

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:
In re	: Chapter 11
	:
EVERGREEN GARDENS MEZZ LLC, <i>et al.</i>,	: Case No. 21-10335 (MG)
	:
Debtors.¹	: (Joint Administration Pending)
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**ORDER (A) SCHEDULING COMBINED HEARING ON ADEQUACY OF
DISCLOSURE STATEMENT AND CONFIRMATION OF DEBTORS' JOINT
CHAPTER 11 PLAN; (B) ESTABLISHING PROCEDURES FOR OBJECTING
TO DISCLOSURE STATEMENT, SOLICITATION PROCEDURES, AND
CHAPTER 11 PLAN; (C) APPROVING FORM, MANNER, AND SUFFICIENCY
OF NOTICE OF COMBINED HEARING, COMMENCEMENT OF CHAPTER 11
CASES, AND SECTION 341(a) MEETING OF CREDITORS; (D) CONDITIONALLY
APPROVING THE DISCLOSURE STATEMENT FOR PURPOSES OF SOLICITING
THE MEZZANINE LENDER; AND (E) GRANTING RELATED RELIEF**

Upon the motion (the "Motion"),² dated September 14, 2021 [ECF No. 76], of Evergreen Gardens Mezz LLC ("EGM" or the "Initial Debtor"), together with Evergreen Gardens I LLC ("EG I") and Evergreen Gardens II LLC ("EG II" and, together with EG I, the "Subsidiary Debtors" and, together with the Initial Debtor, the "Debtors"), as debtors and debtors in possession in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), pursuant to sections 105, 1125, 1126, 1128, and 1129 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 3017, 3018, 3020, and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Evergreen Gardens Mezz LLC (0416); Evergreen Gardens I LLC (2211); and Evergreen Gardens II LLC (6782). The Debtors' principal offices are located at 199 Lee Avenue, Suite 693, Brooklyn, New York 11211.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Rules”), and Rules 3017 and 3018 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Bankruptcy Rules”), for entry of an order:

- (a) scheduling a combined hearing (the “Combined Hearing”) to consider:
 - (i) the adequacy of the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC* (as may be modified, amended, or supplemented from time to time, and together with all exhibits and schedules thereto, the “Disclosure Statement”);
 - (ii) the adequacy of the Debtors’ procedures for the solicitation and tabulation of votes to accept or reject the Plan, including, without limitation, the procedures utilized by the Subsidiary Debtors to commence the solicitation of votes on the Plan prior to the commencement of the Subsidiary Debtors’ Chapter 11 Cases (collectively, the “Solicitation Procedures”); and
 - (iii) confirmation of the *Joint Chapter 11 Plan of Reorganization of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC* (as may be modified, amended, or supplemented from time to time in accordance therewith and the RSA, and together with all exhibits and schedules thereto, the “Plan”);
- (b) establishing procedures for objecting to the Disclosure Statement, Plan, and the Solicitation Procedures;
- (c) approving the form, manner, and sufficiency of notice of the Combined Hearing, commencement of the Subsidiary Debtors’ Chapter 11 Cases, and the meeting of creditors pursuant to section 341(a) of the Bankruptcy Code (the “Section 341(a) Meeting”);
- (d) with respect to the Initial Debtor only, conditionally approving the Disclosure Statement as having “adequate information” under section 1125 of the Bankruptcy Code to allow the Initial Debtor to commence solicitation of votes on the Plan from its only creditor, MREF REIT Lender 9 LLC (the “Mezzanine Lender”); and
- (e) granting related relief;

all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and

consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice of the relief requested in the Motion having been provided to the Notice Parties, such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the “Hearing”); and upon the Ravid Declaration, Series E Notes Trustee Certification, Series E Notes Trustee Israeli Counsel Certification, and Donlin Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.
2. The Combined Hearing (at which time the Bankruptcy Court will consider, among other things, the adequacy of the Disclosure Statement and confirmation of the Plan) will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in courtroom 523 of the United States Bankruptcy Court, One Bowling Green, New York, NY 10004, on November 1, 2021 at 10:00 a.m. (Prevailing Eastern Time).³ The Combined Hearing may be adjourned from

³ The hearing may be in person, a hybrid hearing or a remote hearing using Zoom for Government. If Zoom for Government is used for the hearing, the Court shall provide a Zoom link to those persons who have made an eCourtAppearance by 4 PM the business day before the hearing. Any party appearing at, listening to, or observing the Hearing, must make an electronic appearance, an eCourtAppearance, by using the eCourtAppearance portal located on the Court's website, <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>, or by clicking the “eCourtAppearances” tab on Judge Glenn’s page of the Court’s website at, <http://www.nysb.uscourts.gov/content/judge-martin-glenn>. After the deadline to make appearances passes, the Court will send Outlook invitations to those persons who made eCourtAppearances, using the email addresses submitted with those appearances.

time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the electronic case filing docket.

3. Any objections to the approval of the Disclosure Statement, the Solicitation Procedures and/or confirmation of the Plan must: (a) be in writing; (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (c) state with particularity the basis and nature of any objection; (d) conform to the Bankruptcy Rules and the Local Bankruptcy Rules; (e) be filed with the Bankruptcy Court (i) by registered users of the Bankruptcy Court's case filing system, electronically in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>) and (ii) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable; and (f) be served in accordance with General Order M-399 **no later than 5:00 p.m. (Prevailing Eastern Time) on October 18, 2021 (the "Objection Deadline")**, on the following parties:

- i. the attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Jacqueline Marcus, Esq., and Matthew P. Goren, Esq.);
- ii. counsel to the Series E Notes Trustee, Chapman and Cutler LLP, 1270 Avenue of the Americas, New York, New York 10020 (Attn: Michael Friedman, Esq., Stephen R. Tetro II, Esq., and Aaron Krieger, Esq.);
- iii. counsel to the Mezzanine Lender, Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Michael H. Goldstein, Esq., and Kizzy L. Jarashow, Esq.);

- iv. counsel to the Purchaser, Thompson Hine LLP, 335 Madison Avenue, 12th Floor, New York, New York 10017 (Attn: John Bae, Esq. and Jonathan S. Hawkins, Esq.); and
- v. the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Andrea B. Schwartz, Esq. and Shara Cornell, Esq.).

4. Objections, if any, not timely filed and served in the manner set forth above shall not be considered and shall be overruled.

5. The Debtors shall file the Plan Supplement no later than seven (7) days before the Objection Deadline.

6. The Debtors shall file their brief in support of confirmation of the Plan, and their reply to any objections (and replies from any other parties) no later than four (4) days before the Combined Hearing.

7. The form of combined notice of the commencement of the Subsidiary Debtors' Chapter 11 Cases, the Combined Hearing, and the Section 341(a) Meeting (the "Combined Notice"), substantially in the form attached to this Order as **Exhibit A**, is approved in its entirety, and the Debtors shall mail or cause to be mailed a copy of the Combined Notice or a summary thereof as soon as reasonably possible after the entry of this Order to: (a) all of the Debtors' known creditors, (b) counsel to Mishmeret Trust Company Ltd., as Trustee for the Bondholders, Chapman and Cutler LLP, 1270 Avenue of the Americas, New York, New York 10020 (Attn: Michael Friedman, Esq., Stephen R. Tetro II, Esq., and Aaron Krieger, Esq.), (c) counsel to MREF REIT Lender 9 LLC, as Mezzanine Lender, Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Michael H. Goldstein, Esq., and Kizzy L. Jarashow, Esq.), (d) counsel to JPMorgan Chase Bank, N.A., as Mortgage Lender to EG I, Fried, Frank, Harris, Shriver & Jacobson LLP, 1 New York Plaza, New York, NY 10014 (Attn: Gary Kaplan, Esq. and Michael Barker, Esq.), (e) William K. Harrington,

the U.S. Department of Justice, Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, NY 10014 (Attn: Andrea B. Schwartz, Esq. and Shara Cornell, Esq.), (f) the Internal Revenue Service, (g) the United States Attorney's Office for the Southern District of New York, and (h) all other entities required to be served under Bankruptcy Rules 2002 and 3017; or otherwise in compliance with the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules.

8. The Notice of Non-Voting Status, substantially in the form attached to this Order as **Exhibit B**, is hereby approved.

9. The Debtors shall not be required to mail the Combined Notice, a Notice of Non-Voting Status, or any other notice in connection with the approval of the Disclosure Statement and confirmation of the Plan to the holders of Claims or Interests in Class 5 (Intercompany Claims) and Class 6 (Equity Interests) against EG I, Class 6 (Intercompany Claims) and Class 7 (Equity Interests) against EG II, and Class 3 (Equity Interests) against EGM, as such Claims or Interests are held by the Debtors or their non-Debtor affiliates.

10. Substantially contemporaneously with the service of the Combined Notice, the Debtors shall cause to be posted to their Case Website, <https://www.donlinrecano.com/eg>, maintained by the Voting Agent, various chapter 11 related documents, including, among others, the following: (a) the Plan, (b) the Disclosure Statement, (c) the Motion and any orders entered in connection with the Motion, and (d) the Combined Notice.

11. Reasonably promptly following the date of entry of this Order, the Debtors shall publish a notice substantially similar to the Combined Notice, with reasonable adjustments and modifications to account for publication limitation, in *The New York Times* (national edition) in English and in *Haaretz*, an Israeli newspaper, in Hebrew.

12. The notice procedures set forth above constitute good and sufficient notice of the Combined Hearing, the commencement of the Subsidiary Debtors' Chapter 11 Cases, the Section 341(a) Meeting, and the deadline and procedures for objecting to the adequacy of the Disclosure Statement, the Solicitation Procedures, and confirmation of the Plan, and no other or further notice shall be necessary.

13. In accordance with the Solicitation Procedures, Claims in the Voting Classes shall be temporarily allowed in the amount set forth in the Debtors' books and records for voting purposes only, subject to the following:

- i. If the Debtors' books and records reflect that a Claim is contingent, partially unliquidated, or disputed, such Claim shall be allowed in the partially liquidated amount for voting purposes only;
- ii. If a Claim is wholly contingent, unliquidated, or disputed, such Claim is accorded one vote and valued at one dollar (\$1.00) for voting purposes only, and not for purposes of allowance or distribution;
- iii. If a creditor holds or has purchased, based on the Debtors' books and records, duplicate claims within the same class against the same Debtor, such creditor shall be provided with only one Solicitation Package and one ballot for voting a single claim in such class against such Debtor;
- iv. If a creditor holds more than one (1) non-duplicative claim within a particular class against the same Debtor, such creditor shall be treated as if such creditor has only one (1) claim in such class in the aggregate dollar amount of such claims against such Debtor; and
- v. If a creditor seeks to challenge the allowance of its claim for voting purposes, the creditor shall file with this Court a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such claim for voting purposes in a different amount. Upon the filing of any such motion, the creditor's Ballot shall not be counted unless temporarily allowed by an order of this Court entered prior to or concurrent with entry of an order confirming the Plan. All motions pursuant to Bankruptcy Rule 3018(a) must be filed on or before October 11, 2021, which date is seven (7) days prior to the Voting Deadline;

provided, however, that, with respect to Claims allowed under the Plan, the allowed amounts of such claims shall be used for voting purposes.

14. Notwithstanding Bankruptcy Rule 3018(a), whenever two or more Ballots are cast voting the same claim prior to the Voting Deadline, the last timely Ballot received prior to the Voting Deadline should be deemed to reflect the voter's intent and to thus supersede any prior Ballot(s), without prejudice to the Debtors' right to object to the validity of the second ballot on any basis permitted by law.

15. The Debtors' Disclosure Statement is conditionally approved as having "adequate information" under section 1125 of the Bankruptcy Code for the sole purpose of soliciting votes to accept or reject the Plan from the Mezzanine Lender as the holder of the Class 2 Mezzanine Loan Claim against EGM.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

IT IS SO ORDERED.

Dated: September 15, 2021
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

Exhibit A

Combined Notice

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
In re	:	Chapter 11
	:	
EVERGREEN GARDENS MEZZ LLC, et al.,	:	Case No. 21-10335 (MG)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
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**NOTICE OF (I) COMMENCEMENT OF SUBSIDIARY DEBTORS'
CHAPTER 11 CASES; (II) SUMMARY OF DEBTORS' JOINT CHAPTER 11 PLAN;
(III) SCHEDULING COMBINED HEARING ON ADEQUACY OF DISCLOSURE STATEMENT
AND CONFIRMATION OF CHAPTER 11 PLAN; (IV) SCHEDULING OF SECTION 341(a)
MEETING OF CREDITORS; AND (V) RELATED MATTERS**

On February 22, 2021, Evergreen Gardens Mezz LLC (“EGM”) commenced a case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). On September 14, 2021 (the “**Subsidiary Debtor Petition Date**”), Evergreen Gardens I LLC (“EG I”) and Evergreen Gardens II LLC (“EG II” and, together with EG I, the “**Subsidiary Debtors**” and, together with EGM, the “**Debtors**”) filed with the Bankruptcy Court voluntary cases under chapter 11 of the Bankruptcy Code. Contemporaneously with the filing of the Subsidiary Debtors’ chapter 11 cases, the Debtors filed the *Joint Chapter 11 Plan of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC*, dated September 13, 2021 (as it may be amended, modified or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Plan**”),² and the *Disclosure Statement for Joint Chapter 11 Plan of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC*, dated September 13, 2021 (as it may be amended, modified, or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Disclosure Statement**”) pursuant to sections 1125 and 1126(b) of the Bankruptcy Code.

The Plan seeks to implement a sale of substantially all of the Subsidiary Debtors’ assets, comprised of the two residential real estate complexes (referred to as the Denizen X and the Denizen Y), for approximately \$506 million pursuant to the terms of a signed purchase and sale agreement with an affiliate of Atlas Capital Group (the “**Purchaser**”). Proceeds from the sale are to be allocated under the Plan according to the following allocation (the “**Agreed Proportions**”): 50.75% of the sale proceeds to EG I, on account of the Denizen X (the “**EG I Sale Proceeds**”), and 49.25% of the sale proceeds to EG II, on account of the Denizen Y (the “**EG II Sale Proceeds**”).

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Evergreen Gardens Mezz LLC (0416); Evergreen Gardens I LLC (2211); and Evergreen Gardens II LLC (6782). The Debtors’ principal offices are located at 199 Lee Avenue, Suite 693, Brooklyn, New York 11211.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Plan.

EG I: All of the creditors and interest holders of EG I holding allowed claims and interests are unimpaired and will be paid in full under the Plan. Accordingly, each of the classes of creditors and interest holders of EG I (collectively, the “**EG I Non-Voting Classes**”) are, pursuant to section 1126(f) of the Bankruptcy Code, presumed to accept the Plan and none of EG I’s creditors or interest holders have been, or will be, solicited in connection with the Plan.

EG II: With respect to EG II, holders of claims in Class 2 (Series E Secured Claims) and Class 5 (General Unsecured Claims³) are the only impaired voting classes of creditors of EG II under the Plan (the “**EG II Voting Classes**”). Holders of Claims against EG II in Class 1 (Priority Non-Tax Claims), Class 3 (Other Secured Claims), and Class 4 (Convenience Claims) are unimpaired under the Plan and, pursuant to section 1126(f) of the Bankruptcy Code, these classes are presumed to have accepted the Plan and have not been and will not be solicited. Nor are the Debtors required to solicit votes from the holders of Claims in Class 6 (Intercompany Claims) and Interests in Class 7 (Equity Interests), as such classes will not receive or retain any property under the Plan and, pursuant to section 1126(g) of the Bankruptcy Code, are deemed to reject the Plan (EG II Class 1, Class 3, Class 4, Class 6, and Class 7, collectively, the “**EG II Non-Voting Classes**”).

EGM: With respect to EGM, the Mezzanine Lender, as the holder of the Class 2 Mezzanine Loan Claims against EGM, is the only known creditor of EGM and the only party entitled to vote under the Plan with respect to EGM (the “**EGM Voting Class**” and, together with the EG II Voting Classes, the “**Voting Classes**”). To the extent there are any Class 1 Claims (Priority Non-Tax Claims) against EGM, those allowed claims will be unimpaired and paid in full. All other classes of claims against, or interests in, EGM will not receive or retain any property under the Plan, and, as such, their votes will not be solicited with respect to the Plan (Class 1 (Priority Non-Tax Claims) and Class 3 (Equity Interests) of EGM, collectively, the “**EGM Non-Voting Classes**” and, together with the EG I Non-Voting Classes and the EG II Non-Voting Classes, the “**Non-Voting Classes**”).

On September 14, 2021, the Debtors commenced solicitation of votes to accept the Plan from the EG II Voting Classes of record as of August 19, 2021. Following the Court’s entry of an order conditionally approving the Debtor’s Disclosure Statement for purposes of soliciting the Mezzanine Lender, on September ___, 2021, the Debtor commenced solicitation of votes to accept the Plan from the Mezzanine Lender. **The deadline for the submission of votes to accept or reject the Plan is October 18, 2021 at 5 p.m. (Prevailing Eastern Time).**

The Plan and Disclosure Statement may be obtained (a) by written request to the Debtors’ Claims and Noticing Agent, Donlin Recano & Company, Inc. at the following address: 6201 15th Avenue, Brooklyn, NY 11219; (b) by phone at (800) 283-2519 (toll free) and (212) 771-1128 (international); (c) by e-mail to eginfo@donlinrecano.com; (d) by accessing the Debtors’ case website at <https://www.donlinrecano.com/eg>; (e) through the Bankruptcy Court’s website www.nysb.uscourts.gov; or (f) at the office of the Clerk of the Bankruptcy Court, One Bowling Green, New York, New York 10004, between 9:00am – 4:00pm (Prevailing Eastern Time).

The Combined Hearing to consider, among other things, the adequacy of the Disclosure Statement, the Solicitation Procedures, and confirmation of the Plan will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in Courtroom 523 of the United States Bankruptcy Court, One Bowling Green, New York, NY 10004, on November 1, 2021

³ Class 5 (General Unsecured Claims) against EG II includes the deficiency claims of the Series E Noteholders and the claims of any parties that have asserted mechanic’s, materialman’s or other similar lien claims against EG II which the Debtors believe are wholly unsecured.

at 10:00 a.m. (Prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the case website free of charge at <https://www.donlinrecano.com/eg>.

Any objections to the approval of the Disclosure Statement, the Solicitation Procedures, and/or confirmation of the Plan must: (a) be in writing; (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (c) state with particularity the basis and nature of any objection; (d) conform to the Bankruptcy Rules and the Local Bankruptcy Rules; (e) be filed with the Bankruptcy Court (i) by registered users of the Bankruptcy Court's case filing system, electronically in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>) and (ii) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable; and (f) be served in accordance with General Order M-399 **no later than 5 p.m. (Prevailing Eastern Time) on October 18, 2021** (the "**Objection Deadline**"), on the following parties: (i) the attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Jacqueline Marcus, Esq., and Matthew P. Goren, Esq.); (ii) counsel to the Series E Notes Trustee, Chapman and Cutler LLP, 1270 Avenue of the Americas, New York, New York 10020 (Attn: Michael Friedman, Esq., Stephen R. Tetro II, Esq., and Aaron Krieger, Esq.); (iii) counsel to the Mezzanine Lender, Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Michael H. Goldstein, Esq., and Kizzy L. Jarashow, Esq.); (iv) counsel to the Purchaser, Thompson Hine LLP, 335 Madison Avenue, 12th Floor, New York, New York 10017 (Attn: John Bae, Esq. and Jonathan S. Hawkins, Esq.); (v) counsel to JPMorgan Chase Bank, N.A., as Mortgage Lender to EG I, Fried, Frank, Harris, Shriver & Jacobson LLP, 1 New York Plaza, New York, New York 10014 (Attn: Gary Kaplan, Esq. and Michael Barker, Esq.); and (vi) the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Andrea B. Schwartz, Esq. and Shara Cornell, Esq.).

**UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN
ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED
BY THE BANKRUPTCY COURT.**

**YOU ARE ADVISED TO CAREFULLY REVIEW AND
CONSIDER THE PLAN, INCLUDING THE DISCHARGE,
INJUNCTION, RELEASE, AND EXCULPATION PROVISIONS,
AS YOUR RIGHTS MAY BE AFFECTED.**

IMPORTANT INFORMATION REGARDING THE RELEASES IN THE PLAN:

Section 12.5 of the Plan contains the following provision:

12.5. *Injunction.*

(a) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim extinguished, discharged, or released pursuant to the Plan, provided, however, the foregoing shall not enjoin or prevent any party from taking any action to enforce any rights or obligations granted pursuant to the Plan.

(b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Plan Administrator and a holder of a Claim against or Interest in the Debtors, all Entities who have held, hold, or may hold Claims against or Interests in the Debtors (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against, or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action against the Debtors that will be or are extinguished, discharged, or released pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (iv) asserting any right of setoff, directly or indirectly, against any obligation due from the Debtors or the Post-Effective Debtors, or against property or interests in property of any of the Debtors or the Post-Effective Debtors, except as contemplated or Allowed by the Plan; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(c) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest extinguished, discharged, or released pursuant to the Plan will be deemed to have affirmatively and specifically consented to be bound by the Plan, including, without limitation, the injunctions set forth in this Section 12.5.

(d) The injunctions in this Section 12.5 shall extend to any successors of the Debtors (including the Post-Effective Debtors), and their respective property and interests in property.

Section 12.6(b) of the Plan contains the following provision:

(b) **Third-Party Releases.**

As of the Effective Date, except (i) for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remain in effect or become effective after the Effective Date; (ii) defend against any objections to Claims that may be asserted under the Plan; or (iii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions made by the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Released Parties shall be deemed released and discharged by:

- (i) the holders of Claims who vote to accept the Plan;
- (ii) the Series E Notes Trustee;
- (iii) the Mezzanine Lender;
- (iv) the DIP Lender;
- (v) each of the other Released Parties; and

(vi) with respect to any Entity in the foregoing clauses (i) through (v), such Entity's (x) predecessors, successors, and assigns, (y) subsidiaries, affiliates, managed accounts or funds, managed or controlled by such Entity, and (z) all Persons entitled to assert Claims through or on behalf of such Entities with respect to the matters for which the releasing Entities are providing releases.

in each case, from any and all Claims, Interests, or Causes of Action whatsoever, including any derivative Claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on, relating to, or arising from, in whole or in part, the Debtors, the restructuring, the Chapter 11 Cases, the pre- and postpetition marketing and sale process, the Purchase Agreement, the Sale Transaction, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation, or consummation of the Plan (including the Plan Supplement), the RSA, the Definitive Documents, the Sale Documents, the Mezzanine Loan, the EG I Secured First Lien Loan and related documents, the Series E Deed of Trust, the Series E Notes, the DIP Order, the DIP Documents, the Cash Collateral Orders, or any

related agreements, instruments, or other documents, the solicitation of votes with respect to the Plan, in all of the foregoing cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; provided, that nothing in this Section Error! Reference source not found.(b) shall be construed to release the Released Parties from any gross negligence, willful misconduct, or fraud as determined by a Final Order. The Persons and Entities in (i) through (vi) of this Section Error! Reference source not found.(b) shall be permanently enjoined from prosecuting any of the foregoing Claims or Causes of Action released under this Section Error! Reference source not found.(b) against each of the Released Parties.

Section 12.7 of the Plan contains the following provision:

12.7. *Exculpation.*

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any conduct occurring on or after the Petition Date in connection with or arising out of the filing and administration of the Chapter 11 Cases, the postpetition marketing and sale process, the purchase, sale, or rescission of the purchase or sale of any security or Asset of the Debtors; the negotiation and pursuit of the DIP Facility, the Cash Collateral Orders, the Disclosure Statement, the RSA, the Purchase Agreement, the Sale Transaction, including the formulation, negotiation, preparation, dissemination, implementation, administration, confirmation, and consummation thereof, the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding or consummation of the Plan; the occurrence of the Effective Date; the DIP Documents; the Cash Collateral Orders; the administration of the Plan or the property to be distributed under the Plan; or the transactions in furtherance of any of the foregoing; except for acts or omissions of an Exculpated Party that constitute gross negligence, fraud, or willful misconduct, as determined by a Final Order. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Section 341(a) Meeting for Subsidiary Debtors

A meeting of creditors of Evergreen Gardens I LLC and Evergreen Gardens II LLC (the “**Subsidiary Debtors**”), pursuant to sections 341(a) and 343 of the Bankruptcy Code (the “**Section 341(a) Meeting**”), will be held on _____, 2021 at ____ (Prevailing Eastern Time). The Section 341(a) Meeting will be held telephonically and dial-in instructions will be provided pursuant to a separate notice. The Subsidiary Debtors’ representative, as specified in Rule 9001(5) of the Federal Rules of Bankruptcy Procedure, is required to appear at the Section 341(a) Meeting for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. The meeting may be adjourned or continued from time to time by notice at the Section 341(a) Meeting, without further notice to the creditors.

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Gary T. Holtzer
Jacqueline Marcus
Matthew P. Goren

*Attorneys for the Initial Debtor and
Proposed Attorneys for the Subsidiary Debtors*

Exhibit B

Notice of Non-Voting Status

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X
	:
In re	:
	:
EVERGREEN GARDENS MEZZ LLC, <i>et al.</i> ,	:
	:
Debtors. ¹	:
-----	X

Chapter 11
Case No. 21-10335 (MG)
(Jointly Administered)

**NOTICE OF NON-VOTING STATUS TO UNIMPAIRED CLASSES PRESUMED TO
ACCEPT, DEEMED TO REJECT, OR OTHERWISE NOT ENTITLED TO VOTE ON
THE DEBTORS' JOINT CHAPTER 11 PLAN**

On February 22, 2021, Evergreen Gardens Mezz LLC (“EGM”) commenced a case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). On September 14, 2021 (the “**Subsidiary Debtor Petition Date**”), Evergreen Gardens I LLC (“EG I”) and Evergreen Gardens II LLC (“EG II” and, together with EG I, the “**Subsidiary Debtors**” and, together with EGM, the “**Debtors**”) filed with the Bankruptcy Court voluntary cases under chapter 11 of the Bankruptcy Code. Contemporaneously with the filing of the Subsidiary Debtors’ chapter 11 cases, the Debtors filed the *Joint Chapter 11 Plan of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC*, dated September 13, 2021 (as it may be amended, modified or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Plan**”),² and the *Disclosure Statement for Joint Chapter 11 Plan of Evergreen Gardens I LLC, Evergreen Gardens II LLC, and Evergreen Gardens Mezz LLC*, dated September 13, 2021 (as it may be amended, modified, or supplemented from time to time, and together with all exhibits and schedules thereto, the “**Disclosure Statement**”) pursuant to sections 1125 and 1126(b) of the Bankruptcy Code.

The Plan seeks to implement a sale of substantially all of the Subsidiary Debtors’ assets, comprised of the two residential real estate complexes (referred to as the Denizen X and the Denizen Y), for approximately \$506 million pursuant to the terms of a signed purchase and sale agreement with an affiliate of Atlas Capital Group (the “**Purchaser**”). Proceeds from the sale are to be allocated under the Plan according to the following allocation (the “**Agreed Proportions**”): 50.75% of the sale proceeds to EG I, on account of the Denizen X (the “**EG I Sale Proceeds**”), and 49.25% of the sale proceeds to EG II, on account of the Denizen Y (the “**EG II Sale Proceeds**”).

You are receiving this notice (“Notice of Non-Voting Status”) because, according to the Debtors’ books and records, you may be a holder of a Claim(s) in one or more of the following classes that is not entitled to vote on the Plan pursuant to sections 1126(f) and 1126(g) of the Bankruptcy Code:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Evergreen Gardens Mezz LLC (0416); Evergreen Gardens I LLC (2211); and Evergreen Gardens II LLC (6782). The Debtors’ principal offices are located at 199 Lee Avenue, Suite 693, Brooklyn, New York 11211.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Plan.

EG I Non-Voting Classes: Class 1 (Priority Non-Tax Claims), Class 2 (JPM Secured Claim), Class 3 (Other Secured Claims), Class 4 (General Unsecured Claims), Class 5 (Intercompany Claims), and Class 6 (Equity Interests) (collectively, the “EG I Non-Voting Classes”).

All of the creditors and interest holders of EG I are unimpaired and holders of allowed claims and interests will be paid in full under the Plan. Accordingly, each of the classes of creditors and interest holders of EG I are, pursuant to section 1126(f) of the Bankruptcy Code, presumed to accept the Plan, are not entitled to vote on the Plan and, therefore, the Debtors are not soliciting their votes on the Plan.

EG II Non-Voting Classes: Class 1 (Priority Non-Tax Claims), Class 3 (Other Secured Claims), Class 4 (Convenience Claims), Class 6 (Intercompany Claims), and Class 7 (Equity Interests) (collectively, the “EG II Non-Voting Classes”).

Holders of Claims against EG II in Classes 1 (Priority Non-Tax Claims), 3 (Other Secured Claims), and 4 (Convenience Claims) are unimpaired under the Plan and, pursuant to section 1126(f) of the Bankruptcy Code, these classes are presumed to have accepted the Plan. Holders of Claims in Classes 6 and 7 will not receive or retain any property under the Plan and, pursuant to section 1126(g) of the Bankruptcy Code, are deemed to reject the Plan. The holders of Claims in the EG II Non-Voting Classes are not entitled to vote on the Plan and, therefore, the Debtors are not soliciting their votes on the Plan.

EGM Non-Voting Classes: Class 1 (Priority Non-Tax Claims) and Class 3 (Equity Interests) (collectively, the “EGM Non-Voting Classes” and, together with the EG I Non-Voting Classes and the EG II Non-Voting Classes, the “Non-Voting Classes”).

To the extent there are any Class 1 Claims (Priority Non-Tax Claims) against EGM, those claims will be unimpaired and holders of allowed claims will be paid in full. Accordingly, pursuant to section 1126(f) of the Bankruptcy Code, this class is presumed to have accepted the Plan. The holder of the Equity Interests in Class 7 will not receive or retain any property under the Plan and, pursuant to section 1126(g) of the Bankruptcy Code, is deemed to reject the Plan. The holders of Claims in the EGM Non-Voting Classes are not entitled to vote on the Plan and, therefore, the Debtors are not soliciting their votes on the Plan.

The Plan and Disclosure Statement may be obtained (a) by written request to the Debtors’ Claims and Noticing Agent, Donlin Recano & Company, Inc. at the following address: 6201 15th Avenue, Brooklyn, NY 11219; (b) by phone at (800) 283-2519 (toll free) and (212) 771-1128 (international); (c) by e-mail to eginfo@donlinrecano.com; (d) by accessing the Debtors’ case website at <https://www.donlinrecano.com/eg>; (e) through the Bankruptcy Court’s website www.nysb.uscourts.gov; or (f) at the office of the Clerk of the Bankruptcy Court, One Bowling Green, New York, New York 10004, between 9:00am – 4:00pm (Prevailing Eastern Time).

The Combined Hearing to consider, among other things, the adequacy of the Disclosure Statement, the Solicitation Procedures, and confirmation of the Plan will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in courtroom 523 of the United States Bankruptcy Court, One Bowling Green, New York, NY 10004, on November 1, 2021 at 10:00 a.m. (Prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the case website free of charge at <https://www.donlinrecano.com/eg>.

Any objections to the approval of the Disclosure Statement, the Solicitation Procedures, and/or confirmation of the Plan must: (a) be in writing; (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (c) state with particularity the basis and nature of any objection; (d) conform to the Bankruptcy Rules and the Local Bankruptcy Rules; (e) be filed with the Bankruptcy Court (i) by registered users of the Bankruptcy Court's case filing system, electronically in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>) and (ii) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable; and (f) be served in accordance with General Order M-399 **no later than 5 p.m. (Prevailing Eastern Time) on October 18, 2021** (the "**Objection Deadline**"), on the following parties: (i) the attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Jacqueline Marcus, Esq., and Matthew P. Goren, Esq.); (ii) counsel to the Series E Notes Trustee, Chapman and Cutler LLP, 1270 Avenue of the Americas, New York, New York 10020 (Attn: Michael Friedman, Esq., Stephen R. Tetro II, Esq., and Aaron Krieger, Esq.); (iii) counsel to the Mezzanine Lender, Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018 (Attn: Michael H. Goldstein, Esq., and Kizzy L. Jarashow, Esq.); (iv) counsel to the Purchaser, Thompson Hine LLP, 335 Madison Avenue, 12th Floor, New York, New York 10017 (Attn: John Bae, Esq. and Jonathan S. Hawkins, Esq.); (v) counsel to JPMorgan Chase Bank, N.A., as Mortgage Lender to EG I, Fried, Frank, Harris, Shriver & Jacobson LLP, 1 New York Plaza, New York, New York 10014 (Attn: Gary Kaplan, Esq. and Michael Barker, Esq.); and (vi) the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Andrea B. Schwartz, Esq. and Shara Cornell, Esq.).

IF YOU (I) HAVE ANY QUESTIONS REGARDING THIS NOTICE OF NON-VOTING STATUS, PLEASE CONTACT THE VOTING AGENT AT (800) 283-2519 (DOMESTIC TOLL-FREE) OR (212) 771-1128 (INTERNATIONAL), OR BY E-MAILING EGINFO@DONLINRECANO.COM WITH A REFERENCE TO "EVERGREEN" IN THE SUBJECT LINE. PLEASE DO NOT DIRECT ANY INQUIRIES TO THE BANKRUPTCY COURT. THE VOTING AGENT IS NOT AUTHORIZED TO, AND WILL NOT, PROVIDE LEGAL ADVICE.

Please take notice that if the Plan is confirmed by the Bankruptcy Court, the provisions of the confirmed Plan, including the injunctions, exculpations and releases contained therein, will be binding on you, regardless of whether you are Impaired or not under the confirmed Plan.

IMPORTANT INFORMATION REGARDING THE RELEASES IN THE PLAN:

Section 12.5 of the Plan contains the following provision:

12.5. *Injunction.*

(b) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim extinguished, discharged, or released pursuant to the Plan, provided, however, the foregoing shall not enjoin or prevent any party from taking any action to enforce any rights or obligations granted pursuant to the Plan.

(c) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Plan Administrator and a holder of a Claim against or Interest in the Debtors, all Entities who have held, hold, or may hold Claims against or Interests in the Debtors (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against, or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action against the Debtors that will be or are extinguished, discharged, or released pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors or the Post-Effective Debtors, or the property of any of the Debtors or the Post-Effective Debtors; (iv) asserting any right of setoff, directly or indirectly, against any obligation due from the Debtors or the Post-Effective Debtors, or against property or interests in property of any of the Debtors or the Post-Effective Debtors, except as contemplated or Allowed by the Plan; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(d) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest extinguished, discharged, or released pursuant to the Plan will be deemed to have affirmatively and specifically consented to be bound by the Plan, including, without limitation, the injunctions set forth in this Section 12.5.

(e) The injunctions in this Section 12.5 shall extend to any successors of the Debtors (including the Post-Effective Debtors), and their respective property and interests in property.

Section 12.6(b) of the Plan contains the following provision:

(f) **Third-Party Releases.**

As of the Effective Date, except (i) for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remain in effect or become effective after the Effective Date; (ii) defend against any objections to Claims that may be asserted under the Plan; or (iii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions made by the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Released Parties shall be deemed released and discharged by:

(i) the holders of Claims who vote to accept the Plan;

(ii) the Series E Notes Trustee;

(iii) the Mezzanine Lender;

(iv) the DIP Lender;

(v) each of the other Released Parties; and

(vi) with respect to any Entity in the foregoing clauses (b)(i) through (b)(v), such Entity's (x) predecessors, successors, and assigns, (y) subsidiaries, affiliates, managed accounts or funds, managed or controlled by such Entity, and (z) all Persons entitled to assert Claims through or on behalf of such Entities with respect to the matters for which the releasing Entities are providing releases.

in each case, from any and all Claims, Interests, or Causes of Action whatsoever, including any derivative Claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on, relating to, or arising from, in whole or in part, the Debtors, the restructuring, the Chapter 11 Cases, the pre- and postpetition marketing and sale process, the Purchase Agreement, the Sale Transaction, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation, or consummation of the Plan (including the Plan Supplement), the RSA, the Definitive Documents, the Sale Documents, the Mezzanine Loan, the EG I Secured First Lien Loan and related documents, the Series E Deed of Trust, the Series E Notes, the DIP Order, the DIP Documents, the Cash Collateral Orders, or any related agreements, instruments, or other documents, the solicitation of votes with respect to the Plan, in all of the foregoing cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; provided, that nothing in this Section Error! Reference source not found.(b) shall be construed to release the Released Parties from any gross negligence, willful misconduct, or fraud as determined by a Final Order. The Persons and Entities in (i) through (b)(vi) of this Section Error! Reference source not found.(b) shall be permanently enjoined from prosecuting any of the foregoing Claims or Causes of Action released under this Section Error! Reference source not found.(b) against each of the Released Parties.

Section 12.7 of the Plan contains the following provision:

12.7. *Exculpation.*

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any conduct occurring on or after the Petition Date in connection with or arising out of the filing and administration of the Chapter 11 Cases, the postpetition marketing and sale process, the purchase, sale, or rescission of the purchase or sale of any security or Asset of the Debtors; the negotiation and pursuit of the DIP Facility, the Cash Collateral Orders, the Disclosure Statement, the RSA, the Purchase Agreement, the Sale Transaction, including the formulation, negotiation, preparation, dissemination, implementation, administration, confirmation, and consummation thereof, the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding or consummation of the Plan; the occurrence of the Effective Date; the DIP Documents; the Cash Collateral Orders; the administration of the Plan or the property to be distributed under the Plan; or the transactions in furtherance of any of the foregoing; except for acts or omissions of an Exculpated Party that constitute gross negligence, fraud, or willful misconduct, as determined by a Final Order. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

**YOU ARE ADVISED TO CAREFULLY REVIEW AND
CONSIDER THE PLAN, INCLUDING THE DISCHARGE,
INJUNCTION, RELEASE, AND EXCULPATION PROVISIONS,
AS YOUR RIGHTS MAY BE AFFECTED.**

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