at any time due or payable with respect thereto, including, without limitation, payments under all licenses at any time entered into in connection therewith; (d) the right to sue for past, present and future infringements thereof; (e) all rights corresponding thereto throughout the world; and (f) any and all other proceeds of any of the foregoing, including, without limitation, damages and payments or claims by Debtor against third parties for past or future infringement of the Trademarks.

2. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Secured Party pursuant to this Agreement shall secure the prompt performance, observance and payment in full of any and all obligations, liabilities and indebtedness of every kind, nature and description owing by Debtor to Secured Party and/or its affiliates, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether arising under this Agreement, the Loan Agreement, the other Loan Documents or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Loan Agreement or after the commencement of any case with respect to Debtor under the United States Bankruptcy Code or any similar statute (including, without limitation, the payment of interest and other amounts which would accrue and become due but for the commencement of such case), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary

or secondary, liquidated or unliquidated, secured or unsecured, and however acquired by Secured Party (all of the foregoing being collectively referred to herein as the "**Obligations**").

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

Debtor hereby represents, warrants and covenants with and to Secured Party the following (all of such representations, warranties and covenants being continuing so long as any of the Obligations are outstanding):

(a) Debtor shall pay and perform all of the Obligations according to their terms.

(b) All of the existing Collateral is valid and subsisting in full force and effect, and Debtor owns the sole, full and clear title thereto, and the right and power to grant the security interest and conditional assignment granted hereunder. Debtor shall, at Debtor's expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral consisting of registered Trademarks as registered trademarks and to maintain the existence of all of the Collateral as valid and subsisting, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests or encumbrances of any nature whatsoever, except: (i) the security interests granted hereunder and pursuant to the Loan Agreement, (ii) the security interests permitted under the Loan Agreement, and (iii) the licenses permitted under Section 3(e) below.

(c) Debtor shall not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating to the Collateral, or otherwise dispose of any of the Collateral, in each case without the prior written consent of Secured Party, except as otherwise permitted herein or in the Loan Agreement. Nothing in this Agreement shall be deemed a consent by Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Debtor shall, at Debtor's expense, promptly perform all acts and execute all documents requested at any time by Secured Party to evidence, perfect, maintain, record or enforce the security interest in and conditional assignment of the Collateral granted hereunder or to otherwise further the provisions of this Agreement. Debtor hereby authorizes Secured Party to execute and file one or more financing statements (or similar documents) with respect to the Collateral, signed only by Secured Party or as otherwise determined by Secured Party. Debtor further authorizes Secured Party to have this Agreement or any other similar security agreement filed with the Commissioner of Patents and Trademarks or any other appropriate federal, state or government office.

(e) As of the date hereof, Debtor does not have any Trademarks registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, other than those described in Schedule A hereto and has not granted any licenses with respect thereto other than as set forth in Schedule B hereto.

(f) Debtor shall, concurrently with the execution and delivery of this Agreement, execute and deliver to Secured Party five (5) originals of a Special Power of Attorney in the form of Exhibit I annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Secured Party's exercise of the rights and remedies granted to Secured Party hereunder.

(g) Secured Party may, in its discretion, pay any amount or do any act which Debtor fails to pay or do as required hereunder or as requested by Secured Party to preserve, defend, protect, maintain, record or enforce the Obligations, the Collateral, or the security interest and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, attorneys' fees and legal expenses. Debtor shall be liable to Secured Party for any such payment, which payment shall be deemed an advance by Secured Party to Debtor, shall be payable on demand together with interest at the rate then applicable to the Obligations set forth in the Loan Agreement and shall be part of the Obligations secured hereby.

(h) Debtor shall not file any application for the registration of a Trademark with the United States Patent and Trademark Office or any similar office or agency in the United States, unless Debtor has given Secured Party thirty (30) days prior written notice of such action. If, after the date hereof, Debtor shall (i) obtain any registered trademark or trade name, or apply for any such registration in the United States Patent and Trademark Office or in any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, or (ii) become the owner of any trademark registrations or applications for trademark registration used in the United States or any State thereof, political subdivision thereof or in any other country, the provisions of Section 1 hereof shall automatically apply thereto. Upon the request of Secured Party, Debtor shall promptly execute and deliver to Secured Party any and all assignments, agreements, instruments, documents and such other papers as may be requested by Secured Party to evidence the security interest in and conditional assignment of such Trademark in favor of Secured Party.

(i) Debtor has not abandoned any of the Trademarks and Debtor will not do any act, nor omit to do any act, whereby the Trademarks may become abandoned, invalidated, unenforceable, avoided, or avoidable. Debtor shall notify Secured Party immediately if it knows or has reason to know of any reason why any application, registration, or recording with respect to the Trademarks may become abandoned, canceled, invalidated, avoided, or avoidable.

(j) Debtor shall render any assistance, as Secured Party shall determine is necessary, to Secured Party in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, to maintain such application and registration of the Trademarks as Debtor's exclusive property and to protect Secured Party's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

(k) No material infringement or unauthorized use presently is being made of any of the Trademarks that would adversely affect in any material respect the fair market value of the Collateral or the benefits of this Agreement granted to Secured Party, including, without limitation, the

validity, priority or perfection of the security interest granted herein or the remedies of Secured Party hereunder. Debtor shall promptly notify Secured Party if Debtor (or any affiliate or subsidiary thereof) learns of any use by any person of any term or design which infringes on any Trademark or is likely to cause confusion with any Trademark. If requested by Secured Party, Debtor, at Debtor's expense, shall join with Secured Party in such action as Secured Party, in Secured Party's discretion, may deem advisable for the protection of Secured Party's interest in and to the Trademarks.

(l) Debtor assumes all responsibility and liability arising from the use of the Trademarks and Debtor hereby indemnifies and holds Secured Party harmless from and against any claim, suit, loss, damage, or expense (including attorneys' fees and legal expenses) arising out of any alleged defect in any product manufactured, promoted, or sold by Debtor (or any affiliate or subsidiary thereof) in connection with any Trademark or out of the manufacture, promotion, labeling, sale or advertisement of any such product by Debtor (or any affiliate or subsidiary thereof). The foregoing indemnity shall survive the payment of the Obligations, the termination of this Agreement and the termination or non-renewal of the Loan Agreement.

(m) Debtor shall promptly pay Secured Party for any and all expenditures made by Secured Party pursuant to the provisions of this Agreement or for the defense, protection or enforcement of the Obligations, the Collateral, or the security interests and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, travel expenses, and attorneys' fees and legal expenses. Such expenditures shall be payable on demand, together with interest at the rate then applicable to the Obligations set forth in the Loan Agreements and shall be part of the Obligations secured hereby.

4. EVENTS OF DEFAULT

All Obligations shall become immediately due and payable, without notice or demand, at the option of Secured Party, upon the occurrence of any Event of Default, as such term is defined in the Loan Agreement (each an "**Event of Default**" hereunder).

5. RIGHTS AND REMEDIES

At any time an Event of Default exists or has occurred and is continuing, in addition to all other rights and remedies of Secured Party, whether provided under this Agreement, the Loan Agreement, the other Loan Documents, applicable law or otherwise, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, Debtor except as such notice or consent is expressly provided for hereunder:

(a) Secured Party may require that neither Debtor nor any affiliate or subsidiary of Debtor make any use of the Trademarks or any marks similar thereto for any purpose whatsoever. Secured Party may make use of any Trademarks for the sale of goods, completion of work-in-process or rendering of services in connection with enforcing any other security interest granted to Secured

Party by Debtor or any subsidiary or affiliate of Debtor or for such other reason as Secured Party may determine.

(b) Secured Party may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Secured Party shall in its discretion deem appropriate. Such license or licenses may be general, special or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

(c) Secured Party may assign, sell or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations except that if notice to Debtor of intended disposition of Collateral is required by law, the giving of five (5) days prior written notice to Debtor of any proposed disposition shall be deemed reasonable notice thereof and Debtor waives any other notice with respect thereto. Secured Party shall have the power to buy the Collateral or any part thereof, and Secured Party shall also have the power to execute assurances and perform all other acts which Secured Party may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Debtor shall be liable for any deficiency.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to the terms hereof, Secured Party may at any time execute and deliver on behalf of Debtor, pursuant to the authority granted in the Powers of Attorney described in Section 3(f) hereof, one or more instruments of assignment of the Trademarks (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Debtor agrees to pay Secured Party on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and attorneys' fees and legal expenses. Debtor agrees that Secured Party has no obligation to preserve rights to the Trademarks against any other parties.

(e) Secured Party may first apply the proceeds actually received from any such license, assignment, sale or other disposition of any of the Collateral to the costs and expenses thereof, including, without limitation, attorneys' fees and all legal, travel and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Obligations as Secured Party may in its discretion determine. Debtor shall remain liable to Secured Party for any of the Obligations remaining unpaid after the application of such proceeds, and Debtor shall pay Secured Party on demand any such unpaid amount, together with interest at the rate then applicable to the Obligations set forth in the Loan Agreement.

(f) Debtor shall supply to Secured Party or to Secured Party's designee Debtor's knowledge and expertise relating to the manufacture and sale of the products and services bearing the Trademarks and Debtor's customer lists and other records relating to the Trademarks and the distribution thereof.

(g) Nothing contained herein shall be construed as requiring Secured Party to take any such action at any time. All of Secured Party's rights and remedies, whether provided under this

Agreement, the other Loan Documents, applicable law, or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently.

6. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER

(a) THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, AND THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(b) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE BANKRUPTCY COURT OR, AT THE SOLE OPTION OF SECURED PARTY, IN ANY STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK, PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT SECURED PARTY'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SECURED PARTY ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. DEBTOR AND SECURED PARTY WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 6(b).

(c) DEBTOR AND SECURED PARTY HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. DEBTOR AND SECURED PARTY REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

7. MISCELLANEOUS

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally

recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to Debtor: **FIRST WAVE MARINE, INC.**
2012 Broadway
Houston, Texas 77012
Attention: General Counsel

If to Secured Party: **FOOTHILL CAPITAL CORPORATION**
1000 Abernathy Road, N.E.
Suite 1450
Atlanta, Georgia 30328
Attention: Mr. Drew Stawin
Fax No. 770 508-1375

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural. All references to Debtor and Secured Party pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns. The words "hereof," "herein," "hereunder," "this Agreement" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 7(e) hereof. All references to the term "Person" or "person" herein shall mean any individual, sole proprietorship, partnership, corporation (including, without limitation, any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

(c) This Agreement, the other Loan Documents and any other document referred to herein or therein shall be binding upon Debtor and its successors and assigns and inure to the benefit of and be enforceable by Secured Party and its successors and assigns.

(d) If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

(e) Neither this Agreement nor any provision hereof shall be amended, modified, waived or discharged orally or by course of conduct, but only by a written agreement signed by an authorized officer of Secured Party. Secured Party shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Secured Party. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Secured Party of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Secured Party would otherwise have on any future occasion, whether similar in kind or otherwise.

8. AMENDMENT AND RESTATEMENT.

This Agreement amends and restates in its entirety and supersedes and replaces the Trademark Collateral Assignment and Security Agreement, dated February 7, 2001, by and between Debtor and Secured Party (the "**Existing Trademark Security Agreement**"). Notwithstanding the amendment and restatement of the Existing Trademark Security Agreement provided for herein, nothing contained in this Agreement or in the other Loan Documents shall extinguish, limit or impair the "**Lender's Liens**" granted to or held by Secured Party with respect to the Collateral pursuant to the DIP Loan Agreement and the other DIP Loan Documents (as such terms are defined in the Loan Agreement), the "**Financing Order**" or the "**Existing Loan Documents**" (as such quoted terms are defined in the DIP Loan Agreement) or the perfection or priority of such Lender's Liens.

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

FIRST WAVE MARINE, INC.

By: Frank R. Pierce

Title: Senior Vice President + CFO

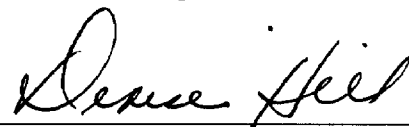
FOOTHILL CAPITAL CORPORATION

By: [Signature]

Title: Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 7^e day of February __, 2002, before me personally came FRANK R. PIERCE, to me known, who being duly sworn, did depose and say, that he is the S.V.P. & CFO of FIRST WAVE MARINE, INC., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

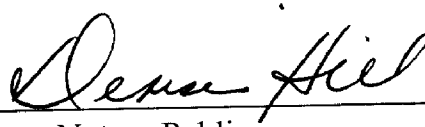


Notary Public

DENISE HILL
Notary Public, State of New York
No. 01HI5061909
Qualified in Queens County
Certificate Filed in New York County
Commission Expires June 17, 20...02

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 7^e day of February __, 2002, before me personally came DREW C. STAWIN, to me known, who, being duly sworn, did depose and say, that he is the V.P. of FOOTHILL CAPITAL CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.



Notary Public

DENISE HILL
Notary Public, State of New York
No. 01HI5061909
Qualified in Queens County
Certificate Filed in New York County
Commission Expires June 17, 20...02

**SCHEDULE B
TO
AMENDED AND RESTATED
TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT**

LIST OF LICENSES

NONE

**EXHIBIT I
TO
AMENDED AND RESTATED
TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT**

SPECIAL POWER OF ATTORNEY [TRADEMARKS]

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

KNOW ALL MEN BY THESE PRESENTS, that **FIRST WAVE MARINE, INC.**, ("**Debtor**"), having an office at 2012 Broadway, Houston, Texas 77012, hereby appoints and constitutes, severally, **FOOTHILL CAPITAL CORPORATION** ("**Secured Party**"), and each of its officers, its true and lawful attorney, with full power of substitution and with full power and authority to perform the following acts on behalf of Debtor:

1. Execution and delivery of any and all agreements, documents, instrument of assignment, or other papers which Secured Party, in its discretion, deems necessary or advisable for the purpose of assigning, selling, or otherwise disposing of all right, title, and interest of Debtor in and to any trademarks and all registrations, recordings, reissues, extensions, and renewals thereof, or for the purpose of recording, registering and filing of, or accomplishing any other formality with respect to the foregoing.

2. Execution and delivery of any and all documents, statements, certificates or other papers which Secured Party, in its discretion, deems necessary or advisable to further the purposes described in Subparagraph 1 hereof.

This Power of Attorney is made pursuant to an Amended and Restated Trademark Collateral Assignment and Security Agreement, dated of even date herewith, between Debtor and Secured Party (the "**Security Agreement**") and is subject to the terms and provisions thereof. This Power of Attorney, being coupled with an interest, is irrevocable until all "**Obligations**", as such term is defined in the Security Agreement, are paid in full and the Security Agreement is terminated in writing by Secured Party.

Dated: as of February __, 2002

FIRST WAVE MARINE, INC.

By: _____

Title: _____

