KELLER BENVENUTTI KIM LLP
JANE KIM (Cal. Bar No. 298192)
(jkim@kbkllp.com)
JEREMY V. RICHARDS (Cal. Bar No. 102300)
(jrichards@kbkllp.com)
TRACI L. SHAFROTH (Cal. Bar No. 251673)
(tshafroth@kbkllp.com)
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 496-6723
Facsimile: (650) 636-9251

Attorneys for Debtors and Debtors in Possession

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) **MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER PURSUANT TO 11 U.S.C. § 105(a), 363(b), AND 363(f) AND FED. R. BANKR. P. 6004 AUTHORIZING THE DEBTORS TO SELL EQUIPMENT FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS** Date: June 27, 2025 Time: 10:00 a.m. (Pacific Time) Place: **In person or via Zoom** United States Bankruptcy Court 450 Golden Gate Avenue Courtroom 17, 16th Floor San Francisco, CA 94102

[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.

Trinitas Advantaged Agriculture Partners IV, L.P. ("TAAP IV") and its affiliates that are debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), move this Court (the "Motion") pursuant to sections 105(a), 363(b), and 363(f) of title 11 of the United States Code (the "Bankruptcy Code"), and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for entry of an order, substantially in the form attached hereto as **Exhibit A**, (i) authorizing the Debtors to sell all of their remaining farm equipment and personal property free and clear of liens, claims, encumbrances, and interests; and (ii) granting such other and further relief as the Court deems just and proper. In support of this Motion, the Debtors submit the *Declaration of Kirk Hoiberg in Support of the Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. § 105(a), 363(b), and 363(f) and Fed. R. Bankr. P. 6004 Authorizing the Debtors to Sell Equipment Free and Clear of Liens, Claims, Encumbrances, and Interests* (the "Hoiberg Declaration"), all filed concurrently herewith, and respectfully represent as follows:

MEMORANDUM OF POINTS AND AUTHORITIES

I. JURISDICTION AND VENUE

The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.), and Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern District of California (the "Bankruptcy Local Rules"). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

The statutory predicates for the relief requested herein are sections 105(a), 363(b), and 363(f) of the Bankruptcy Code.

II. RELIEF REQUESTED

By and through this Motion, the Debtors seek to sell their remaining physical assets (the "Assets"), which will be liquidated by the Sale Agent (defined below) via a negotiated sale process and/or a public auction (the "Sale"). The Debtors are filing contemporaneously herewith an application to approve the retention of the Sale Agent to conduct the Sale. The Debtors request

KELLER BENVENUTTI KIM LLP
425 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

entry of an order, pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code and Bankruptcy Rule 6004, authorizing the Assets to be sold by the Sale Agent, subject to the Sale Agent's retention pursuant to section 327(a) of the Bankruptcy Code, and approving the Sale, free and clear of all liens, claims, encumbrances, and interests.

III. BACKGROUND

A. General Background[2]

On February 19, 2024 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of California, thereby commencing the Chapter 11 Cases. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On March 7, 2024, the United States Trustee appointed an official committee of unsecured creditors (the "Committee") in these Chapter 11 Cases. *See* Dkt. No. 43. No trustee or examiner has been appointed in these Chapter 11 Cases.

B. The Sale of the Debtors' Real Property

TAAP IV owned, and through its subsidiary, Debtor Trinitas Farming, LLC ("TF"), operated 17 almond ranches, which collectively covered 7,856 planted acres. The Debtors have sold all of their real property through Court-approved sales, the last of which closed in late 2024.

The Assets include over two hundred pieces of farm equipment and personal property that are owned or leased by the Debtors, including, *inter alia*, trucks, tractors, spreaders, mowers, sprayers, tanks, trailers, fumigators, tillage equipment, all-terrain vehicles, utility terrain vehicles, rough terrain vehicles, sweepers, shakers, harvesters, backhoes, levelers, conveyers, and other equipment essential to farming operations.

A. The Debtors' Remaining Assets

In the period between the Petition Date and the sale of the Debtors' properties, the Debtors' properties were operated by non-debtor Pomona Farming, LLC ("Pomona") under an Amended

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[2] Unless otherwise indicated, the facts and circumstances supporting this section are set forth in the *Declaration of Kirk Hoiberg in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration") [Case No. 24-50210, Dkt. 15]. Capitalized terms used but not defined in this Motion have the meanings ascribed to them in the First Day Declaration.

and Restated Farm Services Agreement (the "Amended and Restated Farm Services Agreement"), dated February 15, 2024,[3] which expired by its terms on February 28, 2025, but the termination of which the parties extended to March 31, 2025, via a written amendment. Pursuant to that agreement, farm equipment and personal property owned and leased by the Debtors were used and stored by Pomona, and costs and expenses related to the Assets were allocated between the Debtors and Pomona.

The Debtors negotiated with Pomona for some time in hopes that Pomona would make an offer to purchase the Assets. Unfortunately, Pomona was only willing to buy ten individual items. This would have required the Debtors to continue to pay storage costs for the hundreds of pieces of equipment that remained, to arrange for a separate sale of the remaining equipment, and to renew insurance that was otherwise set to expire on May 12, 2025, for an indefinite period of time, at substantial cost to the Debtors' estates.

The Debtors accordingly began discussions with other third parties to solicit offers to purchase the equipment outright. The Debtors also began discussions with Onyx Asset Advisors, LLC ("Onyx") to serve, in partnership with Martella & Black Auction Co. ("Martella & Black"), as the Debtors' sale agent ("Sale Agent") to potentially sell the Assets via a negotiated sale and/or public auction (the "Sale"). The Debtors also gave Pomona a final opportunity to make an offer to purchase all of the Assets, as an outright sale to Pomona would eliminate the need to transport the equipment and would minimize the time required of the Debtors' professionals to effect the sale of the Assets.

The Debtors received one offer from a third party to purchase the Assets outright, for a total price of $350,000. Subsequently, on April 25, 2025, Pomona informed the Debtors that it would not be making an offer to purchase all of the Assets. Pomona also informed the Debtors that it was no longer willing to store the Assets on its property (which it had been doing pursuant to the now-terminated Amended and Restated Farm Services Agreement) and requested that the

[3] The summary description of the Amended and Restated Farm Services Agreement provided here is qualified by reference to the terms of the Amended and Restated Farm Services Agreement.

Debtors remove the equipment from Pomona's property, with transport from Pomona's property to be handled by Pomona, at the Debtors' expense.

Because Pomona asked that the equipment be moved immediately, and given the Debtors' need to store and maintain insurance coverage for the Assets through the date of any sale, accepting the $350,000 offer from the other third party was not feasible, because the cost of transport, storage, and insurance could exceed the offer price. Therefore, the Debtors determined that the best way to maximize the value of the Assets, while minimizing expense, was to work with an agent and auction firm that could store the Assets pending the Sale.

On April 25, 2025, the Debtors arranged with the Sale Agent to store the equipment at Martella & Black's facility in Hanford, California. The Sale Agent also agreed (1) to assist, as necessary, with transportation of the Assets to the Hanford facility, (2) to perform any repairs necessary to prepare the Assets for sale, (3) to provide, if necessary, short-term insurance coverage of the equipment until the equipment is sold, and (4) to assist, at the Debtors request, with buy-out negotiations with equipment lessors.

In addition to agreeing to perform these additional services as needed, the Debtors believe that it is likely that net proceeds from the anticipated Sale to be run by the Sale Agent will be higher than the offer received from the other third party to purchase the Assets outright, in light of the experience of the Sale Agent in managing similar sale processes and its ability to run a competitive sale process through a public auction.

B. Insurance Renewal

Although Pomona had indicated that it would remove all equipment from its property by approximately May 2, 2025, as of May 7, 2025, less than 10 percent of the equipment had been delivered to the Sale Agent. Accordingly, the Debtors worked with their insurance broker to obtain commercial vehicle and equipment insurance for the period after the existing policies expired on May 12, 2025. The Debtors attempted to minimize insurance costs to the extent possible, but the Debtors' status as chapter 11 debtors led to higher costs of insurance.

The Debtors concluded, in their business judgment, that they should purchase a one-year commercial vehicle and equipment policy covering all TAAP IV vehicles and equipment.

Although the costs of the policy were relatively high, and no partial payments were allowed, this policy minimized the premium "earned" by the insurer on the effective date, and therefore was ultimately the most economical policy available. The commercial vehicle policy has no minimum premium earned, meaning that, e.g., if the Debtors sell the vehicles one month after the effective date of the one-year policy, the insurance company will refund 11/12ths of the premium paid by the Debtors. The equipment policy is much less expensive and has a minimum premium earned of only $10,000, with the remainder based on time outstanding; in other words, the sooner the equipment is sold, the more of the premium the insurer will refund to the Debtors. The one-year policy should cost the Debtors less than a six-month policy because the cost of the latter is not much less, and the six-month policy would be fully earned on the effective date, meaning that the Debtors would not be entitled to *any* refund of "unused" premium, regardless of when the vehicles and equipment are sold.

The cost of the one-year policy is approximately $390,000. But the Debtors should be able to recover between $200,000 and $300,000 in refunded premiums if the Sale Agent is able to sell the Assets within the next two months, as the Sale Agent currently contemplates.

C. The Sale and the Sale Agent's Compensation

As more fully described in the *Debtors' Application for Entry of an Order Authorizing and Approving the Retention of Sale Agent* (the "Application") filed concurrently herewith, Onyx is an experienced and well-respected asset disposition advisory firm, which will be partnering with Martella & Black, an auction firm with extensive experience in the agriculture industry. Together, Onyx and Martella & Black are well-suited to meet the Debtors' additional need to have the Assets stored, repaired as necessary, and potentially insured in the weeks leading up to the Sale. Accordingly, Onyx and Martella & Black are well-qualified to conduct the Sale and an especially appropriate choice under the circumstances.

The Sale Agent will sell the Assets either through a negotiated sale process, a public auction, or a combination of the two. Should the Assets be sold via auction, the Debtors and the Sale Agent anticipate that such auction will be conducted partially or exclusively online (at the Sale Agent's discretion) and will be scheduled to close on or around July 16, 2025.

Pursuant to the terms and conditions of the parties' contract dated June 2, 2025 (the "Agreement"), the Sale Agent's compensation will be comprised of (1) a Commission 4 percent of the Gross Sale Proceeds; (2) for any assets sold at auction, a Buyer's Premium of 18 percent, less 2 percent of the Buyer's Premium, which will be remitted to the provider of the hosting platform for the online auction; (3) an Expense Reimbursement, capped at $20,000, for expenses incurred in connection with the Sale; and (4) an Additional Reimbursement of expenses associated with any repairs, insuring, and transportation of the Assets, as described more fully in the Application (with undefined capitalized terms defined in the Application).

D. Secured Liens Encumbering the Assets

The Debtors' prepetition and post-petition secured lender, Rabo Agrifinance, LLC ("Rabo Ag") received liens on the Assets in connection with debtor-in-possession financing provided by Rabo Ag and approved by the Court, including adequate protection liens on the Assets with respect to Rabo Ag's prepetition secured debt. *See 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], § II.

The Debtors have received consent from Rabo Ag to auction or sell the Assets.

The Debtors are unaware of any other liens on the Assets.

IV. BASIS FOR RELIEF

A. Sale of the Assets through the Sale by the Sale Agent is appropriate under section 363 and will maximize value.

In accordance with Bankruptcy Rule 6004(f), sales of property outside of the ordinary course of business may be conducted by private sale or public auction. The Debtors have determined that the sale of their Assets by the Sale Agent through a negotiated sale process and/or a public auction will enable them to minimize administrative costs and to obtain the highest or otherwise best prices for these Assets, in the most efficient, cost-effective manner (thereby maximizing the value of the estates) and that the Sale is in the best interests of the Debtors' creditors.

Section 363(b)(1) of the Bankruptcy Code provides: "the Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Section 105(a) of the Bankruptcy Code provides in relevant part: "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

Section 363 does not provide a standard for approving a sale, but the "bankruptcy court has considerable discretion in deciding whether to approve or disapprove the use of estate property by a debtor in possession, in the light of sound business justification." *In re Walter*, 83 B.R. 14, 16 (9th Cir. 1988); *see also In re Continental Airlines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143 (3rd Cir. 1986). In determining whether the debtor-in-possession has complied with the sound business judgment rule, the Court must consider whether: (a) there has been "[a]ny improper or bad motive," (b) the "price is fair and the negotiations or bidding has occurred at arm's length" and (c) the sale followed "[a]dequate procedures, including proper exposure to the market and accurate and reasonable notice to all parties in interest." *In re Castre*, 312 B.R. 426, 428 (Bankr. D. Colo. 2004). When applying the rule, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." *In re Pomona Valley Med. Group, Inc.*, 476 F.3d 665, 670 (9th Cir. 2007) (considering the rule in the context of the debtor's decision to reject a contract).

The proposed Sale of the Assets by the Sale Agent reflects the Debtors' sound business judgment. The Sale Agent was able to provide immediately available storage for the Assets, which include hundreds of vehicles and pieces of agricultural equipment, allowing the Debtors to comply with Pomona's request that the equipment immediately be removed from Pomona's properties. Additionally, the Sale Agent (1) will be able to conduct any repairs necessary to prepare the Assets for sale, (2) was prepared to provide short-term insurance coverage if the Debtors requested it (and could still provide such coverage if the Debtors deem it justified), and (3) can assist with transportation of the Assets to the Hanford facility if that becomes necessary.

There is no guarantee that the net proceeds from the contemplated auction will exceed the $350,000 offer the Debtors previously received to purchase the Assets outright, but, based on the Sale Agent's preliminary inspection of the equipment, the Debtors' sound business judgment is that it is likely that a commercially reasonable auction will generate net proceeds in excess of that offer. Regardless, accepting that offer was not feasible given the need to immediately begin removing the equipment and to arrange short-term insurance coverage to begin in approximately two weeks, and the fact that the transport, storage, maintenance, and insurance costs likely would have exceeded the total sale price.

An additional factor in favor of an expeditious Sale, as proposed in this Motion, is that the sooner the Sale is completed, the higher the refund the Debtors will obtain on their insurance premiums. The Debtors worked with their insurance broker to obtain the most economical coverage possible, obtaining a policy with no minimum premium earned for commercial vehicles and an earned premium of only $10,000 for the farming equipment. This means that the Debtors receive a pro-rated refund of the premiums paid for the time on the policy that goes unused. Accordingly, the sooner the Debtors sell the equipment, the more of the premiums will be refunded by the insurance company.

Given the specialized nature of the Assets, which the Debtors are no longer using, as well as the administrative carrying costs, including the significant insurance expense, the Debtors submit that the Sale is necessary, appropriate, and in the best interests of the Debtors, their estates, creditors, and all other parties in interest. For these reasons, the Debtors have satisfied the requirements of section 363(b).

B. A Sale free and clear under Section 363(f) is warranted.

The Debtors may sell property free and clear of any interest in such property of an entity other than the estate under certain circumstances. *See* 11 U.S.C. § 363(f)(1)–(5). The only known holder of any liens on the Debtors' Assets is Rabo Ag, from which the Debtors received consent to the Sale in accordance with this Motion. *See* 11 U.S.C. § 363(f)(2).

A sale free and clear of liens, claims, encumbrances, or interests is necessary to maximize the value of the Debtors' assets. A sale of the Assets other than one free and clear of all liens, claims, encumbrances, or interests would yield substantially less value for the Debtors' estates. A sale free and clear of liens, claims, encumbrances, or interests is particularly appropriate under the circumstances, because any lien, claim, encumbrance, or interest in, to, or against the Debtors' right, interest, and title in the equipment that exists immediately prior to the closing of any sales will attach to the sale proceeds allocated to the Debtors with the same validity, priority, force, and effect as it had at such time, subject to the rights and defenses of the Debtors or any party in interest. The Debtors submit that holders of liens, claims, encumbrances, or interests, if any, will be adequately protected by the availability of the proceeds of the sale to satisfy their liens, claims, encumbrances, or interests.

C. Notice of the proposed Sale is reasonable under the circumstances.

The Debtors have given notice of this Motion to all creditors, in the form attached hereto as **Exhibit B**. Under Bankruptcy Rules 2002(a) and (c), the Debtors are required to notify creditors of the proposed sale of the Debtors' Assets, including a disclosure of the time and place of any auction, the terms and conditions of a sale, and the deadline for filing any objections. The Debtors submit that the Sale Notice complies fully with Bankruptcy Rule 2002 and is reasonably calculated to provide timely and adequate notice of the Sale to the Debtors' creditors.

V. REQUEST FOR WAIVER OF BANKRUPTCY RULE 6004(h)

Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for fourteen days after entry of the order.

Although Bankruptcy Rule 6004(h) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the 14-day stay period, commentators agree that the 14-day stay period should be eliminated to allow a sale or other transaction to close immediately where there has been no objection to the procedure. *See generally Collier on Bankruptcy* ¶ 6004.11 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time necessary to file such appeal. *Id.*

In light of the Debtors' interest in minimizing the administrative carrying costs on the Assets, which the Debtors are no longer using, the Debtors submit that a waiver of any applicable stays is appropriate to allow the Sale Agent to complete the Sale, either by a negotiated sale process, a public auction, or a combination of the two, as quickly as possible.

VI. NOTICE

In addition to the notice described in Section IV.C, *supra*, notice of this Motion will be provided to (i) the Office of the United States Trustee for Region 17 (Attn: Trevor Fehr, Paul Leahy, and Jorge A. Gaitan); (ii) counsel for the Committee; (iii) the Debtors' secured lender Rabo AgriFinance LLC; and (iv) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002. No previous request for the relief sought herein has been made by the Debtors to this or any other court. The Debtors respectfully submit that no further notice is required.

VII. CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto as Exhibit A, and for such other and further relief as the Court may deem just and appropriate.

Dated: June 2, 2025

KELLER BENVENUTTI KIM LLP

By: */s/ Jane Kim*
Jane Kim
Counsel to the Debtors Trinitas Advantaged Agriculture Partners IV, LP, and Trinitas Farming, LLC