UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:	Case No. 26-18325 (EJO)
POOLIN TECHNOLOGY PTE. LTD., *et al*.,	Chapter 11
Debtors.[1]	(Jointly Administered)
	Judge: Eamonn J. O'Hagan
	Hearing: **October 2, 2026 at 10:00 a.m. (ET)**
	Re: Docket Nos. 30 and 272

OFFICIAL COMMITTEE OF UNSECURED CREDITORS' (I) STATEMENT IN SUPPORT OF DEBTORS' AMENDED MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ENCUMBRANCES, (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF THE POTENTIALLY ASSIGNED CONTRACTS, AND (C) GRANTING RELATED RELIEF; (II) RESPONSE TO THE OBJECTIONS OF THOR CALAP LLC; AND (III) RESERVATION OF RIGHTS

[1] The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: Poolin Technology Pte. Ltd., a Singapore Private Limited Company; Lonestar Dream Inc. (5105); and Lonestar Taproot LLC (4118). The location of the Debtors' service address for purposes of these Chapter 11 Cases is: c/o Michael DuFrayne, CRO, 2564 US Highway 1, PMB #16884166, Lawrence, NJ 08648.

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The Official Committee of Unsecured Creditors (the "Committee") appointed in the above-captioned chapter 11 cases (the "Chapter 11 Cases") of Poolin Technology Pte. Ltd. and its affiliated debtors and debtors in possession (collectively, the "Debtors") files this (A) statement (the "Statement") in support of the Debtors' request for entry of an order (the "Sale Order") approving the sale of substantially all of the Debtors' assets to Hut 8 (as defined below) pursuant to the Sale Motion,[2] subject to the Committee's reservation of rights below, and confirming Hut 8 as the Winning Bidder and the Back-Up Bids consistent with the *Notice* and *Amended Notice of Auction Results (Winning Bidder and Back-Up Bidder)* [Docket Nos. 237 and 239] ("Notice of Winning Bids"), as supplemented by the *Supplemental Declaration of Michael DuFrayne Regarding Auction Result and in Support of Approval of Sale of Substantially All of the Debtors' Assets* [Docket No. 240, and as supplemented by Docket No. 247] (the "DuFrayne Supplemental Declaration"), the *Order (I) Amending the Bidding Procedures Order, (II) Approving Supplemental Bidding and Auction Procedures, (III) Scheduling a Further Auction and Sale Hearing, and (IV) Granting Related Relief* [Docket No. 272] (the "Amended Bidding Procedures Order"), and the amended asset purchase agreements between the Debtors and Hut 8 filed on September 29, 2026 [Docket No. 269] and attached as Exhibits A and B to the Amended Bidding Procedures Order (the "Amended Hut 8 APAs"), and (B) response (the "Response") to the *Objection of Thor CALAP LLC to the Motion to Approve the Sale of Assets and Reservation of*

[2] *Debtors' Amended Motion for Entry of (I) an Order (A) Approving Certain Bidding Procedures and the Form and Manner of Notice Thereof, (B) Authorizing the Debtors to Designate the Stalking Horse Bidder, (C) Scheduling an Auction and a Hearing on the Approval of the Sale of Substantially All of the Debtors' Assets, (D) Authorizing the Debtors to Enter into the Purchase Agreements, (E) Establishing Certain Assumption and Assignment Procedures and Approving the Manner of Notice Thereof, and (F) Granting Related Relief; and (II) an Order (A) Authorizing the Sale of Substantially All of the Debtors' Assets Free and Clear of Encumbrances, (B) Approving the Assumption and Assignment of the Potentially Assigned Contracts, and (C) Granting Related Relief* [Docket No. 30] (the "Sale Motion"). A capitalized term used but not defined herein shall have the meaning ascribed to it in the Sale Motion, the Bidding Procedures, or the DuFrayne Supplemental Declaration (defined below), as applicable.

Rights [Docket No. 224] (the "Thor Objection") and *Supplemental Objection of Thor CALAP LLC to the Motion to Approve the Sale of Assets and Further Reservation of Rights* [Docket No. 243] (the "Thor Supplemental Objection" and, together with the Thor Objection, the "Thor Objections") filed by Thor CALAP, LLC ("Thor"). In support of this Statement and Response, the Committee respectfully states as follows:

I. PRELIMINARY STATEMENT

1. The Debtors, in consultation with the Committee, have determined that the bids submitted by Hut 8 Corp. through its designees, Raptor Basin LLC and Mesquite Falcon LLC (collectively, "Hut 8") should be confirmed as the Winning Bid, and that the sale of the Assets to Hut 8 should be approved on the terms of the Amended Hut 8 APAs. The asset purchase agreements between the Debtors and Hut 8, each dated as of September 21, 2026 (the "Hut 8 APAs"), as amended, provide for an aggregate purchase price of up to $180,000,000, consisting of (a) $100,000,000 payable in cash at Closing (the "Closing Purchase Price") – $74,000,000 for the Tarbush Assets and $26,000,000 for the Pyote Assets – with no financing or due diligence contingency, and (b) additional payments of up to $80,000,000 – $59,200,000 for the Tarbush Assets and $20,800,000 for the Pyote Assets (collectively, the "Milestone Payments") – payable upon the commercialization of the Tarbush and Pyote sites as data centers, whether through a lease or colocation agreement for a data center powered by the Power Rights being conveyed or through a transfer of the properties and associated Power Rights to a third party for data center use. The "sole and absolute discretion" closing conditions to which the Committee objected in the Stalking Horse APAs have been removed. As originally executed and filed with the Court on September 25, 2026 [Docket No. 247], the Hut 8 APAs provided for a purchase price of $140,000,000 payable entirely in cash at Closing. Hut 8 had offered the Debtors the alternative of a higher, partly deferred

price and in connection with the September 29, 2026 hearing on the Sale Motion (the "September 29 Hearing"), Hut 8 agreed to modify the Hut 8 APAs to provide the estates with materially greater certainty of realizing the Milestone Payments – including anti-circumvention covenants, conditional deeds of trust securing the Milestone Payments, and provisions binding Hut 8's successors, assigns, and transferees – and the Committee concluded that the increased aggregate consideration, so protected, was worth pursuing. Hut 8 has also posted Good Faith Deposits of $10,500,000 in the aggregate – 10.5% of the Closing Purchase Price under each Amended Hut 8 APA, exceeding the 5% required by the Bidding Procedures – which would be forfeited to the estates as liquidated damages if Hut 8 defaults.

2. It is well-settled that to approve a sale transaction, the debtor must demonstrate that (a) the proposed sale transaction is an exercise of the debtor's reasonable business judgment, (b) the terms of the transaction were negotiated in good faith and at arm's length, and (c) such transaction is in the best interests of the estate. Where a sale is critical to recovery and there are competing bids, the debtor is duty bound to consider not only the highest upfront cash consideration but the net impact of the transaction. In other words, the "highest" bid will not necessarily be the "best" bid, and noncash consideration, including factors such as certainty of close, must be taken into account in the analysis.

3. To that end, the Bidding Procedures approved by the Court in these Chapter 11 Cases reserve the Debtors' discretion to act consistent with their fiduciary duties and to consult with their major stakeholders such as the Committee. Given the lack of secured debt in these Chapter 11 Cases, general unsecured creditors are the fulcrum constituency. As a Consultation Party under the Bidding Procedures, the Committee has been actively involved in the sales process,

attended the Auction, and has been in communication with the Debtors' professionals regarding the selection of the Winning Bid.

4. For the reasons set forth below, the Committee respectfully submits that the Thor Objections should be overruled. The Committee had significant concerns about certain provisions in the Stalking Horse APAs which permit Thor to terminate the Stalking Horse APAs at its "sole and absolute discretion" if certain contingencies were not satisfied to Thor's satisfaction, thereby turning Thor's bids into unworkable "free option" agreements. Following the Auction, Thor refused to remove that language, refused to increase its Good Faith Deposit from 1.5% to the 5% of its bid as requested by the Debtors and required by the Auction Rules (as defined below), refused to extend its closing date to accommodate the anticipated ERCOT approval, and twice declined in writing to negotiate further. *See* DuFrayne Supplemental Declaration at ¶¶ 20–28. Consequently, the Committee does not believe that Thor's bid, even as improved at the Auction, constitutes the highest and best bid for the Assets, and respectfully submits that Thor's belated request to "match" Hut 8's price after refusing to negotiate should not be credited. Moreover, as discussed below, the Court has already afforded Thor the very relief it requested – a re-opened Auction and the opportunity to match or exceed Hut 8's bid – and tellingly, **Thor declined to participate in the re-opened Auction**.

5. At the September 29 Hearing, the Debtors, in consultation with the Committee, elected to test the Amended Hut 8 APAs against the market one final time through a further auction to be conducted in open court, and the objecting parties placed their agreements on the record. On September 30, 2026, the Court entered the Amended Bidding Procedures Order, which, among other things, (a) deemed Hut 8 and Thor Qualified Bidders and provided that the Debtors would qualify a bid of CES Acquisitions LLC ("CES") and/or Pecos Industrial Development, LLC

("Pecos") upon their full compliance with the Bidding Procedures, (b) established a deadline of October 1, 2026 at 12:00 p.m. (ET) (the "Supplemental Bid Deadline") for any party to submit a bid, (c) scheduled a further Auction, in open court, and the adjourned Sale Hearing for October 2, 2026 at 10:00 a.m. (Eastern Time), and (d) provided that any party other than Hut 8 (or Thor) that failed to submit a bid by the Supplemental Bid Deadline would be precluded from bidding and, consistent with the agreements placed on the record at the September 29 Hearing, would waive, release, and withdraw its objections to the sale with prejudice. Amended Bidding Procedures Order ¶¶ 3–6.

6. No party submitted a bid by the Supplemental Bid Deadline.

7. Neither CES, nor Pecos (the designee of Fluidstack Ltd.), nor Thor – each of which had asked this Court to withhold approval of the sale to Hut 8 so that it could bid – elected to bid against the Amended Hut 8 APAs when given the opportunity to do so. CES informed the Committee (and the Debtors) that it would submit a bid, but as of the filing of this Statement has not done so (approx. 3:30 p.m. Eastern Time).[3] Accordingly, pursuant to paragraph 6 of the Amended Bidding Procedures Order and the agreements reached on the record at the September 29 Hearing, the objections to the sale filed by Abbauer Industries, LLC ("Abbauer") [Docket Nos. 221, 250], CES [Docket Nos. 227, 251], and Pecos [Docket No. 248] have been withdrawn with prejudice, and the Committee does not address them in this Statement. The Thor Objections remain pending, and the Committee responds to them below.

8. To further protect the estates' creditors, the Committee has requested revisions to the proposed Sale Order to ensure that no sale proceeds are distributed without further order of the Court on notice to the Committee and that the Milestone Payment obligations under the Amended

[3] The Committee understands that any bid submitted by CES will have a diligence out, which the Committee deems non-qualifying and untimely.

Hut 8 APAs bind Hut 8's successors, assigns, and transferees. The Committee has a direct interest in preserving the sale proceeds for distribution through a confirmed plan. The Debtors have circulated a revised form of proposed Sale Order incorporating the Committee's requested edits to the proceeds provisions, and the Committee understands that the Debtors will file a further revised form, conformed to the Amended Hut 8 APAs, prior to the Sale Hearing. The Committee reserves all rights with respect to the final form of Sale Order as filed and any further modifications that may be made to the Sale Order.

II. BACKGROUND

A. The Chapter 11 Cases and the Committee.

9. On July 22, 2026 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

10. On August 11, 2026, the Office of the United States Trustee for the District of New Jersey appointed the Committee. *See Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 112].

B. The Sale Motion, the Stalking Horse APAs, and the Bid Procedures Order.

11. On July 23, 2026, the Debtors filed the Sale Motion, seeking, among other things, approval of bidding procedures (the "Bidding Procedures") for the sale of substantially all of the Debtors' assets (the "Assets"), authority to designate Thor as the stalking horse bidder (the "Stalking Horse Bidder"), and approval of the sale of the Assets free and clear of encumbrances. Attached to the Sale Motion as Exhibit B were the two asset purchase agreements between the Debtors and Thor dated as of July 22, 2026, for the Debtors' Pecos, Texas assets (the "Tarbush APA") and the Debtors' Pyote, Texas real property and equipment (the "Pyote APA" and, together with the Tarbush APA, the "Stalking Horse APAs"). *See* Docket No. 30-2.

12. On August 17, 2026, the Court entered the Bid Procedures Order.[4] The Bidding Procedures are attached to the Bid Procedures Order as Exhibit 1. The Bidding Procedures provide that the Debtors, in consultation with the Committee, determine which Qualified Bid constitutes the highest or otherwise best bid, and that the Stalking Horse Bid "is deemed a Qualified Bid, and the Stalking Horse Bidder is deemed a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures." *Id.* §§ I.A.1, I.B.1, I.C.3, I.D.3. In order to further protect the Debtors and the process, the Bidding Procedures also provided, as is customary best practices, that:

> The Debtors, in consultation with the Committee, reserve their rights to modify these Bidding Procedures or to waive any provision or requirement herein in their reasonable business judgment and in a manner consistent with the maximization of their estates in any manner that will best promote the goals of the bidding process, or impose, at or before the Auction, additional customary terms and conditions on the sale of the Assets, including, . . . (e) rejecting any or all bids or Qualified Bids if, in the Debtors' reasonable, good-faith business judgment, following consultation with the Committee, the Debtors determine that such Qualified Bid is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or related rules or the terms set forth herein, or (iii) contrary to the best interests of the Debtors; . . . .

Bidding Procedures at § II, p. 16.

C. <u>The Proposed Sale Order and the Committee's Requested Edits.</u>

13. Section VII.2(c) of the Tarbush APA, as originally drafted, conditioned Thor's obligation to close on the closing of a purchase agreement for certain adjacent real property "on terms and conditions acceptable to Buyer, in its sole and absolute discretion" and "on terms and conditions satisfactory to Buyer in its sole discretion." Tarbush APA at VII.2(c). Section VII.2(c)

[4] *Order (I) Approving Bidding Procedures for the Sale of Substantially All of the Debtors' Assets, (II) Authorizing the Debtors to Designate the Stalking Horse Bidder, (III) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (IV) Approving Procedures for the Assumption and Assignment of or Rejection of Designated Executory Contracts and Unexpired Leases, (V) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof, and (VI) Granting Related Relief* [Docket No. 138] (the "<u>Bid Procedures Order</u>").

of the Pyote APA, as originally drafted, conditioned Thor's obligation to close on Thor receiving "written confirmation, in form and substance satisfactory to Buyer, in its sole and absolute discretion," that certain electrical capacities of the property were available. Pyote APA at VII.2(c).

14. On September 3, 2026 – eight days before the Auction – the Debtors filed the *Notice of Proposed Order Approving Sale* [Docket No. 199] (the "Proposed Sale Order"), attaching the form of Sale Order to be sought at the Sale Hearing in accordance with the Bidding Procedures. Paragraph 48 of the Proposed Sale Order provides, in full:

> Paragraph 7.2(c) of the Pyote APA is hereby modified to delete the words 'in its sole and absolute discretion.' Paragraph 7.2 (c) of the Tarbush APA is hereby modified to delete the words 'in its sole and absolute discretion.'

Proposed Sale Order at ¶ 48, p. 35.

15. The Proposed Sale Order is the form of Sale Approval Order contemplated by Section VII.1(a) of the Stalking Horse APAs, which provides that the order "shall be in form and substance reasonably acceptable to Buyer." *See* Docket No. 30-2, Tarbush APA § VII.1(a); Pyote APA § VII.1(a). The Proposed Sale Order was filed with the Court on September 3, 2026 and presumably was reviewed by Thor's counsel. At no time did Thor raise an objection to the either the form or substance of the Proposed Sale Order until it filed its Objection after the Auction.

16. As discussed in Part VI, below, the Committee has also requested additional edits to the Sale Order to protect the sale proceeds (collectively, the "Committee Edits"), which the Debtors have agreed to incorporate into a revised form of proposed Sale Order.

D. The Auction.

17. The Debtors conducted the Auction for the Assets on September 10, 2026. The Auction was robust. Besides the Stalking Horse Bidders, four other Qualified Bidders participated in the Auction that spanned more than twelve hours and over 60 rounds of bidding. The Debtors initially confirmed Thor as the Winning Bid for both the Tarbush and Pyote APAs and Hut 8 (or

its designee) as the Back-Up Bid, subject to further documentation as expressly set forth on the record at the Auction. *See* DuFrayne Supplemental Declaration at ¶¶ 8–19 & Ex. A (the "Auction Transcript") & Ex. B (the "Auction Rules").

18. During the Auction, in response to concerns expressed by Committee counsel, Debtors' counsel confirmed on the record that the "sole and absolute discretion" language in Section VII.2(c) of the Stalking Horse APAs had been removed. Auction Transcript at 75:21–76:11; *see also id*. at 154:7–155:2 (Debtors' counsel confirming, when Committee counsel raised the point again during the final round of aggregate bidding, that the "sole and absolute discretion" language in Section 7.2(c) "was already addressed and that came out"). Thor did not object to either statement and continued to bid.

19. As a result of vigorous bidding at the Auction by other Qualified Bidders, Thor's Stalking Horse Bid was modified at the Auction to increase the purchase price under both Stalking Horse APAs to an aggregate of $180 million. *See* Thor Objection, Ex. A (Docket No. 224-1); DuFrayne Supplemental Declaration at ¶ 18.

E. The Winning Bid, the Amended Hut 8 APAs, and the Back-Up Bids.

20. As set forth in the Notice of Winning Bids, the Debtors previously designated the bid submitted by Hut 8 as the Winning Bid, for a total purchase price of $140,000,000 in cash. *See* Notice of Winning Bids at p. 3. The DuFrayne Supplemental Declaration describes the post-Auction events that led to that designation: Thor's refusal to document its $180 million bid on terms providing reasonable certainty of closing, the Debtors' two written requests that Thor confirm whether it was willing to negotiate further (each answered "no"), and the Debtors' subsequent arm's-length negotiations with Hut 8, conducted in consultation with the Committee, which produced the Hut 8 APAs. DuFrayne Supplemental Declaration at ¶¶ 20–33.

21. Under the asset purchase agreement between the Debtors and Raptor Basin LLC for the Tarbush Assets (the "Tarbush Hut 8 APA"), the purchase price was originally $103,000,000; under the asset purchase agreement between the Debtors and Mesquite Falcon LLC for the Pyote Assets (the "Pyote Hut 8 APA"), the purchase price was originally $37,000,000, in each case payable in cash at Closing.[5] Each Hut 8 APA is dated as of September 21, 2026. The executed Hut 8 APAs were filed with the Court on September 25, 2026 [Docket No. 247].

22. Hut 8 had offered the Debtors two alternative purchase price structures: a purchase price of $140,000,000 payable in full at Closing, or a purchase price of up to $180,000,000 consisting of $100,000,000 payable at Closing and an additional $80,000,000 payable upon the commercialization of the Tarbush and Pyote sites. *See Declaration of Gregory Irwin in Support of Entry of Sale Approval Order and Approval of Sale to Purchasers* [Docket No. 265] (the "Irwin Decl.") at ¶ 7. The Debtors, in consultation with the Committee, initially selected the all-cash alternative. *Id.* at ¶ 8. In connection with the September 29 Hearing, and in consultation with the Committee, the Debtors and Hut 8 agreed to modify the Hut 8 APAs to adopt the higher alternative structure, with additional protections for the estates with respect to the Milestone Payments. *See* Docket No. 267. The Amended Hut 8 APAs were filed with the Court on September 29, 2026 [Docket No. 269] and are attached as Exhibits A and B to the Amended Bidding Procedures Order. Under the Amended Hut 8 APAs, the aggregate Purchase Price is up to $180,000,000: a Closing Purchase Price of $100,000,000 payable in cash at Closing – $74,000,000 under the Tarbush Hut

[5] The Hut 8 APAs are attached to the DuFrayne Supplemental Declaration as Exhibit C, as amended by the Amended Exhibit C filed on September 25, 2026 [Docket No. 247], which attaches the fully executed Hut 8 APAs. The Amended Hut 8 APAs were filed on September 29, 2026 [Docket No. 269] and are attached as Exhibits A (Pyote) and B (Tarbush) to the Amended Bidding Procedures Order [Docket No. 272]. Unless otherwise indicated, references herein to the "Tarbush Hut 8 APA" and the "Pyote Hut 8 APA" are to the Amended Hut 8 APAs, and section references follow the numbering of the Amended Hut 8 APAs as filed at Docket No. 269. The Committee understands that fully executed copies of the Amended Hut 8 APAs will be filed with the Court prior to the Sale Hearing.

8 APA and $26,000,000 under the Pyote Hut 8 APA – and Milestone Payments of up to $80,000,000 – $59,200,000 under the Tarbush Hut 8 APA and $20,800,000 under the Pyote Hut 8 APA. Tarbush Hut 8 APA § I.6; Pyote Hut 8 APA § I.6.

23. The material terms of the Amended Hut 8 APAs include the following:

- a Closing Purchase Price of $100,000,000 – $74,000,000 under the Tarbush Hut 8 APA and $26,000,000 under the Pyote Hut 8 APA – payable in cash at Closing (Tarbush Hut 8 APA § I.6; Pyote Hut 8 APA § I.6);

- Milestone Payments of $59,200,000 under the Tarbush Hut 8 APA and $20,800,000 under the Pyote Hut 8 APA, payable within five business days after Hut 8 or any of its Affiliates (a term that expressly includes any joint venture in which Hut 8 holds an equity interest) enters into a binding lease, colocation services agreement, or similar contract for a Data Center to be constructed on the Adjacent Property, the Pyote Property, or any other property and powered by the Power Rights conveyed under the Amended Hut 8 APAs, or transfers the Adjacent Property or the Pyote Property and the associated Power Rights to a third party for the express purpose of constructing or operating a Data Center (a "Qualifying Transfer"), subject only to reduction by the amount of any damages finally determined by this Court to have been caused by the Sellers' gross negligence, fraud, or willful misconduct (*id.* § I.6(a)(i)–(iii));

- a definition of "Data Center" that reaches any facility used in whole or in part for high-performance computing, artificial intelligence, machine learning, cloud, hosting, or colocation operations, excluding only a facility operated primarily for cryptocurrency mining (*id.* § I.6(a));

- Hut 8's covenant to use commercially reasonable efforts to enter into a Data Center Lease within six months after Closing, to deliver quarterly written progress reports to the Sellers, and to permit the Sellers or their designee to inspect the properties (*id.* § I.6(a)(ii));

- conditional deeds of trust on the Adjacent Property and the Pyote Property (and on the Tarbush Property, if Hut 8 or its Affiliate acquires or leases it before a Data Center Lease is signed) securing the Milestone Payments, to be executed at Closing, held in escrow by the title company, and recorded upon any failure to pay a Milestone Payment when due (*id.* § I.6(a)(iv));

- Hut 8's covenant not to take or omit any action in bad faith or with the primary purpose of avoiding the Milestone Payments, and not to structure or consummate any transaction, transfer, or joint venture arrangement primarily for the purpose of circumventing them (*id.* § I.6(e));

- provisions under which the Milestone Payment obligations survive Closing and bind Hut 8 and its successors and assigns, are payable to the Sellers or any Seller Designee (including a liquidating trustee or plan administrator), and are to be approved in the Sale Order as an integral part of the Purchase Price binding upon any transferee of the properties or the Power Rights, with this Court retaining jurisdiction to enforce them (*id.* §§ I.6(a)(v), VI.2);

- Good Faith Deposits of 10.5% of the Closing Purchase Price – $7,770,000 under the Tarbush Hut 8 APA and $2,730,000 under the Pyote Hut 8 APA, or $10,500,000 in the aggregate – held in an interest-bearing escrow account by Debtors' counsel, to be applied to the Closing Purchase Price at Closing (Tarbush Hut 8 APA § I.6(b); Pyote Hut 8 APA § I.6(b));

- forfeiture of the Good Faith Deposits to the Debtors' estates as liquidated damages if Hut 8 fails to close as a result of its own default (*id*. §§ VIII.1(e), VIII.2(b));

- a Due Diligence Expiration Date of 10:00 a.m. on September 10, 2026 – the commencement of the Auction – such that Hut 8 has no remaining diligence contingency (*id*. § IV.3), and no financing contingency;

- a Closing Date of December 15, 2026, which the Debtors (but not Hut 8) may extend to January 14, 2027, February 13, 2027, and March 15, 2027 in exchange for specified reductions to the Closing Purchase Price (*id*. § II.1), and which accommodates the ERCOT approval expected on or about December 10, 2026 (DuFrayne Supplemental Declaration at ¶ 24);

- deletion of the "sole and absolute discretion" standard from the Adjacent Property closing condition in the Tarbush Hut 8 APA, which now requires terms "reasonably acceptable" to the buyer (Tarbush Hut 8 APA § VII.2(c)), and from the power-supply confirmation condition in the Pyote Hut 8 APA, which is now subject to the buyer's "reasonable discretion" (Pyote Hut 8 APA § VII.2(c));

- a power-approval condition under the Tarbush Hut 8 APA that may be satisfied by written confirmation from ERCOT and Texas-New Mexico Power following completion of the Batch Zero eligibility verification process, without any requirement that the Debtors post financial security (Tarbush Hut 8 APA § VII.2(e));

- the buyer's waiver of any title objection based on mineral rights (Pyote Hut 8 APA § V.3(l)); and

- cross-conditioning of the two transactions, so that Hut 8's obligation to close under the Pyote Hut 8 APA is conditioned on the substantially contemporaneous Closing under the Tarbush Hut 8 APA, and its obligation to close under the Tarbush Hut 8 APA is conditioned on entry of the Sale Order approving the Pyote Hut 8 APA (Pyote Hut 8 APA § VII.2(j); Tarbush Hut 8 APA § VII.2(i)) (see Part VI below).

24. The original Hut 8 APAs were executed by Hut 8 and the Debtors and filed with the Court, and the Good Faith Deposits have been funded. *See* Amended Exhibit C to the DuFrayne Supplemental Declaration; Irwin Decl. at ¶ 6. The Committee understands that the Debtors and Hut 8 will file fully executed copies of the Amended Hut 8 APAs prior to the Sale Hearing.

25. The Notice of Winning Bids also designates (a) Digipower X Inc. as the Back-Up Bidder for the Pyote Assets at a purchase price of $36,500,000 and (b) Pecos Industrial Development, LLC, as designee of Fluidstack Ltd. ("Fluidstack"), as the Back-Up Bidder for the Tarbush Assets at a purchase price of $100,500,000 (collectively, the "Back-Up Bids"). Notice of Winning Bids at p. 6.[6]

F. The Sale Objections and the Amended Bidding Procedures Order.

26. The original deadline to object to the relief requested in the Sale Motion with respect to the sale of the Assets was September 16, 2026 at 5:00 p.m. (Eastern Time). Following the filing of the Notice of Winning Bids, the Sale Objection Deadline was extended to September 25, 2026 at midnight (Eastern Time), and the hearing to consider approval of the sale (the "Sale Hearing") was scheduled for September 29, 2026 at 11:00 a.m. (Eastern Time). Notice of Winning Bids at p. 4.

27. On September 24, 2026, Thor filed the Thor Supplemental Objection, which incorporates the Thor Objection and asks the Court to deny approval of the sale, "re-open the Auction," and afford Thor "an opportunity to match the price and negotiate the terms of the APA." Thor Supplemental Objection at p. 7.

[6] The Back-Up Bidders' asset purchase agreements, each dated as of September 22, 2026, are attached to the DuFrayne Supplemental Declaration as Exhibits D-1 and D-2 (the "Tarbush Back-Up APA" and the "Pyote Back-Up APA" and, together, the "Back-Up APAs").

28. On September 25, 2026, each of the Back-Up Bidders filed an objection.[7] Pecos contended that the Debtors' post-Auction negotiations with Hut 8 were "secret," that they violated Section I.D.2(ix) of the Bidding Procedures, and that the Court should "declare the back-up bidders the successful bidders." Docket No. 248 at ¶¶ 7–8, 11.

29. Late on September 25 and early on September 26, 2026, Abbauer filed a supplemental objection [Docket No. 250], and CES – an affiliate of Crusoe, Inc. that had not submitted a Qualified Bid or participated in the Auction – filed an objection [Docket No. 251], together with two supporting certifications [Docket Nos. 253, 254], attaching proposed asset purchase agreements with a stated aggregate price of $155,000,000 (of which $80,000,000 would have been payable at closing and $75,000,000 deferred) and asking the Court to decline to approve the sale to Hut 8 and re-open the bidding.

30. On September 28, 2026, the Debtors filed their replies to the objections [Docket Nos. 255–258], and Hut 8 filed a statement in support of the sale [Docket No. 264] and the Irwin Decl. On the morning of the September 29 Hearing, the Debtors advised the Court and all objecting parties that, in consultation with the Committee, the Hut 8 APAs had been modified in accordance with the alternative structure described in the Irwin Decl. to provide an aggregate Purchase Price of up to $180,000,000, consisting of $100,000,000 paid at Closing and an additional $80,000,000 payable upon the commercialization of the Tarbush and Pyote sites, and filed the Amended Hut 8 APAs. Docket Nos. 267, 269.

31. At the September 29 Hearing, the Debtors, in consultation with the Committee and pursuant to their authority under the Bidding Procedures Order to modify the Bidding Procedures to maximize value, determined to conduct a further Auction in open court, and the objecting parties

[7] Digipower withdrew its objection on September 28, 2026 [see Docket No. 259].

placed their agreements on the record (other than Thor, which retained its right to prosecute its objections to the sale). On September 30, 2026, the Court entered the Amended Bidding Procedures Order, which, among other things: (a) deemed Hut 8 and Thor Qualified Bidders and provided that the Debtors would qualify a bid of CES and/or Pecos upon their full compliance with the Bidding Procedures by the Supplemental Bid Deadline; (b) set the Supplemental Bid Deadline of October 1, 2026 at 12:00 p.m. (Eastern Time) and scheduled the Auction, in open court, and the adjourned Sale Hearing for October 2, 2026 at 10:00 a.m. (Eastern Time); (c) required each competing bid to be accompanied by proposed asset purchase agreements marked against the Amended Hut 8 APAs and containing terms at least as favorable to, and protective of, the estates; (d) provided that any party other than Hut 8 (or Thor) that failed to submit a bid by the Supplemental Bid Deadline would be precluded from bidding at the Auction and, consistent with the agreements placed on the record, would waive, release, and withdraw its objections to the sale with prejudice; (e) approved, as consideration for Hut 8 serving as the baseline bidder and holding its bids open and irrevocable through the conclusion of the Sale Hearing, a break-up fee of $3,000,000 (three percent of the $100,000,000 cash portion of the Purchase Price) and an expense reimbursement of up to $250,000, payable only if Hut 8 is not the ultimate Winning Bidder and only from the cash proceeds of the Winning Bid at closing; and (f) found that the Amended Hut 8 APAs contain estate-protective terms and that Hut 8 has acted in good faith within the meaning of section 363(m) of the Bankruptcy Code in connection with the bidding process. Amended Bidding Procedures Order ¶¶ 3–11 and Findings (E)–(F).

32. No party submitted a bid by the Supplemental Bid Deadline. Thor, CES, and Pecos each declined the opportunity to bid against the Amended Hut 8 APAs. The Debtors have accordingly advised that they intend to proceed at the October 2, 2026 Sale Hearing with

confirmation of the sale to Hut 8 on the terms of the Amended Hut 8 APAs, which the Committee supports.

III. APPROVAL OF THE WINNING BID AND BACK-UP BIDS

A. Approval of the Amended Hut 8 APAs Falls Within the Debtors' Business Judgment.

33. The sale of assets outside the ordinary course of business requires proof that: (1) a sound business purpose exists for the sale; (2) the proposed sale price is fair; (3) the debtor has provided adequate and reasonable notice; and (4) the purchaser has acted in good faith.[8] This framework is well-settled throughout courts within the Third Circuit which consistently defer to the business judgment of the debtor in approving a sale and determining if it is in the best interests of the debtor and its creditors.[9] While the Bankruptcy Code does not mandate a criteria for selecting a winning bid at an auction, debtors have long selected what is referred to as the "highest and best offer."[10] In a chapter 11 context, considerations in addition to the cash price are likely relevant to the analysis of what is "highest and best." As one sister court has stated: "overemphasis of the outcome of cash price as determinative overlooks a fundamental truism, i.e., a 'highest' bid is not always the 'highest and best' bid. The inclusion of 'best' in that conjunction is not mere surplusage."[11]

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8 *In re Stream TV Networks, Inc*., 666 B.R. 299, 309 (Bankr. E.D. Pa. 2025) (cites omitted).

9 *In re Canoo, Inc*., 832 F. Supp. 3d 417, 422–23 (D. Del. 2026); *In re Vill. Roadshow Ent. Grp. USA Inc*., 676 B.R. 504, 509-10 (Bankr. D. Del. 2025).

10 *See, e.g., Contrarian Funds, LLC v. Aretex, LLC (In re WestPoint Stevens, Inc.)*, 600 F.3d 231, 242 (2nd Cir. 2010); *In re Integrated Res., Inc.*, 135 B.R. 746, 750 (Bankr. S.D.N.Y. 1992), *aff'd*, 147 B.R. 650 (S.D.N.Y. 1992) (to obtain approval for a proposed sale of assets, a debtor must be able to demonstrate that the "proffered purchase price is the highest and best offer" under the circumstances of the case).

11 *In re Bakalis*, 220 B.R. 525, 533 (Bankr. E.D.N.Y. 1998); *see also In re After Six, Inc*., 154 B.R. 876, 882 (Bankr. E.D. Pa. 1993) (In a contested § 363(b) sale in which the liquidating debtor selected the highest monetary bidder over a lower bidder (an over $2 million diffferential) that offered the prospect of employment to the debtor's former union workers, the court held that deference to the debtor's decision as to the successful bidder was appropriate because it could not be proven that debtor had abused its discretion, but recognized that the highest and best offer may not always be the highest puchase price, agreeing with the committee that there was value in the employment offers); *In re Scimeca Found., Inc*., 497 B.R. 753, 779 (Bankr. E.D. Pa. 2013) (court expressly

34. Thus, the fiduciary duty to maximize value of the estate does *not* mandate that debtors "mechanically accept" the bid with the highest dollar amount.[12] To the contrary, courts have long held that the highest bid is not always the best bid.[13] Central to the inquiry is whether the debtor "'carefully weighed the competing bids rather than mechanistically recommending the facially higher bid.'"[14]

35. Specific factors that have been recognized by courts that are relevant in the case at bar include: "A fiduciary owes a duty to consider more factors than just the price of the bid, such as the risk associated with each bid and the probabilities that the proposed terms will come to fruition."[15] Fiduciaries "'are permitted, and in fact are encouraged, to evaluate other factors, such as contingencies, conditions, timing, or other uncertainties in an offer that may render it less appealing.'"[16]

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recognized that the highest bid does not always equate to the best bid for the estate and approved trustee's acceptance of a lower all-cash offer with no financing contingency over a higher offer conditioned on the buyer obtaining a $3.5 million non-recourse loan for which the buyer had not been pre-approved).

[12] *See e.g., id.*; *Lawsky v. Condor Capital Corp.*, 2015 U.S. Dist. LEXIS 96347, at *24 (S.D.N.Y. July 21, 2015) ("Courts routinely hold that fiduciaries are not duty-bound to 'mechanically accept a bid with the highest dollar amount.'") (quoting *In re Family Christian LLC*, 533 B.R. 600, 602 (Bankr. W.D. Mich. 2015)); *see also In re Flour City Bagels. LLC*, 557 B.R 53, 78 (Bankr. W.D.N.Y 2016) ("the debtor must demonstrate that the purchase price is not merely the highest dollar amount—but the highest and best offer.").

[13] *U.S. v. Chemical Foundation*, 5 F.2d 191, 206 (3d Cir.1925) ("It is common knowledge of all lawyers and many business men that the highest bid is not always the best bid and that a lower bid may be the best bid when based on conditions sufficient to overbalance the difference between the two."), *aff'd as modified, 272 U.S. 1 (1926); Lawsky*, 2015 U.S. Dist. LEXIS 96347, at *24 (citing generally *Id.)*; *In re Scimeca Found.*, 497 B.R. at 779 ("[f]aced with two bona fide offers on substantially similar terms, the trustee should accept the higher proposal. However, '[t]he highest bid does not always equate to the best bid for the estate.'").

[14] *Scimeca Found.*, 497 B.R. at 779 (quoting *Bakalis*, 220 B.R. at 532).

[15] *Lawsky*, 2015 U.S. Dist. LEXIS 96347, at *24.

[16] *Id.* at *24-25 (quoting *Family Christian*, 533 B.R. at 622); *see also Flour City Bagels*, 557 B.R. at 78. *See also Scimeca Found.,* 497 B.R. at 779 (approving somewhat lower all-cash bid instead of higher bid with financing contingency); *Bakalis*, 220 B.R. at 532-33 (approving lower bid instead of higher bid with contingencies and inherent risk); *G-K Dev. Co. v. Broadmoor Place Inv.* (*In re Broadmoor Place Inv.)*, 994 F.2d. 744 (10th Cir. 1993) (approving a lower bid that had no material contingencies and facilitated a more immediate closing).

36. Here, the Winning Bid provides certainty of closing in the face of significant and known closing risks, together with substantial additional consideration if the sites are commercialized as data centers. As set forth in detail in Part II.E, above, the Amended Hut 8 APAs eliminate critical contingencies that would have permitted the buyer to walk away from the Adjacent Property and power-confirmation closing conditions for any reason in their "sole and absolute discretion", have no due diligence or financing outs, and provide for payment of $100,000,000 in cash at Closing. The Milestone Payments of up to $80,000,000 are not a mere expression of hope: they are triggered by events squarely within Hut 8's stated intended use of the properties, are supported by anti-circumvention covenants, are secured by conditional deeds of trust, and bind Hut 8's successors, assigns, and transferees. Additionally, the Winning Bid is supported by $10,500,000 in Good Faith Deposits. The Committee recognizes that the Amended Hut 8 APAs remain conditioned on written confirmation of the 176 MW power allocation for the Tarbush Assets through ERCOT's Batch Zero process, that the timing of that confirmation is not assured, and that the Debtors – not Hut 8 – bear the cost of any extension of the Closing Date beyond December 15, 2026. Those risks are real, and the Committee has weighed them. On balance, however, the Committee views a binding, funded agreement with a counterparty vetted by the Debtors and the Committee – an agreement that Hut 8 is required to hold open and irrevocable through the conclusion of the Sale Hearing, and that the Court-approved supplemental bidding process has now tested against every party that expressed an interest in acquiring the Assets, none of which chose to bid – as the highest and best transaction available to the estates.

37. Hut 8 Corp., a publicly traded company with a market capitalization of approximately $13 billion, was vetted by the Debtors and the Committee, and the Committee is

satisfied that Hut 8 has the financial capacity to consummate the sale. DuFrayne Supplemental Declaration at ¶ 31.

B. The Back-Up Bids Should be Approved.

38. Similarly, the Back-Up Bids of Digipower X Inc. for the Pyote Assets in the amount of $36,500,000 and Pecos Industrial Development, LLC (as designee of Fluidstack) for the Tarbush Assets in the amount of $100,500,000 should be approved. The Back-Up Bids are binding, all-cash bids for the respective Assets made at the Auction and documented in the executed Back-Up APAs on substantially the terms of the original Hut 8 APAs, and Pecos has not sought to withdraw its Back-Up Bid. Under the Tarbush Back-Up APA, Fluidstack's $2,300,000 Good Faith Deposit remains in escrow, and the Debtors may deliver a Backup Bidder Notice within five business days after Hut 8 fails to close or the Tarbush Hut 8 APA is terminated (but no later than April 15, 2027), with a Closing to occur within 45 days thereafter and no later than May 30, 2027. Tarbush Back-Up APA §§ I.6(a), II.7. Under the Pyote Back-Up APA, the Debtors may give notice of their intent to close with Digipower X Inc. at any time through March 31, 2027, with a Closing to occur within 60 days thereafter. Pyote Back-Up APA § 2.10. Approval of the Back-Up Bids at the Sale Hearing preserves an aggregate cash floor of $137,000,000 for the estates without the delay and expense of a further sale process should the Hut 8 transactions fail to close, as expressly contemplated by Section I.D.3 of the Bidding Procedures.

IV. RESPONSE TO THE THOR OBJECTIONS

A. The Revision to Section VII.2(c) of the Stalking Horse APAs was Disclosed Before the Auction, Not Objected to by Thor, and Confirmed on the Record at the Auction.

39. The Thor Objections should be overruled. Thor contends that, "[a]fter Thor was announced as the Winning Bidder at the Auction, the Debtors made dramatic changes to the Stalking Horse APAs," including "removing language by which the Debtors had agreed Thor had

'sole and absolute discretion,'" and that these were "a complete re-trade of a deal" made "without consent." Thor Objection ¶¶ 13, 18.[17] The record reflects otherwise.

40. The deletion of the "sole and absolute discretion" language from Section VII.2(c) of both Stalking Horse APAs was not a post-Auction revision. This revision is clearly set out in paragraph 48 of the form of Sale Order the Debtors sent to counsel for Thor and filed with the Court on September 3, 2026, more than a week before the Auction.

41. Moreover, the need for this exact revision was raised by the Committee well before the Auction, not sprung on Thor after the fact. Counsel for the Committee raised this and other issues with the Stalking Horse APAs with counsel for the Debtors as early as August 2026. As discussed above, the Proposed Sale Order filed with the Court before the Auction included these exact revisions in clear and unequivocal language. Additionally, at the Committee's request, Debtors' counsel confirmed on the record at the Auction that the "sole and absolute discretion" language had been removed. Auction Transcript at pp. 75:21-76:11, 154:7-155:2. Thor participated in the Auction with that confirmation on the record, made no objection to it, and increased its bid

[17] Thor has also objected to the Debtors' request that Thor increase its Good Faith Deposit commensurate with its increased bid at the Auction, arguing that the Stalking Horse Bidder was exempt from this provision of the Bidding Procedures. Thor Objection at ¶ 20. Thor's deposit was 1.5% of its $180 million bid; the Auction Rules announced at the outset of the Auction, to which all bidders agreed by bidding, required the winning bidder (with no exemption stated for the Stalking Horse Bidder) to deposit 5% of the total bid amount, with credit for its prior deposit. DuFrayne Supplemental Declaration at ¶ 22; Auction Rules at ¶¶ 2–3. Moreover, Hut 8, by contrast, agreed to deposits of 7.5%. DuFrayne Supplemental Declaration at ¶ 22. While Thor's reading of Section I.C.2(iv) of the Bidding Procedures may be correct, that is irrelevant, because Section II of the Bidding Procedures expressly permitted the Debtors, in consultation with the Committee, to modify the Bidding Procedures which it did at the Auction. The need for the Winning Bidder to top up their deposit was announced on the record at the commencement of the Auction per the Auction Rules. Auction Transcript at p. 15:13-18 ("The winning bidder must deposit with Archer or other designated depository 5 percent of the total bid amount with credit received for its prior deposit amount in accordance to the bid procedures."). The Auction Rules modified the Bidding Procedures and did not exempt the Stalking Horse Bidder from the increased deposit requirement. Therefore, the Debtors, in consultation with the Committee, had the right to require Thor to increase its Good Faith Deposit to 5% of the increased aggregate purchase price and Thor is obligated to do so under the Auction Rules. Moreover, as the Debtors highlight, Thor's own stalking horse asset purchase agreement at Section 1.6(a) requires Thor to post a Good Faith Deposit of "5% of the Purchase Price." As Thor increased its Purchase Price during the Auction, the required amount of the deposit also increased.

to $155 million and ultimately to $180 million. *Id*. at p. 155:2; DuFrayne Supplemental Declaration at ¶ 18. Any representation by Thor in its Objection that it had no knowledge of the issue until after the Auction is disingenuous.[18]

42. The Committee's insistence on this revision is substantive. The entire purpose of the Bidding Procedures was to run a Court-sanctioned sale process that resulted in unconditional bids. No purpose would be served by expending significant time and money to get conditional bids that might never close. A closing condition that can only be satisfied "in [the Buyer's] sole and absolute discretion" converts a purported binding purchase agreement into a free option: the Buyer may walk away for any reason or no reason at any time, while the estates remain bound and the Assets are held off the market. It is not unreasonable for the Committee and the Debtors to require the buyer to act reasonably in determining whether the applicable conditions have been satisfied – rather than leave such a determination to the buyer's sole discretion. An unconditional bid is, in the Committee's judgment, a substantively better bid for the estates and their creditors, irrespective of headline price. The Debtors have always known the Committee needed this risk eliminated. The Bidding Procedures expressly contemplate that bids will be valued on "any and all factors that the Debtors deem pertinent in their reasonable business judgment (in consultation with the Committee)," not on price alone. Bidding Procedures at § I.C.2.

43. As evidenced by the Thor Objections and the DuFrayne Supplemental Declaration, Thor refused to remove a key closing condition that would permit Thor to walk away from the Stalking Horse APAs in its "sole and absolute discretion." DuFrayne Supplemental Declaration at ¶ 23. Therefore, even though Thor increased its monetary bid at the Auction, Thor's bids do not

[18] The redlined amendments that Thor attaches to its own Objection simply conform the Stalking Horse APAs to the Proposed Sale Order by replacing "in its sole and absolute discretion" with "reasonably acceptable to Buyer" in Section VII.2(c). *See* Docket No. 224-1 at 8 (Tarbush APA § VII.2(c), as amended).

constitute the highest and best bids for the two lots when the Hut 8 APAs are not subject to this standard. While Thor may have a right to insist on the retention of this absolute discretion provision in its APAs, the Debtors and the Committee have the right to determine that the provision itself makes Thor's bid of lesser value and not the highest and best bid.

B. Thor's Request to Re-Open the Auction Is Moot.

44. As a threshold matter, Thor's request to re-open the auction is moot, as the Court-approved supplemental bidding process afforded Thor precisely the relief it sought in the Thor Supplemental Objection: the Auction was re-opened, Thor was deemed a Qualified Bidder without further qualification, and Thor was free to submit a bid – at or above Hut 8's price and on the terms of the Amended Hut 8 APAs – by the Supplemental Bid Deadline. Amended Bidding Procedures Order ¶¶ 3–5, 8. Thor did not do so. Having declined to bid when the Court re-opened the Auction for that very purpose, Thor cannot be heard to complain that it has been denied "an opportunity to match the price and negotiate the terms of the APA." Thor Supplemental Objection at p. 7. The Committee further notes that paragraph 6 of the Amended Bidding Procedures Order provides that any party other than Hut 8 that fails to submit a bid by the Supplemental Bid Deadline is precluded from bidding at the Auction and waives, releases, and withdraws its objections to the sale with prejudice. To the extent Thor contends that paragraph 6 does not reach the Thor Objections, they should in any event be overruled on the merits for the reasons set forth in Part IV.A above and below.

45. In the Thor Supplemental Objection, Thor characterizes the Debtors' post-Auction negotiations as a "secret auction" and asks the Court to deny the Sale Motion, re-open the Auction, and give Thor "an opportunity to match the price and negotiate the terms of the APA." Thor Supplemental Objection at 1–2, 7. The record refutes that characterization. As the commencement

of the Auction when reviewing the Auction Rules, the Debtors specifically advised bidders that then APAs were still subject to review. Auction Transcript at p. 16:2-9 ("The debtors, in consultation with the committee, reserve the right to review APAs, exhibits, supporting submissions, markups, and other related documents prior to a bid—to a bid prior to permitting bidding today in conjunction with confirming and accepting any bid as a highest and best-offer or a backup bid."). When concluding the Auction, Debtors' counsel confirmed the same on the record – that Thor's bid was the winning bid "subject to some documentation issues" that needed to be dealt with after the Auction. Auction Transcript at p. 172:15-19.

46. The day after the Auction, Thor's counsel advised that Thor "would not entertain any substantive revisions" to its APAs. DuFrayne Supplemental Declaration at ¶ 20. Over the following days, Thor refused to increase its Good Faith Deposit from 1.5% to the 5% of its bid as required by the Auction Rules, refused to remove the "sole and absolute discretion" language that every other bidder had agreed to remove, and refused to extend its closing date to accommodate the ERCOT approval expected on or about December 10, 2026. *Id*. at ¶¶ 22–24. After consulting with the Committee, the Debtors then asked Thor, twice and in writing, to confirm whether it was willing to negotiate further. "The answer each time was no." *Id*. at ¶ 28. Only then did the Debtors re-engage with Hut 8, the Back-Up Bidder announced at the conclusion of the Auction. *Id*. at ¶¶ 18, 29.

47. Nothing about that sequence violated the Bidding Procedures. The Bidding Procedures expressly reserve to the Debtors, in consultation with the Committee, the right to modify the Bidding Procedures, to impose additional terms and conditions on the sale, and to reject any bid that is "not in conformity with the requirements of the Bankruptcy Code or related rules or the terms set forth herein" or "contrary to the best interests of the Debtors." Bidding Procedures

at § II. All bidders, including Thor, were told at both the outset and conclusion of the Auction that bids would be evaluated based on their total value to the estates, including APA terms, and the Auction Rules provided that non-cash and conditional bid components would be considered at the Debtors' discretion in consultation with the Committee. DuFrayne Supplemental Declaration at ¶¶ 14–15; Auction Rules at ¶ 5. Thor's reliance on Debtors' counsel's statement at the outset of the Auction that bidding would proceed on "dollars" and that the Debtors would then "turn to the APAs" (Thor Supplemental Objection at ¶ 23) proves the point: the Debtors did exactly that, and Thor refused to engage when they did. A bidder that declines to document its bid on terms the Debtors and the Committee reasonably require for certainty of closing has not been deprived of anything by the Bidding Procedures; it has declined to perform under them.

48. Thor's request that it now be permitted to "match" Hut 8's price and "negotiate the terms of the APA" should be rejected. Thor had every opportunity to negotiate those terms between September 11 and September 22, 2026, and repeatedly refused; it then had a further opportunity to bid against the Amended Hut 8 APAs by the Supplemental Bid Deadline, and declined. The relief Thor seeks – a post-Auction, post-designation opportunity to reprice and re-trade after seeing the Winning Bidder's terms – is precisely the kind of re-trading Thor accuses the Debtors of, and it would reward the bidder whose refusal to negotiate caused the delay. Re-opening the Auction yet again would put at risk a binding bid supported by $10,500,000 in Good Faith Deposits in exchange for the speculative prospect of a better bid from a party that has committed to no terms and that declined to bid when the Auction was re-opened, and would impose further delay and administrative cost on estates whose unsecured creditors bear that cost dollar for dollar. The Committee, as the fiduciary for those creditors, does not believe that Thor has demonstrated any basis to re-open the Auction on its account.

V. THE REMAINING SALE OBJECTIONS HAVE BEEN WITHDRAWN

49. The remaining objections to the Sale Motion – the objections of Abbauer [Docket Nos. 221, 250], CES [Docket Nos. 227, 251, 253, 254], and Pecos [Docket No. 248] – have been resolved by the Amended Bidding Procedures Order. Each of those parties asked the Court, in one form or another, to displace the sale to Hut 8 in favor of its own proposal or a re-opened process. The Court re-opened the process: CES and Pecos were given the opportunity to qualify as bidders and to bid, and each of the objecting parties other than Thor agreed on the record at the September 29 Hearing that, absent a bid by the Supplemental Bid Deadline, its objection would be withdrawn. Amended Bidding Procedures Order ¶¶ 3, 6. No bid was submitted. Accordingly, those objections have been withdrawn with prejudice by their terms, and the Committee does not address them in this Statement. The Committee reserves all rights to respond should any such party nonetheless seek to be heard at the Sale Hearing.

VI. REQUESTED EDITS TO SALE ORDER

50. The Committee's principal concern with the Proposed Sale Order is ensuring that it does not become a vehicle for the distribution of sale proceeds outside of a plan and without Committee oversight, and that the Milestone Payments are enforceable for the benefit of the estates and their creditors. The Committee requested, and the Debtors have agreed to incorporate into a revised form of proposed Sale Order, the following modifications to the Proposed Sale Order, and requests the additional provisions described in paragraph (c) below:

(a) **No Distribution of Sale Proceeds Absent Further Order.** Paragraph 8 of the Proposed Sale Order authorizes the Debtors to pay certain sale costs and Permitted Liens from sale proceeds at or promptly after Closing. The Committee Edits (i) condition such payments on "prior notice to the Committee," (ii) limit the payment of Permitted Liens and other liens to those "solely to the extent necessary to deliver free and clear title to the properties," and (iii) add that "[n]o proceeds of the Sale shall be distributed, disbursed, released, or otherwise transferred from the Debtors' estates to any

creditor, party in interest, or other person or entity absent further order of this Court upon notice to the Committee." Similarly in paragraph 14, the Committee Edits require entry of a prior order of the Court before the disbursement of any sale proceeds.

(b) **Purchaser Wind-Down Cooperation.** The Committee Edits add a provision requiring the Purchaser to cooperate in all commercially reasonable respects with the administration, wind-down, and liquidation of the estates, including by providing reasonable access to books and records relating to the Purchased Assets for the pre-Closing period to the extent applicable if the Purchaser is in possession of estate books and records.

(c) **Milestone Payment Protections.** Consistent with Section VI.2 of each Amended Hut 8 APA, the Committee requests that the Sale Order (i) approve the Milestone Payments as part of the Purchase Price and as integral to the transactions; (ii) provide that Hut 8's obligations under Section I.6 of each Amended Hut 8 APA are binding upon Hut 8 and its successors and assigns and upon any transferee of the Adjacent Property, the Pyote Property, the Tarbush Property, or the associated Power Rights; (iii) authorize and direct the recording of a memorandum of the Milestone Payment obligations (or, alternatively, of the Sale Order) in the real property records of Reeves, Pecos, and Ward Counties, Texas, concurrently with the Closing under each Amended Hut 8 APA and the acquisition of the Adjacent Property, so that any subsequent purchaser, lessee, or lender takes with notice of those obligations; (iv) provide that the Milestone Payments are payable to the Debtors or any Seller Designee, including any liquidating trustee or plan administrator appointed under a confirmed chapter 11 plan; and (v) retain this Court's jurisdiction to enforce the foregoing. [PSZJ NOTE: Conform to the Committee's proposed Sale Order language regarding the Memorandum of Milestone Obligations once the Debtors circulate the revised Sale Order.]

51. The Committee understands that the Debtors will file the revised form of proposed Sale Order incorporating the Committee Edits prior to the Sale Hearing, and requests that any Sale Order entered by the Court include the Committee Edits and the Milestone Payment protections described above.

VII. RESERVATION OF RIGHTS

52. The Committee reserves all rights with respect to the final form of Sale Order and to further comment on the Amended Hut 8 APAs. The Amended Hut 8 APAs filed at Docket No. 269 and attached to the Amended Bidding Procedures Order are unexecuted as filed, and the Committee understands that fully executed copies will be filed with the Court prior to the Sale Hearing. The Committee accordingly reserves all rights to supplement or amend this Statement, to raise additional objections at or prior to the Sale Hearing, including with respect to any modification of the Amended Hut 8 APAs or the Back-Up APAs, and to respond to any further pleadings filed in connection with the Sale Motion, the Thor Objections, the APAs, or any proposed Sale Order.

53. The Committee reserves all rights to pursue any and all damages against Thor, CES, Abbauer, and Fluidstack if they do not comply with their agreements made on the record or they pursue frivolous objections for which they do not have standing.

54. Nothing in this Statement is intended to be, or should be construed as, a waiver of any of the Committee's rights, claims, or remedies, all of which are expressly reserved.

VIII. CONCLUSION

WHEREFORE, the Committee respectfully requests that the Court (i) approve the sale of the Assets to Hut 8 pursuant to the Amended Hut 8 APAs, and approve the Back-Up Bids consistent with the Notice of Winning Bids and the Back-Up APAs; (ii) overrule the Thor Objections; (iii) enter a Sale Order incorporating the Committee Edits and the additional provisions and modifications requested in Part VI above; and (iv) grant the Committee such other and further relief as the Court deems just and proper.

Dated: October 1, 2026

/s/ Bradford J. Sandler

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