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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re: TRINITAS ADVANTAGED AGRICULTURE PARTNERS IV, LP, *et al.*,[1] Debtors.	Lead Case No. 24-10545 (CN) (Jointly Administered) Chapter 11 **NOTICE OF FILING OF AMENDED CHAPTER 11 PLAN**

TO THE UNITED STATES BANKRUPTCY COURT, THE OFFICE OF THE UNITED STATES TRUSTEE, AND OTHER PARTIES IN INTEREST:

PLEASE TAKE NOTICE that on February 19, 2024 (the "Petition Date"), Trinitas Advantaged Agriculture Partners IV, LP; Trinitas Farming, LLC; Dixon East LLC; Turf Ranch LLC; Rasmussen LLC; Johl LLC; Chiala LLC; Hall Ranch LLC; Dinuba Ranch, LLC; Porterville

[1] The last four digits of Trinitas Advantaged Agriculture Partners IV, LP's tax identification number are 3730. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://www.donlinrecano.com/trinitas. The Debtors' service address is 2055 Woodside Road, Suite 195, Redwood City, CA 94061.

LLC; Tule River Ranch, LLC; Jeffrey Ranch, LLC; Toor Ranch, LLC; Lamb Ranch, LLC; Fry Road, LLC; Adobe Ranch, LLC; Marcucci Ranch, LLC; Ratto Ranch, LLC; and Phelps Ranch, LLC (collectively, the "Debtors"), as debtors and debtors in possession in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Northern District of California (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that the United States Trustee ("UST") appointed an official committee of unsecured creditors (the "Committee," and, together with the Debtors, the "Plan Proponents") in the Chapter 11 Cases on March 7, 2024. *See* Dkt. Nos. 43 & 44.

PLEASE TAKE FURTHER NOTICE that on August 4, 2026, the Plan Proponents filed the *Joint Chapter 11 Plan of Liquidation dated August 4, 2026* [Dkt. No. 1264] (the "August 4 Plan").

PLEASE TAKE FURTHER NOTICE that on August 31, 2026, the UST filed an objection and reservation of rights to confirmation of the August 4 Plan (the "UST Objection") [Dkt. No. 1289].

PLEASE TAKE FURTHER NOTICE that on September 3, 2026, Pomona Farming LLC ("Pomona") filed two limited objections to confirmation of the August 4 Plan (the "Pomona Objections") [Dkt. Nos. 1299 & 1300].

PLEASE TAKE FURTHER NOTICE that on September 8, 2026, the Plan Proponents filed the *Joint Chapter 11 Plan of Liquidation dated September 8, 2026* [Dkt. No. 1302] (the "September 8 Plan").

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit A** is a redline comparison (changed pages only) between the August 4 Plan and the September 8 Plan.

PLEASE TAKE FURTHER NOTICE that the Plan Proponents intend to meet and confer with the UST to attempt to resolve the UST Objection prior to the hearing to consider confirmation of the September 8 Plan, which is scheduled to take place on **October 14, 2026, at 10:00 a.m.** (prevailing Pacific Time) (the "Confirmation Hearing"). If they cannot resolve the UST Objection consensually, the Plan Proponents believe that the September 8 Plan can be confirmed over the UST Objection and intend to file a confirmation brief in support of the Plan in advance of the Confirmation Hearing with their arguments as to why the UST Objection should be overruled and the September 8 Plan should be confirmed.

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PLEASE TAKE FURTHER NOTICE that copies of the pleadings in these Chapter 11 Cases, including all documents identified herein, can be viewed and/or obtained from the Debtors' claims and noticing agent, Donlin, Recano & Company, LLC at the following web address: https://www.donlinrecano.com/trinitas, or by calling the restructuring information center at 1-800-780-7386 (toll free) for U.S. and Canada-based parties or 1-332-284-1398 for International parties, or by submitting an inquiry via e-mail to tfinfo@angeiongroup.com.

Dated: September 8, 2026

KELLER BENVENUTTI KIM LLP

By: */s/ Jane Kim*
Jane Kim

Attorneys for the Debtors and Debtors in Possession

RAINES FELDMAN LITTRELL LLP
HUSCH BLACKWELL LLP

By: */s/ Michael A. Brandess*
Michael A. Brandess

Co-Counsel for the Official Committee of Unsecured Creditors

<u>EXHIBIT A</u>

Plan Redline

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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re: TRINITAS ADVANTAGED AGRICULTURE PARTNERS IV, LP, *et al.*,[1] Debtors.	Case No. 24-50211 (DM) (Lead Case) Chapter 11 (Jointly Administered) **JOINT CHAPTER 11 PLAN OF LIQUIDATION DATED ~~AUGUST 4~~SEPTEMBER 8, 2026**

[1] The last four digits of Trinitas Advantaged Agriculture Partners IV, LP's tax identification number are 3730. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://www.donlinrecano.com/trinitas. The Debtors' service address is 2055 Woodside Road, Suite 195, Redwood City, CA 94061.

36. "*Debtors*" means, collectively, Trinitas Advantaged Agriculture Partners IV, L.P. (Case No. 24-50211); Trinitas Farming, LLC (Case No. 24-50210); Dixon East LLC (Case No. 24-50212); Turf Ranch LLC (Case No. 24-50213); Rasmussen LLC (Case No. 24-50214); Johl LLC (Case No. 24-50215); Chiala LLC (Case No. 24-50216); Hall Ranch LLC (Case No. 24-50217); Dinuba Ranch, LLC (Case No. 24-50218); Porterville LLC (Case No. 24-50219); Tule River Ranch LLC (Case No. 24-50220); Jeffrey Ranch, LLC (24-50221); Toor Ranch LLC (24-50222); Lamb Ranch, LLC (Case No. 24-50223); Fry Road, LLC (Case No. 24-50224); Adobe Ranch, LLC (Case No. 24-50225); Marcucci Ranch, LLC (Case No. 24-50226); Ratto Ranch, LLC (Case No. 24-50227); Phelps Ranch, LLC (Case No. 24-50228).

37. "*Debtors Exculpated Parties*" means, collectively, the Debtors' Professionals retained in the Chapter 11 Cases and, solely with respect to the period commencing on the Petition Date ~~forward~~through and including the Effective Date, the Debtors' partners, members, officers, directors, employees, and agents~~.~~, Trinitas Partners, Trinitas Advantaged Agriculture Partners IV GP, LLC, the limited partners of TAAP IV, WL Olives, TP Pomona LLC, Pomona Farming GP, LLC, Ceil Howe III, Kirk Hoiberg, R. Ryon Paton, Wiliam K. Hooper, and Derek DeGroot..

38. "*DIP Order*" means that certain *Final Order (I) Authorizing the Debtors to Obtain Senior Secured, Superpriority, Postpetition Financing; (II) Granting Liens and Superpriority Claims; (III) Authorizing the Use of Cash Collateral; (IV) Modifying the Automatic Stay; (V) Setting a Final Hearing; and (VI) Granting Related Relief* [Dkt. No. 158], as amended or modified by, *inter alia*, the Carve Out Stipulation and the Holdback Stipulation.

39. "*Disallowed*" means, as to any Claim (or portion thereof), a Claim against the Debtors that (i) has been disallowed by a Final Order, (ii) is not listed on the Schedules or, as to any Claim, is listed as unliquidated, contingent, or disputed and as to which no Proof of Claim has been Filed by the applicable Bar Date for such Claim or deemed timely Filed pursuant to any Final Order, or (iii) has been agreed to by the Holder of such Claim and the Debtors or the Plan Administrator to have no value or to be expunged.

40. "*Disclosure Statement*" means that certain *Disclosure Statement for the Joint Chapter 11 Plan of Liquidation*, as amended, supplemented, or modified from time to time, including all Exhibits and schedules thereto and, in form and substance acceptable to the Plan Proponents [Docket No. ●], approved by the Bankruptcy Court on [●].

41. "*Disputed*" means, with respect to a Claim, (a) any Claim, which Claim is disputed under **Article VIII** of this Plan or as to which the Debtors before the Effective Date, or the Plan Administrator from and after the Effective Date, or any other party in interest has interposed and not withdrawn an objection or request for estimation that has not been determined by a Final Order; (b) any Claim, proof of which was required to be Filed by any Bar Date or order of the Bankruptcy Court but as to which a Proof of Claim was not timely or properly Filed or deemed timely and/or properly Filed by Final Order; (c) any Claim that is listed in the Schedules as unliquidated, contingent or disputed, and as to which no request for payment or Proof of Claim has been timely Filed; or (d) any Claim that is otherwise disputed by the Debtors or the Committee before the Effective Date or the Plan Administrator from and after the Effective Date in accordance with applicable law or contract, which dispute has not been withdrawn, resolved, or overruled by a Final Order, *provided*, *however*, that if the Debtors, the Committee, or the Plan Administrator seek to dispute a Claim that is the subject of a Filed Proof of Claim, the Debtors, the Committee or the Plan Administrator shall do so in accordance

with the Bankruptcy Code, Bankruptcy Rules, and the Local Rules. To the extent the Debtors, the Committee or the Plan Administrator dispute only the amount of a Claim, such Claim shall be deemed Allowed in the amount the Debtors and the Committee before the Effective Date or the Plan Administrator from and after the Effective Date do not dispute, if any, and Disputed as to the balance of such Claim.

42. "*Disputed Claims Reserve*" means a reserve, which may be held in a segregated account, for the payment of Disputed General Unsecured Claims that may become Allowed General Unsecured Claims after the Effective Date, which reserve shall be held in trust and maintained by the Plan Administrator for the benefit of Holders of Disputed General Unsecured Claims.

43. "*Distribution Agent*" means any party designated by the Plan Administrator to serve as distribution agent under this Plan. The Plan Administrator may be the Distribution Agent.

44. "*Distribution Record Date*" means the date for determining which Holders of Claims are eligible to receive Plan Distributions, which shall be the Effective Date.

45. "*D&O Insider Claims*" means any and all demands, claims, or Causes of Action, or actions of the Debtors against any individuals or entities in or based solely on their capacity as Insiders, current or former directors, officers, managers, employees, stakeholders, or partners of the Debtors, any affiliate of the Debtors, Trinitas Advantaged Agricultural Partners IV GP, LLC and/or Trinitas Partners, and any and all proceeds and recoveries of or from those claims and Causes of Action, including, without limitation, any proceeds of D&O Liability Insurance Policies; provided, however, and for the avoidance of doubt, D&O Insider Claims do not mean, nor do they include, (a) any claims or Causes of Action against any of the Pomona Released Parties, or (b) any claims or Causes of Action predicated upon any relationship with Pomona or PSP, including without limitation, any management or officer or director position with, or any ownership or contractual relationship with, Pomona or PSP and each of their parents, subsidiaries, and affiliates, or any of them. For the avoidance of doubt, and notwithstanding anything to the contrary herein, upon the Effective Date of the Compromise and Settlement Agreement all D&O Insider Claims and all proceeds thereof, including all derivative rights and insurance recovery rights associated therewith, ceased to be property of the Estates or Liquidating Debtor and are ~~solely~~ owned and controlled by Rabo. Nothing herein is intended to divest, nor should anything herein be construed to divest, Rabo of its ownership and control of the D&O Insider Claims.

46. "*D&O Liability Insurance Policies*" means all insurance policies covering the liability of the directors, officers, managers, trustees, and/or similar parties of the Debtors, whether or not in effect as of the Petition Date, including tail coverage after the termination of any such policies, and the proceeds thereof, including any policy issued to a non-Debtor to which any Debtor is a beneficiary, solely to the extent of any such Debtor's rights under such policy.

47. "*Effective Date*" means, with respect to the Plan, the date that is the first Business Day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; (b) all conditions precedent specified in **Article IX.A** have been satisfied or waived (in accordance with **Article IX.B**); and (c) the Plan is declared effective. Within two (2) Business Days of the Effective Date, the Plan Proponents will file a notice of occurrence of the Effective Date on the Bankruptcy Court docket.

61. "*Final Distribution Date*" means the date when (a) in the reasonable judgment of the Plan Administrator, substantially all of the assets of the Liquidating Debtor have been monetized, and there are no substantial potential sources of additional Cash for Plan Distributions; (b) no Disputed Claims remain; and (c) the Plan Administrator distributes all remaining Cash held by the Liquidating Debtor in accordance with this Plan.

62. "*Final Order*" means an order or judgment: (i) as to which the time to appeal, petition for certiorari, or move for review or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for review or rehearing is pending, or such an appeal has been rendered statutorily moot pursuant to Section 363(m) of the Bankruptcy Code, or (ii) if an appeal, writ of certiorari, re-argument or rehearing has been filed or sought, and a stay pending appeal has been entered, the order or judgment has been affirmed by the highest court to which such order or judgment was appealed or certiorari has been denied, or re-argument or rehearing shall have been denied or resulted in no modification of such order or judgment, and the time to take any further appeal or to seek certiorari or further re-argument or rehearing has expired; *provided that* the theoretical possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order or judgment shall not prevent such order or judgment from being considered a Final Order.

63. "*Fraudulent Action*" shall have the meaning provided to such term in **ARTICLE V.SXI.C** of this Plan.

~~63.~~64. "*General Account*" means a separate bank account established by the Plan Administrator into which proceeds of all General Distributable Assets shall be held, the funds of which shall be used to satisfy the cost of the administration of the Liquidating Debtor, other than the costs related to the liquidation of the Rabo GUC Gift Assets, as well as to distribute any net remaining funds (after payment of other amounts specified in the Plan) to Holders of Class 4B and Class 4C claims on a *pari passu* basis.

~~64.~~65. "*General Distributable Assets*" means, except as otherwise noted herein, any and all unencumbered real, personal, or other property of the Debtors of any nature as of the Effective Date, and the Liquidating Debtor from and after the Effective Date, and any and all proceeds of the foregoing, as the case may be, of any nature whatsoever (whether liquidated or unliquidated, matured or unmatured, or fixed or contingent). General Distributable Assets shall include any Excess Proceeds of Sale and any Rabo GUC Gift Account Excess Proceeds, subject to the provisions of **Article V.J.3** of the Plan, but shall not include the Non-Gift Holdback, the Rabo GUC Gift Assets (except to the extent of any Rabo GUC Gift Account Excess Proceeds), the Rabo Adequate Protection Collateral, and the Other Encumbered Assets, and any proceeds of such assets.

~~65.~~66. "*General Unsecured Claim*" means any Claim against the Debtors that is not a/an: (a) Administrative Expense Claim (including a Professional Fee Claim); (b) Priority Tax Claim; (c) Rabo Secured Claim; (d) Other Secured Claim; (e) Other Priority Claim; (f) Rabo Deficiency Claim; (g) Pomona Unsecured Claim; (h) Subordinated Claim; or (i) Intercompany Claim.

~~66.~~67. "*Governmental Unit*" means a "governmental unit" as defined in section 101(27) of the Bankruptcy Code.

U.S.C. § 101(31) or any similar statute or common law. Notwithstanding the foregoing, however, Pomona shall subordinate its Class 4C Claim to the Class 4A Claims.

~~77.~~78. "*Insured Claim*" means a General Unsecured Claim arising prior to the Confirmation Date involving personal injury, medical malpractice, slip-and-fall, wrongful death, or other similar Claims that are covered by the terms of the Debtors' various insurance policies, or any other General Unsecured Claim against the Debtors for which the Debtors are entitled to indemnification, reimbursement, contribution, or other payment under a policy of insurance under which the Debtors are an insured or beneficiary of the coverage provided under the applicable policy. All Insured Claims are Disputed Claims. Some of the Insured Claims may be fully insured, and no deductible amount would be payable by the Debtors under the terms of the applicable insurance policy. As to other Insured Claims, a deductible or self-insured retention obligation may be applicable. For the avoidance of doubt, with respect to all Insured Claims arising from events that occurred prior to the Petition Date for which notice is or was provided to the insurer in accordance with the applicable policy, such deductibles and self-insured retention obligations shall be treated as Class 4A General Unsecured Claims to the extent Allowed. Further, no insurance carrier shall, or shall be entitled, to deny coverage under any insurance policy based upon (i) any failure of the Debtors, the Estates, the Liquidating Debtor, or the Plan Administrator, to pay any deductible or self-insured retention in full, or (ii) the treatment of any Claim for a deductible or self-insured retention obligation as a Class 4A Claim.

~~78.~~79. "*Intercompany Claim*" means a Claim, whether Allowed or Disputed, payable from one Debtor to a different Debtor (all of which Intercompany Claims shall be deemed cancelled and of no further force and effect as of the Effective Date).

~~79.~~80. "*Lien*" means a "lien" as defined in section 101(37) of the Bankruptcy Code and, with respect to any Asset, includes any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such Asset.

81. "*Limited Exculpation for Pomona Claims*" shall have the meaning provided to such term in **ARTICLE V.SXI.C** of this Plan.

~~80.~~82. "*Liquidating Debtor*" means Debtor TAAP IV as reconstituted on the Effective Date.

~~81.~~83. "*Liquidating Debtor Assets*" means all assets held from time to time by the Liquidating Debtor, the proceeds of which shall be distributed pursuant to the terms of this Plan, after payment in full of Liquidating Debtor Expenses and any other obligations to the extent set forth in this Plan. The Liquidating Debtor Assets shall consist of: (a) the Rabo GUC Gift Assets; (b) the Non-Gift Holdback; (c) the Avoidance Actions; (d) the Rabo Adequate Protection Collateral; (f) the Other Encumbered Assets; (g) the General Distributable Assets, (h) the Wind Up Escrow; (i) the Excluded Cash; and (j) all other assets, entitlements, or privileges of any of the Debtors unless expressly excluded under this Plan.

~~82.~~84. "*Liquidating Debtor Expenses*" means the costs, expenses, or other obligations incurred, payable, or owed by the Liquidating Debtor from and after the Effective Date, including the reasonable fees, costs, and expenses of the Plan Administrator and its attorneys and other

~~94.~~96. "*Plan Distribution*" means the payment or distribution of consideration to Holders of Allowed Claims under this Plan.

~~95.~~97. "*Plan Documents*" means any of the documents, other than this Plan, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, including the documents to be included in the Plan Supplement.

~~96.~~98. "*Plan Proponents*" means the Debtors and the Committee.

~~97.~~99. "*Plan Supplement*" means, collectively, the compilation of documents and forms of documents, and all exhibits, attachments, schedules, agreements, documents, and instruments referred to therein, ancillary or otherwise, including the Exhibits and the Plan Documents, all of which are incorporated by reference into, and are an integral part of, this Plan, as all of the same may be amended, modified, replaced, and/or supplemented from time to time, which shall be Filed with the Bankruptcy Court. The Plan Proponents shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement through the Effective Date.

~~98.~~100. "*Pomona*" means Pomona Farming LLC.

101. "*Pomona Claims*" shall have the meaning provided to such term in **ARTICLE V.SXI.C** of this Plan.

~~99.~~102. "*Pomona Released Parties*" means Pomona, PSP, and all of their respective owners, parents, affiliates, partners, members, managers, shareholders, principals, agents, attorneys-in-fact, employees, attorneys, professionals, associates, servants, officers, directors, affiliates, associates, insurers, devisees, trustors, beneficiaries, successors-in-interest and assigns, and each of them in those capacities with PSP and/or Pomona.

~~100.~~103. "*Pomona Unsecured Claim*" means the Allowed Class 4C Claim of Pomona, which was Allowed in the amount of $10,858,774.00 pursuant to the Compromise and Settlement Agreement.

104. "*Preserved Plan Action*" shall have the meaning provided to such term in **ARTICLE V.SXI.C** of this Plan.

~~101.~~105. "*Priority Tax Claim*" means any Claim of a Governmental Unit against the Debtors of the kind specified in section 507(a)(8) of the Bankruptcy Code.

~~102.~~106. "*Pro Rata*" means the proportion that (a) the Allowed amount of a Claim in a particular Class (or several Classes taken as a whole) bears to (b) the aggregate Allowed amount of all Claims in such Class (or several Classes taken as a whole), unless this Plan provides otherwise.

~~103.~~107. "*Pro Rata Share*" means, for Plan Distributions from Rabo GUC Gift Assets, the share that is Pro Rata as calculated among only Class 4A claimants, and for Plan Distributions from General Distributable Assets, the share that is Pro Rata as calculated among Class 4B and 4C claimants.

with respect to the periods in which any of the Causes of Action may be brought under section 546 of the Bankruptcy Code.

8. Post-Effective Date Administration and Reporting

Except as otherwise ordered by the Bankruptcy Court, the Liquidating Debtor Expenses on or after the Effective Date shall be paid in the ordinary course of business in accordance with this Plan without further order of the Bankruptcy Court and without notice to any other party. Liquidating Debtor Expenses shall be paid from the General Account except to the extent that Liquidating Debtor Expenses that are Rabo GUC Gift Expenses shall be paid from the Rabo GUC Gift Account.

The Liquidating Debtor shall file annual reports regarding the liquidation or other administration of property comprising the Liquidating Debtor Assets, the Plan Distributions made by it and other matters required to be included in such report in accordance with this Plan.

9. Dissolution of the Debtors

Promptly after completing the wind down of the Debtors' assets and operations, the Plan Administrator will allow the applicable Secretary of State to involuntarily dissolve the Debtors. The Plan Administrator shall thereafter continue to have standing to assert claims or pursue matters on behalf of the Debtors to the extent necessary to preserve, protect, and liquidate the Assets or otherwise necessary under the Plan or Confirmation Order.

K. Plan Administrator

1. Appointment and Compensation of the Plan Administrator

The Plan Administrator, Arch & Beam Global, LLC, shall be appointed as of the Effective Date, pursuant to the terms set forth in the Plan Administrator Engagement Letter attached hereto as **Exhibit B**. The amount of any fees and expenses incurred by the Plan Administrator on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement claims (including reasonable attorney fees and expenses) made by the Plan Administrator shall be paid in Cash by the Liquidating Debtor, which compensation ~~shall be~~is disclosed in the Plan ~~Supplement in accordance with section 1129(a)(5) of the Bankruptcy Code~~Administrator Engagement Letter.

2. Plan Administrator as the Representative of the Debtors' Estates

On the Effective Date, the Plan Administrator shall be deemed the Estates' representative in accordance with section 1123 of the Bankruptcy Code and shall have all the rights and powers set forth in this Plan, including the right to: (1) effect all actions and execute all agreements, instruments, and other documents necessary to implement the provisions of the Plan; (2) administer the Liquidating Debtor Assets, including prosecuting, settling, abandoning, or compromising any Causes of Action; and (3) employ and compensate professionals and other agents consistent with this **Article V.K** of the Plan.

For the avoidance of doubt, upon the occurrence of the Effective Date, the Plan Administrator shall automatically be granted, have, and be vested with exclusive standing and authority to: (i) bring and prosecute any Cause of Action in a court of competent jurisdiction; and (ii) negotiate, settle, waive, or otherwise resolve any Causes of Action.

extent that any such Claim is or was subject to a previously established Bar Date in the Chapter 11 Cases, such previously established Bar Date shall be deemed operative and will not be deemed extended by virtue of this **Article VI.B**. All claims arising from the rejection of any Executory Contract or Unexpired Lease shall be treated as General Unsecured Claims, subject to any applicable limitation or defense under the Bankruptcy Code and applicable law.

C. Preservation and Vesting of D&O Liability Insurance Policies

Notwithstanding anything to the contrary in the Plan, as of the Effective Date, all rights of the Debtors and their Estates in the D&O Liability Insurance Policies are fully and expressly preserved under the Plan. Confirmation and effectiveness of the Plan will not discharge, impair, or otherwise modify any rights of the Debtors, the Estates, the Liquidating Debtor, the Plan Administrator, or any other beneficiary under the D&O Liability Insurance Policies. On the Effective Date, the D&O Liability Insurance Policies and the proceeds thereof (solely to the extent of any such Debtor's rights under such policy and subject in all cases to the terms of the D&O Liability Insurance Policies or the rights of any other beneficiaries therein, including the rights of Rabo as the assignee of D&O Insider Claims pursuant to the Compromise and Settlement Agreement) shall automatically vest in the Liquidating Debtor. For the avoidance of doubt, the D&O Liability Insurance Policies are not Executory Contracts and are neither assumed nor rejected under the Plan.

The Confirmation Order shall constitute a determination that no default by the Debtors exists with respect to any of the D&O Liability Insurance Policies and that nothing in any prior order, any prior agreements, or this Plan shall be construed or applied to modify, impair, or otherwise affect the enforceability of the D&O Liability Insurance Policies or any coverage thereunder with regard to any Causes of Action (including, but not limited to, the D&O Insider Claims), or claims, interests, or rights of the Debtors, the Estates, the Plan Administrator, or the Liquidating Debtor. The Plan shall be liberally construed to protect the interests of all Creditors in all Causes of Action (including, but not limited to, D&O Insider Claims), and to limit any Claims against the Estates.

Nothing in this Plan shall diminish, impair, or otherwise affect (i) rights of the Debtors' current or former directors, officers, trustees, managers, or any other Person covered under the D&O Liability Insurance Policies, or (ii) payments from the proceeds or the enforceability of any D&O Liability Insurance Policies that may cover (a) claims by the Debtors, or (b) claims against the Debtors or covered Persons thereunder.

Nothing in this Plan shall prohibit any Person or Entity from claiming coverage or otherwise exercising rights under any of the D&O Liability Insurance Policies, whether as an additional insured or otherwise, or from bringing and prosecuting such claim to the proceeds of the D&O Liability Insurance Policies notwithstanding any assignment of proceeds to Rabo set forth in the Compromise and Settlement Agreement or elsewhere in this Plan.

ARTICLE VII.
PROVISIONS GOVERNING DISTRIBUTIONS

A. Dates of Distributions

Except as otherwise provided in the Plan, on the Effective Date (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes an Allowed Claim), or as soon as reasonably practicable thereafter, each Holder of an Allowed Claim shall receive the full amount of

Effective Date in any way relating to the Debtors, the conduct of the Debtors' businesses, the Chapter 11 Cases, or the Plan.

Additionally, on the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each of the Debtors shall be deemed to have forever released, waived, and discharged the original Holders of Class 4A Claims, as of the Petition Date, from all Avoidance Actions. This release shall not apply to assignees or purchasers of Class 4A Claims.

Entry of the Confirmation Order shall constitute (i) the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases set forth herein; and (ii) the Bankruptcy Court's findings that such releases are (1) in exchange for good and valuable consideration provided by the Released Parties (including performance of the terms of the Plan), and a good-faith settlement and compromise of the released claims, (2) in the best interests of the Debtors and their Estates, (3) fair, equitable, and reasonable, and (4) given and made after due notice and opportunity for hearing.

C. <u>Exculpation</u>

Except as otherwise specifically provided in the Plan, the Exculpated Parties will neither have nor incur any liability to any Entity or Person for (1) any Claims or Causes of Action arising between the Petition Date and the Effective Date for any act taken or omitted to be taken in connection with, or related to the Chapter 11 Cases; (2) formulating, negotiating, preparing, disseminating, implementing, administering, confirming, pursuing, or effecting the Consummation of the Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan; (3) pursuing confirmation of the Plan; or (4) soliciting votes on the Plan, and the Exculpated Parties shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan; *provided, however*, that the foregoing provisions will have no effect on the liability of any Entity or Person that results from any such act or omission that occurred prior to the Petition Date; *provided, further*, that the foregoing provisions will have no effect on the liability of any Entity or Person that results from any such act or omission occurring between the Petition Date and the Effective Date that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted intentional fraud, gross negligence, or willful misconduct~~; and, *provided*, *further*, that the foregoing provisions will not apply to any acts, omissions, Claims, Causes of Action, or other obligations expressly set forth in and preserved by the Plan or the Plan Supplement. Notwithstanding anything to the contrary herein, with respect to any action by any Pomona Released Party, the foregoing exculpation provisions shall not apply with respect to actions involving the compliance or non-compliance with the Compromise and Settlement Agreement against any Exculpated Parties who are not "Estate Releasees" as such term is defined in the Compromise and Settlement Agreement.~~ <u>(a "Fraudulent Action").</u>

<u>The foregoing exculpation provisions shall not apply to (i) any acts or omissions that relate to any Claims, Causes of Action or any other obligations expressly set forth or preserved in, or otherwise transferred by, the Plan or the Plan Supplement, such as D&O Insider Claims (each a "Preserved Plan Action"), or (ii) any of the Pomona Released Parties' rights, claims, demands, causes of action, actions, third party claims, defenses, or remedies against any of the Exculpated Parties or any other Entity or Person, whether held or otherwise asserted, either affirmatively or defensively, and including without limitation whether held or asserted in any action or proceeding whatsoever, whether such action or proceeding is initiated by any of the Pomona Released Parties, any Exculpated Party, or any other party (collectively, the "Pomona Claims"); *provided, however*, that the Exculpated Parties will neither</u>

have nor incur any liability to Pomona for acts or omissions of the Exculpated Parties that occur during the period from and including the Petition Date through and including the Effective Date to the extent that such Exculpated Party demonstrates that: (a) such Exculpated Party was carrying out the duties of, and acting in the role of, either a responsible individual under Bankruptcy Local Rule 4002-1 or other fiduciary for the Debtors, or as a member of or fiduciary for the Committee; and (b) such action(s) or omission(s) were limited to (i) actions to formulate, negotiate, prepare, disseminate, implement, administer, confirm, effect, or pursue Consummation of the Plan or the Disclosure Statement; (ii) actions to pursue confirmation of the Plan; or (iii) actions to solicit votes on the Plan (the "Limited Exculpation for Pomona Claims"). Notwithstanding the foregoing, the Limited Exculpation for Pomona Claims shall not apply to exculpate or reduce liability of any Exculpated Party for any acts or omissions by any Exculpated Party that constitute a Fraudulent Action or a Preserved Plan Action or that relate to compliance or non-compliance with the Compromise and Settlement Agreement. The exclusion of the Pomona Claims from the foregoing exculpation provisions and the scope of the Limited Exculpation for Pomona Claims will not limit (i) Pomona's release of the "Estate Releasees" under Section 3.5(b) of the Compromise and Settlement Agreement, or (ii) any other release executed by any of the Pomona Released Parties and any Exculpated Party as of the Effective Date.

D. Injunction

Except as otherwise provided in the Plan, from and after the Effective Date, all Entities and Persons who have held, hold, or may hold Claims against the Debtors or their Estates are permanently enjoined from taking any action in furtherance of such Claim and/or any other cause of action released and/or discharged under the Plan, including, without limitation, the following actions: (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind against the Debtors, the Debtors' property, the Debtors' Estates, the Holdback Escrow, the Wind Up Escrow, the Released Parties, the Plan Administrator, or the Liquidating Debtor with respect to any such Claim and/or other cause of action, or taking any act to recover such Claim outside of the claims allowance procedures discussed in the Plan, the Bankruptcy Code, and the Bankruptcy Rules; (ii) creating, perfecting, or enforcing in any manner, directly or indirectly, any Lien, security interest, or encumbrance of any kind against the Debtors, the Debtors' property, the Debtors' Estates, the Liquidating Debtor, the Holdback Escrow, the Wind Up Escrow, the Released Parties, or the Plan Administrator on account of any such Claim and/or other cause of action; (iii) enforcing, levying, attaching, collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against the Debtors, the Debtors' property, the Debtors' Estates, the Liquidating Debtor, the Holdback Escrow, the Wind Up Escrow, the Released Parties, or the Plan Administrator on account of any such Claim and/or other cause of action; and (iv) asserting any right of setoff, subrogation, or recoupment of any kind, directly or indirectly, against any debt, liability, or obligation due from or to the Debtors, the Debtors' Estates, the Liquidating Debtor, the Holdback Escrow, the Wind Up Escrow, the Released Parties, or the Plan Administrator, or against the property or interests in property of the Debtors, the Debtors' Estates, the Liquidating Debtor, the Holdback Escrow, the Wind Up Escrow, the Released Parties, or the Plan Administrator, on account of any such Claim and/or other cause of action; *provided*, *however*, that solely with respect to the Debtors, the Debtors' property, and the Debtors' Estates, the foregoing injunction shall remain in effect only until both (a) the Chapter 11 Cases have been closed and (b) all assets of the Debtors' Estates, the Liquidating Debtor, the Holdback Escrow, and the Wind Up Escrow have been fully