

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM313359

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Hornblower Group, Inc.		12/23/2013	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Union Bank, N.A.		
Street Address:	350 California Street; 7th Floor		
City:	San Francisco		
State/Country:	CALIFORNIA		
Postal Code:	94104		
Entity Type:	National Association: CALIFORNIA		
PROPERTY NUMBERS Total: 18			
Property Type	Number	Word Mark	
Registration Number:	3593946	RESPECT OUR PLANET	
Registration Number:	4068010	ALCATRAZ LANDING	
Registration Number:	3828926	HORNBLOWER HYBRID	
Registration Number:	4094034	HORNBLOWER LANDING	
Registration Number:	3148575	ALWAYS A PLEASURE	
Registration Number:	3001594	SEA CALIFORNIA	
Registration Number:	3523740	HORNBLOWER	
Registration Number:	2521625	HORNBLOWER	
Registration Number:	3556542	ADVENTURES AT SEA	
Registration Number:	3553140	ALCATRAZ CRUISES	
Registration Number:	3523668	STATUE CRUISES	
Registration Number:	3804527	BETWEEN THE SEA AND THE SKY	
Serial Number:	85103039	FLAGSHIP EVENTS	
Registration Number:	4261793	LIGHTS & SIPS	
Registration Number:	4526067	NIAGARA FALLS CRUISES	
Registration Number:	3929912	SIGHTS & SIPS	
Serial Number:	86024572	HORNBLOWER NIAGARA CRUISES	
Registration Number:	4526297	WE CREATE AMAZING EXPERIENCES	
CORRESPONDENCE DATA			
			TRADEMARK

Fax Number:

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 415/774-2953
Email: swilliams@sheppardmullin.com
Correspondent Name: Michelle D. Kahn
Address Line 1: Sheppard Mullin Richter & Hampton LLP
Address Line 2: Four Embarcadero Center; 17th Floor
Address Line 4: San Francisco, CALIFORNIA 94111

ATTORNEY DOCKET NUMBER:	0100-092522
NAME OF SUBMITTER:	Michelle D. Kahn
SIGNATURE:	/michelle d kahn/
DATE SIGNED:	08/07/2014

Total Attachments: 11

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SECOND AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT (US)

This Second Amended and Restated Intellectual Property Security Agreement (US) (the "Agreement") is made as of December 23, 2013, by and between HORNBLOWER GROUP, INC., a California corporation, formerly known as Hornblower Group, LLC, a California limited liability company ("Grantor"), and UNION BANK, N.A., as administrative agent for itself and certain other Lenders (as defined below) (in such capacity, "Secured Party").

RECITALS

A. In connection with that certain Third Amended and Restated Master Loan Agreement dated as of July 22, 2011 (as amended from time to time, the "Original Loan Agreement"), by and among Grantor and the other borrowers described therein (collectively, the "Original Borrowers"), Secured Party and the lenders from time to time party thereto (each, a "Lender" and collectively, "Lenders"), Grantor, Hornblower Yachts, LLC, a California limited liability company ("Hornblower Yachts"), as "Former Grantor", and Secured Party executed that certain Amended and Restated Intellectual Property Security Agreement (US) dated as of September 30, 2011 (the "2011 Security Agreement"), pursuant to which Grantor granted a security interest and mortgage to Secured Party, for the benefit of the Lenders, in and to Grantor's entire right, title and interest in, to and under the collateral described therein, as collateral security for the prompt and complete performance of all of the Original Borrowers' present or future indebtedness, obligations and liabilities to Secured Party and the Lenders. The 2011 Security Agreement was recorded with the U.S. Patent and Trademark Office on February 13, 2012, at Reel 4716/Frame 0208. The 2011 Security Agreement amended and restated in full that certain Intellectual Property Security Agreement dated as of March 25, 2009, between Hornblower Yachts and Secured Party, which was recorded with the U.S. Patent and Trademark Office on April 3, 2009, at Reel 3965/Frame 0211.

B. The Original Loan Agreement is being further amended by that certain Third Amendment to Third Amended and Restated Master Loan Agreement (the "Third Amendment") of even date herewith, by and among Grantor, Hornblower Yachts, Alcatraz Cruises, LLC, a California limited liability company, Liberty Cruises, LLC, a New York limited liability company, and Hornblower Canada Co., a Nova Scotia unlimited liability corporation (each, jointly and severally, a "Borrower" and collectively, the "Borrowers"), Secured Party and the Lenders. Pursuant to the Original Loan Agreement, as amended by the Third Amendment (as amended, the "Loan Agreement"), the Lenders have advanced or will advance from time to time on a several basis an aggregate principal amount not to exceed at any time One Hundred Six Million Five Hundred Thousand Dollars (\$106,500,000.00) to the Borrowers (collectively, the "Loans") and Grantor and the other Borrowers desire to borrow such funds from the Lenders pursuant to the Loan Agreement and the other documents executed in connection therewith (collectively, the "Loan Documents"). All capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Documents.

C. In order to induce the Lenders to continue to make the Loans, Grantor has agreed to assign certain intangible property to Secured Party, for the benefit of the Lenders, for purposes of securing the obligations of Borrowers to Secured Party and the Lenders.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of the Borrowers' present or future indebtedness, obligations and liabilities to Secured Party and the Lenders, Grantor hereby grants a security interest and mortgage to Secured Party, for the ratable benefit of the Lenders, in and to Grantor's entire right, title and interest in, to and under the following (all of which shall collectively be called the "Collateral"):

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including") without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(d) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks");

(e) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(f) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; and

(g) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks or Patents; and

(h) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. Authorization and Request. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this security agreement.

3. Covenants and Warranties. Grantor represents, warrants, covenants and agrees as follows:

(a) Grantor is now the sole owner of the Collateral, except for non-exclusive licenses granted by Grantor to its customers in the ordinary course of business;

(b) Performance of this Agreement does not conflict with or result in a breach of any agreement to which Grantor is party or by which Grantor is bound, except to the extent that certain intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Agreement constitutes an assignment;

(c) During the term of this Agreement, Grantor will not transfer or otherwise encumber any interest in the Collateral, except for non-exclusive licenses granted by Grantor in the ordinary course of business, or as set forth in this Agreement;

(d) Each of the Patents is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Collateral violates the rights of any third party;

(e) Grantor shall deliver to Secured Party within thirty (30) days of the last day of each fiscal quarter, a report signed by Grantor, in form reasonably acceptable to Secured Party, listing any applications or registrations that Grantor has made or filed in respect of any patents, copyrights or trademarks and the status of any outstanding applications or registrations. Grantor shall promptly advise Secured Party of any material change in the composition of the Collateral, including but not limited to any subsequent ownership right of the Grantor in or to any Trademark, Patent or Copyright not specified in this Agreement;

(f) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights, (ii) use its best efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Secured Party in writing of material infringements detected and (iii) not allow any Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Secured Party, which shall not be unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate;

(g) Grantor shall register or cause to be registered (to the extent not already registered) with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, those intellectual property rights listed on Exhibits A, B and C hereto within thirty (30) days of the date of this Agreement. Grantor shall register or cause to be registered with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, those additional intellectual property rights developed or acquired by Grantor from time to time in connection with any product or service prior to the sale or licensing of such product or service to any third party (including without limitation revisions or additions to the intellectual property rights listed on such Exhibits A, B and C). Grantor shall, from time to time, execute and file such other instruments, and take such further actions as Secured Party

may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the Collateral;

(h) This Agreement creates, and in the case of after acquired Collateral, this Agreement will create at the time Grantor first has rights in such after acquired Collateral, in favor of Secured Party, for the ratable benefit of the Lenders, a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Documents upon making the filings referred to in clause (i) below;

(i) Except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and the Register of Copyrights with respect to the Copyrights necessary to perfect the security interests created hereunder, and, except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority or U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby or for the execution, delivery or performance of this Agreement by Grantor in the U.S. or (ii) for the perfection in the United States or the exercise by Secured Party of its rights and remedies hereunder;

(j) All information heretofore, herein or hereafter supplied to Secured Party by or on behalf of Grantor with respect to the Collateral is accurate and complete in all material respects;

(k) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Secured Party's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Grantor's rights and interests in any property included within the definition of the Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts if Grantor is required, in its commercially reasonable judgment to accept such provisions; and

(l) Upon any executive officer of Grantor obtaining knowledge thereof, Grantor will promptly notify Secured Party in writing of any event that materially adversely affects the value of any of the Collateral, the ability of Grantor to dispose of any Collateral or the rights and remedies of Secured Party in relation thereto, including the levy of any legal process against any of the Collateral.

4. Secured Party's Rights. Secured Party shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor, is required under this Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Secured Party and the Lenders for all reasonable costs and expenses incurred in the reasonable exercise of Secured Party's rights under this Section 4.

5. Inspection Rights. Grantor hereby grants to Secured Party and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable

written notice to Grantor, any of Grantor's plants and facilities that manufacture; install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Collateral, and to inspect the products and quality control records relating thereto upon reasonable notice to Grantor and as often as may be reasonably requested.

6. Further Assurances; Attorney in Fact.

(a) On a continuing basis, Grantor will make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including, appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Secured Party, to perfect Secured Party's security interest in all Copyrights, Patents and Trademarks and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to Secured Party the grant or perfection of a security interest in all Collateral.

(b) Grantor hereby irrevocably appoints Secured Party as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time to time in Secured Party's discretion, to take any action and to execute any instrument which Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including:

(i) To modify, in its sole discretion, this Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C, hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which Grantor no longer has or claims any right, title or interest;

(ii) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Grantor where permitted by law; and

(iii) After the occurrence of an Event of Default, to transfer the Collateral into the name of Secured Party, as administrative agent for the Lenders, or a third party to the extent permitted under the California Uniform Commercial Code.

7. Events of Default. The occurrence of any or the following shall constitute an Event of Default under this Agreement:

(a) An Event of Default occurs under the Loan Documents, or

(b) Grantor breaches any warranty or agreement made by Grantor in this Agreement and, as to any breach that is capable of cure, Grantor fails to cure such breach within five (5) days of such breach.

8. Remedies. Upon the occurrence of an Event of Default, Secured Party shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Collateral and any tangible property in which Secured Party has a security interest and to make it available to Secured Party at a place designated by Secured Party. Secured Party shall have a nonexclusive, royalty free license to use the Copyrights, Patents and Trademarks to the extent reasonably necessary to permit Secured Party to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any expenses (including attorneys' fees) incurred by Secured Party in connection with the exercise of any of Secured Party's rights hereunder, including without limitation any expense incurred in disposing of the Collateral. All of Secured Party's rights and remedies with respect to the Collateral shall be cumulative.

9. Indemnity. Grantor agrees to defend, indemnify and hold harmless Secured Party and the Lenders and their respective officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Secured Party and/or the Lenders as a result of or in any way arising out of, following or consequential to transactions between Secured Party and Grantor, whether under this Agreement or otherwise (including without limitation attorneys fees and expenses), except for losses arising from or out of Secured Party's or any Lender's gross negligence or willful misconduct.

10. Course of Dealing. No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a- waiver thereof.

11. Attorneys Fees. If any action relating to this Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys fees, costs and disbursements.

12. Amendments. This Agreement may be amended only by a written instrument signed by both parties hereto.

13. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

14. California Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California, without regard for choice of law provisions. Grantor and Secured Party consent to the exclusive jurisdiction of any state or federal court located in California.

15. Dispute Resolution. This Agreement hereby incorporates any alternative dispute resolution agreement previously, concurrently or hereafter executed between Grantor and Secured Party.

16. Amendment and Restatement. As of the date hereof, this Agreement amends and restates in full that certain Amended and Restated Intellectual Property Security Agreement (US) dated as of September 30, 2011, executed by Grantor, as Hornblower Group, LLC, a California

limited liability company, Hornblower Yachts and Secured Party, in connection with the Original Loan Agreement.


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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Address of Grantor:
Pier 3 on the Embarcadero
San Francisco, CA 94111

GRANTOR:

HORNBLOWER GROUP, INC.,
a California corporation

By: 
Terry A. MacRae,
Chief Executive Officer

Address of Secured Party:
350 California Street, 7th Floor
San Francisco, CA 94104

SECURED PARTY:

UNION BANK, N.A.,
as Administrative Agent


By: 
Name: Ian Ritchie
Title: Vice President

EXHIBIT A

List of Copyrights

N/A

EXHIBIT B

List of Patents

N/A

EXHIBIT C

Trademarks

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
Respect Our Planet (and design)	3,593,946	03/24/2009
Alcatraz Landing	4,068,010	12/06/2011
Hornblower Hybrid	3,828,926	08/03/2010
Hornblower Landing	4,094,034	01/31/2012
Always A Pleasure	3,148,575	09/26/2006
Sea California	3,001,594	09/27/2005
Hornblower	3,523,740	10/28/2008
Hornblower (typed drawing)	2,521,625	12/25/2001
Adventures At Sea (and design)	3,556,542	01/06/2009
Alcatraz Cruises (and design)	3,553,140	12/30/2008
Statue Cruises (and design)	3,523,668	10/28/2008
Between the Sea and the Sky	3,804,527	06/15/2010
Flagship Events	85/103,039	08/09/2010
Lights & Sips	4,261,793	12/18/2012
Niagara Falls Cruises (and design)	4,526,067	05/06/2014
Sights & Sips	3,929,912	03/08/2011
Hornblower Niagara Cruises (and design)	86/024572	07/01/2013
We Create Amazing Experiences	4,526,297	05/06/2014