

SO ORDERED




THOMAS J. CATLIOTA
U.S. BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)

In re: *

THE SAILING EMPORIUM, INC. * Case No: 16-24498-TJC
Debtor * (Chapter 11)

* * * * *

In re: *

WILLIAM ARTHUR WILLIS * Case No: 16-26458-TJC
MARY SUE WILLIS * Case No: 17-14376-TJC
Debtors * (Chapter 11)
* (Jointly Administered under
* Case No: 16-26458-TJC)

* * * * *

**ORDER (I) APPROVING AGREEMENT OF SALE AND PURCHASE AND
AUTHORIZING SALE OF THE MARINA PROPERTY OUTSIDE ORDINARY
COURSE OF BUSINESS, (II) AUTHORIZING SALE OF THE MARINA
PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES
AND INTERESTS, (III) REJECTING CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Sale Motion”)¹ of The Sailing Emporium, Inc. (“Sailing Emporium”), the debtor and debtor in possession in Case No. 16-24498-TJC, and William Arthur Willis and Mary Sue Willis (together, “Willises”), the debtors and debtors in possession in Case No. 16-26458-TJC, collectively referred to herein as the “Debtors”, for entry of an Order (I) Approving Agreement of Sale and Purchase and Authorizing Sale of the Marina Property Outside Ordinary Course of Business, (II) Authorizing Sale of the Marina Property Free and

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Sale Motion or the Agreement, as defined *infra*, as the case may be or the circumstances require.

Clear of Liens, Claims, Encumbrances and Interests, (III) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief in connection with the proposed sale of the Marina Property, including the personal property related to the operations of the Marina and the assumption and assignment of certain executory contracts and unexpired leases related thereto (the “Transaction”); the Court having entered the Amended Order (I) Authorizing the Debtors to Select a Stalking Horse Purchaser and Approving Certain Bid Protections in Connection Therewith, (II) Approving Bid Procedures in Connection with the Sale of the Marina Property, (III) Approving Procedures Related to the Assumption and Assignment of Executory Contracts, (IV) Establishing Date for Auction and Approving Related Procedures, (V) Scheduling Sale Hearing and Related Deadlines, (VI) Approving Form and Manner of Notices, and (VII) Granting Related Relief [Dkt. # 184] (the “Bid Procedures Order”); an Auction of the Marina Property having been conducted on September 7, 2017 at which time the Debtors determined that the offer of Brawner Company, Inc. (“Brawner”), or an entity to be formed by Brawner or its assigns, to purchase the Marina Property for Three Million Eight Hundred Thousand and No/100 Dollars (\$3,800,000.00) was the highest and best offer, and the Court having considered the Sale Motion, objections if any thereto, the statements of counsel and testimony on the record at the hearing conducted on September 14, 2017 (the “Sale Hearing”), at which time all interested parties were offered an opportunity to be heard with respect to the Sale Motion; and it appearing that the relief requested in the Sale Motion is in the best interests of the Debtors, their bankruptcy estates, their creditors and other parties in interest; and after due deliberation and good cause appearing therefor and the Court having made findings of fact and conclusions of law which are incorporated by reference herein, and;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS:

A. Jurisdiction and Venue. This Court has jurisdiction to consider the Sale Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of this case and this Sale Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

B. Notice. As evidenced by the certificates of service filed with this Court: (i) due, proper, timely, adequate and sufficient notice of the Sale Motion, the Auction, the Sale Hearing and the Transaction has been provided in accordance with Bankruptcy Code Sections 105(a), 363 and 365 and Bankruptcy Rules 2002, 6004 and 6006; (ii) it appearing that no other or further notice need be provided; (iii) such notice and opportunity to be heard was and is good, sufficient and appropriate under the circumstances; and (iv) no other or further notice of the Sale Motion, the Auction, the Sale Hearing or the Transaction is required.

C. Opportunity to Object. A reasonable opportunity to object and to be heard with respect to the Sale Motion and the relief requested therein has been given, in light of the circumstances, to all interested persons and entities, including the following: (i) the Office of the United States Trustee; (ii) all of the Debtors' creditors; (iii) the Stalking Horse Purchaser and its counsel; (iv) Brawner; (v) all entities known to have expressed an interest in acquiring the Marina Property; (v) federal, state and local taxing authorities with jurisdiction over the Sailing Emporium's business; (vi) regulatory authorities that have a reasonably known interest in the relief requested; (vii) all equity security holders of the Sailing Emporium; (viii) counterparties to the Assigned Contracts; and (ix) all other parties that have filed a notice of appearance and demand for service of papers in this bankruptcy case under Bankruptcy Rule 9010(b).

D. Auction: On September 7, 2017, an Auction of the Marina Property was conducted at which time the Debtors determined that the offer of Brawner to purchase the Marina Property for Three Million Eight Hundred Thousand and No/100 Dollars (\$3,800,000.00) was the highest and best offer, pursuant to that certain Asset Purchase Agreement dated September 11, 2017 (the "Brawner Agreement").² The Debtors selected the offer of Derecktor Chesapeake LLC ("Derecktor") to purchase the Marina Property for Three Million Six Hundred Fifty Thousand and No/100 Dollars (\$3,650,000.00) as the successful back-up offer for the Marina Property (the "Derecktor Agreement").³

² The Brawner Agreement is attached hereto as **Exhibit A**.

³ The Derecktor Agreement can be found in the Court's docket at Docket #164-1 (as amended to reflect back-up bidder status and other aspects of Derecktor's back-up bid that were agreed upon at the Auction).

E. For convenience, as used herein, the term “Purchaser” refers interchangeably to Brawner and Derecktor, to the extent one or the other closes on the sale of the Marina Property pursuant to this Order, and the Agreement (as defined herein). The term “Agreement” refers interchangeably to the Brawner Agreement and the Derecktor Agreement, as they may be amended by the terms of this Order, to the extent one or the other closes on the sale of the Marina Property pursuant to the terms of this Order.

F. Corporate Authority. Sailing Emporium has taken all corporate or other entity action necessary to authorize and approve the Agreement and the consummation of the Transaction. The Debtors have full corporate power and authority to execute the Agreement and all other documents contemplated thereby and to consummate the Transaction. No consents or approvals, other than those expressly provided for in the Agreement, are required for the Debtors to consummate the Transaction.

G. Sale in Best Interests. Good and sufficient reasons for approval of the Agreement and the Transaction have been articulated, and the relief requested in the Sale Motion is in the best interest of the Debtors, their estates, creditors, and other parties in interest.

H. Business Justification. The Debtors have demonstrated both (i) good, sufficient and sound business purposes and justifications, and (ii) compelling circumstances for approval of the Transaction under Bankruptcy Code Section 363(b) before and outside of a plan of reorganization in that, among other things, the prompt consummation of the Transaction with the Purchaser is necessary and appropriate to maximize the value of the Debtors’ estates. Entry of an order approving the Agreement and all the provisions thereof is a necessary condition precedent to the Purchaser consummating the Transaction. Such business purposes and justifications include that: (i) the Transaction represents the highest and best return to creditors and parties in interest over any other achievable alternative; and (ii) unless the Transaction is consummated expeditiously, creditor recoveries may be adversely affected.

I. Highest or Otherwise Best Offer. The Debtors and their professionals marketed the Marina Property and conducted the Sale process, including, without limitation, the Auction, in all material respects in accordance with the Bid Procedures Order. The Auction was

non-collusive, duly noticed, and afforded a full, fair and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Marina Property. In connection with the Auction and in accordance with the Bid Procedures Order, the Debtors appropriately consulted with The Peoples Bank (the “Bank”). The Agreement constitutes the highest or otherwise best offer for the Marina Property and will provide a greater recovery for the Debtors’ estates than would be provided by any other available alternative. The Debtors’ determination that the Agreement constitutes the highest or otherwise best offer for the Marina Property is a result of due deliberation by the Debtors and their professionals, in consultation with the Bank, and constitutes a valid and sound exercise of the Debtors’ business judgment.

J. Consideration. The consideration provided by the Purchaser under the Agreement constitutes “reasonably equivalent value” and “fair consideration” (as those terms are defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and Bankruptcy Code Section 548). The Agreement represents a fair and reasonable offer to purchase the Marina Property under the circumstances. No other person or entity or group of entities, other than the Purchaser, has offered to purchase the Marina Property for an amount that would give greater economic value to the Debtors’ estates. Approval of the Sale Motion and the Agreement and the consummation of the Transaction are in the best interests of the Debtors, their estates, creditors, and all other parties in interest.

K. Free and Clear. The Debtors are the sole and lawful owners of the Marina Property. The Transaction will be a legal, valid, and effective transfer of the Marina Property and will vest the Purchaser with all of the Debtors’ right, title and interest in and to the Marina Property free and clear of all liens, claims (as defined in Bankruptcy Code Section 101(5)), encumbrances, obligations, liabilities, contractual commitments or interests of any kind or nature whatsoever (collectively, the “Interests”)), including, but not limited to, (i) those that purport to give to any party a right or option to effect any forfeiture, modification or termination of the Debtors’ interests in the Marina Property, or any similar rights, and (ii) those relating to taxes arising under or out of, in connection with, or in any way relating to the operation of the business prior to the Closing.

L. The Purchaser would not have entered into the Agreement and would not consummate the Transaction, thus adversely affecting the Debtors, their estates and creditors, if the Transaction was not free and clear of all Interests of any kind or nature whatsoever, or if the Purchaser would, or in the future could, be liable for any of the Interests.

M. The Purchaser will not consummate the Transaction unless the Court specifically orders that none of the Purchaser or its affiliates, officers, directors or shareholders or the Marina Property will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any Interest, except those expressly assumed by the Purchaser.

N. The Debtors may transfer the Marina Property free and clear of any Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in Bankruptcy Code Section 363(f)(1)-(5) has been satisfied. Each entity with an Interest in the Marina Property to be transferred as of the Closing: (i) has, subject to the terms and conditions of this Order, consented to the Transaction; (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such Interest; or (iii) otherwise falls within the provisions of Bankruptcy Code Section 363(f). Those holders of Interests who did not object to the Sale Motion are deemed, subject to the terms of this Order, to have consented pursuant to Bankruptcy Code Section 363(f)(2). All holders of Interests are adequately protected by having their Interests attach to the proceeds attributable to the Marina Property against or in which such Interests are asserted, subject to the terms of such Interests, with the same validity, force and effect, and in the same order of priority, that such Interests now have against the Marina Property or their proceeds, if any, subject to any rights, claims and defenses the Debtors or their estates, as applicable, may possess with respect thereto.

O. Arms'-Length Transaction. The Agreement was negotiated, proposed and entered into by the Debtors and the Purchaser without collusion, in good faith and from arms'-length bargaining positions. The Purchaser is not an "insider" of the Debtors, as that term is defined in Bankruptcy Code Section 101(31). The Debtors and the Purchaser have not engaged in any conduct that would cause or permit the Agreement to be avoided under Bankruptcy Code

Section 363(n). Specifically, with respect to the Agreement, the Debtors' auction and sale of the Marina Property, its purchase of the Marina Property, the Purchase Price, and its involvement in any manner with respect to the above-captioned bankruptcy cases, the Purchaser has not acted in a collusive manner with any person, and the Purchase Price was not controlled by any agreement among bidders.

P. Good Faith Purchaser. The Purchaser is a good faith purchaser of the Marina Property within the meaning of Bankruptcy Code Section 363(m) and is therefore entitled to all the protections afforded thereby. The Purchaser has proceeded in good faith in all respects in connection with this proceeding in that *inter alia*: (a) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Marina Property; (b) the Purchaser complied in all material respects with the provisions of the Bid Procedures Order; (c) the Purchaser's bid was subjected to the competitive bidding procedures set forth in the Bid Procedures Order; and (d) all payments to be made by the Purchaser and all other material agreements or arrangements entered into by the Purchaser and the Debtors in connection with the Transaction have been disclosed.

Q. Transaction Not a Sub Rosa Plan. The Transaction does not constitute a *sub rosa* Chapter 11 plan for which approval has been sought without the protections that a disclosure statement would afford. The Transaction neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates a liquidating plan of reorganization for the Debtors.

R. No Fraudulent Transfer. The Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession, or the District of Columbia. Neither the Debtors nor the Purchaser is entering into the Transaction fraudulently.

S. Assumption and Assignment. The assumption and assignment of the Lease by Sailing Emporium for a Marine Travelift Model 35 BFM II Mobile Boat Hoist with m2 Lease Funds, LLC ("m2 Lease") is integral to the Agreement and is in the best interests of the Debtors and their estates, creditors and all other parties in interest and represents a reasonable,

sound and prudent exercise of the Debtors' business judgment. With respect to the m2 Lease, the Debtors and/or the Purchaser, as applicable has to the extent necessary (i) cured or provided adequate assurance of cure of any defaults existing prior to the date hereof with respect to the m2 Lease, within the meaning of Bankruptcy Code Sections 365(b)(1)(A) and 365(f)(2)(A), and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the m2 Lease within the meaning of Bankruptcy Code Sections 365(b)(1)(B) and 365(f)(2)(A). The m2 Lease may be assumed and assigned notwithstanding any provisions contained therein to the contrary. The m2 Lease is valid and may be assigned to the Purchaser with an option for the Purchaser to purchase the Travelift Model 35 BFM II Mobile Boat Hoist (as more fully set forth in the m2 Lease). The Willises are not parties to the Lease and this Order shall serve to declare that there is no allowed claim in favor of m2 Lease Funds, LLC, and that the Willises may move to strike with prejudice any proof of claim filed by m2 Lease Funds LLC in the Willises cases. The consideration provided hereby to m2 Lease Funds, LLC in the foregoing paragraph representing full and complete satisfaction of any and all claims m2 Lease Funds, LLC may have held or asserted against the Willises.

T. Not a Successor. The Purchaser (a) is not a successor to the Debtors, (b) has not, *de facto* or otherwise, merged with or into the Debtors, (c) is not a continuation or substantial continuation of the Debtors or any enterprise of the Debtors, (d) does not have a common identity of incorporators, directors or equity holders with the Debtors, and (e) is not holding itself out to the public as a continuation of the Debtors. Except as otherwise provided herein or in the Agreement, the Transaction does not and will not subject the Purchaser to any liability whatsoever with respect to the operation of the business before the Closing or under the applicable laws of the United States, any state, territory, or possession thereof, or the District of Columbia based, in whole or in part, directly or indirectly, on any theory of law or equity, including, without limitation, any theory of antitrust, successor, transferee or assignee liability.

U. Prompt Consummation. The Transaction must be approved and consummated promptly to maximize the value of the Debtors' estates. Time is of the essence in consummating the Transaction.

V. Findings of Fact and Conclusions of Law. Any of the findings of fact contained herein shall constitute a finding of fact even if it is stated as a conclusion of law, and any conclusion of law contained herein shall constitute a conclusion of law even if it is stated as a finding of fact. The Court's findings shall also include any oral findings of fact and conclusions of law made by the Court during or at the conclusion of the Sale Hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED, DECREED AND ADJUDGED THAT:

1. Sale Motion is Granted. The Sale Motion and the relief requested therein is GRANTED and APPROVED, as set forth herein.

2. Objections Overruled. Any objection to the entry of this Order or the relief granted herein and requested in the Sale Motion that have not been withdrawn, waived, settled, or otherwise resolved pursuant to the terms hereof are denied and overruled on the merits with prejudice.

3. Approval of the Brawner Agreement. The Brawner Agreement and all the terms and conditions thereto are hereby authorized and approved. The Debtors are hereby authorized to (i) execute the Brawner Agreement with Brawner for the Purchase Price of \$3,800,000.00; (ii) execute any additional instruments or documents that may be reasonably necessary or appropriate to implement the Brawner Agreement; provided that such additional documents do not materially change the terms of the Brawner Agreement; (iii) consummate the Transaction in accordance with the terms and conditions of the Brawner Agreement; and (iv) take all other and further actions as may be reasonably necessary to implement the Transaction.

4. Approval of the Derecktor Agreement. If for any reason the Brawner Agreement does not close in accordance with the terms and conditions of the Brawner Agreement, the Debtors are hereby authorized to (i) execute the Derecktor Agreement with

Derecktor for the Purchase Price of \$3,650,000.00; (ii) execute any additional instruments or documents that may be reasonably necessary or appropriate to implement the Derecktor Agreement; provided that such additional documents do not materially change the terms of the Derecktor Agreement; (iii) consummate the Transaction in accordance with the terms and conditions of the Derecktor Agreement; and (iv) take all other and further actions as may be reasonably necessary to implement the Transaction.

5. Free and Clear. The Debtors are authorized to transfer the Marina Property to the Purchaser and, as of the Closing, the Purchaser shall take title to and possession of the Marina Property pursuant to the Agreement free and clear of all Interests of any kind or nature whatsoever. All such Interests shall attach to the proceeds attributable to the Marina Property against or in which such Interests are asserted, subject to the terms of such Interests, with the same validity, force and effect, and in the same order of priority that such Interests now have against the Marina Property or their proceeds, if any, subject to any rights, claims and defenses the Debtors or their estates, as applicable, may possess with respect thereto. At Closing on the Transaction, the Bank shall be paid its allowed claim consisting of all unpaid principal and accrued and outstanding interest due as of the date of Closing that is secured by the Marina Property, plus pre-petition late charges in the amount of \$10,789.25, pre-petition insurance in the amount of \$7,328.20, pre-petition attorneys' fees in the amount of \$22,767.27 with the balance of the Bank's claim, including post-petition fees and expenses, to be held by the Title Company or Sailing Emporium's counsel pending further Order of this Court. Nothing in this Order shall be construed as permitting the Debtors to surcharge or bar a surcharge of the sale proceeds of the Bank's collateral, such issue to be reserved pending a request by some or all of the Debtors, if any, and conditioned upon further Order of this Court.

6. Valid Transfer. As of the Closing, (i) the Transaction effects a legal, valid, enforceable and effective sale and transfer of the Marina Property to the Purchaser, and (ii) the Agreement and the Transaction shall be enforceable against and binding upon the Purchaser and the Debtors, and shall not be subject to rejection or avoidance by the Debtors or any Chapter 11 or Chapter 7 trustee of the Debtors and their estates.

7. Tangible Personal Property. All personal property used, or held for use, in the operations of the Marina with the exception of the personal property set forth in paragraph 13 of this Order shall be conveyed to the Purchaser at Closing. Schedule 2(b) of the Agreement is not intended to be an exhaustive list of the personal property and the Debtors and Purchaser shall work in good faith to identify any additions or exclusions to Schedule 2(b) as necessary.

8. General Assignment. As of the Closing, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Debtors' interests in the Marina Property. Each and every federal, state and local governmental agency or department and all third parties, including without limitation lease counterparties, is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the Transaction.

9. Injunction. Except as otherwise provided herein or in the Agreement, all persons and entities, including, but not limited to, the employees, former employees, all debt security holders, equity security holders, administrative agencies, governmental, tax and regulatory authorities, secretaries of state, federal, state and local officials, lenders, contract parties, lessors, customers, trade creditors and all other creditors, holding Interests of any kind or nature whatsoever against or in the Debtors or in the Debtors' interests in the Marina Property (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, known or unknown, liquidated or unliquidated, senior or subordinated), arising under or out of, in connection with, or in any way relating to, such Marina Property or with respect to any Interest arising out of or related to the Transaction, shall be and hereby are forever barred, estopped and permanently enjoined from commencing, prosecuting or continuing in any manner any action or other proceeding of any kind relating to the Marina Property or their claims against the Debtors, against the Purchaser, their properties, their successors and assigns, alleged or otherwise, their affiliates or such Marina Property. Notwithstanding the foregoing, nothing herein shall prevent the Debtors from pursuing the sole remedy provided under the Agreement for a Purchaser default requiring that the Deposit be paid over to the Debtors as liquidated, agreed and final damages, and Debtors hereby waive all rights to specific performance or other

remedies and any damages against Purchaser and Purchaser shall be relieved from all further liability thereunder.

10. Release of Interests. This Order (i) shall be effective as a determination that, as of the Closing, all Interests of any kind or nature whatsoever existing as to the Marina Property prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (ii) shall be binding upon and shall govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Marina Property.

11. Direction to Release Interests. As of the Closing, the Debtors' creditors are authorized and directed to execute such documents and instruments and to take all other actions as may be reasonably necessary to document and effectuate the release of their Interests in the Marina Property sold or assigned hereunder, if any, as such Interests may have been recorded or may otherwise exist.

12. No Successor Liability. The Purchaser, its affiliates, successors and assigns shall not be deemed, as a result of any action taken in connection with the Transaction, (i) to be a successor to the Debtors or their estates, (ii) to have, *de facto* or otherwise, merged or consolidated with or into the Debtors or their estates, or (iii) to be a continuation or substantial continuation of the Debtors or any enterprise of the Debtors, and the Purchaser shall have no successor or vicarious liability of any kind or character, including, but not limited to, under any theory of antitrust, environmental, successor, assignee or transferee liability, labor law, *de facto* merger or substantial continuity, whether known or unknown as of the Closing, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Debtors or any obligation of the Debtors arising prior to the Closing,

including, but not limited to, liabilities on account of any taxes or other government fees, contributions or surcharges arising, accruing or payable under, out of, in connection with, or in any way relating to, the operation of the Marina Property prior to the Closing. Except for obligations of the Purchaser as provided herein or in the Agreement, the Transaction shall not result in the Purchaser, its affiliates, members, or shareholders, or the Marina Property, having any liability or responsibility for, or being required to satisfy in any manner, whether in law or in equity, whether by payment, setoff or otherwise, directly or indirectly, (i) any claim against the Debtors or against any insider of the Debtors, or (ii) any Interest. The Purchaser has given substantial consideration under the Agreement to the Debtors' estates. The consideration given by the Purchaser shall constitute valid and valuable consideration for the release of any potential claim of successor liability of the Purchaser, which release shall be deemed to have been given in favor of the Purchaser by all holders of Interests against the Debtors or the Marina Property.

13. Treatment of Certain Contracts.

a. Any contract that is not specifically included in the Brawner Agreement or provided for in this Order shall be hereby rejected. For clarity, the Marine Promissory Note and Security Agreement for the 1996 Markley's Marina, Inc. custom boat (HIN# MVU35011J595) with Branch Banking & Trust Company ("BB&T") is rejected and the boat shall be turned over to BB&T in accordance with its contract terms or as otherwise agreed.

b. Notwithstanding the foregoing and anything to the contrary in this Order, and subject to and conditioned upon the payment of \$45,000 by the Purchaser to m2 Lease Funds, LLC ("m2") before or simultaneously with Closing ("Purchaser Lift Payment") and the payment of \$10,000 by Sailing Emporium to m2 before or simultaneously with Closing ("Sailing Emporium Lift Payment" and, together with the Purchaser Lift Payment, the "Lift Payment"), the Debtors' assumption and assignment of the m2 Lease to the Purchaser free and clear of all Interests is approved, and the requirements of Bankruptcy Code Sections 365(b) and 365(f) with respect thereto are hereby deemed satisfied. The payment of the Lift Payment shall (i) effect a cure of all defaults existing under the m2 Lease, (ii) compensate for any actual pecuniary loss to m2 resulting from such default, (iii) compensate m2 for any and all claims it

may have against the Debtors, their bankruptcy estates and the Purchaser, including any administrative expense claim m2 may have against the Debtors or their estates, and (iv) terminate the m2 Lease and cause a transfer of title of the Marine Travelift Model35 BFM II Mobile Boat Hoist from m2 to Purchaser. Each counterparty to the m2 Lease is forever barred, estopped and enjoined from raising or asserting against the Debtors or their estates, or the Purchaser and any of its affiliates, or the property of either, including, without limitation, the Marina Property, (i) any fee, default, breach, claim, pecuniary loss, liability or obligation (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinate) whether arising under or related to the m2 Lease, or otherwise, and existing as of the Closing or arising by reason of the Closing, (ii) any objection to the assumption and assignment of the m2 Lease and (iii) any objection to the sale of the Travelift Model35 BFM II Mobile Boat Hoist from m2 to Purchaser. There shall be no fees charged to the Purchaser or the Debtors as a result of the assumption and assignment of the m2 Lease. All other requirements and conditions under the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of the m2 Lease have been satisfied. As of the Closing and the payment of the Lift Payment: (i) the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors under the m2 Lease; (ii) the Purchaser shall be fully and irrevocably vested with all right, title and interest in the Travelift Model35 BFM II Mobile Boat Hoist free and clear of all liens, claims (as defined in Bankruptcy Code Section 101(5)), encumbrances, obligations, liabilities, contractual commitments or interests of any kind or nature whatsoever; and (iii) the Debtors shall be relieved from any liability for any breach of the m2 Lease occurring thereafter pursuant to Bankruptcy Code Section 365(k). Further, any and all rejected leases by one or more of the Debtors shall not accrue rejection damages to the Willises and any such claims to the contrary by any lease holder shall be stricken by the filing of an Objection to Claim by the Willises.

14. Permits and Licenses. To the extent any governmental license or permit that is necessary for the operation of the Marina Property is determined not to be an executory contract assumable and assignable under Bankruptcy Code Section 365, the Purchaser shall

apply for and obtain any necessary license or permit promptly after the Closing and such licenses or permits of the Debtors shall remain in place for the Purchaser's benefit until new licenses and permits are obtained.

15. Noninterference with Marina Operations. The Willises, as the owners of adjacent Parcel 13, shall grant and convey any and all riparian rights they hold to Parcel 23 and the Marina, which documentation shall be recorded in the land records.

16. Sewer Easement. The Willises shall execute any and all documents necessary to grant Purchaser an easement for, among other things, the ownership, operation, repair, replacement and/or relocation of, the existing sewer line across Parcel 13.

17. Closing Proceeds. At the Transaction Closing, the Debtors are hereby authorized and directed to use the Proceeds to pay (or, as applicable, credit) the following:⁴

<u>Agreement</u>	September 11, 2017
Purchaser	Brawner Company, Inc.
Purchase Price	\$3,800,000.00
Real Estate Taxes (estimated but not to be paid; exclusion pursuant to Section 1146)	\$94,703.45
Recordation Tax (estimated but not to be paid; exclusion pursuant to Section 1146))	\$25,080.00
Transfer Tax (estimated but not to be paid; exclusion pursuant to Section 1146)	\$38,000.00
Broker Fee	\$133,000.00
Deed and Deed Prep (estimated)	\$1,000.00
Premium and fees for title examination and title insurance	TBD
Sailing Emporium Lift Payment	\$10,000.00
UST Fee	\$10,400.00
Break-Up Fee due to Derecktor per Order entered at Dkt. # 184	\$114,000.00
The Peoples Bank	\$2,457,560.16 (plus per diem contract interest until Closing)
Net Proceeds to be held in escrow pending further order of the Court	TBD

18. Binding Effect of Order. This Order shall be binding upon and shall govern the acts of all persons and entities, including without limitation all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of

⁴ The amounts set forth herein are subject to adjustment as necessary at Closing.

deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Marina Property. The terms and provisions of the Agreement and this Order, shall be binding in all respects upon each of the Debtors, their estates, all creditors (whether known or unknown) and holders of equity interests in the Debtors, the Purchaser and their respective affiliates, successors and assigns, and any affected third parties, including, but not limited to, all persons asserting Interests in the Marina Property and all non-debtor counterparties to the Assigned Contracts, notwithstanding any subsequent appointment of any trustee of the Debtors under any chapter of the Bankruptcy Code and as to such trustee(s) such terms and provisions likewise shall be binding. This Order and the Agreement shall inure to the benefit of the Debtors, their estates, creditors, the Purchaser, and their respective successors and assigns.

19. Bankruptcy Code Section 363(n). The consideration provided by the Purchaser for the Marina Property under the Agreement is fair and reasonable and may not be avoided under Section 363(n) of the Bankruptcy Code.

20. Good Faith. The Transaction was negotiated at arms' length and was undertaken by the Purchaser without collusion and in good faith, as that term is used in Bankruptcy Code Section 363(m) and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Transaction shall not affect the validity of the Transaction with the Purchaser, unless such authorization is duly stayed pending such appeal. The Purchaser is a good-faith purchaser of the Marina Property, and is entitled to all the benefits and protections afforded by Bankruptcy Code Section 363(m).

21. Fair Consideration. The consideration provided by the Purchaser under the Agreement constitutes "reasonably equivalent value" and "fair consideration" (as those terms are defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and Bankruptcy Code Section 548).

22. Surrender of Possession. The Debtors agree to exercise best efforts to compel all entities and persons (including Debtors) that are presently, or as of the Closing may be, in possession of some or all of the Marina Property in which the Debtors hold an interest, to surrender possession of the Marina Property either to (i) the Debtors before the Closing, or (ii) the Purchaser at Closing. The Debtors shall surrender all Marina Property to the Purchaser at or before Closing.

23. Retention of Jurisdiction. This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b)(2), to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Agreement, all amendments thereto and any waivers and consents thereunder and any Agreement executed in connection therewith, including, but not limited to, retaining jurisdiction to (i) compel delivery of the Marina Property to the Purchaser; (ii) compel delivery of the Purchase Price or performance of other obligations owed to the Debtors; (iii) interpret, implement and enforce the provisions of this Order and the Agreement; (iv) adjudicate, if necessary, any and all disputes concerning or relating in any way to the Transaction; and (v) protect the Purchaser against any Interests in the Debtors or Marina Property of any kind or nature whatsoever, from attaching to the proceeds of the Transaction.

24. Non-Material Modifications. The Agreement and any related Agreement, documents or other instruments may be waived, modified, amended or supplemented by agreement of the parties thereto, in a writing signed by such parties, and in accordance with the terms thereof, without further action or order of the Court; provided that any such waiver, modification, amendment or supplement does not have a material adverse effect on the Debtors' estates or any other creditor or party in interest.

25. Subsequent Plan Provisions. Nothing contained in any Chapter 11 plan confirmed in the Debtors' cases or any order confirming any such plan or in any other order in this Chapter 11 case (including any order entered after any conversion of this case to a case under Chapter 7 of the Bankruptcy Code) shall alter, conflict with, or derogate from the provisions of the Agreement or this Order.

26. Failure to Specify Provisions. The failure to specifically refer to any particular provision of the Agreement in this Order shall not diminish or impair the effectiveness of any such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety; provided, however, that this Order shall govern if there is any inconsistency between the Agreement (including all ancillary documents executed in connection therewith) and this Order. Likewise, all the provisions of this Order are nonseverable and mutually dependent.

27. No Stay of Order. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), and consistent with Bankruptcy Code Section 363(m) this Order shall not be stayed and it shall be effective and enforceable immediately upon its entry. Time is of the essence in closing the transactions referenced herein or contemplated hereby, and the Debtors and the Purchaser intend to close the Transaction no sooner than five (5) days after entry of this Order and no later than forty-five (45) days after this Order becomes a final order. Any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay, or risk its appeal being foreclosed as moot.

28. Cooperation with Administration of the Estates. The Debtors shall retain reasonable access, with not less than seven days written notice to the Purchaser, to the books and records after the Closing as necessary to administer their bankruptcy cases, reconcile claims or otherwise manage their affairs. Prior to Closing the Debtors shall use best efforts to make copies of all books and records necessary to administer their bankruptcy cases, reconcile claims or otherwise manage their affairs.

29. Back-up Bid. If Brawner fails to consummate the Closing of the Transaction contemplated in the Brawner Agreement, the Debtors are authorized to consummate the Transaction with Derecktor pursuant to the Derecktor Agreement filed with the Court on July 17, 2017 [Dkt. #164-1], as amended by the terms and conditions agreed to at the Auction, without further order of the Court. For the avoidance of doubt, if the Derecktor Agreement closes, the use of proceeds of the Sale described in paragraph 17 of this Order shall be adjusted to correspond with the Derecktor Agreement.

30. Confidentiality Agreement. The Debtors are authorized to enforce their rights under any confidentiality agreement they entered with other potential bidders with respect to the Marina Property for the benefit of the Purchaser for the term of each respective confidentiality agreement.

31. Further Assurances. From time to time, as and when requested by any party, a party to the Agreement shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable at no cost to such respective counter-party to consummate the Transaction, including such actions as may be necessary to vest, perfect or confirm, record or otherwise, in the Purchaser its right, title and interest in and to the Marina Property.

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Counsel for The Sailing Emporium, Inc.

CERTIFICATION OF CONSENT

I HEREBY CERTIFY that the terms of the copy of the order submitted to the Court are identical to those set forth in the original order, and the signatures represented by the /s/ on this copy reference the signatures of consenting parties on the original order.

/s/ James A. Vidmar
James A. Vidmar

*****END OF ORDER*****

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SunTrust
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EXHIBIT A

ASSET PURCHASE AGREEMENT

(The Sailing Emporium Marina)

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”), made this 11th day of September 2017 (the “**Agreement Date**”) by and between **The Sailing Emporium Inc.**, a Maryland corporation (“**Sailing Emporium**”), and **William Arthur Willis** and **Mary Sue Willis** (“**Willis**”, and collectively with Sailing Emporium, “**Seller**”), and **Brawner Company, Inc.** on behalf of an entity to be formed by the undersigned, or assigns (“**Purchaser**” and/or “**Buyer**”, and with Seller, the “**Parties**”).

Recitals

- (i) Sailing Emporium and Willis own and operate a marina in Rock Hall, Maryland known as The Sailing Emporium.
- (ii) Sailing Emporium filed a voluntary petition for relief in Chapter 11 of the United States Bankruptcy Code on November 1, 2016, in the United States Bankruptcy Court for the District of Maryland, Greenbelt Division (the “**Bankruptcy Court**”), and currently is conducting its business and operating as a debtor in possession.
- (iii) On December 16, 2016 and March 29, 2017, William Arthur Willis and Mary Sue Willis, respectively filed voluntary petitions for relief in Chapter 11 of the United States Bankruptcy Code in the Bankruptcy Court, and they currently are conducting their business and operating as debtors in possession.
- (iv) With approval of the Bankruptcy Court by entry of an Order on February 6, 2017, Seller employed Marcus & Millichap Real Estate Investment Services (“**Broker**”) to market and sell the real and personal property used in the operations of The Sailing Emporium.
- (v) Seller has agreed to sell to Purchaser, and Purchaser has agreed to buy from Seller, subject to the terms and conditions set forth in this Agreement, the real property, personal property and goodwill/intangibles collectively known as “The Sailing Emporium” (the “**Marina**”).
- (vi) The Parties understand and agree that the transactions contemplated by this Agreement are subject to approval of the Bankruptcy Court and will be consummated only pursuant to a Sale Order (defined below) to be entered by the Bankruptcy Court in the Seller’s bankruptcy cases in accordance with applicable provisions of the Bankruptcy Code.

The terms and conditions of the sale are as follows:

Agreement

1. **PURCHASE PRICE.** The purchase price for the Purchased Assets (the “**Purchase Price**”) shall be Three Million Eight Hundred Thousand Dollars (\$3,800,000.00), subject to the Purchase Price Adjustments as defined below.

2. **PURCHASED ASSETS:** The assets to be sold by Seller and purchased by Purchaser shall consist of and include the following (the “**Purchased Assets**”):

(A) The real property and improvements thereon, all rights and appurtenances of Seller pertaining thereto, including riparian rights and any right, title and interest of Seller in and to adjacent streets, waterways, alleys or rights-of-way and strips and gores between the real property and abutting properties to the extent transferable (the “**Real Property**”) more particularly described on attached “**Exhibit A**” and as set forth and shown on an aerial photo / tax map parcel overlay attached as “**Exhibit B**”. The Real Property consists of the “**Marina Parcel**.”

(B) All of the equipment, vessels, vehicles, fixtures, accessories, furnishings, and other tangible personal property owned by Seller and used or held for use in operation of the Marina (“**Tangible Personal Property**”), including the items of property listed in the attached **Schedule 2(b)**;and

(C) All inventory (“**Inventory**”), a list of which is attached hereto as Schedule 2(c);

(D) All accounts receivable of the Marina;

(E) All sales and marketing materials;

(F) All intangibles relating to the ownership and operation of the Marina including the customer lists, website, telephone numbers, trade name and goodwill, as enumerated on the attached **Schedule 2(f)** (the “**Intangibles**”).

(G) All utility deposits and security deposits, and all prepayments and prepaid expenses, paid, made or received in connection with the Purchased Assets or the Marina;

(H) All of Seller’s rights and interests under any permits and licenses necessary for the operation of the Marina to the extent assignable;

(I) All information systems and technology, including all hardware and software, relating to or used in the operations of the Marina; and

(J) The books and records (including current and historical financial information) related exclusively to the operations of the Marina, other than the corporate records and income tax returns and records of Sailing Emporium or Willis, and any other books and records Purchaser does not wish to obtain and Seller requests. However, the Seller will have reasonable access to all of Seller’s the books and records necessary or desirable for the administration of their bankruptcy cases.

3. **ASSIGNMENT OF CONTRACTS.** Seller shall assume and assign to Purchaser (a) all of Seller’s customer slip and storage contracts (“**Customer Contracts**”), a list of which is attached hereto as **Schedule 3** (which shall be updated at Purchaser’s request from time to time and in any event immediately prior to Closing), and (b) such other executory contracts or leases, if any, as may be identified by Purchaser and added to Schedule 3 prior to the Auction (as defined below)(“**Other Designated Contracts**”, and with Customer Contracts, the “**Assigned Contracts**”). In the event of any default by Seller under any of the Assigned Contracts, any payment amounts required to cure such defaults (“**Cure Amounts**”) shall be paid by Seller out of the net proceeds of the sale.

4. **ASSUMPTION OF LIABILITIES.** Purchaser shall assume no liabilities of Seller, and shall have no liabilities for any of the debts, claims or obligations of Seller, except for the following (“**Assumed Liabilities**”):

- (A) The obligations incurred or arising under the Assigned Contracts after Closing; and
- (B) all liabilities incurred or arising from the operation of the Marina after Closing.

5. **INVENTORY.**

(A) Within seven (7) business days of the Agreement Date, Seller shall provide Purchaser with a list of existing Inventory with the value of each individual item and with a total value of the entire Inventory (the “**Initial Inventory Value**”).

(B) Within seventy-two (72) hours prior to “Closing” (as defined below in Section 11), Seller and Purchaser shall prepare a list of the then existing Inventory with the value of each item, and with list a total value of the entire Inventory (the “**Closing Inventory**”). The Closing Inventory shall not include any items which are determined by Purchaser to be “stale”.

(C) In the event that the Closing Inventory is less than the Initial Inventory (“**Inventory Reduction**”), the Purchase Price shall be reduced by that amount at Closing, as set forth in Section 13 below.

6. **TERMS OF PAYMENT / BROKERS FEE.**

(A) **Deposit.** Concurrently herewith, Purchaser shall place in escrow with Yumkas, Vidmar, Sweeney & Mulrenin, L.L.C. (the “**Escrow Agent**”) the sum of Three Hundred Eighty Thousand Dollars (\$380,000.00), as a good faith deposit hereunder (the “**Deposit**”). The Deposit shall be credited toward the Purchase Price and shall be held by Escrow Agent and protected and handled in accordance with applicable law. The Deposit will be deposited in Escrow Agent’s non-interest bearing Attorney Trust Account.

(B) **Payment of Purchase Price.** The Deposit and balance of the Purchase Price, less adjustments as herein provided, shall be paid to Seller in cash or cash equivalent at Closing.

(C) **Brokers Fee.** The fee to be paid to Seller’s Broker shall be paid by Seller from the net proceeds of sale at Closing, subject to any required Bankruptcy Court Approval.

7. **PURCHASER’S DUE DILIGENCE; FEASIBILITY STUDIES.**

(A) To prepare for its ownership and operation of the Real Property after Closing and not as a contingency of this Agreement, from the Agreement Date until Closing (the “**Due Diligence Period**”), Purchaser, at its sole cost and expense, shall have the right to conduct any and all feasibility studies of the Real Property which it deems necessary, including, without limitation, property inspections, sewer and water inspections, engineering, environmental, soil boring, development and economic feasibility studies (collectively “**Feasibility Studies**”). Seller shall cooperate fully with Purchaser and its architects, engineers, surveyors, and other experts in permitting access to the Marina and/or Real Property to conduct the Feasibility Studies. Seller shall provide Purchaser and its designated

agents, from time to time during normal business hours, with access to and copies of all documents in the possession of Seller or Seller's agents that relate to the operation of the Marina and/or the Real Property.

(B) If not previously provided prior to the Agreement Date, promptly upon execution of this Agreement Seller shall provide Purchaser with copies of the following documents and materials to the extent within the Seller's possession or control:

- (i) Any architectural, engineering, or geotechnical reports, soil or environmental studies performed with respect to the Property and within the Seller's possession;
- (ii) Surveys, title reports and/or title policies that apply to the Property;
- (iii) A copy of any appraisal within the last ten years;
- (iv) Descriptions and copies of any covenants that apply to the Property; all reports, studies, or documents Seller has in its possession;
- (v) Copies of all easement agreements, eminent domain notices, condemnation proceedings and related appeals, negotiations or studies, and related information that have affected, are affecting, or will affect the Property;
- (vi) All copies of agreements and agreement (oral or written) relating to the Property, as well as any proposals currently being discussed;
- (vii) Any plans, specifications, drawings, expense history, and real property and sales tax information over the last three years;
- (viii) All correspondence with government agencies, and any claims, complaints, or disputes filed or made with Seller (or any of its owners), any governmental agency, or any court, or arbitrator by any individual, company, or other organization relating to the Property or activities conducted on the Property;
- (ix) Insurance claims history related to the Property or activities conducted on the Property within the past three years;
- (x) All Marina documents for the last three years for slip rental / dry storage agreements, work orders, and income tax returns;
- (xi) All environmental reports and communications, notices and other documents from any local, state or federal government agency relating to the Marina; and
- (xii) Other information Seller deems helpful to Purchaser's Due Diligence and which is in the Seller's possession.

Purchaser shall be entitled to any other requested information and documentation related to its evaluation of the Property and Seller shall provide such requested information and documentation to Purchaser within five (5) business days after such request.

8. **NO FINANCING CONTINGENCY.** This Agreement is not contingent on Purchaser obtaining any financing.

9. **TITLE.**

(A) At Closing, Seller shall convey to Purchaser good and marketable fee simple title to the Real Property which is insurable by a title insurer satisfactory to Purchaser (the "**Title Company**") at its regular rates, free and clear of all liens, tenancies, occupancies and other objections and exceptions to title other than the "**Permitted Exceptions**" (as hereinafter defined). Not later than seven (7) days prior to Closing, Purchaser shall obtain a standard commitment for owner's title insurance for the Real Property ("**Title Commitment**") and at its option may obtain a certified survey ("**Survey**") of the Real Property. Seller shall execute and deliver to the Title Company, at Closing, a seller's affidavit in the form reasonably requested by the Title Company.

(B) Purchaser shall have the right to object, in its sole and absolute discretion, to any exceptions to the Title Commitment that are not acceptable to Purchaser, or to any matters shown on the Survey that are not acceptable to Purchaser (collectively the "**Title Objections**") by delivering written notice thereof to Seller. All matters reflected on the Title Commitment which are not objected to by Purchaser in the notice of Title Objections shall be referred to herein as "**Permitted Exceptions**".

(C) Notwithstanding the foregoing, Purchaser shall have no obligation to raise as a Title Objection (i) any mechanics' or materialmen's liens arising from work performed for or by any party other than Purchaser prior to Closing or (ii) any deed of trusts, security agreements, financing statements, pledges or other instruments securing financing placed upon the Real Property by any party other than Purchaser ("**Seller Liens**"). Seller agrees to cause all of Seller's Liens to be removed of record prior to Closing.

(D) If Seller elects to remedy any Title Objections, then Seller shall remedy such Title Objections on or before Closing, at Seller's sole cost and expense. Seller shall notify Purchaser in writing within five (5) days after receipt of the Title Objections if Seller is unable or unwilling to cure any Title Objection. If Seller notifies Purchaser that Seller does not elect to remedy all of the Title Objections set forth in the notice of Title Objections, then Purchaser shall have the right to (a) terminate this Agreement, in which event the Deposit shall be returned to Purchaser, and the Parties shall be relieved of all further obligations hereunder except those that survive the

termination hereof, or (b) proceed to Closing, without reduction in the Purchase Price by reason of such Title Objections.

10. CONDITIONS PRECEDENT TO CLOSING.

(A) The obligation of Purchaser to proceed to Closing is subject to the satisfaction of the following conditions precedent (unless any such condition is waived):

(i) Seller shall have performed all of its covenants and other obligations contained in this Agreement within the applicable times required for each such action, in all material respects;

(ii) All of Seller's representations and warranties contained in this Agreement shall be true and accurate in all material respects on and at Closing;

(iii) Seller shall have cured any Title Objections that Seller elected to cure under Section 9 above;

(iv) From the Agreement Date until Closing, there shall not have occurred any material change to, or deterioration of, the physical condition of any aspect of the Purchased Assets, or any part thereof, subject only to ordinary wear and tear;

(v) Seller shall be able to deliver, and shall in fact deliver, possession of the Purchased Assets to Purchaser at Closing, in the condition required by this Agreement; and

(vi) All "Closing Deliveries" (as defined below) to be made by Seller shall have been made; and

(vii) The Bankruptcy Court shall have entered an order approving this Agreement in form and substance in all respects acceptable to Purchaser ("**Sale Order**") by no later than September 30, 2017, which shall be final and nonappealable and shall include provisions that (a) the sale of the Purchased Assets shall be free and clear of all liens, claims and encumbrances; (b) Purchaser shall have no liability for any of the debts or other obligations of Seller except for Assumed Liabilities; (c) all persons are enjoined from taking any actions against Purchaser or any affiliate of Purchaser to recover any claim that such person has or may have against any Seller, other than with respect to Assumed Liabilities; (d) find and conclude that Purchaser has acted in good faith within the meaning of Section 363(m) of the Bankruptcy Code and that Purchaser is entitled to the protections of Section 363(m) of the Bankruptcy Code; and (e) waive the stay of the Sale Order under Bankruptcy Rule 6004(h).

(viii) The Bankruptcy Court shall have entered the Bid Procedures Order prior to the expiration of the Due Diligence Period.

(B) The obligation of Seller to proceed to Closing is subject to the satisfaction of the following conditions precedent:

(i) Purchaser shall have performed all of its covenants and other obligations contained in this Agreement;

(ii) All of Purchaser's representations and warranties contained in this Agreement shall be true and accurate in all material respects on and as of the date of Closing; and

(iii) All Closing Deliveries to be made by Purchaser shall have been made.

11. **CLOSING.** The Parties shall make full settlement ("**Closing**") on the sale and purchase of the Purchased Assets on the date designated by Purchaser which is no sooner than five (5) days after entry of the Sale Order and no later than thirty (30) days after the Sale Order becomes a final order; provided that all conditions precedent to Closing have been satisfied or waived in writing by the applicable party for whose benefit such condition is provided. Closing shall be held at the office of the Title Company or such other place or in such other manner as the Parties may agree.

12. **CLOSING DOCUMENTS.**

(A) The Parties agree to execute and deliver the following documents at Closing (collectively the "**Closing Deliveries**"):

(i) Seller shall deliver a good and sufficient deed containing special warranty and future assurances and/or Articles of Transfer & Sale, as Purchaser elects;

(ii) Seller shall execute and deliver certificates of title for all vessels and vehicles included in the Tangible Personal Property.

(iii) Seller shall execute and deliver a bill of sale for all of the Purchased Assets other than the Real Property (the "**Bill of Sale**"), which Bill of Sale shall transfer to Purchaser title to all of such personal property free and clear of all charges, security instruments, mortgages, liens, encumbrances and adverse claims of every nature;

(iv) The Parties shall execute and deliver a settlement statement setting forth the Purchase Price and the adjustments and pro rations to be made under this Agreement;

(v) The Seller shall execute and deliver affidavits for the benefit of Purchaser and the Title Company (in the form designated by the Title Company) setting forth that there are no unpaid bills or claims for labor performed or materials furnished to or for the benefit of the Real Property on behalf of Seller or at Seller's request or direction for which mechanic's liens can be filed, or if any such bills or claims for labor or materials are outstanding, then all such bills and claims shall be paid and satisfied in full or otherwise discharged;

(vi) The Parties shall execute and deliver the necessary IRS document reporting the sale;

(vii) The Parties shall execute and deliver such organizational and authorizing documents as shall be reasonably required by the Title Company authorizing the purchase and sale of the Real Property pursuant to this Agreement.

(viii) The Parties shall execute and deliver such other documentation and instruments as the Title Company may reasonably require to effect Closing.

(B) In addition to the execution and delivery of the foregoing Closing documents, Seller shall also deliver to Purchaser the following items at Closing.

(i) All keys relating to the operations of the Marina and any vessels or vehicles included in the Tangible Personal Property; and

(ii) Any other document, instruments, items, or materials reasonably required to be delivered by Seller under the terms of this Agreement in order to consummate Closing that has not previously been delivered.

13. CLOSING COSTS & PURCHASE PRICE ADJUSTMENTS.

(A) Each of the Parties hereto shall pay its own attorney's fees. Seller and Purchaser each agrees to pay at the Closing one-half (1/2) of the amount due with respect to the cost of any recordation taxes and state or local transfer taxes. Premiums and fees for title examination and title insurance shall be paid by Seller. Seller shall pay any Maryland personal property/sales tax imposed on the transfer of the Tangible Personal Property.

(B) Seller shall order final readings for water, electric, sewer and gas accounts, if any, as of, or as nearly as possible, to the date of the Closing. Any fees that Seller receives or received in connection with the Marina, including, without limitation, slip rentals and storage agreements with customers, laundry machine fees, cable television, telephone and internet fees, will be adjusted and prorated as of Closing. For purposes of this Section 13(B), any slip rental or storage fees received by Seller prior to Closing shall be prorated as of Closing based on the length of term of each such rental or storage agreement. For purposes of illustration and not limitation, if a slip rental agreement is for four months beginning on August 1, 2017 and the rental rate were \$500.00 per month and Closing were to occur on October 1, and prior to October 1 the customer paid the monthly rental for October, such fee received by Seller prior to October 1 for the remaining term of the agreement shall be a credit towards Purchaser's payment of the Purchase Price in the amount of \$ 500.00.

(C) Purchaser shall be deemed to be the owner of the Purchased Assets on the Closing Date so that Seller shall bear all expenses of ownership and operation of the Purchased Assets accruing through midnight of the day preceding Closing and Purchaser shall bear all such expenses and receive all such income accruing thereafter.

(D) In the event of any Inventory Reduction, the amount of such Inventory Reduction shall be a credit towards Purchaser's payment of the Purchase Price.

14. **DEFAULT.** If Closing fails to occur due to a default on the part of Purchaser, the Deposit shall be paid over to Seller as liquidated, agreed and final damages, and Seller hereby waives all rights to specific performance or other remedies and any damages against Purchaser, and the Purchaser shall be relieved from all further liability hereunder. If Closing fails to occur due to a default on the part of Seller in the performance of its obligations under this Agreement, then Purchaser shall be entitled on account of such default to pursue one of the following rights and remedies: (i) file and thereafter prosecute a suit against Seller in the court of appropriate jurisdiction in order to enforce the performance of Seller's obligation to sell the Property to Purchaser in accordance with the terms of this Agreement; or (ii) Purchaser shall have the right to terminate this Agreement by written notice to Seller, in which event Escrow Agent shall promptly return the Deposit to Purchaser.

15. **REPRESENTATION AND WARRANTIES OF SELLER AND PURCHASER.**

(A) Seller hereby warrants, represents and/or covenants to Purchaser the following, each of which shall be true and correct as of the date hereof and at Closing:

(i) Subject to Bankruptcy Court approval, Seller has the full right, power, and authority, without the joinder of any other person or entity, to enter into, execute and deliver this Agreement, and to perform all duties and obligations imposed on Seller under this Agreement, and none of the execution or the delivery of this Agreement, the consummation of the purchase and sale contemplated hereby, the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or will result in the breach of any of the terms, conditions, or provisions of any agreement or instrument to which Seller is a party or by which Seller or any of Seller's assets is bound.

(ii) Seller has obtained and holds all permits and approvals from all governmental and quasi-governmental authorities having jurisdiction over the Purchased Assets necessary to completely use, operate, maintain and manage the Purchased Assets as they now exist and are operated, and nothing in the current condition, occupancy or use of the Purchased Assets violates or will require correction under any applicable law.

(iii) Other than the Assigned Contracts, which are being assumed by Seller and assigned to Purchaser, there are no contracts or agreements, whether oral or written, of any kind or description relating to the ownership and operation of the Marina or Purchased Assets which will not be terminated as of the Closing. No material default exists under any of the Assigned Contracts other than as set forth in attached **Schedule 16(A)(iii)** and Purchaser shall incur no liability whatsoever in connection with the termination of any such contract or agreement.

(iv) There does not exist with respect to the Marina or Purchased Assets any lease, license, concession agreement, other right or claim of right of third party occupancy or possession, unrecorded easement or other unrecorded agreement of whatever nature made or alleged to have been made by Seller or any predecessor in interest or title to Seller, which would or purport to bind the Marina or Purchased Assets

after Seller's conveyance thereof or would or purport to bind any successor of Seller in interest or title to the Purchased Assets.

(v) With respect to the Marina or Purchased Assets, there is no condition requiring reporting or remediation under any applicable law governing the use, storage, release or disposal of Hazardous Materials. For purposes of this Agreement, the term "Hazardous Materials" shall mean any substance, the presence of which on the Real Property: (A) requires reporting, investigation or remediation under any applicable environmental law or regulation; (B) causes or threatens to cause a nuisance on the Real Property or poses or threatens to pose a hazard to the health or safety of persons on the Real Property; or (C) which, if it emanated or migrated from the Real Property, could constitute a trespass.

(vi) There are no underground storage tanks or wells located on the Real Property or used by the Marina.

(vii) Seller has good title, free and clear of all liens and encumbrances, to, and full right to convey, all of the Tangible Personal Property, and all of the Tangible Personal Property is in good working order and does not require any repairs or extraordinary maintenance.

(viii) There are no lawsuits pending and served against Seller or, to Seller's knowledge, otherwise pending or threatened whose outcome could adversely affect title to or the use, occupancy or operation of the Marina or Purchased Assets or Seller's ability to convey any of the Purchased Assets to Purchaser under this Agreement (including, without limitation, actions for condemnation).

(ix) Seller has not engaged or dealt with any real estate broker, salesperson or finder in connection with the transaction contemplated by this Agreement other than the Broker.

(x) Seller has not filed notices of protest against, or commenced proceedings to review, real property tax assessments against the Real Property.

(xi) Seller shall maintain and keep in full force and effect until the Closing all insurance policies, including comprehensive public general liability and casualty insurance now in effect with respect to the Purchased Assets.

(xii) The electrical, well, septic, plumbing, heating, air conditioning, appliances and any other mechanical systems and related equipment included in this Agreement are, and shall be at Closing, in good operating condition.

Each of the representations and warranties of Seller contained in this Agreement must be true and correct through the date of Closing, and Seller's failure to notify Purchaser prior to Closing of any inaccuracies shall be a default by Seller under this Agreement.

(B) Purchaser hereby warrants, represents and/or covenants to Seller the following, each of which shall be true and correct as of the date hereof and at Closing:

(i) Purchaser has the right, power and authority to enter into this Agreement, subject to approval of the Bankruptcy Court and to purchase the Purchased Assets in accordance with the terms and conditions hereof, and no other party is required to join herein; and Purchaser has obtained all requisite approvals and/or consents, if any, to the purchase of the Purchased Assets. The individual executing this Agreement on Purchaser's behalf is authorized to bind Purchaser to all terms of this Agreement by its signature hereto.

(ii) There are no lawsuits pending or, to Purchaser's knowledge, threatened, whose outcome could adversely affect Purchaser's ability to purchase the Property under this Agreement.

(iii) Purchaser has the financial capacity to perform its obligations under this Agreement, including payment of the purchase price.

Each of the representations and warranties of Purchaser contained in this Agreement must be true and correct through the date of Closing, and Purchaser's failure to notify Seller prior to Closing of any inaccuracies shall be a default by Purchaser under this Agreement.

16. **RISK OF LOSS.** The risk of loss or damage to the Purchased Assets by fire or other casualty until the deed of conveyance is recorded is assumed by Seller. If, prior to Closing, the Purchased Assets suffer any loss or damage from fire or other casualty in excess of \$75,000.00, Purchaser shall have the right, at its election, to terminate this Agreement, by written notice given to Seller, in which event the Deposit shall be promptly returned to Purchaser and this Agreement shall be null and void thereafter.

17. **NOTICES.** All notices provided for herein shall be made in writing and transmitted by personal delivery, established overnight delivery service, registered or certified U.S. Mail, or by electronic mail. No notice shall be considered to be properly given unless the party to whom it is addressed has acknowledge receipt thereof or has refused to accept delivery of the notice in question. Notices to the respective Parties shall be addressed as follows:

If to Seller:

The Sailing Emporium, Inc.
P.O Box 597
Rock Hall, MD 21661
Attn: William Arthur Willis
williswilliamarthur@gmail.com

William Arthur Willis and Mary Sue Willis
4324 Eastern Neck Road
Rock Hall, MD 21661

With copy to:

James A. Vidmar, Esquire
Lisa Yonka Stevens, Esquire
Yumkas, Vidmar, Sweeney & Mulrenin, LLC
10211 Wincopin Circle, Suite 500
Columbia, Maryland 21044
443-569-5977
jvidmar@yvslaw.com
lstevens@yvslaw.com

John D. Burns, Esquire
The Burns Law Firm, LLC
6303 Ivy Lane, Suite 102
Greenbelt, Maryland 20770
301-441-8780
infor@burnsbankruptcyfirm.com

Andrew Cantor
Marcus & Millichap
1100 Abernathy Road, N.E.
Bldg. 500, Suite 600
Atlanta, Georgia 30328
678-808-2700
Andrew.Cantor@marcusmillichap.com

If to Purchaser:

Brawner Company, Inc.
c/o Kurt Zimmermann, CFO
888 17th Street, NW, Suite 205
Washington, D.C. 20006
kzimmermann@brawnercompany.com

Any party may by like notice change the address to which notices to it are thereafter to be directed.

18. **ENTIRE AGREEMENT; MODIFICATION.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings and representations of the Parties with respect to the subject matter hereof (including, without limitation, any term sheet or other such written proposal). This Agreement may not be modified, amended, supplemented or otherwise changed, except by a writing executed by all Parties.

19. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Maryland. Time is of the essence with respect to the performance and observance of each and every covenant and provision of this Agreement.

20. **BINDING EFFECT.** This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

21. **MULTIPLE COUNTERPARTS; SIGNATURES.** This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart with each party's signature. An electronically-transmitted copy of an executed counterpart by fax or email PDF of this Agreement shall be deemed an original.

22. **MUTUAL COOPERATION; FURTHER ASSURANCES.** The Parties shall cooperate with each other as reasonably necessary to effect the provisions of this Agreement, shall use reasonable and good faith efforts to satisfy conditions to Closing and, prior to, at and after Closing, shall each execute and deliver such additional instruments or other documents, and take such further action, as the other may reasonably request to accomplish the purposes and intent of this Agreement; provided, however, that nothing in this Section shall be deemed to enlarge the obligations of the Parties hereunder or to require either party to incur any liability or material expense not otherwise required of it hereunder.

23. **BANKRUPTCY COURT MATTERS.**
This Agreement is subject to the Bid Procedures set forth by the Bankruptcy Court. Seller shall file a motion for approval of this Agreement ("**Sale Motion**") within five (5) business days following the Agreement Date. In the event the Bankruptcy Court does not (i) approve the Sale Motion by September 30, 2017, the Purchaser may terminate this Agreement and receive a full refund of its Deposit with no liability of any kind to Seller.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

WITNESS/ATTEST:

SELLERS:

THE SAILING EMPORIUM, INC.

By: _____
William Arthur Willis, President

William Arthur Willis, Individually

Mary Sue Willis, Individually

PURCHASER:

BRAWNER COMPANY, INC.

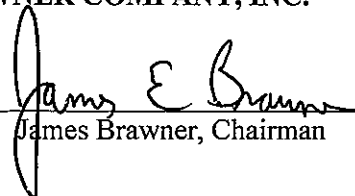
By:  _____
James Brawner, Chairman

EXHIBIT A

Real Property Description

- I. All that lot or parcel of land described in a deed from Rock Hall Marina Limited Partnership to William A. Willis and Mary Sue Willis, dated June 28, 1988, and recorded among the Land Records of Kent County in Liber 261, folio 181. (State Department of Assessments and Taxation (“SDAT”) Tax Map No. 50, Parcel 120 – said to contain 1.38 acres±)
- II. All that lot or parcel of land described in a deed from Frances F. McGeehan to William A. Willis and Mary Sue Willis, dated May 27, 2005, and recorded among the Land Records of Kent County in Liber 418, folio 591. (SDAT Tax Map No. 50, Parcel 142 – Lot 75X150)
- III. All that lot or parcel of land described in a deed from Joyce Miller, et al., to William A. Willis and Mary Sue Willis, dated October 29, 2004, and recorded among the Land Records of Kent County in Liber 390, folio 407. (SDAT Tax Map No. 50, Parcel 141 – said to contain 0.86 acres±)
- IV. All that lot or parcel of land described in a deed from Clifton B. Hickman, et ux., to The Sailing Emporium, Inc., dated November 7, 1980, and recorded among the Land Records of Kent County in Liber 116, folio 42. (SDAT Tax Map No. 50, Parcel 69 – said to contain 1.036 acres±)
- V. All that lot or parcel of land described in a deed from Wilbur L. Hunt, et ux., to The Sailing Emporium, Inc., dated December 20, 1977, and recorded among the Land Records of Kent County in Liber 78, folio 207. (SDAT Tax Map No. 50, Parcel 23 – said to contain 7.094 acres±)

EXHIBIT B

Aerial Photo



Schedule 2(b)

Tangible Personal Property

Debtor **The Sailing Emporium, Inc.**
Name

Case number (If known) **16-24498-TJC**

- No. Go to Part 3.
- Yes Fill in the information below.

Part 3: Accounts receivable

10. Does the debtor have any accounts receivable?

- No. Go to Part 4.
- Yes Fill in the information below.

11. Accounts receivable

11a. 90 days old or less: 132,381.22 - 0.00 = \$132,381.22
face amount doubtful or uncollectible accounts

11b. Over 90 days old: 20,071.67 - 10,327.50 = \$9,744.17
face amount doubtful or uncollectible accounts

11b. Over 90 days old: 895,828.00 - 0.00 = \$895,828.00
Amounts due from The Cat's Paw, Inc. face amount doubtful or uncollectible accounts
(advanced for operations and renovations)

12. Total of Part 3.

Current value on lines 11a + 11b = line 12. Copy the total to line 82.

\$1,037,953.39

Part 4: Investments

13. Does the debtor own any investments?

- No. Go to Part 5.
- Yes Fill in the information below.

Part 5: Inventory, excluding agriculture assets

18. Does the debtor own any inventory (excluding agriculture assets)?

- No. Go to Part 6.
- Yes Fill in the information below.

General description	Date of the last physical inventory	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
19. Raw materials				
20. Work in progress				
21. Finished goods, including goods held for resale Marine store and gift shop inventory (for retail sale)			est. liquidation value	<u>\$10,000.00</u>

22. Other inventory or supplies

23. Total of Part 5.

Add lines 19 through 22. Copy the total to line 84.

\$10,000.00

24. Is any of the property listed in Part 5 perishable?

Debtor The Sailing Emporium, Inc.
Name

Case number (If known) 16-24498-TJC

- No
- Yes

25. Has any of the property listed in Part 5 been purchased within 20 days before the bankruptcy was filed?

- No
- Yes. Book value _____ Valuation method _____ Current Value _____

26. Has any of the property listed in Part 5 been appraised by a professional within the last year?

- No
- Yes

Part 6: Farming and fishing-related assets (other than titled motor vehicles and land)

27. Does the debtor own or lease any farming and fishing-related assets (other than titled motor vehicles and land)?

- No. Go to Part 7.
- Yes Fill in the information below.

Part 7: Office furniture, fixtures, and equipment; and collectibles

38. Does the debtor own or lease any office furniture, fixtures, equipment, or collectibles?

- No. Go to Part 8.
- Yes Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
39. Office furniture			
40. Office fixtures			
41. Office equipment, including all computer equipment and communication systems equipment and software Office furniture and equipment (including computers, telephone system, camera, copier, scanner)		est. liquidation value	\$15,000.00

42. **Collectibles** *Examples:* Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; china and crystal; stamp, coin, or baseball card collections; other collections, memorabilia, or collectibles

43. **Total of Part 7.**

Add lines 39 through 42. Copy the total to line 86.

\$15,000.00

44. Is a depreciation schedule available for any of the property listed in Part 7?

- No
- Yes

45. Has any of the property listed in Part 7 been appraised by a professional within the last year?

- No
- Yes

Part 8: Machinery, equipment, and vehicles

46. Does the debtor own or lease any machinery, equipment, or vehicles?

- No. Go to Part 9.
- Yes Fill in the information below.

Debtor The Sailing Emporium, Inc.
Name

Case number (If known) 16-24498-TJC

General description Include year, make, model, and identification numbers (i.e., VIN, HIN, or N-number)	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
47. Automobiles, vans, trucks, motorcycles, trailers, and titled farm vehicles			
48. Watercraft, trailers, motors, and related accessories <i>Examples: Boats, trailers, motors, floating homes, personal watercraft, and fishing vessels</i>			
48.1. <u>Markley boat</u>		<u>est. liquidation value</u>	<u>\$50,000.00</u>
49. Aircraft and accessories			
50. Other machinery, fixtures, and equipment (excluding farm machinery and equipment)			
<u>Marine Travelift Model 35 BFM II Mobile Boat Hoist (S/N 3390-0608) (lease to purchase from m2 Lease Funds LLC)</u>		<u>est. liquidation value</u>	<u>\$40,000.00</u>
<u>Deck furniture</u>		<u>est. liquidation value</u>	<u>\$1,000.00</u>
<u>Shop tools and equipment</u>		<u>est. liquidation value</u>	<u>\$15,000.00</u>
<u>Tractor</u>		<u>est. liquidation value</u>	<u>\$1,500.00</u>
<u>Crane</u>		<u>est. liquidation value</u>	<u>\$2,500.00</u>

51. **Total of Part 8.** \$110,000.00
Add lines 47 through 50. Copy the total to line 87.

52. **Is a depreciation schedule available for any of the property listed in Part 8?**
 No
 Yes

53. **Has any of the property listed in Part 8 been appraised by a professional within the last year?**
 No
 Yes

Part 9: Real property

54. **Does the debtor own or lease any real property?**

- No. Go to Part 10.
- Yes Fill in the information below.

55. **Any building, other improved real estate, or land which the debtor owns or in which the debtor has an interest**

Description and location of property Include street address or other description such as Assessor Parcel Number (APN), and type of property (for example, acreage, factory, warehouse, apartment or office building, if available.	Nature and extent of debtor's interest in property	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest

Debtor The Sailing Emporium, Inc.
Name

Case number (If known) 16-24498-TJC

55.1. 21140 Green Lane,
Rock Hall, MD (Lot
7.094 AC) (Tax ID#
05-007151) (SDAT
assessment value as
of 7/1/16) SDAT assessment \$2,967,333.00

55.2. 21148 Green Lane,
Rock Hall, MD (Lot
1.036 AC) (Tax ID#
05-001765) (SDAT
assessment value as
of 7/1/16) SDAT assessment \$55,000.00

56. Total of Part 9. \$3,022,333.00

Add the current value on lines 55.1 through 55.6 and entries from any additional sheets.
Copy the total to line 88.

57. Is a depreciation schedule available for any of the property listed in Part 9?

- No
 Yes

58. Has any of the property listed in Part 9 been appraised by a professional within the last year?

- No
 Yes

Part 10: Intangibles and intellectual property

59. Does the debtor have any interests in intangibles or intellectual property?

- No. Go to Part 11.
 Yes Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
60. Patents, copyrights, trademarks, and trade secrets			
61. Internet domain names and websites			
62. Licenses, franchises, and royalties			
63. Customer lists, mailing lists, or other compilations			
64. Other intangibles, or intellectual property <u>Website (thesailingemporium.com)</u>			<u>Unknown</u>

65. Goodwill
Goodwill Unknown

66. Total of Part 10. Unknown

Add lines 60 through 65. Copy the total to line 89.

67. Do your lists or records include personally identifiable information of customers (as defined in 11 U.S.C. §§ 101(41A) and 107)?

- No
 Yes

Debtor **The Sailing Emporium, Inc.**
Name

Case number (If known) **16-24498-TJC**

68. Is there an amortization or other similar schedule available for any of the property listed in Part 10?

- No
- Yes

69. Has any of the property listed in Part 10 been appraised by a professional within the last year?

- No
- Yes

Part 11: All other assets

70. Does the debtor own any other assets that have not yet been reported on this form?

Include all interests in executory contracts and unexpired leases not previously reported on this form.

- No. Go to Part 12.
- Yes Fill in the information below.

Debtor **The Sailing Emporium, Inc.**
Name

Case number (If known) **16-24498-TJC**

Part 12: Summary

In Part 12 copy all of the totals from the earlier parts of the form

Type of property	Current value of personal property	Current value of real property
80. Cash, cash equivalents, and financial assets. <i>Copy line 5, Part 1</i>	<u>\$45,502.38</u>	
81. Deposits and prepayments. <i>Copy line 9, Part 2.</i>	<u>\$0.00</u>	
82. Accounts receivable. <i>Copy line 12, Part 3.</i>	<u>\$1,037,953.39</u>	
83. Investments. <i>Copy line 17, Part 4.</i>	<u>\$0.00</u>	
84. Inventory. <i>Copy line 23, Part 5.</i>	<u>\$10,000.00</u>	
85. Farming and fishing-related assets. <i>Copy line 33, Part 6.</i>	<u>\$0.00</u>	
86. Office furniture, fixtures, and equipment; and collectibles. <i>Copy line 43, Part 7.</i>	<u>\$15,000.00</u>	
87. Machinery, equipment, and vehicles. <i>Copy line 51, Part 8.</i>	<u>\$110,000.00</u>	
88. Real property. <i>Copy line 56, Part 9.....></i>		<u>\$3,022,333.00</u>
89. Intangibles and intellectual property. <i>Copy line 66, Part 10.</i>	<u>Unknown</u>	
90. All other assets. <i>Copy line 78, Part 11.</i>	<u>+ \$0.00</u>	
91. Total. Add lines 80 through 90 for each column	<u>\$1,218,455.77</u>	<u>+ 91b. \$3,022,333.00</u>
92. Total of all property on Schedule A/B. Add lines 91a+91b=92		<u>\$4,240,788.77</u>

Schedule 2(c)

Inventory

Schedule 2(f)

Intangibles

Schedule 3
Assigned Contracts

The Sailing Emporium, Inc.

P.O. Box 597
Rock Hall, MD 21661

STORAGE AGREEMENT

THIS AGREEMENT, entered into by and between The Sailing Emporium, Inc. a Body Corporate of the State of Maryland, and the vessel _____ hereinafter called the "vessel" and _____ the Owner/Lessee of the vessel. Whereas, for the benefit of the vessel and the Owner/Lessee, The Sailing Emporium, Inc. agrees to store and/or repair the vessel outside from _____ to about the _____. And for the consideration set forth below, The Sailing Emporium, Inc. agrees to accept the vessel for _____ storage.

WII NESSEIH:

That the owner of the vessel is _____ The Sailing Emporium, Inc. agrees to store the
from _____ at the rate of \$ _____

The following terms and conditions govern the storage and/or repairs:

1. A separate charge is made for storage; however, repairs to the vessel shall be shown as a separate item.
2. The Sailing Emporium, Inc. reserves the right to furnish all materials, equipment and labor for repairs, commissioning and improvements authorized by Owner/Lessee to be done on the vessel while stored or berthed at The Sailing Emporium, Inc.
3. Statements for storage, labor and materials are to be paid within 15 days after the same is rendered. All statements shall be paid in full prior to departure of the vessel from The Sailing Emporium, Inc. Statements or accounts not satisfied or paid within 15 days after the same is rendered, shall bear interest at a monthly rate of 2% on the unpaid balance.
4. The Sailing Emporium, Inc. assumes no responsibilities for failure to repair a vessel on any date certain, or to deliver over a vessel at any certain time or date. The vessel or Owner/Lessee agrees that The Sailing Emporium, Inc. shall not be liable in damages for failure to repair or deliver a vessel within a specified period of time, provided, however, that The Sailing Emporium, Inc. agrees to exercise a reasonable diligence in repairing and/or delivering over the vessel when requested by the Owner/Lessee.
5. The Sailing Emporium, Inc. agrees to perform the work as shown on the vessel's signed work order.
6. The vessel and the Owner/Lessee agree not to employ competitive labor to perform any work during the time that the vessel is on the premises without the expressed permission of The Sailing Emporium, Inc. Any Owner/Lessee or vessel employing competitive labor shall assume all liability arising from said employment; and shall indemnify and hold The Sailing Emporium, Inc. harmless for the same.
7. All work or services performed shall be subject to the terms and conditions of this agreement.
8. The Sailing Emporium, Inc. shall not be liable for any loss or damage to the above named vessel, or the contents thereof, or for injury to any person due to fire, theft, collision, windstorm, rain, ice, snow, cold weather, accidents, acts of God, or acts of either persons, caused directly or indirectly by vessel or operator, whether the operator be the Owner/Lessee or another using marina facilities at the Owners/Lessee's invitation.
9. Any damages occurring while the vessel is in storage or undergoing repairs must be reported to The Sailing Emporium, Inc. before the vessel is removed from marina premises. No responsibility is assumed by The Sailing Emporium, Inc. for articles left on the vessel.
10. No insurance is carried by The Sailing Emporium, Inc. on customer's vessels or other property. Storage thereof is accepted at the sole risk of the Owner/Lessee and the Owner/Lessee hereby releases The Sailing Emporium, Inc. from any and all claims for damages or loss.
11. The Sailing Emporium, Inc. is hereby given a possession lien upon the vessel, its contents and equipment for any and all charges for service, repairs, or storage of the same, or for the balance owing on any other account or accounts owing to The Sailing Emporium, Inc. by the Owner/Lessee of the vessel. Said lien shall continue in full force and effect whether possession of the vessel is retained by The Sailing Emporium, Inc. or not.
12. In the event that it becomes necessary by The Sailing Emporium, Inc. to expend any sums of money for collection, or for court costs or attorney's fees, the Owner/Lessee and the vessel shall pay all such costs, including a reasonable attorney's fee of twenty percent (20%) of the unpaid balance, interest at 10% from the date of default.

13. The Sailing Emporium, Inc. reserves the right to register and approve all subcontractors or independent contractors who work upon the premises.

Rules and Regulations

- A. No smoking on gas pier and at the gas pumps.
- B. No swimming or diving off piers.
- C. No running on piers.
- D. All non-swimmers should wear life jackets.
- E. Docks should be kept clear of all items; lines, hoses, electric wires, crab traps, etc.
- F. Boats vacating their slip must inform dock master of departure and return.
- G. Pets allowed on leash only. Designated walking at rear of marina property.
- H. Quiet hours: 11PM to **8AM**. Captains will be responsible for tying off halyards and rigging to keep noise at a minimum.
- I. Lavatories not to be used as dumping stations.
- J. No flushing marine head in the harbor.
- K. Area along bulkhead to be used for loading and unloading cars only. Please park in the parking area.
- L. All garbage is to be bagged and tied and placed in proper receptacles.
- M. All water to be turned off when not in use.
- N. Captains will be responsible for properly securing their vessel after each use.
- O. Parents are responsible for their children.
- P. Captain is responsible for his guests.
- Q. No littering will be tolerated from slip or on marina property.
- R. Appropriate action will be taken for violations of regulations. All of these rules must be complied with.

Cancellation Policy

Full year Owner/Lessee cancellation date without penalty, January 31. The Sailing Emporium, Inc. reserves the right to retain any deposit for space cancelled after January 31.

This agreement constitutes the entire agreement between the parties hereto and is binding upon the Parties, their heirs, personal representatives and assigns. No alteration of the agreement may be made by any oral representation. All changes, if any shall not be binding unless in writing and signed by all Parties.

THE SAILING EMPORIUM, INC.

By: -----
William A. Willis, President

Owner/Lessee

Address

City, State, Zip

Telephone Number

Owner/Lessee

Address

City, State, Zip

Telephone Number

REDACTED

**Confidential Customer List
removed from Schedule 3**

Schedule 16(a)(iii)

Defaults under Assigned Contracts