

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re:

DELTAVILLE BOATYARD, LLC, *et al.*,<sup>1</sup>

Deltaville Entities

Case No.

16-35974-KLP

Chapter

11

**JOINT DISCLOSURE STATEMENT PURSUANT TO  
SECTION 1125 OF THE BANKRUPTCY CODE FOR EACH OF THE  
PLANS OF REORGANIZATION FILED BY THE DELTAVILLE ENTITIES**

**June 5, 2017**

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<sup>1</sup> The Deltaville Entities in these cases, along with the last four digits of each Deltaville Entities' federal tax identification number, are: Boatyard Rentals, LLC (1032), Deltaville Marina, LLC (8245), and Deltaville Boatyard, LLC (6818).

**The Deltaville Entities ask that you carefully consider each Plan and cast a Ballot in favor of each Plan, where applicable.**

**I. GLOSSARY**

Any term in the Disclosure Statement or Plan that is defined in §§ 101, 102, or 1101 of the Bankruptcy Code shall have the meaning assigned therein. The following terms, where they are used in the Disclosure Statement and in the Plan, shall have the meanings hereinafter assigned.

1.1. ***Adequate Protection Payments*** means the payments made to Summit and/or the IRS pursuant to the Cash Collateral Order.

1.2. ***Additional Offer(s)*** means a binding, irrevocable offer for substantially all of the Reorganized Debtor's Equity Interests, submitted at the Auction by a Person who made an Initial Offer; the offer should be substantially in the form of the Bid Sheet that contains no due diligence, financing, and/or other contingency.

1.3. ***Administrative Claim and/or Administrative Expense Claim*** mean a Claim, other than a Fee Claim for costs and expenses of administration of this Chapter 11 Case under Bankruptcy Code sections 503(b), 507(b), or 1114(e)(2), and entitled to priority under Bankruptcy Code section 507(a)(2), including: (a) any actual and necessary costs and expenses, incurred after the Petition Date, of preserving the Estate and operating the business of the Debtor; and (b) all other claims entitled to administrative claim status pursuant to a Final Order of the Bankruptcy Court.

1.4. ***Administrative Claims Bar Date*** means the first Business Day that is thirty (30) days following the Confirmation Date.

1.5. ***Allowed Claim*** means a Claim or any portion thereof (a) that has been allowed by a Final Order of the Bankruptcy Court, (b) that either (x) has been Scheduled as a liquidated, non-contingent, and undisputed Claim in an amount greater than zero on the Schedules, or (y) is the subject of a timely filed Proof of Claim as to which either (i) no objection to its allowance has been filed (either by way of objection or amendment to the Schedules) within the periods of limitation fixed by the Bankruptcy Code or by any order of the Bankruptcy Court or (ii) any objection to its allowance has been settled, waived through payment, or withdrawn, or has been denied by a Final Order, or (c) that is expressly allowed in a liquidated amount in this Plan; provided, however, that with respect to an Administrative Claim, "Allowed Claim" means an Administrative Claim as to which a timely written request for payment has been made in accordance with applicable bar dates for such requests set by the Bankruptcy Court (if such written request is required) in each case as to which the Debtor, or any other party in interest (x) has not interposed a timely objection or (y) has interposed a timely objection and such objection has been settled, waived through payment, or withdrawn, or has been denied by a Final Order; provided, further, however, that for purposes of determining the status (i.e., Allowed or

Disputed) of a particular Claim prior to the expiration of the period as may be fixed for filing objections to the allowance or disallowance of Claims, any such Claim which has not been previously allowed or disallowed by a Final Order of the Bankruptcy Court or this Plan shall be deemed a Disputed Claim unless such Claim is specifically identified by the Debtor as being an Allowed Claim.

1.6. **Assets** means all tangible and intangible assets of every kind and nature of the Debtor and its Estate, and all proceeds thereof, existing as of the Effective Date.

1.7. **Avoidance Actions** means Causes of Action arising under Bankruptcy Code sections 510, 541, 542, 544, 545, 547 through 551 and/or 553, or under related state or federal statutes and common law, including, without limitation, fraudulent transfer laws, whether or not litigation is commenced to prosecute such Causes of Action.

1.8. **Auction** means the event wherein all or part of the Reorganized Debtor's Equity Interests will be made available pursuant to the Plan. The Auction shall begin on the Auction Date at 20 N. 8<sup>th</sup> Street, Richmond Virginia 23219.

1.9. **Auction Date** means five (5) Business Days before the scheduled Confirmation Hearing at 10:00 a.m. or as otherwise provided by the Bankruptcy Court.

1.10. **Ballot** means each of the ballot forms distributed to each Holder of a Claim or Interest entitled to vote to accept or reject this Plan.

1.11. **Bankruptcy Code** means Title 11 of the United States Code, as now in effect or hereafter amended and as applicable to the Chapter 11 Case.

1.12. **Bankruptcy Court** means the United States Bankruptcy Court for the Eastern District of Virginia, or any other court with jurisdiction over the Chapter 11 Case.

1.13. **Bankruptcy Rules** means, collectively, the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended, the Federal Rules of Civil Procedure, as amended, and as applicable to the Jointly Administered Chapter 11 Cases or proceedings therein, as the case may be, and the Local Rules, as now in effect or hereafter amended.

1.14. **Bid Sheet** means a bid sheet substantially in the form of Exhibit D attached to the Disclosure Statement.

1.15. **Boatyard and/or Boatyard Business** means the world-renowned boat yard in Deltaville operated by Mr. Ruse.

1.16. **Boatyard Rentals** means Boatyard Rentals, LLC and is the debtor in bankruptcy case number 16-35389-KLP.

1.17. **Boatyard Rentals Market Value Procedures** means the Market Value Procedures

for Boatyard Rentals.

1.18. ***Boatyard Rentals Summit Loan Documents*** means the following:

- ***Pre-Petition Secured Lender's BR Note*** means the promissory note dated March 20, 2008, in the original principal amount of \$1,775,000.00 executed by Boatyard in favor of EVB, with Allonge - Endorsement adding Summit as amended, restated, supplemented, assumed, assigned, or otherwise modified from time to time.
- ***Pre-Petition Secured Lender's BR Business Loan Agreement*** dated March 20, 2008 by and between EVB and Boatyard Rentals as amended, restated, supplemented, assumed, assigned, or otherwise modified from time to time.
- ***Pre-Petition Guaranty*** dated December 17, 2012 by Deltaville Marina as borrower and Boatyard Rentals, as Guarantor, in favor of EVB.
- ***Pre-Petition Agreement to Provide Insurance*** dated March 20, 2008 by Boatyard Rentals, in favor of EVB.
- ***Pre-Petition BR Deed of Trust*** means the Deed of Trust, Assignment of Leases and Rents, and Security Agreement, dated March 20, 2008 granted by Boatyard Rentals in favor of C. Tony Hudson and William E. Martin, Jr., as Trustee, for the benefit of EVB and recorded on March 20, 2008 in the land records of Middlesex County, Virginia as Instrument No. 0800000677.
- ***Pre-Petition Notice of Assignment of Note Secured by Deed of Trust*** dated October 24, 2014 between EVB and Summit and recorded on November 5, 2014 as Instrument No. 14001588.
- ***Pre-Petition Subordination Agreement*** dated March 20, 2008 by and between EVB, Boatyard Rentals, Deltaville Marina, C. Tony Hudson and William E. Martin, Jr., Trustee and recorded on March 20, 2008 in the land records of Middlesex County, Virginia as Instrument No. 0800000678.

1.19. ***Boatyard Rentals Pre-Petition Secured Lender's Loan Documents*** means (a) the Pre-Petition Secured Lender's BR Note; (b) the Pre-Petition Secured Lender's BR Business Loan Agreement, (c) the Pre-Petition Guaranty; (d) the Pre-Petition Agreement to Provide Insurance, (f) the Pre-Petition Secured Lender's BR Deed of Trust, and (g) all other documents and instruments evidencing, securing, or perfecting the Pre-Petition BR Secured Debt.

1.20. ***Boatyard Rentals Lease*** means a lease dated February 4, 2005, as thereafter amended by verbal agreement pursuant to which Deltaville Boatyard leases the Yard from Boatyard Rentals for \$7,500 a month, which lease is a triple net lease.

1.21. ***Boatyard Rentals Real Property and/or the Yard*** means certain real property and improvements thereon located at 264 Buck's View Lane and Gull Cove Lane, Deltaville, Virginia 23043, more particularly described as:

Parcel One (Tax Map No. 41-58A)

All that certain tract or parcel of land, together with all boatslips, wood docks, piers, buildings, dwellings, and all other improvements thereon, including those below the mean low water line, and all rights, ways, privileges and appurtenances thereunto appertaining, located in Pinetop Magisterial District, Middlesex County, Virginia, and lying along Jackson Creek near Deltaville, containing 7.48 acres, more or less, which acreage includes the well lot being conveyed herein as the well lot, as shown on that plat of survey by Gordon L. Jones, L.S., dated December 3, 2004, entitled "Plat Showing A Survey of Parcel 58A & 58B Being The Land Conveyed To Boatyard Rentals, LLC And Parcel 58C Being The Land Conveyed To Deltaville Marina, LLC", and designated thereon as Parcel 58B 7.48 Ac., more or less (includes well lot), a copy of which is of record in the Clerk's Office of the Circuit Court of Middlesex County, Virginia in Plat Book 16, Page 416, to which plat reference is hereby made for a more particular description of the property herein conveyed.

Together with all easements and rights of way which were conveyed to A.R. Hall by Bessie G. Scott, widow, by deed dated July 26, 1955, recorded in the Clerk's Office of the Circuit Court of Middlesex County, Virginia in Deed Book 71, Page 195, not within the bounds of VSH #683.

Together with perpetual, appurtenant, non-exclusive easement of right of way over any portion of the road as it now exists which is located outside the boundaries of the existing 16' right of way and on Harrow's property as shown in part on the Jones plat, as described above, which right of way shall then narrow to twelve (12) feet in width over, upon, and across the existing 12' right of way and the road as it now exists, which is located on the property of Harrow, as shown in part on the Jones Plat for ingress and egress from Virginia State Highway 33 to the property herein conveyed, to be used in common with all others entitled to the use thereof.

Parcel Two (Tax Map 41-58)

All that certain tract or parcel of land, together with all improvements thereon and all rights, ways, privileges and appurtenances thereunto appertaining, located in Pinetop Magisterial District, Middlesex County, Virginia, shown as "Well Lot Parcel 58A on that plat of survey by Gordon L. Jones, L.S., dated December 3, 2004, entitled "Plat Showing A Survey of Parcel 58A & 58B Being The Land Conveyed To Boatyard Rentals, LLC And Parcel 58C Being The Land

Conveyed To Deltaville Marina, LLC”, a copy of which is recorded simultaneously herewith and immediately preceding these presents, and which reference is hereby made for a more particular and accurate description of the property herein conveyed. Further being shown as and described as 0.230 acre, more or less, on that certain plat entitled “Plat Showing Well Lot On A Portion Of The Land Of Chesapeake Marinas Limited Partnership”, dated August 1, 1994, prepared by Charles R. Pruett, L.S., recorded in the Clerk’s Office of the Circuit Court of Middlesex County in Deed Book 235, at Page 194.

Subject to the terms and conditions of the Well Dedication Agreement recorded in the Clerk’s Office of the Circuit Court of Middlesex County in Deed Book 230, at Page 433.

This conveyance is made subject to the rights of the Commonwealth of Virginia and the United States of America in and to the navigable water lying adjacent to the property hereby conveyed.

1.22. **Business Day** means any day, other than a Saturday, Sunday or Legal Holiday (as defined in Bankruptcy Rule 9006(a)).

1.23. **Cash** means legal tender of the United States of America and equivalents thereof, which may be conveyed by check or wire transfer.

1.24. **Cash Collateral Order** mean the *Interim Order Authorizing Use of Cash Collateral and Adequate Protection* (ECF No. 17) and the *Final Order Authorizing Use of Cash Collateral and Adequate Protection* (ECF No. 46) entered by the Bankruptcy Court in the Jointly Administered Chapter 11 Cases.

1.25. **Causes of Action** means any and all claims, actions, proceedings, causes of action, Avoidance Actions, suits, accounts, controversies, agreements, promises, rights of action, rights to legal remedies, rights to equitable remedies, rights to payment and Claims (as defined in Bankruptcy Code section 101(5)), whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise, that the Debtor and/or Estate may hold against any Entity.

1.26. **Chapter 11 Case** means the case under Chapter 11 of the Bankruptcy Code commenced by Debtor in the Bankruptcy Court and referenced as Chapter 11 case number \_\_\_\_\_.

1.27. **Claims Bar Date** means the bar date for filing Proofs of Claim for Claims arising prior to the Petition Date against the respective Deltaville Entity, which date is May 1, 2017, with respect to Claims of Governmental Units, and March 8, 2017 with respect to all other Claims for Boatyard Rentals and Deltaville Marina; the dates are April 5, 2017 and June 5, 2017 for Deltaville Boatyard.

1.28. ***Class*** means a category of Holders of Claims or Interests, as described in Article II hereof.

1.29. ***Closing*** means the allocation of all or a portion of the Reorganized Debtor's Equity Interests to the Purchaser after approval by Final Order of the Bankruptcy Court.

1.30. ***Collateral*** means any property or interest in property of the Debtor's Estate subject to a Lien to secure the payment or performance of a Claim.

1.31. ***Confirmation*** means entry by the Bankruptcy Court of the Confirmation Order.

1.32. **Confirmation Date** means the last date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the Bankruptcy Court docket in all of the Jointly Administered Chapter 11 Cases.

1.33. **Confirmation Hearing** means the hearing held by the Bankruptcy Court to consider Confirmation of this Plan; as such hearing may be adjourned or continued from time to time.

1.34. **Confirmation Order** means the order entered by the Bankruptcy Court Confirming this Plan under Bankruptcy Code section 1129 in each of the Chapter 11 Cases.

1.35. **Consummation or Consummate** means the occurrence of, or to achieve, the Effective Date.

1.36. **Contingent** means, with reference to a Claim, a Claim that has not accrued or is not otherwise payable and the accrual of which, or the obligation to make payment on which, is dependent upon a future event that may or may not occur.

1.37. **Creditor** means any Entity that holds a Claim against the Debtor.

1.38. **DBY Operations Agreement** means the commitment to provide a 5-year management contract for one or more persons to operate the Boatyard Business for not greater than the Salary Cap with the following expertise/experience being provided: ability to provide leadership and technical consultation for American Boat and Yacht Council certified technicians; significant experience working on complex onboard technical systems to troubleshoot problems and develop solutions; ability to apply US Navy Nuclear Power industry standards to train technicians; ability to perform quality checks of all work performed in boatyard electrical, navigation electronics, mechanical, power generation, propulsion, rigging, composite repair, cosmetic refinishing, fire suppression, interior carpentry, painting, welding, fabrication, HVAC, hauling, washing, blocking, launching, structural repairs, and vessel management; ability to design/engineer systems installations including electrical, navigation electronics, mechanical, power generation, propulsion, rigging, composite repair, cosmetic refinishing, fire suppression, interior carpentry, painting, welding, fabrication, HVAC, hauling, washing, blocking, launching, structural repairs, vessel management, boat performance predictions; ability to market and sell the various components of the Boatyard Business; possess American Boat and Yacht Council Master technician designation; ability to apply for permits to allow dock maintenance, dock building, dredging, building, septic treatment, fuel dispensing, entrance channel maintenance and; ability to supervise and manage 25 employees.

1.39. **Debtor** means \_\_\_\_\_.

1.40. **Dealer Arrangements** mean authorized discounts on factory materials provided from certain dealers for which Deltaville Boatyard serves as a factory certified technician.



1.41. **Deficiency Claim** means (a) the difference of an Entity's Allowed Secured Claim and its Allowed Claim and/or (b) amounts owed by Deltaville Marina and/or Boatyard Rentals and as guaranteed by Deltaville Boatyard.

1.42. **Deltaville** means Deltaville, Virginia.

1.43. **Deltaville Entities** means Deltaville Boatyard, Deltaville Marina, and Boatyard Rentals and each a **Deltaville Entity**.

1.44. **Deltaville Boatyard** means Deltaville Boatyard, LLC, the entity that operates a world renowned Boatyard Business and marina in Deltaville, Virginia, and is in bankruptcy case number 16-35974-KLP.

1.45. **Deltaville Boatyard Market Value Procedures** mean the Market Value Procedures for Deltaville Boatyard.

1.46. **Deltaville Marina** means Deltaville Marina, LLC and is the debtor in bankruptcy case number 16-35390-KLP.

1.47. **Deltaville Marina Market Value Procedures** means the Market Value Procedures for Deltaville Marina.

1.48. **Deltaville Marina Lease** means the verbal agreement pursuant to which Deltaville Boatyard rents certain office space from Deltaville Marina for \$2,500 a month.

1.49. **Deltaville Marina Real Property and/or the Marina** means certain real property located at 274 Buck's View Lane, Deltaville, Virginia, 23043, and more commonly referred to as:

Tax Map 41-58B

All that certain tract or parcel of land, together with all boatslips, piers, buildings, and all improvements thereon, including those below mean low water, and all rights, ways, privileges and appurtenances thereunto appertaining, located in Pinetop Magisterial District, Middlesex County, Virginia, containing 5.04 acres, more or less, as designed as "Parcel 58C 5.04 Ac., more or less", on that plat of survey by Gordon L. Jones, L.S., dated December 3, 2004, entitled "Plat Showing A Survey Of Parcel 58A & 58B Being The Lane Conveyed To Boatyard Rentals, LLC And Parcel 58C Being The Land Conveyed To Deltaville Marine, LLC", a copy of which is of record in the Clerk's Office of the Circuit Court of Middlesex County, Virginia in Plat Book 16, at Page 416.

Less and except that certain parcel of land containing 0.026 of an acre, being more particularly shown and designated as 'Overlap - 0.026 Acres' on a plat of survey prepared by Charles R. Pruett, L.S., dated May 15, 1991, a copy of

which is of record in the Clerk's Office of the Circuit Court of Middlesex County, Virginia in Plat Book 10, Page 289.

1.50. ***Disallowed*** means, with respect to a Claim, or any portion thereof, that such Claim (a) has been disallowed by a Final Order, (b) is Scheduled at zero or as contingent, disputed or unliquidated and as to which no Proof of Claim has been filed by the applicable Claims Bar Date or deemed timely filed pursuant to either the Bankruptcy Code or any Final Order or under applicable law, or (c) is not Scheduled, and as to which (i) no Proof of Claim has been filed by the applicable Claims Bar Date or deemed timely filed pursuant to either the Bankruptcy Code or any Final Order or under applicable law, or (ii) no request for payment of an Administrative Claim has been filed by the Administrative Claims Bar Date, as appropriate, or deemed timely filed pursuant to either the Bankruptcy Code or any Final Order or under applicable law.

1.51. ***Disclosure Statement*** means the joint disclosure statement (including all exhibits and schedules thereto) dated June 5, 2017, relating to this Plan, distributed in accordance with Bankruptcy Code sections 1125 and 1126(b) and Bankruptcy Rule 3018.

1.52. ***Disputed Claim*** means a Claim, or any portion thereof, that has not been Allowed pursuant to this Plan or a Final Order, and:

(a) if no Claim has been filed, or deemed to have been filed, by the applicable Bar Date, which has been or hereafter is listed on the Schedules as unliquidated, contingent or disputed, and which has not been resolved by written agreement of the parties or an order of the Bankruptcy Court;

(b) if a Claim has been filed, or deemed to have been filed, by the applicable Claims Bar Date (i) a Claim for which a corresponding Claim has been listed on the Schedules as unliquidated, contingent or disputed; (ii) a Claim for which a corresponding Claim has been listed on the Schedules as other than unliquidated, contingent or disputed, but the amount of such Claim as asserted in the Claim varies from the amount of such Claim as listed in the Schedules; or (iii) a Claim as to which any party in interest has timely filed an objection or request for estimation in accordance with this Plan, the Bankruptcy Code, the Bankruptcy Rules and any orders of the Bankruptcy Court, or which is otherwise disputed in accordance with this Plan and applicable law, which objection, request for estimation or dispute has not been withdrawn, or determined by a Final Order;

(c) if a request for payment of an Administrative Claim has been filed or deemed to have been filed by the Administrative Claims Bar Date, an Administrative Claim as to which any party in interest has timely filed an objection or request for estimation in accordance with this Plan, the Bankruptcy Code, the Bankruptcy Rules, and any orders of the Bankruptcy Court, or which is otherwise disputed in accordance with this Plan and applicable law, which objection, request

for estimation or dispute has not been withdrawn or determined by a Final Order;

(d) for which a Claim was required to be filed by order of the Bankruptcy Court, but as to which a Claim was not timely or properly filed; or

(e) that is disputed in accordance with the provisions of this Plan.

1.53. ***Deltaville Marina Summit Loan Documents*** means the following:

- ***Pre-Petition DM Secured Lender's Note*** dated December 17, 2012 in the amount of \$1,964,210.00 executed by Deltaville Marina in favor of EVB, with Allonge - Endorsement to Summit as amended, restated, supplemented, assumed, assigned, or otherwise modified from time to time.
- ***Pre-Petition DM 2007 Security Agreement*** means that Commercial Security Agreement dated February 28, 2007 executed by Deltaville Marina in favor of EVB.
- ***Pre-Petition DM 2012 Security Agreement Commercial Security Agreement*** dated December 17, 2012 executed by, among others, Deltaville Boatyard as grantor, for Deltaville Marina as Borrower in favor of EVB.
- ***Pre-Petition Guaranty*** means the Payment Guaranty dated March 20, 2008 with Boatyard Rentals and borrower, executed by Deltaville Marina, as Guarantor, in favor of EVB.
- ***Pre-Petition Secured Lender's DM Deed of Trust*** means the Deed of Trust, Assignment of Leases and Rents, and Security Agreement, dated March 3, 2011 granted by Deltaville Marina and Boatyard Rentals, in favor of C. Tony Hudson and James S. Thomas, as Trustee, for the benefit of EVB and recorded on March 3, 2011 in the land records of Middlesex County, Virginia as Instrument No. 110362.
- ***Pre-Petition DM Assignment of Leases and Rents*** means the Assignment of Leases and Rents dated Assignment of Rents dated March 3, 2011 by Deltaville Marina and Boatyard Rentals in favor of EVB and recorded on March 3, 2011 in the land records of Middlesex County, Virginia as Instrument No. 110363.
- ***Pre-Petition Notice of Assignment of Note Secured by Deed of Trust and Assignment of Rents***, dated October 24, 2014, between EVB and Summit and recorded on November 5, 2014 as Instrument No. 141587.
- ***Pre-Petition DM UCC-1 Financing Statement*** between Deltaville Marina and EVB filed on July 19, 2010 with the Office of the Clerk of the State Corporation Commission Commonwealth Virginia as Instrument No. 10071938039.

- ***Pre-Petition DM UCC-3 Financing Statement Amendment Assignment*** from EVB to Summit, filed on October 31, 2014 with the Office of the Clerk of the State Corporation Commission Commonwealth Virginia as Instrument No. 1410313887.
- ***Pre-Petition DM UCC-3 Financing Statement Amendment Continuation*** filed on February 5, 2015 with the Office of the Clerk of the State Corporation Commission Commonwealth Virginia as Instrument No. 1502650412.
- ***Pre-Petition DM UCC-1 Financing Statement*** between Deltaville Boatyard and EVB, filed on March 29, 2012 with the Office of the Clerk of the State Corporation Commission of the Commonwealth of Virginia as Instrument No. 1203294036.
- ***Pre-Petition DM UCC-3 Financing Statement Amendment Assignment*** from EVB to Summit, filed on October 31, 2014 with the Office of the Clerk of the State Corporation Commission Commonwealth Virginia as Instrument No. 1410313886.
- ***Pre-Petition DM UCC-3 Financing Statement Amendment Continuation*** filed on October 12, 2016 with the Office of the Clerk of the State Corporation Commission Commonwealth Virginia as Instrument No. 1610650870.

1.54. ***Deltaville Marina Pre-Petition Secured Lender's Loan Documents*** means (a) the Pre-Petition Secured Lender's DM Note; (b) the Pre-Petition 2007 DM Security Agreement, (c) the Pre-Petition 2012 DM Security Agreement; (d) the Pre-Petition Guaranty, (e) the Pre-Petition Secured Lender's DM Deed of Trust, and (f) all other documents and instruments evidencing, securing, or perfecting the Pre-Petition DM Secured Debt.

1.55. ***Disputed Claim Amount*** means (a) if a liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) the liquidated amount set forth in the Proof of Claim relating to the Disputed Claim as may have been modified by Final Order of the Bankruptcy Court; (ii) an amount agreed to by the Debtor and the Holder of such Disputed Claim; or (iii) if a request for estimation is filed by any party, the amount at which such Claim is estimated by the Bankruptcy Court; (b) if no liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) an amount agreed to by the Debtor and the Holder of such Disputed Claim or (ii) zero; or (c) if the Claim was listed on the Schedules as unliquidated, contingent or disputed and no Proof of Claim was filed, or deemed to have been filed, by the applicable Bar Date and the Claim has not been resolved by written agreement of the parties or an order of the Bankruptcy Court, zero.

1.56. ***Distribution*** means any distribution pursuant to this Plan to the Holders of Allowed Claims.

1.57. ***Distribution Date*** means either the Initial Distribution Date or the date on which any subsequent yearly Distribution occurs.

1.58. ***Effective Date*** means the Business Day this Plan becomes effective as provided in **Article VIII** hereof.

1.59. ***Equity Final Proposed Contribution*** means Mr. Ruse's final offer of amounts to be used to implement the Plan including not less than \$10,000 (for Deltaville Boatyard) and \$25,000 (for Deltaville Marina and Boatyard Rentals) and the Salary Cap provided (a) he and/or his designees, obtain all of the Equity Interests and (b) the Reorganized Debtor retains substantially all of the Debtor's assets.

1.60. ***Equity Initial Proposed Contribution*** means Mr. Ruse's offer for the Salary Cap and to contribute \$10,000 (for Deltaville Boatyard) and \$25,000 (each for Boatyard Rentals and Deltaville Marina) towards implementation of the Plan provided (a) he and/or his designees, obtain all of the Equity Interests and (b) the Reorganized Debtor retains substantially all of the Debtor's assets.

1.61. ***Equity Offer*** means an offer to obtain the Reorganized Debtor's Equity Interests.

1.62. ***Entity*** has the meaning set forth in Bankruptcy Code section 101(15).

1.63. ***Estate*** means the estate of the Debtor created under Bankruptcy Code section 541.

1.64. ***Exhibit*** means an exhibit annexed to either this Plan or as an appendix to the Disclosure Statement.

1.65. ***EVB*** means Eastern Virginia Bankshares, Inc., a Virginia banking corporation.

1.66. ***Federal Judgment Rate*** means the rate of interest applicable from time to time pursuant to 28 U.S.C. § 1961.

1.67. ***Fee Claim*** means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services incurred after the respective Petition Date and prior to and including the Effective Date.

1.68. ***Final Decree*** means the decree contemplated under Bankruptcy Rule 3022.

1.69. ***Final Distribution Date*** means the date on which the Debtor has completed all Distributions under the respective Plan.

1.70. ***Final Fee Applications*** means the final requests for payment of Fee Claims.

1.71. ***Final Order*** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Case, the operation or effect of which has not been stayed, reversed, or amended and as to which order or judgment (or any

revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending.

1.72. **General Unsecured Claim** means a Claim that is not an Administrative Claim, a Secured Claim, a Priority Tax Claim, a Non-Tax Priority Claim or a Deficiency Claim.

1.73. **GUC Designation** means annual net income for operations, less reasonable overhead, reasonable operational costs, the Operational Reserve, and Plan Payments.

1.74. **Governmental Unit** has the meaning set forth in Bankruptcy Code section 101(27).

1.75. **Grants** mean two (2) Boating Infrastructure Grants from the U.S. Department of Fish and Wildlife Services in the name of Deltaville Marina and each a “Grant.”

1.76. **Holder** means an Entity holding a Claim or Interest.

1.77. **Impaired** means, when used in reference to a Claim, Interest, or Class, a Claim, Interest, or Class that is impaired within the meaning of Bankruptcy Code section 1124 of the Bankruptcy Code.

1.78. **Infrastructure Account** means account number ending in 5881 as disclosed in the Schedules of Deltaville Boatyard.

1.79. **Initial Distribution Date** means the Effective Date or as soon thereafter as may be reasonably practicable, but in any event no later than the fifth (5th) Business Day following the Effective Date.

1.80. **Initial Offer(s)** means a binding, irrevocable offer for all or part of the Reorganized Debtor’s Equity Interests. The offer must be substantially in the form of the Bid Sheet that contains no due diligence, financing, and/or other contingency.

1.81. **Interests and/or Equity Interests** mean the legal, equitable, contractual, and other rights of any Entity with respect to any capital stock, membership interest or other ownership interest in the Debtor, whether or not transferable, and all options, warrants, call rights, puts, awards, or rights or agreements to purchase, sell, or subscribe for an ownership interest or other equity security in the Debtor.

1.82. **IRS** means the Internal Revenue Service.

1.83. **Insurance Claim** means the claim made pursuant to the Insurance Policy after Hurricane Joaquin.

1.84. **Insurance Policy** means the insurance policy held by Deltaville Boatyard as further identified in Motion for Entry of an Order Approving Decision to Enter into Agreements

and Authorizing the Use of Funds Related Thereto and Memorandum in Support Thereof. (ECF No. 79).

1.85. ***JBD Enterprises*** means JBD Enterprises, LLC.

1.86. ***JBD Enterprises Agreement*** means the agreement pursuant to which the Deltaville Entities retained the assistance of Mr. Brad Carlton and his company JBD Enterprises, to provide expertise and knowledge to further refine the business model and general business operations.

1.87. ***Jointly Administered Chapter 11 Cases*** means the bankruptcy cases of Deltaville Marina, bankruptcy case number 16-35390-KLP, Deltaville Boatyard, bankruptcy case number 16-35974-KLP and Boatyard Rentals, bankruptcy case number 16-35389-KLP.

1.88. ***Lien*** shall mean any lien, security interest, pledge, title retention agreement, encumbrance, charge, mortgage, or hypothecation to secure payment of a debt or performance of an obligation, other than, in the case of securities and any other equity ownership interests, any restrictions imposed by applicable United States or foreign securities laws.

1.89. ***Local Rules*** means the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Virginia as now in effect a hereafter amended.

1.90. ***Marina*** means as defined in definition 1.49.

1.91. ***Market Value Procedures*** means procedures for the submission, evaluation and, if appropriate, acceptance of offers for the Reorganized Debtor's Equity Interests:

- a. Any Person desiring additional information about the Debtor in connection with making a potential offer must sign a non-disclosure agreement substantially in the form of Exhibit E attached to the Disclosure Statement. Upon execution of said agreement, access to relevant information will be provided.
- b. The Debtor will provide notice of these Market Value Procedures and the ability to make offers to all creditors in interest in the Jointly Administered Chapter 11 Cases and in the Richmond Times Dispatch.
- c. Initial Offers must have been received by Ms. Lynn Tavenner at [ltavenner@tb-lawfirm.com](mailto:ltavenner@tb-lawfirm.com) or fax number (804) 783-0178 on or before \_\_\_\_\_, 2017.
- d. Any Person desiring to make any Additional Offer at the Auction must:
  1. have previously submitted an Initial Offer;

2. provide \$5,000 (for each Deltaville Entity on initial offer is made) deposit in collected funds, refundable only if said Person is not ultimately approved as the Purchaser;
  3. have signed a non-disclosure agreement substantially in the form of Exhibit E attached to the Disclosure Statement;
  4. provided evidence reasonably acceptable to the Debtor of ability to consummate a DBY Operations Agreement;
  5. acknowledged in writing the binding nature of the Restructure BR Lease and Restructure DM Lease;
  6. acknowledged in writing the binding nature of the DBY Operations Agreement; and
  7. provide evidence reasonably acceptable to the Debtor of said Person's financial ability to close.
- e. No Person, other than (i) a Person who has submitted an Initial Offer and its professionals, (ii) Mr. Ruse and his professionals, (iii) the representatives of the U.S. Trustee, and (iv) representatives of the Debtor and its professionals may attend the Auction.
- f. The minimum amount of any Additional Offer shall be announced via electronic delivery to all Persons making Initial Offers on or before one (1) Business Day before the Auction.
- g. All Initial Offers and Additional Offers should be submitted on a form substantially in the form of the Bid Sheet attached as Exhibit D to the Disclosure Statement.
- h. Offers subject to additional due diligence, financing, and/or any other contingencies except regulatory approval will not be accepted.
- i. Equity may increase the Equity Initial Proposed Contribution.
- j. Initial Offers and Additional Offers will be valued by the Debtor and its professionals.
- k. To the extent the Debtor determines that a Person has made an Additional Offer that exceeds the Equity Final Proposed Contribution, the Person that the Debtor determines has submitted the Additional Offer that most exceeds the Equity Final Proposed Contribution will be proposed as the



Purchaser and submitted at the Confirmation Hearing for approval by the Bankruptcy Court. This will be done for each Deltaville Entity.

- l. Closing must take place on or before five days after the Effective Date unless otherwise extended by order of the Bankruptcy Court.
- m. To the extent the Debtor believes that the Equity Final Proposed Contribution represents the highest and best value to the Estate, at the Confirmation Hearing, the Debtor will seek approval for (1) Mr. Ruse to retain his Equity Interests and (2) the Reorganized Debtor to retain substantially all of the Debtor's assets. This will be done for each Deltaville Entity that said determination is reached.
- n. Any party in interest shall be able to present evidence to the Court concerning value, and the Court shall be the final arbiter of highest and best value.

1.92. ***New Value Contribution(s)*** means additional value provided by Mr. Ruse in the form of the Equity Final Proposed Contribution.

1.93. ***Middlesex*** means Middlesex County, Virginia.

1.94. ***Mr. Ruse*** means Keith Ruse.

1.95. ***Non-Tax Priority Claim*** means a Claim, other than a Priority Tax Claim, which is entitled to priority in payment pursuant to Bankruptcy Code section 507(a).

1.96. ***Operational Reserve*** means a cash reserve of not greater than \$80,000.

1.97. ***Petition Date*** means November 2, 2016, for Deltaville Marina and Boatyard Rentals; and December 6, 2016 for Deltaville Boatyard.

1.98. ***Post-Petition Interest*** means interest due and owing to the Pre-Petition Secured Lender arising on or after the Petition Date of Deltaville Marina and Boatyard Rentals.

1.99. ***Post-Petition Service Orders*** means requests, work orders, and/or other documents executed after the Petition Date for Deltaville Boatyard to perform services on various watercrafts/vessels.

1.100. ***Potential Purchaser*** means a Person interested in obtaining all or a portion of the Reorganized Debtor's Equity Interests.

1.101. ***Professional*** means any professional employed in the Chapter 11 Case pursuant to sections 327, 328, or 1103 of the Bankruptcy Code

1.102. **Purchaser** means the Person that (a) the Court determines has submitted the offer for the Reorganized Debtor's Equity Interests that is highest and best, (b) has acknowledged and consented to the terms of the Restructured BR Lease, the Restructured DM Lease, and the DBY Operations Agreement, and (c) has been approved by Final Order.

1.103. **Pre-Petition BR Secured Debt** means that certain loan originally made by EVB, evidenced by the Pre-Petition Secured Lender's BR Note and other Boatyard Rentals Summit Loan Documents.

1.104. **Pre-Petition DM Secured Debt** means that certain loan originally made by EVB, evidenced by the Pre-Petition Secured Lender's DM Note and other Deltaville Marina Summit Loan Documents.

1.105. **Pre-Petition Secured Lender** means Summit, successor in interest to EVB.

1.106. **Priority Tax Claims** means a Claim that is entitled to priority under Bankruptcy Code section 507(a)(8).

1.107. **Released Claims** means the claims or causes of actions described in Article X., B., and C. of the Plan.

1.108. **Reorganized Debtor** means the Debtor after the Effective Date.

1.109. **Rental Reserve** means the Post-Petition account wherein Deltaville Boatyard has, on a monthly basis, reserved \$7,500.00.

1.110. **Restructured BR Lease** means the lease attached as Exhibit F to the Disclosure Statement pursuant to which lease Deltaville Boatyard will rent the Yard and which lease will be recorded in the land records of Middlesex.

1.111. **Restructured DM Lease** means the lease attached as Exhibit G to the Disclosure Statement pursuant to which lease Deltaville Boatyard will rent the Marina and which lease will be recorded in the land records of Middlesex.

1.112. **Restructured Monthly Debt Service Payment** shall have the meaning assigned to it in Article III, Section (B)(1)(b).

1.113. **Restructured Loan Documents** shall have the meaning assigned to it in Article III, Section (B)(1)(b).

1.114. **Restructured Note** shall have the meaning assigned to it in Article III, Section (B)(1)(b).

1.115. **Salary Cap** means Mr. Ruse's 5-year commitment to work for the Deltaville Entities and be compensated not more than \$150,000 per year subject to yearly increase for inflation plus amounts necessary to pay taxes associated with his Equity Interests in the

Deltaville Entities provided (a) said cap does not include expense reimbursement, (b) he possesses all of the Reorganized Debtor's Equity Interests; (c) Restructured BR Lease is fully executed and properly recorded; and (d) Restructured DM Lease is fully executed and properly recorded.

1.116. ***Scheduled*** means, with respect to any Claim, the status, priority, and amount, if any, of such Claim as set forth in the Schedules.

1.117. ***Schedules*** means the schedules of assets and liabilities, the list of Holders of Interests, and the statements of financial affairs filed by the respective Debtor pursuant to Bankruptcy Code section 521 and the Bankruptcy Rules, as such schedules have been or may be further modified, amended or supplemented in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

1.118. ***Secured Claim*** means a Claim that is secured by Collateral owned by the respective Debtor, subject to Section 506(a) of the Bankruptcy Code.

1.119. ***Summit*** means SummitBridge National Investments III, LLC.

1.120. ***Tax Claim*** means all or that portion of a Claim held by a Governmental Unit for a tax assessed or assessable against the Debtor, including income and employment taxes and any related penalties or interest.

1.121. ***Taxes*** means any and all taxes, levies, imposts, assessments, or other charges of whatever nature imposed at any time by a Governmental Unit or by any political subdivision or taxing authority thereof or therein and all interest, penalties, or similar liabilities with respect thereto.

1.122. ***Tavanner & Beran*** means Tavanner & Beran, PLC, counsel to the Deltaville Entities.

1.123. ***Unclassified Claims*** means Fee Claims and Administrative Claims.

1.124. ***Unimpaired*** means, when used in reference to a Claim, Interest or Class, a Claim, Interest or Class that is not impaired within the meaning of Bankruptcy Code section 1124.

1.125. ***U.S. Trustee*** means the Office of the United States Trustee for the Eastern District of Virginia.

1.126. ***Yard*** means that real property known as 264 Buck's View Lane, Deltaville, Virginia 23043 owned by Boatyard Rentals and leased to Deltaville Boatyard. *See* Definition 1.21 for legal description.

## **II. INTRODUCTION**

### **A. General Information**

The Deltaville Entities each submit this Disclosure Statement pursuant to § 1125 of the Bankruptcy Code and in connection with seeking Confirmation of their respective Plan, copies of which are attached as Exhibits A, B, and C. Unless otherwise defined herein, terms used in this Disclosure Statement have the meaning assigned in the respective Plan for each individual Debtor.

The Deltaville Entities provide this Disclosure Statement to enable any creditor whose Claim is Impaired, if any, under the respective Plan and, therefore, entitled to vote on the respective Plan, to arrive at a reasonably informed decision in exercising the right to vote to accept or reject the respective Plan. This Disclosure Statement should be read in its entirety prior to voting on the respective Plan. The information contained herein is based on records maintained by the Deltaville Entities, and no representation or warranty is made as to their complete accuracy.

For each Plan to be confirmed, Classes must either accept or be Unimpaired. To the extent a Class is Impaired, creditors in each class of Impaired Claims who hold at least two-thirds in amount and more than one-half in number of Claims within the Class must vote in favor of the Plan. If a party does not vote, i.e. does not return a fully completed Ballot within the specific time to the correct addressee, neither the party nor the amount of its Claim or Interest is counted to determine acceptance or rejection of the respective Plan. If you are entitled to vote and do not, the Ballots will be tallied as though your Claims did not exist. The Court can confirm the respective Plan even if the requisite acceptances are not obtained so long as the respective Plan complies with the Bankruptcy Code and accords fair and equitable treatment to any non-accepting Class. Even if the requisite acceptances are not obtained, the Deltaville Entities intend to seek confirmation of each Plan because they believe the respective Plan complies with the Bankruptcy Code and accords fair and equitable treatment to any non-accepting Class.

Parties entitled to vote are furnished a Ballot on which to record their respective acceptances or rejections of the respective Plan. Those completed Ballots must be returned to Tavenner & Beran, who will tally the votes and report the results to the Court at the Confirmation Hearing.

### **B. Information Regarding Disclosure Statement**

**NO REPRESENTATIONS CONCERNING THE DELTAVILLE ENTITIES, THE DELTAVILLE ENTITIES' PROPERTY, THE VALUE OF THE DELTAVILLE ENTITIES' PROPERTY, OR EACH PLAN ARE AUTHORIZED UNLESS THEY ARE IN THIS DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT IS THE ONLY STATEMENT WITH RESPECT TO THE PLAN. NO OTHER REPRESENTATION CONCERNING THE DELTAVILLE ENTITIES OR THE VALUE**

**OF THEIR PROPERTY HAS BEEN AUTHORIZED. YOU SHOULD RELY ONLY ON THE REPRESENTATIONS OR INDUCEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT. YOU SHOULD REPORT ANY ADDITIONAL REPRESENTATIONS AND INDUCEMENTS TO THE COURT, COUNSEL FOR THE DELTAVILLE ENTITIES, OR OFFICE OF THE UNITED STATES TRUSTEE.**

**THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A RECOMMENDATION BY THE COURT AS TO THE MERITS OF ANY PLAN BUT MERELY CONFIRMS THAT THE DISCLOSURE STATEMENT IS ADEQUATE TO PROVIDE THE INFORMATION NECESSARY FOR YOU TO MAKE AN INFORMED JUDGMENT REGARDING WHETHER TO VOTE TO ACCEPT OR REJECT THE RESPECTIVE PLAN.**

**THIS DISCLOSURE STATEMENT PROVIDES INFORMATION ABOUT THE RESPECTIVE PLAN. ALTHOUGH THE DELTAVILLE ENTITIES BELIEVE THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS ACCURATE, THE PROVISIONS OF THE PLAN CONTROL IF THERE IS ANY INCONSISTENCY BETWEEN THE PLAN AND THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

The Deltaville Entities do not warrant that the financial data in this Disclosure Statement is error free, but the Deltaville Entities and their professionals have been careful to see that all financial information is fairly and accurately presented. To the best of their knowledge and belief, the Deltaville Entities believe the financial information in this Disclosure Statement is accurate.

If the Court does not confirm a Plan, one or more of the Deltaville Entities may amend its Plan or file a different Plan. If the Court does not confirm a Plan and the exclusive period within which the Deltaville Entities can obtain acceptance expires, a creditor may file a plan of reorganization. Additionally, on motion of a party in interest and after notice and a hearing, the Court may convert the Bankruptcy Case to a Chapter 7 case. The Deltaville Entities also have the absolute right to convert each's respective Case to a Case under Chapter 7 pursuant to Bankruptcy Code § 1112(a).

### **III. GENERAL INFORMATION ABOUT THE DELTAVILLE ENTITIES**

Boatyard Rentals owns the Real Property known as the Yard in Deltaville, Virginia, which Yard is leased to Deltaville Boatyard for \$7,500 a month pursuant to the Boatyard Rentals Lease. Deltaville Marina owns the real property known as the Marina in Deltaville. A portion of the Marina consisting of office space is in turn leased to Deltaville Boatyard for \$2,500 a month pursuant to the Deltaville Marina Lease. Deltaville Boatyard is the entity that operates a world renowned Boatyard in Deltaville. Deltaville Boatyard also provides substantially all assistance to Deltaville Marina for the operation of the Marina pursuant to which Deltaville Boatyard charges Deltaville Marina \$10,158.34 a month for the months of January, February, March, November,

and December and \$11,872.63 for the months of April through October. The owners of the Deltaville Entities are Mr. Ruse and his wife.

While in the midst of implementing their own internal reorganization strategic plan, all three entities were forced to file for bankruptcy relief by the actions of secured creditor who moved to foreclose on the Yard and Marina. Boatyard Rentals and Deltaville Marina are individual obligors on the notes in question (which notes are secured by certain Real Property, i.e., the Yard and the Marina) and filed for relief under the Bankruptcy Code to stop the foreclosures such that all parties could benefit from a reorganization of the Deltaville Entities. Boatyard Rentals and Deltaville Marina are primarily non-operating entities in the business structure, with Deltaville Boatyard serving as the primary operating entity. Accordingly, on November 2, 2016 Deltaville Marina and Boatyard Rentals filed for relief under Chapter 11 of the Bankruptcy Code. Deltaville Boatyard filed for relief under Chapter 11 of the Bankruptcy Code on December 6, 2016.

Deltaville Marina, Boatyard Rentals, and Deltaville Boatyard have continued in possession of their properties as debtors-in-possession, pursuant to § 1107 of the Bankruptcy Code. From the very beginning of these bankruptcy cases, Deltaville Marina, Boatyard Rentals, and Deltaville Boatyard have pursued a path towards a successful reorganization.

## **SIGNIFICANT PREPETITION ACTIVITIES AND EVENTS**

Mr. Ruse has been operating the Deltaville Boatyard for 14 years. Previously, Mr. Ruse served in the United States Navy for 6 years as a nuclear electrician, learning first hand technical, operational, and managerial skills in the nautical industry. He possesses an American Boat and Yacht Council Master Technician designation. He also possesses the ability to provide leadership and technical consultation for American Boat and Yacht Council certified technicians; significant experience working on complex onboard technical systems to troubleshoot problems and develop solutions; ability to apply US Navy Nuclear Power industry standards to train technicians; ability to perform quality checks of all work performed in boatyard electrical, navigation electronics, mechanical, power generation, propulsion, rigging, composite repair, cosmetic refinishing, fire suppression, interior carpentry, painting, welding, fabrication, HVAC, hauling, washing, blocking, launching, structural repairs, and vessel management; ability to design/engineer systems installations including electrical, navigation electronics, mechanical, power generation, propulsion, rigging, composite repair, cosmetic refinishing, fire suppression, interior carpentry, painting, welding, fabrication, HVAC, hauling, washing, blocking, launching, structural repairs, vessel management, boat performance predictions; ability to market and sell the various components of the Boatyard Business; the designation as an American Boat and Yacht Council Master technician; aptitude and ability to apply for permits to allow dock maintenance, dock building, dredging, building, septic treatment, fuel dispensing, entrance channel maintenance and; ability to supervise and manage numerous employees.

While Mr. Ruse's efforts, expertise, and experience in the Boatyard Business resulted initially in notoriety and prosperity, in recent years prior to the respective Petition Date, he had

directed substantially all focus toward successful operations. As a result, certain administrative matters suffered to the point that the accounting lagged behind the success of the technical expertise, wherein the Deltaville Entities became delinquent on tax reporting and payments to the Internal Revenue Service and other governmental authorities. The Deltaville Entities' tax issues, coupled with the economic down turn's negative impact on the businesses and increasingly higher interest rates, given the nature of existing loans, resulted in the Deltaville Entities defaulting on certain of their financial obligations.

Recognizing the administrative and financial weaknesses, the Deltaville Entities, through Mr. Ruse, endeavored to rectify the circumstances by beginning to more effectively utilize their accounting software and retaining new accountants. In fact, the renewed focus on administration resulted in amended tax returns being prepared and filed with the requisite authorities. In addition, recognizing that his technical expertise was a critical component of the Yard operations, Mr. Ruse, on behalf of the Deltaville Entities, retained the assistance of Mr. Brad Carlton and his company, JBD Enterprises, to provide expertise and knowledge to further refine the business model and general business operations. Mr. Carlton and Mr. Ruse had initially met after Mr. Carlton researched boatyards along the East Coast corridor to find proficient technical expertise to perform significant work on his own personal vessel. After experiencing the services at the Boatyard and meeting Mr. Ruse in person and learning more about him and the operations, Mr. Carlton, an experienced businessman in mid-Atlantic, first offered his own financial skills to the Deltaville Entities. Thereafter he began to assist with all facets of the accounting and financial aspects of the operations, including assisting with the overhaul of outdated practices and implementation of the existing cash management system, which was recommended by its professionals, and utilizes customary and essential business practices similar to those commonly employed by corporate enterprises comparable in size, complexity, and nature of services rendered. Such system provides numerous benefits, including the ability to (a) tightly control corporate funds, (b) ensure cash availability, and (c) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information. The revamped cash management system proved to be extremely beneficial, and the Deltaville Entities and JBD Enterprises ultimately entered into a consulting arrangement whereby Mr. Carlton was available to provide such types of expertise on a more regular basis. To that end, having Mr. Carlton available to address certain financial and accounting matters made more time available for Mr. Ruse to refocus his attention on the technical operations and expertise that initially had propelled Deltaville Boatyard to prominence within the boating industry. Mr. Carlton continues to assist in his consulting role.

Deltaville Marina is the holder of two (2) Boating Infrastructure Grants<sup>2</sup> a/k/a the Grants

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<sup>2</sup> Pursuant to an error of counsel, these assets inadvertently were listed on the Schedules for Deltaville Boatyard and not Deltaville Marina. Upon detection, the Deltaville Entities reported this to the United States Trustee and also stated the same on the record during the Deltaville Entities' 341 meetings. It was also reported that the error would be corrected with the filing of amended schedules. Also, the original Schedules indicate three (3) grants and two grants were merged into one; thus there are only two (2) grants. These items were corrected in the amended Schedules filed on or about May 4, 2017 (ECF No. 126 (Deltaville Boatyard), 69 (Deltaville Marina), and 67 (Boatyard Rentals)).

from the U.S. Department of Fish and Wildlife Services. Boating Infrastructure Grants (commonly referred to as BIG Grants) are for improvements to marinas focused on transient boaters. Funding is from the U.S. Department of Fish and Wildlife Service, and these grants are administered by the Virginia Department of Health. BIG Tier I grants (statewide) can be awarded up to \$200,000 (this amount was previously \$100,000), whereby the Grant pays 74% of project cost and the grant holder pays 26% as match. BIG Tier II grants (national) can be awarded for amounts between \$200,000 and \$1,500,000, whereby the Grant pays 74% of project cost and the grant holder pays 26% as match. These Grants relate to the construction, renovation and/or maintenance of boating infrastructure facilities and associated amenities for transient, non-trailerable recreational boats at least 26 feet long. While the Grants have varying terms and the Grants speak for themselves (and as such should be reviewed for specifics)<sup>3</sup>, the Grants generally provide for the following:

- I. Dock Grant (Tier II)  
Total = \$1,005,258.00  
Grant (74%) - \$743,890.92  
Deltaville Marina Match (26%) - \$261,367.08  
Completion date extended to December 31, 2018 (which date cannot be extended further).

Project Description For the Grant: To replace existing “D” dock which is currently a covered wooden fixed dock. It is in serious disrepair especially after storm surge damage from Tropical Storm Joaquin in October 2015. A Nor’easter storm in January 2017 created additional damage. “D” dock will be replaced with floating docks. Slips will be of varying sizes and up to 87’ long x 22’ wide and will be able to accommodate larger vessels. The new slips will be more flexible to accommodate a variety of boat sizes. For example, the largest slips (87’ x 22’) can also be used to dock several smaller vessels at the same time. The current slips are much smaller, average of 16’ x 42’ and can only accommodate smaller vessels. The docks will need a useful life statement of 25 years, i.e. designed and constructed to last 25 years. In addition, a minimum depth of 6’ is required all the way to bulkhead.

- II. Bathhouse Renovation and Fuel Pumps Grant (Tier I).  
Total = \$86,667.00  
Grant = \$65,000  
Deltaville Marina Match = \$21,667  
Note: Award letter does not provide breakdown of funds between fuel pumps and bath house.  
Completion date extended to January 31, 2019.

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<sup>3</sup> Copies of the Grants’ paperwork are attached as exhibits to the Motion for Entry of an Order Approving Decision to Enter into Agreements and Authorizing the Use of Funds Related Thereto and Memorandum in Support Thereof (ECF No. 79). Additional copies may be obtained from Tavenner & Beran by written request to Paula Beran at [pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com).



Project Description for the Grant (two projects are combined into one grant): To renovate and update bath house so it is environmentally efficient, functional, and more attractive to boaters. To replace the fuel delivery system including fuel pumps, dispensers, and piping.

Furthermore, one or more of the Deltaville Entities are eligible to apply for a grant related to pumpout stations. In addition to the Grants, the United States Fish and Wildlife Service provides funding to marinas through the Clean Vessel Act (CVA) program to install pumpout stations and to perform annual maintenance for these facilities. Vessels are required by law to have holding tanks to store black water (raw sewage) until it can be disposed of properly. It is illegal for boats to pump raw sewage overboard in the Chesapeake Bay. Pumpout stations are used to pump sewage from the holding tanks of the boats. The sewage is pumped into a holding tank on land which is removed and properly disposed of by a septic service company. Pursuant to the relevant rules, the paperwork for this grant is not submitted until after the project is completed and the entity is then reimbursed for 75% of the cost of installation. Before having to file for bankruptcy, the Deltaville Entities were in the process of pursuing the benefits of various grants.

In late September and early October of 2015, Hurricane Joaquin threatened parts of the East Coast of the United States, with state of emergencies declared in many states including Virginia. Although Hurricane Joaquin ultimately turned northeast and did not make land fall in the United States, another storm system drew tremendous moisture from Hurricane Joaquin, causing excessive flooding on the east coast. These storm effects, with other tidal swings, resulted in excessively high tides in Deltaville, Virginia. For several days the tide barely receded and the wave action was intense, causing docks and related sheds to rack twice a day for four days. As a result, certain of the Deltaville Entities' property was damaged, and there were interruptions to business operations. Thereafter, the Deltaville Entities made repairs to their property to temporarily secure assets for use in the daily operations of their businesses. In addition, Insurance Claims were placed under the Insurance Policy.<sup>4</sup> Pursuant to the Insurance Claim, Deltaville Boatyard received four checks. The checks were deposited into an account in the name of Deltaville Boatyard designated as the Infrastructure Account. Additional repairs have been made to temporarily secure assets for use in daily operations of the businesses of the Deltaville Entities.

The Deltaville Entities were in the process of pursuing the benefits of the Grants, repairing their property damage, and otherwise addressing the additional use of the funds in the Infrastructure Account. However, given the foreclosure sales of a secured creditor that that been scheduled for the Marina and Yard, the Deltaville Entities were forced to turn their attention to stopping the foreclosures such that all parties could benefit from a reorganization of the entities.

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<sup>4</sup> The Insurance Policy had been reviewed and approved by Summit.

#### IV. MATERIAL POST-PETITION PROCEEDINGS AND EVENTS

Immediately after the filing of the bankruptcy cases of Deltaville Marina and Boatyard Rentals, the Deltaville Entities' principal, Mr. Ruse, along with various personnel of one of the Deltaville Entities, and professionals commenced preparing for the bankruptcy filing of Deltaville Boatyard. To that end, Boatyard Rentals and Deltaville Marina requested an extension of the time in which to file their schedules. An order was entered granting the requested extension allowing the Deltaville Entities until December 16, 2016 to file their Schedules. Mr. Ruse, employees of one of the Deltaville Entities, independent contractors, and professionals worked tirelessly to complete the Schedules. Thereafter, amended Schedules were filed.<sup>5</sup>

The Deltaville Entities also filed, and pursued the requested relief through extensive evidence, the following: i) Motions to Authorize Use of Cash Collateral and Adequate Protection and Memorandum in Support Thereof and ii) Motions to Approve Continued Use of (A) Cash Management Systems and (B) Certain Existing Bank Accounts and Memorandum in Support Thereof. This Court ultimately granted all relief sought by the Deltaville Entities in these Motions. The Deltaville Entities additionally put forth significant effort to defend themselves against the aggressive, unsupported accusations made in support of Motions to Dismiss the Case Pursuant to § 1112(b) of the Bankruptcy Code filed by Summit. The Bankruptcy Court ultimately found that the relief sought by Summit was not warranted.

Deltaville Boatyard facilitated the dredging of the Jackson Creek entrance channel and the areas approaching and located within Boatyard Rentals haulout and service slips. This was the second dredge of the entrance channel as phase two of a long term maintenance dredge to allow deep draft and large powerboats to enter Jackson Creek and transit to Deltaville Marina and Deltaville Boatyard. Boatyard Rentals and Deltaville Marina benefitted from this dredging.

Similarly, in an effort to preserve and/or maximize the value of property, on March 15, 2017, the Deltaville Entities filed their Deltaville Entities' Motion for Entry of an Order Approving Decision to Enter into Agreements and Authorizing the Use of Funds Related Thereto and Memorandum in Support Thereof. ECF No. 79. The hearing on the Dock Motion occurred on April 5, 2017 before the Bankruptcy Court. During the April 5, 2017, hearing, this Court heard extensive evidence about preserving and enhancing various property of one or more of the Deltaville Entities. After hearing all the evidence, the Court granted this request. Since that time, the Deltaville Entities have made significant improvement to the Yard and Marina. In addition, work has begun on converting portions of docks to accommodate the requisite transient vessels.

Pursuant to the Consent Order Granting Motion of Summitbridge National Investments III LLC for Production of Documents and Examination Pursuant to Fed R. Bankr. P. 2004 (the

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<sup>5</sup> Copies of the Schedules are available from the Court's website and/or may be obtained by written request to Paula Beran at [pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com).

“2004 Motion Order”), ECF No. 117, the Deltaville Entities turned over approximately 10 gigabytes of data. Said data was related to all 20 categories of information sought by Summit through the 2004 Motion Order: All of the leases and contracts listed by each of the Deltaville Entities on Schedule G of their Schedules of Assets and Liabilities. Copies of each of the Schedule G’s filed by the Deltaville Entities are attached as Exhibit "1."; Any Documents evidencing a lease or a contract identified on Exhibit "1" hereto that is not evidenced by a written or an executed lease or contract. All Documents that evidence lease or rental payments received by (i) Deltaville Marina, LLC and/or (ii) Boatyard Rentals, LLC since November 2, 2012; All Documents evidencing any outstanding lease or rental payments currently due to (i) Deltaville Marina, LLC; and/or (ii) Boatyard Rentals, LLC; All Documents evidencing all insurance policies of any of the Deltaville Entities since November 2, 2012; All Documents evidencing claims made under any insurance policies of the Deltaville Entities since November 2, 2012; All Documents evidencing payment by any of the Deltaville Entities of any premiums or other amounts necessary to obtain any insurance policies since November 2, 2012; 8. All Documents evidencing or otherwise constituting payment or receipt of insurance proceeds on account of all claims made under the aforementioned insurance policies since November 2, 2012; All Documents evidencing deposits and withdrawals since November 2, 2012,; from the Branch Banking and Trust Company business checking account #5881 listed on the first page of Deltaville Boatyard, LLC’s Schedule A/B, a copy of which is attached as Exhibit "2"; All Documents that concern or otherwise relate in any manner to any insurance or any claim under any of the Deltaville Entities’ insurance policies; All Documents evidencing the value of Boatyard Rentals, LLC’s interest in the real property described on Part 9, Paragraph 55 of its Schedule A/B, a copy of which is attached as Exhibit "3"; All Documents evidencing the value of Deltaville Marina, LLC’s interest in the real property described on Part 9, Paragraph 55 of its Schedule A/B, a copy of which is attached as Exhibit "4"; All Documents evidencing the value of any real or personal property currently owned by any of the Deltaville Entities; All appraisals and/or valuations of any property owned by any of the Deltaville Entities; all bank account statements and cancelled checks of any of the Deltaville Entities since November 2, 2012; All Documents that evidence or support any intercompany claims, or the calculation of intercompany claims, between the Deltaville Entities since November 2, 2012; All Documents that evidence or support any payments made from one of the Deltaville Entities to another of the Deltaville Entities since November 2, 2012; 18. All Documents utilized by the Deltaville Entities in calculating the amount of the "gross revenue from business" disclosed in each of the Deltaville Entities Statements of Financial Affairs filed in the Deltaville Entities’ bankruptcy cases; All of the Deltaville Entities’ balance sheets, financial statements, and work papers including drafts related in any way to the foregoing; All Communications between Deltaville Entities and Brad Carlton (and/or JBD Enterprises, LLC) since November 2, 2012. Said document production included the Deltaville Entities’ entire general ledger from November 2012 through the present. In sum, the Deltaville Entities have been transparent from the beginning of these cases and have provided all requested and readily available information to Summit.

The Deltaville Entities have timely filed all monthly operating reports,<sup>6</sup> which reports demonstrate, among other things, the monthly payment of adequate protection to Summit and a rent reserve, as well as overall positive cash flow and enhancement of the values of the Deltaville Entities.

## **V. THE ASSETS OF THE DELTAVILLE ENTITIES**

### **A. The Real Property of Each of the Deltaville Entities**

The Deltaville Entities have the following Real Property:

#### **Boatyard Rentals**

Real Property	Scheduled Value	Debtors' Estimated Value Range As of June 1, 2017
Certain real property and improvements thereon commonly referred to as 264 and 274 Buck's View Lane, Deltaville, VA 23043	\$862,100.00 <sup>7</sup>	\$600,000 and \$800,000

#### **Deltaville Marina**

Real Property	Scheduled Value	Debtors' Estimated Value Range As of June 1, 2017
Certain real property and improvements thereon commonly referred to as 264 and 274 Buck's View Lane, Deltaville, VA 23043	\$1,538,700.00 <sup>8</sup>	\$650,000 and \$850,000

### **B. The Personal Property (Physical Assets) of Each of the Deltaville Entities (Excluding Intercompany Obligations)**

The Deltaville Entities have the following Personal Property:

#### **Boatyard Rentals**

Personal Property	Scheduled Value	Debtors' Estimated
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<sup>6</sup> The monthly operating reports are very detailed and should be consulted for summaries of operations since the filing of these cases. They may be obtained from Tavenner & Beran by written request to [pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com).

<sup>7</sup> This amount represent the tax assessed value for Middlesex County. Boatyard Rentals believes that the tax assessed value is incorrect and have contested the same.

<sup>8</sup> This amount represent the tax assessed value for Middlesex County. Deltaville Marina believes that the tax assessed value is incorrect and have contested the same

		Value Range As of June 1, 2017
Business Checking Account at EVB ending in 8412	\$2,930.00	Account Closed
Debtor In Possession Bank Account at C&F Bank ending in 4732	N/A	\$581.74
Hatteras 1965	\$55,000.00	\$30,000 - \$45,000
Pearson 28' 1985	\$5,000.00	\$3,000 - \$4,500
35 Ton Travel Lift	\$40,000.00	\$35,000 - \$40,000
Freshwater well and improvements thereon	Unknown	Unknown

#### Deltaville Marina

Personal Property	Scheduled Value	Debtors' Estimated Value Range
Business Checking Account at EVB ending in 8488	\$3,098.68	Account Closed
Debtor In Possession Bank Account at C&F Bank ending in 4694	N/A	\$7,482.43
1994 Toyota Sport Utility Land Cruiser	\$500.00	\$100
Marina Equipment	Unknown	Unknown
Potential Counterclaim Against Delta Marine Construction Breach of Contract	Unknown	Unknown
Two Boating Infrastructure Grants awarded by the United States Department of the Interior, Fish, and Wildlife Service	\$1,000,000.00	\$1,000,000.00

#### Deltaville Boatyard

Personal Property	Scheduled Value	Debtors' Estimated Value Range
Debtor In Possession Account at BB&T ending in 1984 (Customer Deposit)	\$100,139.00	\$52,075.34
Debtor In Possession Account at BB&T ending in 5881 (Infrastructure)	\$318,571.00	\$362,012.10
Business Checking Account at EVB ending in 7121	\$9,629.00	Account Closed
Business Checking Account at EVB ending in 5507	\$30,369.05	\$31,587.15
Business Checking Account at EVB ending in 5516	\$2,583.00	\$1,159.58

Debtor In Possession Account at C&F Bank ending in 3744 (Operating Account)	N/A	\$8,794.45
Debtor In Possession Account at C&F Bank ending in 3809 (Rent Reserve)	N/A	\$52,500.00
Accounts Receivable	\$197,683.43	\$207,649.00 - \$415,298.00
Assorted Metal and Wood used in boat repair	Unknown	Unknown
Work in Progress	\$147,328.44	\$25,200.00 - \$63,000
Finished Goods	\$6,151.30	0.00
Assorted Office Supplies	\$100.00	\$100.00
8 Desks, 9 File Cabinets, 1 Kurieg, 3 Microwaves, 2 Refrigerators, 1 Toaster Oven, 1 Couch, 4 Tables, 20 Chairs	Unknown	Unknown
Improvements	Unknown	Unknown
PierVantage Enterprise Software, 10 Computers, 8 Phones, 14 Computer Monitors, 1 Projector	\$10,350.00	\$9,000
2007 GMC Van	\$6,000.00	\$5,500
2003 GMC Yukon	\$1,319.00	\$1,000
2006 Hudson Trailer Flat Bed	\$1,428.00	\$1,000
2006 Road King Utility Trailer	\$200.00	\$200
2009 Utility Trailer	\$200.00	\$200
1973 Unflite, 34', Key West, VA4365 BV (To be destroyed)	Unknown	Negative
1970 Geoller Trawler, 56', Toad Hall, VA 0633 TO (To be destroyed)	Unknown	Negative
1976 Slickcraft, 20', Five O'clock Somewhere, VA 2548 AB	\$1,000.00	\$1,000.00
1984 Hunter, 36', Unnamed, VA 2342 BN (To be destroyed)	Unknown	Negative
1967 Rainbow, 24', Four, VA 2497 AL (To be destroyed)	Unknown	Negative
1988 Sail Boat, 25', Seaducktress, VA 3045 SS (To be destroyed)	Unknown	Negative
1979 Lancer, 28', Unnamed, VA 1089 BX	Unknown	Negative
1985 Silverton, 31', Daisy Mae (To be destroyed)	Unknown	Negative
Machinery & Equipment - See Exhibit A/B 50	Unknown	Unknown
2000 Marine Travel Lift	\$85,000.00	\$85,000
1999 Volvo Truck Crane	\$15,000.00	\$15,000
Excavator	\$10,000.00	\$10,000
Tractor	\$2,000.00	\$2,000
<a href="http://www.deltavilleboatyard.com">http://www.deltavilleboatyard.com</a>	Unknown	Unknown
Customer List containing names, addresses, boat	Unknown	Unknown

information, and credit card data		
Goodwill associated with the providing of safe, high quality, reliable service on time and on budget, as well as the reputation of Keith Ruse.	Unknown	Unknown
Note Receivable	\$5,000.00	\$5,300.00
Claim for business loss interruption.	Satisfied	\$0.00
Potential Counterclaim Against Delta Marine Construction	Unknown	Unknown
Leasehold Interest in Office Buildings and Docks	Unknown	Unknown
Leasehold Interest in Docks, Real Property, and Buildings	Unknown	Unknown

### **C. Avoidance Actions**

The transactions listed on Exhibit I attached to the Disclosure Statement may constitute Avoidance Actions. Given that the success of the respective Plan for each entity depends on the continued, successful operations of the Boatyard Business, the Deltaville Entities do not believe it prudent to potentially harm said operations by pursuing the Avoidance Actions; therefore, the respective Plan contemplates that, under Section 547 of the Bankruptcy Code, Avoidance Actions shall be waived on the Effective Date.

## **VI. THE DELTAVILLE ENTITIES' LIABILITIES**

### **A. Administrative Expenses**

#### **1. Professional Fees and Expenses.**

Professional fees and expenses incurred by the Deltaville Entities, after approval by the Bankruptcy Court, are administrative expenses. While Entities have not filed fee applications as of yet, the asserted and/or projected amount of unpaid Fee Claims as of the Effective Date is expected to be as follows:

Entity	Fees and Expenses
Tavener & Beran, PLC	\$150,000 - \$250,000
Guy C. Crowgey, P.C.	\$2,000 - \$5,000
Harvey & Horowitz, P.C.	\$31,000 - \$35,000
Dunton, Simmons & Dunton, L.L.P.	\$2,000 - \$5,000

#### **2. Administrative Tax Claims.**

Taxes accruing after the Petition Date are Administrative Tax Claims. Deltaville Marina and Boatyard Rentals are currently contesting the tax assessed value of each's Real Property. As

such, taxes are not yet due and owing but will be once said assessment process is finalized. The Deltaville Entities are not aware of any past-due taxes in the form of Administrative Claims.

**3. Post-Petition Expenses Incurred In The Ordinary Course.**

As indicated on the various monthly operating reports filed with the Bankruptcy Court, the Deltaville Entities have been paying, in the ordinary course of business, post-petition expenses incurred in the operations of the businesses. Thus, the Deltaville Entities are aware of no outstanding, past due Administrative Claim for amounts incurred in the ordinary course of business.

**4. Amount Owed to JDB Enterprises.**

Pursuant to the JDB Enterprises Agreement, amounts may be due and owing to JDB Enterprises, but the extent of said amount will not be known until the end of the year given the nature of the JDB Enterprises Agreement.

**5. Intercompany Obligations.**

As of the Petition Date of Deltaville Boatyard, Deltaville Boatyard owed (a) Deltaville Marina \$1,209.68 in stub rent and (b) Boatyard Rentals \$6,048.39 in stub rent. These amounts were included in the 2016 due to/due from reconciliations (further discussed at V.F herein) and noted on the Schedules as being included with pre-petition amounts.

Deltaville Boatyard owes rent, for the months of January 2017 through the Effective Date, Deltaville Marina \$2,500 a month and Boatyard Rentals \$7,500 a month. Deltaville Boatyard also owes Deltaville Marina for any amounts it received on behalf of Deltaville Marina in connection with the operations of the cash management system. Deltaville Marina owes Deltaville Boatyard \$10,158.34 a month for the months of January, February, March, November, and December and \$11,872.63 for the months of April through October. And, the \$7,500 paid by Deltaville Boatyard to Summit pursuant to the Cash Collateral Order on behalf of Deltaville Marina and Boatyard rentals should be credited to Deltaville Boatyard.

The Deltaville Entities are aware of no other Administrative Expenses.

**B. Secured Claims**

The amount of Secured Claim asserted against the Deltaville Entities are as follows:

**Boatyard Rentals**

POC			
No.	Claimant	Amount	Type
2	Middlesex County	\$9,226.31	Secured



3	SummitBridge National Investments III, LLC	\$4,364,458.22	Secured
	Middlesex County	\$5,257.32	Secured

#### Deltaville Marina

POC No.	Claimant	Amount	Type
2	Middlesex County	\$185.01	Secured
	Middlesex County	\$30,803.24	Secured
3	SummitBridge National Investments III, LLC	\$4,364,458.22	Secured

#### Deltaville Boatyard

POC No.	Claimant	Amount	Type
1	Middlesex County	\$6,655.79	Secured
2	Department of the Treasury Internal Revenue Service	\$493,172.45	Secured

### C. Priority Tax Claims

Priority Tax Claims are those Claims for taxes entitled to priority in payment under § 507(a)(8) of the Bankruptcy Code. The following is a chart of the asserted Priority Tax Claims:

#### Deltaville Boatyard

10	Virginia Department of Taxation	\$2,180.44	Priority
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### D. Non-Tax Priority Claims

Pursuant to *Order Authorizing Debtor to Pay of Pre-Petition A) Employee Wages, Salaries and Related Items, (B) Payroll Deductions, (C) Contributions and Benefits Under Employee Benefit Plans, and (D) Costs and Expenses Incident to the Foregoing Payments* (ECF No. 19), certain Non-Tax Priority Claims were paid in full. The Deltaville Entities are aware of no other Non-Tax Priority Claims.

**E. Unsecured Claims**

The following are the known Unsecured Claims for each Deltaville Entity:

**Boatyard Rentals**

1	Department of the Treasury Internal Revenue Service	\$0.00	GUC
	JBD Enterprises, LLC	\$60,306.00	GUC
	SummitBridge National Investments III, LLC		
	Deficiency Claim	Unknown	GUC

**Deltaville Marina**

1	Department of the Treasury Internal Revenue Service	\$380.54	GUC
4	East Coast Marine Construction, LLC c/o Franklin R. Cagle, III, Esq.	\$264,553.61	GUC
5	Delta Marine Construction, LLC c/o Franklin R. Cagle, III, Esq.	\$264,553.61	GUC
	JBD Enterprises, LLC	\$60,306.00	GUC
	SummitBridge National Investments III, LLC		
	Deficiency Claim	Unknown	GUC

**Deltaville Boatyard**

4	Delta Marine Construction, LLC c/o John R. Walk, Esq.	\$325,058.82	GUC
5	Delta Marine Construction, LLC c/o John R. Walk, Esq.	\$ 27,690.54	GUC
6	Eaton Corporation - Global Trade Credit	\$ 271.66	GUC
7	Rex Marine, LLC	\$113,528.02	GUC
8	East Coast Marine Construction, LLC c/o Franklin R. Cagle, III, Esq.	\$264,553.61	GUC
9	Peter & Lyn Forgosh (Late)	\$19,189.99	GUC
10	Virginia Department of Taxation	\$3,736.09	GUC

Barn Elm Farms	\$5,500.00	GUC
Capital One	\$2.92	GUC
JBD Enterprises, LLC	\$60,306.00	GUC
Matt Holloway	\$51,291.00	GUC
Moss & Riggs, PLLC	\$5,025.62	GUC
Passage Maker	\$9,200.00	GUC
Shell Card	\$19.62	GUC
SummitBridge National Investments III, LLC		
Deficiency Claim	Unknown	GUC
Lower Neuse Preservation Group, LLC	\$264,000.00	GUC

#### **F. Intercompany Obligations**

As indicated in the Schedules of the Deltaville Entities, for the year 2016, Deltaville Marina owed Deltaville Boatyard \$117,416.77; and Boatyard Rentals owed Deltaville Boatyard \$29,346.01. Furthermore, as indicated in the Schedules of the Deltaville Entities, as of the Petition Date of Deltaville Marina, Deltaville Boatyard owed Deltaville Marina \$752.50 for a 2015 transaction. In addition, as indicated on the Schedules for Boatyard Rentals, Deltaville Boatyard owed Boatyard Rentals \$58,135.83 for certain 2013 transactions that remain on the books and records of the Deltaville Entities.

### **VII. DESCRIPTION OF THE RESPECTIVE PLAN**

#### **A. Treatment of Claims**

The principal provisions of each respective Plan are summarized below. The Plans provide for certain Unclassified Claims and collectively 10 Classes of Claims and/or Interests

##### **1. Unclassified Claims**

###### **a) Administrative Expense Claims.**

Except to the extent that a Holder of an Allowed Administrative Expense Claim agrees to a different treatment, the Deltaville Entities shall pay to each Holder of an Allowed Administrative Expense Claim Cash in an amount equal to such Claim on the later of the Effective Date and the first (1st) Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or as soon thereafter as is reasonably practicable.

Intercompany obligations will not be paid but instead will be carried on the books and records of each Deltaville Entity in a manner that is appropriate under the Tax Code of the United States of America.

b) Fee Claims.

Persons seeking an award by the Bankruptcy Court of Fee Claims incurred through and including the Effective Date shall, unless otherwise ordered by the Bankruptcy Court: (i) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is no later than sixty (60) days after the Effective Date; and (ii) except as otherwise provided in the Plan, be paid in full in such amounts as are approved by the Bankruptcy Court upon the later of (a) the date upon which the Order relating to any such Fee Claim is entered or (b) upon such other terms as may be mutually agreed upon between the Holder of such Fee Claim and the Deltaville Entities.

c) Administrative Tax Claims.

Except to the extent that a Holder of an Administrative Tax Claim agrees to a different treatment, Allowed Administrative Tax Claims shall be paid on the later of the Effective Date or the date such Allowed Administrative Tax Claim becomes due and owing.

d) Administrative Expenses Incurred After The Effective Date.

Administrative Expenses incurred by the Deltaville Entities or the Reorganized Deltaville Entities after the Effective Date, including (without limitation) Fee Claims, shall not be subject to application and may be paid in the ordinary course of business without further Bankruptcy Court approval.

2. **Classified Claims**

The Plan provides for the following Classified Claims:

Class Number	Description	Impairment
Class 1	Secured Claim of Summit	Class 1 is impaired under the Plan
Class 2	Secured Claim of IRS	Class 2 is impaired under the Plan
Class 3	Secured Claim (Real Property) of Middlesex	Class 3 is impaired under the Plan
Class 4	Secured Claim (Personal Property) of Middlesex	Class 4 is impaired under the Plan
Class 5	Other Secured Claims	Class 5 is unimpaired under the Plan
Class 6	Priority Tax Claims	Class 6 is impaired under the Plan
Class 7	Non-Tax Priority Claims	Class 7 is unimpaired under the Plan
Class 8	General Unsecured Claims	Class 8 is impaired under the Plan
Class 9	Deficiency Claims	Class 9 is impaired under the Plan
Class 10	Interests	Class 10 is, as a matter of law, unimpaired under the Plan

Class 1, Allowed Secured Claim of Summit, shall be in the lesser of (i) Allowed Claim of Summit and (ii) the value of Summit's Collateral of the Debtor, as determined by the Bankruptcy Court at and as of the Confirmation Hearing. It shall be paid pursuant to market terms as determined by the Bankruptcy Court at, and as of, the Confirmation Hearing.

Class 2 will be paid as provided in the Adequate Protection Order as it relates to payments to the IRS. The Confirmation Order shall provide that, notwithstanding anything to the contrary in the Plan or Confirmation Order, the Adequate Protection Order shall govern as it relates to the IRS. The IRS shall retain its lien against the Debtor's assets in the same extent and validity as it did before the Petition Date.

Class 3 will be satisfied either by (a) payment in full in three equal payments on the first three Distribution Dates or (b) as otherwise agreed by Middlesex.

Class 4 will be satisfied either by (a) payment in full in three equal payments on the first three Distribution Dates or (b) as otherwise agreed by Middlesex.

To the extent there are Allowed Secured Claims in Class 5, the same will be satisfied either by (a) payment in full on the Effective Date or (b) surrender of the respective Collateral. The Debtor is aware of no Allowable claims in Class 5.

Allowed Priority Tax Claims in Class 6 shall be paid in full in the amount of Allowed Priority Tax Claims in not less than yearly payments within five (5) years from the date of the order for relief and in a manner not less favorable than payments to Holders in Classes 8 and 9.

Provided that a Non-Tax Priority Claim in Class 7 has not been paid prior to the Effective Date, Allowed Non-Tax Priority Claims shall be paid in full in the amount of Allowed Non-Tax Priority Claims in not less than equal yearly payments within five (5) years from the date of the order for relief and in a manner not less favorable than payments to Holders in Classes 8 and 9.

Except to the extent that the Holder of a Claim in Class 8 agrees to less favorable treatment, each Holder of an Allowed Unsecured Claim, not otherwise treated in another Class, shall receive its pro rata share of the GUC Designation on each Distribution Date commencing the next Distribution Date following payment in full of all Allowed Priority Claims until the value of (a) such Allowed Unsecured Claims have been paid in full, or (b) the sixth Distribution Date. The Debtor shall have the right to prepay any Allowed Claim in Class 8 without penalty. The obligations of the Debtor with respect to Claims in Class 8 shall not be secured. Intercompany claims will not participate in the distributions but instead will be carried on the books and records of each Deltaville Entity in a manner that is appropriate under the Tax Code of the United States of America.

Holders of Allowed Deficiency Claims in Class 9 shall receive its pro rata share of the GUC Designation on each Distribution Date commencing the next Distribution Date following payment in full of all Allowed Priority Claims until the value of (a) such Deficiency Claim has

been paid in full, or (b) the sixth Distribution Date. The Debtor shall have the right to prepay any Allowed Claim in Class 9 without penalty. The obligations of the Debtor with respect to Claims in Class 9 shall not be secured.

Holders of the Reorganized Debtor's Equity Interests in Class 10 shall be as determined by the respective Market Value Procedures, as approved by this Court at the Confirmation Hearing.

## **B. Treatment of Property**

Except as otherwise provided in the Plan and/or the Confirmation Order, the Deltaville Entities will retain all Estate Property in accordance with Bankruptcy Code § 1123(a)(5)(A), subject to the liens of record of the IRS, Summit, and Middlesex as of the respective Petition Date, which shall secure to Holder of such liens only payments due under this Plan. All other liens and/or encumbrances will be extinguished. Any defaults as of the Petition Date are cured by the provisions herein, as they existed on the respective Petition Date shall be enforceable against the respective reorganized Debtor should default on its obligations under the respective Plan. The Deltaville Entities are aware of no valid remaining liens, other than those held by Summit, the IRS, and Middlesex. To the extent necessary, the respective Reorganized Debtor will invoke the provisions of § 1142 of the Bankruptcy Code to expediently extinguish liens and/or encumbrances not specifically contained in the Plan.

### **1. Assumption or Rejection of Executory Contracts and Unexpired Leases**

On the Effective Date, the Debtor shall assume (a) the contracts and/or leases that are scheduled on Exhibit \_\_\_\_ to the Disclosure Statement, as such Exhibit may be modified and attached to the Confirmation Order; and (b) such other executory contracts and unexpired leases as the Debtor may identify at or in connection with the Confirmation Hearing, which identification shall be included in the Confirmation Order or an exhibit thereto. The Debtor does not believe that the Dealer Arrangements and/or Post-Petition Service Orders require assumption. However, to the extent the same do require assumption, the Debtor will assume the same.

Except as otherwise provided in the forgoing paragraph, the Confirmation Order and/or any other Final Order of the Bankruptcy Court, this Plan, or any other Plan Document, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 rejecting all other pre-petition executory contracts and unexpired leases to which the Debtor is a party, to the extent such contracts or leases are executory contracts or unexpired leases, on and subject to the occurrence of the Effective Date, unless such contract or lease (a) previously shall have been assumed, assumed and assigned, or rejected by the Debtor, (b) previously shall have expired or terminated pursuant to its own terms before the Effective Date, (c) is the subject of a pending motion to assume or reject on the Confirmation Date, (d) is an insurance agreement of the Debtor; or (e) is a Dealer Arrangement and/or a Post-Petition Service Order provided, however, that the foregoing reference to insurance agreements shall not constitute an admission by the

Debtor that any insurance agreement is an executory contract or that the Debtor has any liability thereunder.

## 2. Cure of Defaults in Connection With Assumption

Any monetary amounts by which each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan is in default will be satisfied, pursuant to § 365(b)(1) of the Bankruptcy Code, at the option of Deltaville Entities or the Reorganized Deltaville Entities, as the case may be: (a) by payment of the cure amount in Cash on the Effective Date or as soon as practicable thereafter; or (b) on such other terms as are agreed to by the parties to such Executory Contract or Unexpired Lease.

On or before four (4) Business Days before the commencement of the Confirmation Hearing, the Deltaville Entities will provide to all parties of Executory Contracts who have made written request to Tavenner & Beran evidence of adequate assurance of future performance as required by § 365 of the Bankruptcy Code. IF A COUNTER PARTY TO ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE BELIEVES THAT CURE PAYMENTS ARE DUE PURSUANT TO § 365(b)(1) OF THE BANKRUPTCY CODE SUCH COUNTERPARTY MUST FILE AN NOTICE OF ALLEGED CURE AMOUNT NOT LATER THAN FOUR (4) BUSINESS DAYS PRIOR TO THE DATE FIRST SET FOR THE CONFIRMATION HEARING. IF A COUNTER PARTY TO ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE BELIEVES THERE IS A DISPUTE REGARDING THE ABILITY OF THE DELTAVILLE ENTITIES, TO PROVIDE “ADEQUATE ASSURANCE OF FUTURE PERFORMANCE” WITHIN THE MEANING OF § 365 OF THE BANKRUPTCY CODE UNDER THE CONTRACT OR LEASE TO BE ASSUMED, OR ANY OTHER MATTER PERTAINING TO ASSUMPTION, SUCH COUNTERPARTY MUST FILE AN OBJECTION TO THE ASSUMPTION OF ITS EXECUTORY CONTRACT OR UNEXPIRED LEASE BY THE DELTAVILLE ENTITIES NOT LATER THAN TWO (2) BUSINESS DAYS PRIOR TO THE DATE FIRST SET FOR THE CONFIRMATION HEARING.

Such objections shall be subject to the jurisdiction of the Bankruptcy Court and shall be resolved by a Final Order. The effective date of the Assumption of an Executory Contract or Unexpired Lease subject to such an objection shall be determined by a Final Order, and the cure payments required by § 365 (b)(1) of the Bankruptcy Code will be made following the entry of a Final Order resolving the dispute and approving the Assumption.

## **VIII. PLAN IMPLEMENTATION**

### **A. Means of Execution**

Deltaville Boatyard will continue to operate its world renowned Boatyard Business from the Yard and a portion of the Marina. Deltaville Boatyard will pay monthly rent to Boatyard Rentals in the amount of \$7,500. Boatyard Rentals will use the \$7,500 to fund its obligations under its Plan. Deltaville Boatyard will also rent a portion of the Marina for the operations of its Boatyard Business. It will also rent the remaining portion of the Marina from Deltaville Marina

and will manage and operate the Marina. The total amount of monthly rent paid by Deltaville Boatyard to Deltaville Marina will be \$8,500. Upon Confirmation, each Deltaville Entity will retain its Estate Property in accordance with Bankruptcy Code § 1123(a)(5)(A), subject to all Liens of record as of the respective Petition Date unless otherwise modified by order of the Bankruptcy Court (the validity, extent and priority of which are subject to determination by the Court except as otherwise provided herein), which shall secure to Holder of such Liens only payments due under the respective Plan. Any defaults as of the respective Petition Date of the Deltaville Entities, whether or not reduced to judgment, are cured by the provisions of the respective Plan.

Upon Confirmation, Deltaville Boatyard will dedicate its annual net income from its operations, less its reasonable overhead, other operational costs, plan payment, and the Operational Reserve to the funding of its obligations under its Plan. Attached hereto as Exhibit \_\_\_\_ is a 5-year forecast delineating projected income and expenses. As indicated, Boatyard Rentals will utilize the monthly rent it receives from Deltaville Boatyard to meet its obligations under its Plan. Given that the Restructured BR Lease is a triple net lease pursuant to which Deltaville Boatyard is obligated to pay substantially all of the operating and carrying costs of Boatyard Rentals other than amounts owed to Summit, the New Value Contributions (or amounts paid by Purchaser) and the monthly rent received from Deltaville Boatyard will be sufficient for Boatyard Rentals to meet its obligations under its Plan. Furthermore, given that the Restructured DM Lease is a triple net lease pursuant to which Deltaville Boatyard is obligated to pay substantially all of the operating and carrying costs of Deltaville Marina other than amounts owed to Summit, the New Value Contribution (or amounts paid by Purchaser) and the monthly rent received from Deltaville Boatyard will be sufficient for Deltaville Marina to meet its obligations under its Plan.

Pursuant to 11 U.S.C. § 347, Unclaimed Funds shall become property of the respective Deltaville Entity.

#### **B. Employment of Insiders**

Each Reorganized Debtor may employ Insiders including but not limited to Mr. Ruse and Cooper Ruse. Any compensation paid to an Insider shall be at or below fair market value, and subject to the Salary Cap if said Insider is Mr. Ruse.

#### **C. Corporate Structure**

If Mr. Ruse is the Holder of the Equity Interests of each Reorganized Debtor, the officers and directors of each Reorganized Debtor shall be Mr. Ruse and others as disclosed on or before the Confirmation Hearing. If another Entity is ultimately selected as the Purchaser, said Purchaser shall disclose on or before the Confirmation Hearing the officers and directors of the respective Reorganized Debtor.



## **IX. EFFECTS OF CONFIRMATION**

### **A. Binding Effect**

This Plan shall be binding upon and inure to the benefit of the Debtor, all present and former Holders of Claims and Interests, and their respective successors and assigns.

### **B. Discharge of the Debtor**

Pursuant to Bankruptcy Code § 1141(d)(1), and subject to the occurrence of the Effective Date, Confirmation will discharge all Claims against the Debtor except for the obligations and Liens expressly created or preserved by this Plan.

### **C. Injunction**

**EXCEPT AS OTHERWISE PROVIDED IN EACH PLAN, THE CONFIRMATION ORDERS SHALL PROVIDE, AMONG OTHER THINGS, THAT FROM AND AFTER THE EFFECTIVE DATE ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS AGAINST OR INTERESTS IN THE DEBTOR IS PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST THE RESPECTIVE DEBTOR, ITS ESTATES, OR ANY OF THEIR PROPERTY ON ACCOUNT OF ANY SUCH CLAIMS OR INTERESTS: (A) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION OR OTHER PROCEEDING; (B) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING IN ANY MANNER ANY JUDGMENT, AWARD, DECREE, OR ORDER; (C) CREATING, PERFECTING, OR ENFORCING ANY LIEN OR ENCUMBRANCE; (D) ASSERTING A SETOFF, RIGHT OF SUBROGATION, OR RECOUPMENT OF ANY KIND AGAINST ANY DEBT, LIABILITY, OR OBLIGATION DUE TO THE DEBTOR, EXCEPT AS SET FORTH IN ARTICLE VI.G.2 OF EACH PLAN; AND (E) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION THAT DOES NOT COMPLY WITH OR IS INCONSISTENT WITH THE PROVISIONS OF EACH PLAN; PROVIDED, HOWEVER, THAT NOTHING CONTAINED HEREIN SHALL PRECLUDE SUCH ENTITIES FROM EXERCISING THEIR RIGHTS PURSUANT TO AND CONSISTENT WITH THE TERMS OF THE RESPECTIVE PLAN OR THE CONFIRMATION ORDERS.**

### **D. Term of Bankruptcy Injunction or Stays**

All injunctions or stays provided for in the Jointly Administered Chapter 11 Cases under Bankruptcy Code §§ 105 or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect through and including the Effective Date. Upon the Effective Date, the injunction provided in Article X.C of each Plan shall apply.

### **E. Indemnification Obligations**

Except as otherwise provided in each Plan or any contract, instrument, release, or other agreement or document entered into in connection with each Plan, any and all indemnification obligations that the Debtor has pursuant to a contract, instrument, agreement, certificate of incorporation, by-law, comparable organizational document or any other document, or applicable law, shall be rejected as of the Effective Date, to the extent executory. Nothing in each Plan shall be deemed to release the Debtor's insurers from any claims that might be asserted by counter-parties to contracts or agreements providing the indemnification by and of the Debtor, to the extent of available coverage.

### **F. Third-Party Injunction**

Mr. Ruse and/or his wife have personally guaranteed certain obligations of the Debtor. The success of the Debtor's reorganization depends upon the undistracted efforts of Mr. Ruse on behalf of the Debtor after Confirmation. As a result, creditors shall be enjoined from attempting to collect or enforce in any manner, including by litigation or other use of legal process, obligations for which the Debtor is primarily liable from either Mr. Ruse or his wife, or both of them, or from their assets, so long as the Debtor is not in default under the Plan.

## **X. ALTERNATIVES TO THE PLAN**

### **A. Best Interest of Creditors**

The Deltaville Entities have proposed each Plan that provides a mechanism for each to maximize the value of Estate Property in a manner that will satisfy all Secured and Priority Allowed Claims (while adhering to the Bankruptcy Code and Bankruptcy Rules). In addition, the Plans of the Deltaville Entities provide for a significant distribution to Unsecured Creditors through the cash flow of Deltaville Boatyard, while maintaining gainful employment for numerous individuals in and around Deltaville. Accordingly, the Deltaville Entities believe each Plan is in the best interest of creditors and other parties-in-interest.

### **B. Hypothetical Liquidation Analysis**

Section 1129(a)(7)(A)(ii) of the Bankruptcy Code requires that Holders of Claims that are Impaired under the Plan who do not vote for the Plan must receive property under the Plan worth, as of the Effective Date, at least as much as the amount they would receive if the Deltaville Entities were liquidated in a Chapter 7 bankruptcy. The Deltaville Entities believe that the distribution under each Plan is preferable to the distribution creditors would receive if the Deltaville Entities' estate were liquidated under Chapter 7.

In a hypothetical Chapter 7, if estate property has equity, the Chapter 7 Trustee would first reduce said property to Chapter 7 Proceeds. The first question a Chapter 7 Trustee would

ask is whether there is sufficient equity in the property to justify his or her administration of the property. In making a decision not to abandon the property and instead to administer it, the Chapter 7 Trustee would have to be confident that he or she could obtain more than the value of the secured claims on the property after paying the operating costs and costs of sale.

A Chapter 7 Trustee is charged under Bankruptcy Code § 704(1) to perform his or her duties expeditiously. If the Chapter 7 Trustee concludes that he or she should liquidate rather than abandon the property, a Trustee would be under a duty to liquidate the property expeditiously.

Once the estate property is liquidated, the Chapter 7 Trustee would then be required to pay the Chapter 7 Proceeds in the order outlined below. If the Chapter 7 Proceeds were insufficient to satisfy each category of Claims, the Chapter 7 Proceeds would be shared pro rata by the claimants in that category:

1. The costs of preserving and liquidating the assets.
2. Allowed Claims secured by the property that was sold, including principal and accrued interest when the value of the collateral exceeds the amount of the secured claim. To the extent that a secured creditor is not paid in full from the sale of its collateral, the balance of the claim would be an unsecured claim.
3. The costs and expenses of the Chapter 7 proceeding. These costs and expenses may include:
  - a. paying professionals to file contested matters with the Bankruptcy Court, to obtain required approval, to prepare and file income tax returns, to make reports to governmental agencies and to perform other acts for which their employment has been approved;
  - b. paying tax liabilities incurred by the Estate; and,
  - c. paying the expenses and fees of the Chapter 7 Trustee.
4. Unpaid expenses incurred by the Deltaville Entities during the Jointly Administered Chapter 11 Cases, including:
  - a. paying professionals to file contested matters with the Bankruptcy Court, to obtain required approvals, to prepare and file income tax returns, to make reports to governmental agencies and to perform other acts for which their employment has been approved;
  - b. paying tax liabilities incurred by the Estates, and,
  - c. compensation for the court-approved fees of attorneys and other professionals.

5. Priority Claims; and

6. Unsecured Claims, including the unsecured claims arising from the rejection of the Deltaville Entities' executory contracts and unexpired leases of business personal property.

In this instance, the value of the Marina is less than the asserted Claim of Summit. Similarly, the value of the Yard of Boatyard Rentals is less than the asserted Claim of Summit. Neither Entity has other unencumbered assets of significant value as indicated on the chart found in Article V(A) and (B) herein. Also, the Secured Claim of the IRS in the case of Deltaville Boatyard is \$493,172.45. Based upon liquidation costs, the Chapter 7 Trustee's commission, Secured Claims and Administrative Claims, it is unlikely that net proceeds for items listed on the chart in Article V(A) and (B) would exceed \$100,000.00. The Plan for Deltaville Boatyard projects a substantially, greater distribution to Unsecured Creditors than \$100,000.

## **XI. TAX CONSEQUENCES OF EACH PLAN**

The federal income tax consequences of each Plan are complex and subject to significant uncertainties. The Deltaville Entities have not requested a ruling from the IRS or an opinion of counsel concerning same. In addition, this summary does not discuss all aspects of federal income taxation that may be relevant to a particular creditor in light of its individual investment circumstances or to certain types of Holders subject to special treatment under the federal income tax laws. There also may be state, local, or other tax considerations applicable to each holder.

**ACCORDINGLY, EACH CLAIM HOLDER IS URGED TO CONSULT ITS OWN TAX ADVISOR AS TO THE CONSEQUENCES OF THE PLAN TO IT UNDER FEDERAL AND APPLICABLE STATE, LOCAL AND FOREIGN TAX LAWS.**

## **XII. CONFIRMATION PROCEDURES**

### **A. Confirmation Hearing**

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing to determine whether a plan of reorganization should be confirmed. A Hearing on Confirmation of the Plan will be scheduled and notice thereof will be circulated in accordance with the Bankruptcy Code and Bankruptcy Rules. The Hearing may be adjourned from time to time by the Court without further notice except for an announcement made at the Hearing.

### **B. Objections to Confirmation**

All objections to Confirmation of each Plan will be heard at the Confirmation Hearing. Bankruptcy Rules 3020 and 9014 govern objections to Confirmation of each Plan. Any Objection to Confirmation of each Plan must be made in writing, filed with the Court, and served upon the following parties within five (5) Business Days before the Hearing on Confirmation:

Lynn L. Tavenner, Esquire  
Tavenner & Beran, PLC  
20 North Eighth Street, Second Floor  
Richmond, VA 23219

Robert B. Van Arsdale, Esquire  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, Virginia 23219

UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY FILED AND SERVED,  
IT LIKELY WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

**C. Requirements for Confirmation of the Plan**

1. Statutory Requirements.

At the Confirmation Hearing, the Court must determine whether each Plan meets the requirements for Confirmation set forth in § 1129(a) of the Bankruptcy Code. The Deltaville Entities believes that each Plan satisfies all the statutory requirements of § 1129(a) of the Bankruptcy Code. The requirements of Bankruptcy Code § 1129(a) are as follows:

1. The Plan complies with the applicable provisions of the Bankruptcy Code.
2. The proponent of the Plan complies with the applicable provisions of the Bankruptcy Code.
3. The Plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the proponent, the Deltaville Entities, or a person issuing securities or acquiring property under each Plan, for services or costs and expenses in or in connection with the case, or in connection with each Plan and incident to the case, has been approved by or is subject to the approval of the Bankruptcy Court as reasonable.
5. The individual proposed to serve, after confirmation of each Plan, as a director, officer, or voting trustee of the Deltaville Entities, an affiliate of the Deltaville Entities participating in a joint plan with the Deltaville Entities or a successor to the Deltaville Entities under each Plan; and
  - ii. the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity security holders and with public policy, and the proponent of each Plan has disclosed the identity of any Insider that will be employed or retained by the Reorganized Deltaville Entities, and the nature of any compensation for such Insider. Does not apply.

7. Treatment With respect to each Impaired class of Claims or interest:

A. each Holder of a Claim or interest of such class –

- i. has accepted each Plan; or
- ii. will receive or retain under each Plan on account of such Claim or interest property of a value, as of the Effective Date of each Plan, that is not less than the amount that such Holder would so receive or retain if the Deltaville Entities were liquidated under Chapter 7 of the Bankruptcy Code on such date; or

B. If § 1111(b)(2) of the Bankruptcy Code applies to the Claims of such class, each Holder of a Claim of the class will receive or retain under each Plan on account of such Claim, Property of a value, as of the Effective Date of each Plan, that it is not less than the value of such Holder's interest in the property that secures such Claims.

8. With respect to each class of Claims or interest –

- (1) the Class has accepted each Plan; or
- (2) the Class is not Impaired under each Plan.

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, each Plan provides that:

A. with respect to a Claim of a kind specified in §§ 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the Effective Date of each Plan, the Holder of such Claim will receive on account of such Claim cash equal to the Allowed amount of such Claim;

B. with respect to a class of claims of a kind specified in §§ 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of a claim of such class will receive:

- i. If such class has accepted each Plan, deferred cash payments of a value, as of the Effective Date of each Plan, equal to the Allowed amount of such Claim; or
- ii. If such class has not accepted each Plan, cash on the Effective Date of each Plan equal to the Allowed amount of such Claim; and

- iii. Priority Claims must be paid in full in the amount of the Allowed Priority Claims in not less than equal quarterly payments within five (5) years from the date of the order for relief and in a manner not less favorable than junior classes.
10. If a class of Claims is Impaired under each Plan, at least one class of Claims that is Impaired under each Plan has accepted each Plan, determined without including any acceptance of each Plan by any Insider.
11. Confirmation of each Plan is not likely to be followed by the liquidation, or the need for further reorganization of the Deltaville Entities or any successor to the Deltaville Entities under each Plan, unless such liquidation or reorganization is proposed in each Plan.
12. All fees payable under 28 U.S. C. § 1930 as determined by the Bankruptcy Court at the hearing on Confirmation of each Plan, have been paid or each Plan provides for the payment of all such fees on the Effective Date of each Plan.
13. Each Plan provides for the continuation after its effective date of payment of all retiree benefits as that term is defined in § 1114 of the Bankruptcy Code at the level established pursuant to Subsection (e)(1)(B) or (g) of § 1114 of the Bankruptcy Code, at any time prior to confirmation of each Plan, for the duration of the period the Deltaville Entities has obligated itself to provide such benefits.

**D. Acceptance of the Plan.**

Pursuant to 11 U.S.C. § 1124(1) each “plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest.” Therefore, pursuant to 11 U.S.C. § 1126(f), “Notwithstanding any other provision of this section, a class that is not impaired under a plan, and each holder of a claim or interest of such class, are conclusively presumed to have accepted [each] plan, and solicitation of acceptances with respect to such class from the holders of claims or interests of such class is not required.”

The Bankruptcy Code defines acceptance of a Plan by a class of Claims as acceptance by Holders of at least two-thirds in dollar amount and a majority in number of Claims in that class which actually cast Ballots for acceptance or rejection of the Plan. Only the classes of Claims which are Impaired under a Plan are entitled to accept or reject the Plan. A class is “Impaired” if legal, equitable or contractual rights attaching to the Claims or interests in that class are modified.

**E. Non-Acceptance and “Cram Down.”**

Even if a class of Impaired Claims or interests does not accept each Plan, the Deltaville Entities has the right to request that each Plan be confirmed pursuant to § 1129(b) of the

Bankruptcy Code, the “Cram Down” provision. As long as one Impaired class votes in favor of each Plan, the Court may confirm each Plan if the Bankruptcy Court determines that each Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each rejecting class. A Plan “does not discriminate unfairly” within the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its Claims and interests. “Fair and equitable” has different meanings with respect to the treatment of Secured and Unsecured Claims as well as the treatment of Equity. In general, § 1129(b) establishes that the treatment of classes of Claims and interests is fair and equitable as long as all junior classes are treated in accordance with the “absolute priority” rule which requires that each dissenting class be paid in full before a junior class receive anything under each Plan.

### **XIII. VOTING PROCEDURES AND REQUIREMENTS**

#### **A. Confirmation Through Voting**

The Bankruptcy Court will confirm each Plan only if all of the requirements of § 1129 of the Bankruptcy Code are met. Among the requirements for Confirmation are that each Plan (i) is accepted by all Impaired classes of Claims entitled to vote or, if rejected by an Impaired class, that each Plan “does not discriminate unfairly” and is “fair and equitable” as to such class and as to the Impaired classes of Claims and Equity Interests that are deemed to reject each Plan, (ii) is feasible and (iii) is in the “best interests” of the Holders of Claims and Equity Interests impaired under each Plan.

#### **B. Ballots**

Creditors entitled to vote will receive Ballots on which to record their acceptances or rejections of each Plan. You must complete your Ballot and return it to counsel for the Deltaville Entities who will tally the votes and report the results to the Court at the Hearing on Confirmation of each Plan. Please complete the Ballot sent to you with this Disclosure Statement, sign the original, and return it to counsel for the Deltaville Entities. If no members of a class tender a vote, that class will be deemed to accept their treatment.

#### **C. Entitlement to Vote**

A Holder of a Claim against the Deltaville Entities is entitled to vote to accept or reject each Plan only if:

- (1) The Bankruptcy Court has not previously disallowed the Claim;
- (2) The Claim is Impaired under each Plan; and
- (3) The Claim is not of a class that is deemed to have rejected each Plan pursuant to § 1126(g) of the Bankruptcy Code;



And either:

- a. The Deltaville Entities has not scheduled the Claim as being Disputed, Contingent or Unliquidated; or
- b. The Holder of the Claim has filed a Proof of Claim or interest on or before the last date set by the Bankruptcy Court for such filing.

Any Claim to which an objection has been filed is not entitled to vote unless the Bankruptcy Court temporarily allows such Claim in an amount that it deems proper for the purpose of voting on the Plan. In addition, a vote may be disregarded if the Bankruptcy Court determines that such vote was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

#### **D. Effect of Failure to Vote**

If a creditor or Holder of an interest does not return a fully completed Ballot within the specified time to the Deltaville Entities' attorneys, neither the creditor nor the amount of its Claim or the amount of the Holder's interest is counted to determine acceptance or rejection of each Plan. If you are entitled to vote and do not, the Ballots will be tallied as though you do not exist. If no members of a class tender a vote, that Class will be deemed to accept their treatment.

#### **XIV. CONCLUSION**

The Deltaville Entities believes that each Plan is in the best interest of all creditors. Accordingly, the Deltaville Entities urges Holders of Impaired Claims to vote to accept each Plan and to return their Ballots with all due speed.

DELTAVILLE BOATYARD, LLC,  
DELTAVILLE MARINA, LLC, and  
BOATYARD RENTALS, LLC

Dated: June 5, 2017  
Richmond, Virginia

By: \_\_\_\_\_  
Keith Ruse

By: /s/ Paula S. Beran  
Lynn L. Tavenner (Va. Bar No. 30083)  
Paula S. Beran (Va. Bar No. 34679)  
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