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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: POOLIN TECHNOLOGY PTE. LTD., *et al.*,[1] Debtors.	Case No. 26-18325 (EJO) Chapter 11 (Jointly Administered) Judge: Eamonn J. O'Hagan

DEBTORS' REPLY IN SUPPORT OF THE PROPOSED SALE AND IN RESPONSE TO THE OBJECTION OF THOR CALAP, LLC

Poolin Technology Pte. Ltd. ("Poolin") and its affiliated debtors and debtors-in-possession, Lonestar Dream Inc. ("LSD") and Lonestar Taproot, LLC ("LST" and, collectively, the "Debtors"), hereby respectfully submit this reply (this "Reply") in support of their proposed sale and in response to the *Objection of Thor CALAP, LLC to the Motion to Approve the Sale of Assets and Reservation of Rights* [Docket No. 224] (the "Objection")

[1] The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtors' 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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and the Supplemental Objection of Thor CALAP, LLC to the Motion to Approve the Sale of Assets and Further Reservation of Rights [Docket No. 243] (the "Supplemental Objection" and collectively, the "Objections"), in each case filed by Thor CALAP, LLC ("Thor"). In support of this Reply, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The Debtors' paramount duty in these Cases is to maximize the value of their estates for the benefit of creditors. Exercising their business judgment, and with the support of the Official Committee of Unsecured Creditors, the Debtors have determined that a competing bid is the highest or otherwise best bid for the estates, and they are not bound to Thor unless and until this Court approves a sale at the Sale Hearing.

2. Thor's central premise—that the Debtors "unilaterally" re-traded a closed deal—is false and finds no support in bankruptcy law. The Bidding Procedures[2] expressly make "the number, type, and nature of any changes to the Stalking Horse APA" a factor in valuing every bid, and the colloquy on the record at the auction made clear that the asset purchase agreements would be modified as the Bidding Procedures expressly contemplate. The Debtors did not rewrite Thor's contracts. Given the existence of multiple competitive options, the Debtors requested certain changes to each APA and asked each bidder to agree to them. Most significantly, the Debtors proposed a modest limitation on the right to walk away from the sale in the buyer's "sole and absolute discretion" by requiring "reasonable discretion." Other bidders agreed to this estate-protective language. Thor was within its rights to refuse. The Debtors cannot force those terms on Thor, nor may they unilaterally

[2] Capitalized terms used but not defined herein have the meanings given to such terms in the Bid Procedures Order and the Bid Procedures (as each is defined herein), as applicable.

re-trade Thor's agreement. But the Debtors remain free to determine, in their reasonable business judgment, the highest or otherwise best bid. The existence of competing sales that afford the estates a materially more certain path to closing renders Thor's deal not the highest or otherwise best. In any event, Thor's "sole and absolute discretion" walk-away rights render the transaction risky.. The Debtors, in agreement with the Committee, reasonably value the certainty and ability to close as an integral element of the sale transaction.

3. The Objection should be overruled for three independent reasons. First, it is a well-settled tenet of bankruptcy law—and one expressly reflected in the Bidding Procedures—that the Debtors may select, in their reasonable business judgment, the highest or otherwise best Qualified Bid, which need not be the highest dollar bid. The Debtors remain free to decline Thor's offer in favor of a better one at any time until the Court approves the sale. Second, Thor's textual arguments fail on the face of the Bid Procedures Order. Its "deemed Qualified Bid" status goes to Thor's eligibility to participate, not to any immunity from the highest-and-best analysis or any freeze on its APA terms. Likewise, the "increased deposit" Thor protests is five percent of its own increased bid, which is required of every winning bidder. Third, as a disappointed bidder that alleges no fraud, collusion, or defect in the integrity of the auction, Thor lacks standing to defeat the sale. Its remedy, if it is outbid, is the previously approved bid protections. That aside, Thor's conduct post-auction of refusing to agree to reasonable and conventional limitations on its "walk-away" rights indicates it is not serious about consummating the transaction and gave the Debtors justifiable doubts about selecting Thor.

4. The Supplemental Objection adds nothing of substance and instead advances a reckless accusation that the Debtors conducted a "secret," "off the record" "side auction" from which Thor was "excluded." That accusation is not merely false; it is a blatant and provable untruth. The Debtors' own contemporaneous correspondence with Thor's counsel refutes it beyond dispute. There was no second auction. The conduct to which Thor refers was continued, good-faith negotiations of the asset purchase agreements among the Debtors, the Committee, and all bidders, including Thor, exactly as contemplated by the Bidding Procedures and settled bankruptcy practice. Even more striking are Thor's complaints of being shut out. Thor sat at the center of that process. The Debtors engaged Thor on an exclusive, daily basis for two days after the auction and gave Thor repeated, written opportunities (and over the phone) to lock up the sale. Thor refused. Even after the parties arrived at an impasse and the Debtors notified Thor they would be moving forward with other bidders, the Debtors on two occasions attempted to bring Thor back to the negotiating table and give them another shot. The response received was an unequivocal refusal by Thor. The Debtors could not force Thor to cooperate and moved forward with the other bidders. The direct consequence of Thor's refusal was the erosion of the Debtors' negotiating leverage with the next highest bidder. For the reasons set forth below, the Objections should be overruled and the sale approved.

RELEVANT BACKGROUND

5. On July 22, 2026 (the "Petition Date"), the Debtors each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of New Jersey (the "Court"), thereby commencing the

above-captioned cases (these "Cases" or these "Chapter 11 Cases"). The Debtors continue to manage their assets as debtors in possession.

6. On August 12, 2026, the United States Trustee for the District of New Jersey (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Committee") pursuant to section 1102 of the Bankruptcy Code. *See* Docket No. 112.

7. As set forth in the *Declaration of Michael DuFrayne in Support of Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 2] (the "First Day Declaration"), which is incorporated by reference herein, the Debtors commenced these Cases to effectuate a sale of substantially all of their assets, which consist principally of two West Texas sites referred to as Pyote and Tarbush.

8. On August 17, 2026, the Court entered the *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 "Bid Procedures Order"), which, among other things, approved the procedures attached as Exhibit 1 (the "Bidding Procedures") and designated Thor as the Stalking Horse Bidder. Bid Procedures Order ¶ 4.

9. The Bid Procedures Order authorized, but did not direct, the Debtors to enter into Thor's two Asset Purchase Agreements: one for the Tarbush Assets and one for the Pyote Assets (collectively, the "Stalking Horse APAs"). The Bid Procedures Order

provided that Thor's Stalking Horse Bid "shall be subject to higher or otherwise better offers in accordance with the Stalking Horse APA and the Bidding Procedures." Bid Procedures Order, Recital D.

10. The Bidding Procedures provide that a Qualified Bid "will be valued by the Debtors based upon any and all factors that the Debtors deem pertinent in their reasonable business judgment (in consultation with the Committee)," expressly including "the risks and timing associated with consummating the transaction(s) with the Qualified Bidder" and "the number, type, and nature of any changes to the Stalking Horse APA." Bidding Procedures § C.2. Following the auction, the Debtors "may…select, in their business judgment…the highest or otherwise best Qualified Bid as the Winning Bid." Bid Procedures Order ¶ 16; Bidding Procedures § D.3. The Bid Procedures Order and Bidding Procedures deemed Thor's Stalking Horse Bid a Qualified Bid and Thor a Qualified Bidder "notwithstanding the requirements that a Potential Bidder must satisfy to be a Qualified Bidder," and provided that this Qualified Bid status "cannot be abrogated by subsequent amendment or modification by the Debtors of the Bidding Procedures." Bid Procedures Order ¶ 5; Bidding Procedures § C.3.

11. As is conventional, the Bid Procedures Order and Bidding Procedures also reserved the Debtors' right, in consultation with the Committee, to modify or waive the procedures as necessary to maximize value, and provided that nothing in the procedures would prevent the Debtors from exercising their fiduciary duties. Bid Procedures Order ¶ 3; Bidding Procedures § D.2.

12. The Bid Procedures Order does not approve any sale. Bid Procedures Order ¶ 26 ("notwithstanding anything to the contrary contained in this Order, this Order does

not approve the Sale of the Assets under the Stalking Horse APA or authorize the consummation of the Sale, such approval and authorization (if any) to be considered only at the Sale Hearing," with all parties' rights to object reserved).

13. The auction was held on September 10, 2026, and the Debtors and their advisors, in consultation with the Committee, have since worked to negotiate the terms of the competing asset purchase agreements and to identify the highest or otherwise best bid in the exercise of their fiduciary duties to maximize value for the estates. *See* Transcript of the September 10, 2026 Auction ("Tr.") Page 1.[3] In doing so, the Debtors sought to remove from the form APAs the unlimited walk-away and termination rights that exposed the estates to the risk of a failed closing. Other bidders agreed to eliminate those rights. Thor declined to do so. DuFrayne Declaration ¶ 19-20.

14. Thor filed the Objection on September 16, 2026. Notably, Thor does not allege fraud, collusion, or any specific defect in the integrity of the auction that would in fact render it "tainted." It contends instead that its Stalking Horse APA "could not be materially changed," that the Debtors improperly requested an increased deposit, and that the Debtors have indicated they will proceed with a competing bidder, and it asks the Court to deny the sale "until such time the parties have an opportunity to review the winning bid terms." Objection ¶¶ 13–20, 22; *see* Tr. Page 145, Lines 2–3 (Thor's Jack Sitt confirming on the record, "we are waiving our mineral rights for Tarbush"). Indeed, Thor concedes that it agreed to a negotiated change to its agreement as part of the auction, a waiver of a mineral-rights condition to stay competitive with another bidder. Objection ¶ 18 n.1. Thor's

[3] The Transcript of the Auction occurring on September 10, 2026, commencing at 10:00 a.m. is attached to 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] as Exhibit A and is fully incorporated herein by reference.

own Objection confirms that the substantive APA revisions it refused to accept concerned Thor's contractual discretion to walk away from the sale: recasting Thor's "sole and absolute discretion" as "reasonable discretion." Objection ¶ 18. That revision was not raised for the first time in post-auction negotiations. It was in fact raised and addressed on the record during the auction. See, e.g., Tr. Page 156, Line 10. Indeed, Thor's Morris Missry engaged with the change on the record, asking the Debtors to "explain what the language means" and requesting time to "review the language." Tr. Pages 154–157. At that point, the Debtors believed that Thor had already agreed to this particular change. *Id.* In any event, Thor's on-record participation in that discussion is squarely contrary to Thor's assertion that "[n]one of the revisions … were requested by the Debtor before or during the auction." Objection ¶ 18 n.1.

15. On September 24, 2026, Thor filed its Supplemental Objection contending the Debtors conducted what Thor characterizes as a "secret," "off the record" "side auction" with "no rules, no process, no disclosure" and, in Thor's words, "outside the authority of this Court." Thor asserts that Thor was never given an opportunity to match the competing bid or to revise its own bid on the new terms. Supplemental Objection ¶ 24. Indeed, the Supplemental Objection contains numerous statements which are not mere mischaracterizations, but flagrant lies.

16. In the days that followed the September 10, 2026 auction, the Debtors, their advisors, and the Committee negotiated the terms of the competing asset purchase agreements and repeatedly engaged Thor in an effort to keep Thor in the transaction, including by email and telephone discussions. DuFrayne Declaration ¶ 21. That effort is documented in the parties' contemporaneous email correspondence, true and correct copies

of which are attached hereto as **Exhibit A** (the "Post-Auction Correspondence"). The Debtors offer the Post-Auction Correspondence not to prove or disprove the validity or amount of any disputed claim, but for the distinct and permissible purpose of rebutting Thor's factual allegation that the Debtors conducted a secret, undisclosed, and exclusionary post-auction process. Such use is proper. *See* Fed. R. Evid. 408(b) (the court "may admit this evidence for another purpose"). The Debtors have taken care to attach only the communications necessary for that purpose, and expressly reserve, and do not waive, the protections of Federal Rule of Evidence 408 as to all other communications between the parties. To be clear, the attached Post-Auction Correspondence comprises only a small sample of the Debtors' attempts to negotiate in good faith with Thor.

17. Critically, the Post-Auction Correspondence illustrates the Debtors' several attempts to negotiate the same terms with Thor to which the other bidders agreed. *See* Ex. A, Emails from Stephen Packman dated September 17, 2026 at 8:20 a.m. and 9:07 a.m. [Addressed to counsel **for all bidders** regarding which terms were acceptable and requesting bidders respond…….]. The emails conclusively disprove the existence of a "secret" or "exclusionary" process. The Debtors' negotiations began the very morning after the auction concluded: on September 11, 2026, the Debtors advised Thor's counsel that they could not yet confirm Thor's bid because, among other things, the sale price needed to be allocated and the mineral waiver documented, and noted that "Hut8 was amenable to many of these revisions requested." Ex. A, Email from Stephen Packman dated September 11, 2026 at 5:26 p.m. Thor's counsel refused any changes. Ex. A, Email from Steven Cohen dated September 11, 2026 at 4:57 p.m. On Monday, September 14, the Debtors circulated a revised Pyote asset purchase agreement to Thor pursuant to the parties' several

discussions over the previous days. Ex. A, Email from Stephen Packman dated September 14, 2026 at 4:30 p.m. On September 14, the Debtors told Thor plainly that they "cannot wait any longer and will move on with the backup bidder if this doesn't get done." Ex. A, Email from Stephen Packman dated September 14, 2026 at 5:04 p.m. On Tuesday, September 15, the Debtors advised Thor that the Debtors and the Chief Restructuring Officer were "waiting to make a decision whether to move forward with Thor" and would "proceed with confirmation of Thor's bid tonight" if Thor delivered the amended APAs "with the markups we discussed … agreed to by Thor." Ex. A, Email from Stephen Packman dated September 15, 2026 at 5:36 p.m. Thor's counsel responded that "our client does not accept these additional terms and will be filing an objection." Ex. A, Email from Steven Cohen dated September 15, 2026 at 10:15 p.m. In short, Thor was advised unequivocally multiple times that the Debtors would consider other bids if Thor would not agree to the revisions, including reasonable limitations to the absolute-discretion walk-away rights. *E.g.*, Ex. A, Email from Stephen Packman dated September 15, 2026 at 9:32 p.m.

18. Even after informing Thor on September 15 that they intended to proceed with other bidders, the Debtors did not close the door on Thor. On September 17, the Debtors again invited Thor to "talk further before we make decisions on the bids later today," forwarded the governing deposit language from the Bidding Procedures, and asked Thor to state its position on the open terms. Ex. A, Emails from Stephen Packman dated September 17, 2026 at 10:38 a.m. and 1:32 p.m. This is in addition to similar communications addressed to all bidders, on which Thor was also included. *See* Ex. A, Emails from Stephen Packman to counsel for all bidders dated September 17, 2026 at 8:20

a.m. [Pyote] and 9:07 a.m. [Tarbush]. Thor's counsel confirmed that Thor was "not going to be able to get there on modified terms." Ex. A, Email from Morris Missry dated September 17, 2026 at 5:24 p.m. Even then, the Debtors gave Thor one final, written opportunity, asking Thor to confirm whether it would top up its deposit to five percent of the total bid, remove the "sole and absolute discretion" walk-away language, and agree to a December 15 closing date with a possible 90-day extension. Ex. A, Email from Stephen Packman dated September 17, 2026 at 8:19 p.m. Thor declined once again. DuFrayne Declaration ¶ 21.

19. Accordingly, the allegations in Paragraph 24 and 27 of Thor's Supplemental Objection that "Thor was never given an opportunity to revise its bid upon learning that Hut8Corp. was deemed the winning bidder due to the revised APA terms" is wholly false. Again, the Post-Auction Correspondence proves the Debtors were very clear with Thor when and why they were moving forward with other bidders and literally gave Thor not one, but two opportunities to revise its bid after learning Hut8 was deemed the winning bidder. *See* Ex. A, Emails from Stephen Packman dated September 17, 2026 at 10:38 a.m. and 8:19 p.m.

20. On September 22, 2026, after around-the-clock negotiations with all parties-in-interest since the conclusion of the Auction, the Debtors finalized their agreements with Hut8 Corp. ("Hut8") as winning bidder, and Digipower X Inc. as Back-Up Bidder with respect to the Pyote property and filed the *Notice of Auction Results (Winning Bidder and Backup Bidder)* [Docket No. 237], which was amended on September 23, 2026 [Docket No. 239] once the Debtors finalized their agreement with Fluidstack Ltd.

(and its designee-purchasers) as Back-Up Bidder with respect to the Tarbush Property. DuFrayne Declaration ¶ 24.

ARGUMENT

A. The Bidding Procedures Authorize the Debtors to Select the Highest or Otherwise Best Bid, Which Need Not Be the Highest Dollar Bid.

21. The premise of the Objection is that Thor, having been announced as the high bidder at the auction, is entitled to be declared the winner on its own terms. This misapprehends both the Bidding Procedures and the governing law. A sale outside the ordinary course is evaluated under the business-judgment standard, which in this District turns on four factors: a sound business reason, good faith, adequate and reasonable notice, and a fair and reasonable purchase price. *In re Sea Oaks Country Club, LLC*, No. 20-17228 (CMG), 2020 WL 6588412, at *10 (Bankr. D.N.J. Nov. 10, 2020) (finding good faith and approving the debtors' sale). The "open, reasonably noticed sale and auction process is the best way to maximize value," *Id.* at 11. A court will defer to the debtor's selection of the successful bidder absent proof that the debtor's discretion was abused. *See In re After Six, Inc.*, 154 B.R. 876 (Bankr. E.D. Pa. 1993) (deferring to the debtor-in-possession's selection of the successful bidder even where the court disagreed with how the debtor weighed the competing bids, absent proof of an abuse of discretion). The Bidding Procedures approved by the Court reflect that same standard, authorizing the Debtors to select "the highest or otherwise best Qualified Bid as the Winning Bid" in their reasonable business judgment. *See* Bid Procedures Order ¶ 16; Bidding Procedures §§ C.2, D.3.

22. Critically, the "highest" bid is not always the "highest and best" bid. As one court explained, "a 'highest' bid is not always the 'highest and best' bid[;] [t]he inclusion of 'best' in that conjunction is not mere surplusage." *In re Bakalis*, 220 B.R. 525, 533

(Bankr. E.D.N.Y. 1998). In *Bakalis*, the court approved a $10.5 million bid over a competing $11.2 million bid because the lower bid carried less risk and greater closing certainty, and the estate fiduciary properly "declined the temptation of jeopardizing virtually assured benefits" for a higher-dollar bid that exposed the estate to a greater risk of a failed closing. *Id.* at 532 (Chapter 7 auction of bank stock). Courts around the Third Circuit apply the same principle. *Wal-Mart Real Est. Bus. Tr. v. Bedford Square Assocs.*, LP, 259 B.R. 831 (E.D. Pa. 2001) (bankruptcy court selected a lower-dollar, no-contingency bid that allowed an immediate closing as the highest and best over a larger competing offer). A bankruptcy court will not disturb the debtors' post-auction selection absent "unfairness, fraud, or mistake," recognizing that "the finality of an auction should only be undone in exceptional circumstances." *In re Vill. Roadshow Ent. Grp. USA Inc.*, 676 B.R. 504, 510-11 (Bankr. D. Del. 2025) (the highest cash bid was actually selected; however, the court credited the CRO's testimony that, beyond cash value, the debtors "also considered other relevant factors such as the buyers' ability to close and the reputation of the parties."). The Bidding Procedures make the point explicit, directing the Debtors to weigh "the risks and timing associated with consummating the transaction" and "the number, type, and nature of any changes to the Stalking Horse APA." Bidding Procedures § C.2.

23. The Debtors likewise are not bound to Thor. The Bid Procedures Order does not approve any sale; it provides that the Order "does not approve the Sale of the Assets under the Stalking Horse APA or authorize the consummation of the Sale," which is "to be considered only at the Sale Hearing." Bid Procedures Order ¶ 26. Until the Court approves a sale, the Debtors retain the right to decline Thor's bid in favor of a higher or otherwise

better one. *See In re Metaldyne Corp.*, 409 B.R. 661 (Bankr. S.D.N.Y. 2009). Indeed, even courts that treat a pre-approval agreement as binding on the parties "still hold that a court may reject a binding contract because of the presence of a better and higher offer." *Id.* at 667 (approving the debtors' substitution of a higher and better competing bidder for the original stalking horse and holding the debtors could walk away from the stalking horse's bid protections until the court approved them). Where a competing bidder emerges with a potentially higher and better offer, the debtor's fiduciary duties require it to consider that offer, and its decision to proceed with the better bid is a reasonable exercise of business judgment. *Id.* at 669-70.

24. The Debtors' selection of a winning bidder rests precisely on such reasonable business judgment. Competing bidders, including Hut8, agreed to place reasonable limits on the unlimited walk-away and termination rights in the form APA and "top up" their deposit which, in turn, decreased risk to the estates of a failed closing, while Thor refused to do the same. DuFrayne Declaration ¶ 20. Eliminating those rights materially improves the estates' closing certainty and is a paradigmatic exercise of the Debtors' authority to weigh "the risks and timing associated with consummating the transaction" and "the number, type, and nature of any changes to the Stalking Horse APA" in determining the highest or otherwise best bid. Bidding Procedures § C.2. Stated plainly, even without considering the legal significance of the Debtors' requested changes, the Debtors are free to choose any other bid over that submitted by Thor for any reason consistent with a reasonable exercise of their business judgment.

25. Moreover, Thor's Stalking Horse Bid was not the opening high bid when the Auction began. Hut8 submitted the baseline bid at the start of the Auction. Whatever

relevance Thor's Stalking Horse APA had as the opening benchmark fell away once a competing bidder submitted an asset purchase agreement offering a higher purchase price. While Thor had the high bid at the conclusion of the Auction by approximately .6% with respect to cash consideration, the Debtors are not aware of anything in the Bidding Procedures or bankruptcy law that bound the Debtors to the original terms of the Stalking Horse APAs in connection with the new bid. At that stage, the deal and negotiating leverage had changed. It was clear among all parties present that the Debtors, along with the Committee, would be evaluating the cash consideration in conjunction with APA terms subject to ongoing discussions. *See* Tr. Page 16, Lines 3–11; Tr. Page 19, Lines 5–8. In being selected as Stalking Horse, Thor's offer was the highest and best despite the inclusion of the language at issue. After receiving other competitive offers, it became appropriate to reconsider the problematic walk-away terms. Based on the foregoing, nothing in the Objection justifies denial of the sale.

B. Thor's "Deemed Qualified Bid" Status Goes to Its Eligibility to Participate, Not to Any Immunity from the Highest-and-Best Analysis or Any Freeze on Its APA Terms.

26. Thor mischaracterizes the issue as an impermissible attempt to re-trade on binding terms. A more correct framing is that the Debtors simply gave Thor the opportunity to prevail—by agreeing to the revised language—in the face of a competing deal the Debtors considered superior.

27. Thor contends that, because its Stalking Horse APA was the required "form of Asset Purchase Agreement" and its bid was "deemed" a Qualified Bid, the APA "could not be materially changed." Objection ¶¶ 8, 17. This contradicts the plain language of the Bid Procedures. The clause on which Thor relies deems Thor's bid a "Qualified Bid" "notwithstanding the requirements that a Potential Bidder must satisfy to be a Qualified

Bidder." Bidding Procedures § C.3; Bid Procedures Order ¶ 5. In other words, this provision excuses Thor from the entry requirements which bidders must satisfy (*e.g.*, the preliminary bid documents, the topping-bid minimum, and the good-faith deposit). It says nothing about guaranteeing that Thor will be selected as the winning bidder, and nothing about freezing the terms of the Stalking Horse APA against the highest-and-best analysis that governs every Qualified Bid.

28. The related provision that Thor's Qualified Bid status "cannot be abrogated by subsequent amendment or modification by the Debtors of the Bidding Procedures" is to the same effect. Bid Procedures Order ¶ 5. It protects Thor's eligibility from being stripped by a later change to the rules. It is not a promise that the Debtors must accept Thor's bid or a prohibition on any attempt to negotiate a better deal for the estate in the form of APA revisions. Bidders at auction sales under § 363 frequently include improved APA terms for the estate as part of their bids. The Debtors approached Thor several times after the auction in an effort to negotiate reasonable terms, in light of the other competitive bids with better terms, that would have decisively allowed Thor to prevail as winning bidder. For example, Thor confirmed in writing on September 15 that it was not accepting any of the proposed changes. The Debtors were ignored on September 17 when given a final chance to arrive at a deal.

29. On the contrary, the Bidding Procedures explicitly contemplate changes to the Stalking Horse APA. Specifically, "the number, type, and nature of any changes to the Stalking Horse APA" are express factors by which every Qualified Bid is valued. Bidding Procedures § C.2. At the outset of the auction, the Debtors expressly reserved "the right to review APAs, exhibits, supporting submissions, markups, and other related documents …

in conjunction with confirming and accepting any bid as a highest and best-offer or a backup bid." Tr. Page 16, Lines 3–11. The Debtors reiterated that reservation before bidding began, asking whether there were "any objections to that," Tr. Page 19, Lines 5–8. Thor voiced no objection to that procedure. *See* Tr. Page 19, Line 10.

30. Indeed, it is both proper and common for a debtor and bidders to continue negotiating and modifying the asset purchase agreements after approval of a stalking horse APA and completion of the auction, up until the Court approves the sale. *See, e.g.*, *Corp. Assets, Inc. v. Paloian*, 368 F.3d 761, 764, 770 (7th Cir. 2004) (holding that under the approved bidding procedures the debtor retained "broad discretion to reject any bid and to impose additional conditions on the sale" "right up to the moment of the sale hearing," and noting the debtor's post-approval deletion of an early-removal term from the asset purchase agreement); *In re Metaldyne Corp.*, 409 B.R. at 664–65 (recounting that after entry of the bidding-procedures order "the parties engaged in intensive due diligence and numerous rounds of negotiations," bidders submitted revised bids, and the bids ultimately approved differed from the original agreement); *In re Boston Generating, LLC*, 440 B.R. 302, 313–14 (Bankr. S.D.N.Y. 2010) (noting that after entry of the bid procedures order the debtors and the stalking horse executed an amendment to the asset purchase agreement revising employee terms, extending the termination deadline, and clarifying the break-up fee); *In re Bakalis*, 220 B.R. at 528, 537 (stating that "the Trustee pushed for the exclusion or modification of [the competing bidder's] contingency clauses and walk away provisions," and treating the winning bidder's "new modifications to enhance its bid that were not previously discussed with the Trustee" as consistent with good faith); *see also In re TSIC, Inc.*, 393 B.R. 71, 74, 78 (Bankr. D. Del. 2008) (approving, under Bankruptcy Rule 9019

a post-auction renegotiation of the stalking-horse agreement prompted by a late-discovered intellectual-property issue); *In re Watertech Holdings, LLC*, 619 B.R. 324, 334 (Bankr. D.S.C. 2020) (in admitting a competing bid, the court described amendments of the stalking horse's asset purchase agreement without court approval under which the parties increased the purchase price and removed claim waivers). Thor's own conduct also confirms the point: Thor concedes that it agreed to a negotiated change to its agreement as part of the auction. Objection ¶ 18 n.1 (regarding waiving contingencies on mineral rights); *see* Tr. Page 145, Lines 2–3. In fact, the only provision restricting amendments to the Stalking Horse APA runs in the Debtors' favor. The Bid Procedures Order bars amendments to the Purchase Price or Bid Protections, or other changes "materially adverse to the Debtors," without further order of the Court. Bid Procedures Order ¶ 25.

C. The Deposit Thor Protests Flows from Its Own Asset Purchase Agreement and, in Any Event, Protects the Estate.

31. Thor argues that the increased-deposit request was improper because the Bidding Procedures direct the increased-deposit obligation to a "Potential Bidder" and make "no reference to the Stalking Horse Bidder." Objection ¶¶ 19–20. The premise is beside the point, because Thor's deposit obligation does not depend on § C.2.iv of the Bidding Procedures. Thor's own Stalking Horse APA states at Section 1.6(a) that Thor is required to post a Good Faith Deposit of "5% of the Purchase Price," to be held in escrow and "applied to the Purchase Price at Closing." The deposit is therefore a fixed five percent of whatever Purchase Price Thor agreed to pay. When Thor increased its bid at the auction, the requested increase to five percent of the higher Purchase Price is simply Section 1.6(a) of the APAs operating as written.

32. More fundamentally, regardless of whatever Thor makes of the deposit request, the issue is no basis to deny the sale. The deposit is not a condition of the highest-and-best determination, and the Debtors may select a competing bid regardless. The deposit requirements exist to protect the estate, not other bidders. As one court held in materially similar circumstances, provisions "such as the requirement that the successful bidder increase its deposit… are ones that are intended to protect the estate rather than to protect other bidders," because "[t]he self-evident purpose of the deposit…is to provide security for the bidder's obligations to the estate." *In re MTE Holdings LLC*, No. 19-12269 (CTG), 2021 WL 3743201, at *8 (Bankr. D. Del. Aug. 17, 2021) (denying a disappointed backup bidder's motion after the winning bidder failed to increase its deposit, and holding the increased-deposit requirement protects the estate rather than other bidders, which the debtors were free to waive). Here, too, the Bid Procedures Order authorizes the Debtors to modify or waive the procedures to maximize value. Bid Procedures Order ¶ 3. Accordingly, Thor's deposit-related complaints are not proper sale objections.

D. As a Disappointed Bidder Alleging No Fraud, Collusion, or Defect in the Integrity of the Auction, Thor Lacks Standing to Defeat the Sale.

33. Even if Thor's reading of the Bidding Procedures had merit, Thor would still lack standing to defeat the sale. Standing in a bankruptcy sale dispute is confined to a "person aggrieved" or one whose "rights or interests are directly and adversely affected pecuniarily" by the order at issue. *In re O'Brien Env't Energy, Inc.*, 181 F.3d 527, 530 (3d Cir. 1999) (holding that a would-be purchaser lacking creditor status or a binding contract had no standing to appeal the sale, and that its lost hoped-for profit was too speculative to be a cognizable injury). Courts "have generally held that creditors have standing to appeal, but disappointed prospective purchasers do not," and a disappointed bidder's loss of the

profit it hoped to gain is "too speculative a harm to constitute injury" for standing purposes. *Id.* at 531 ("loss of the profit it hoped to gain" was "too speculative a harm to constitute injury" for standing; hoped-for acquisition profit is not cognizable injury). A disappointed bidder thus "lacks standing to challenge the outcome of an auction, except for matters regarding the integrity of the auction process," and is otherwise "outside the 'zone of interests' protected by Section 363 of the Bankruptcy Code." *MTE Holdings,* 2021 WL 3743201, at *10; *accord In re Colony Hill Assocs.*, 111 F.3d 269, 273 (2d Cir. 1997) (an unsuccessful bidder "whose only pecuniary loss is the speculative profit it might have made" ordinarily "lacks standing to challenge a bankruptcy court's approval of a sale transaction").

34. The exception to this general rule requires an attack on the fundamental fairness of the process based on whether the purchaser's conduct "destroyed the 'intrinsic fairness' of the sale transaction." *In re Colony Hill Assocs.*, 111 F.3d 269, 274 (2d Cir. 1997). The good-faith requirement "speaks to the integrity of [the purchaser's] conduct in the course of the sale proceedings," and the misconduct that would forfeit good-faith status "involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." *In re Pursuit Cap. Mgmt., LLC,* 874 F.3d 124, 135 (3d Cir. 2017) (affirming a § 363 sale and crediting the integrity of the auction over an objector's assertion of higher value); *accord In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147 (3d Cir. 1986) (defining good-faith-purchaser misconduct as fraud, collusion, or an attempt to take grossly unfair advantage of other bidders). Thor alleges none of the foregoing and therefore lacks standing. Ultimately, Thor's complaints reduce to the Debtors' proactive attempts to maximize protections for

their estates within the confines of the approved Bidding Procedures—which Thor reviewed and provided comments on before filing with the Court—rather than the recognized sale objections of fraud, collusion, or unfair advantage.

E. The Supplemental Objection's "Secret Second Auction" Is Fiction; the Debtors Repeatedly and Transparently Invited Thor to Prevail, and Thor's Own Refusal Cost the Estates Their Leverage

35. The Supplemental Objection rests entirely on a fabrication that after the auction closed, "the real auction began," that the Debtors ran "a new auction with no rules, no process, no disclosure and most importantly, outside the authority of this Court," and that this "secret," "off the record" "side auction." Supplemental Objection at 1–2, ¶¶ 25, 29–31. Every part of that story is false. There was no side auction, secret or otherwise. The Debtors negotiated the competing asset purchase agreements in the ordinary course. The Debtors kept Thor squarely within the process, asking Thor again and again to accept the reasonable terms that other bidders accepted and would have made Thor the winning bidder. In no uncertain terms, the Debtors chased Thor for days, which plainly undermines any notion of a secret auction from which it was excluded. *E.g.*, Ex. A, Emails from Stephen Packman dated September 14, 2026 at 4:30 p.m., September 15, 2026 at 5:36 p.m., and September 17, 2026 at 8:19 p.m.

36. The Post-Auction Correspondence represents only a small sample of the Debtors' attempts to engage with Thor on the very same playing field as all the other bidders. It is remarkable that Thor attempts to claim it was "excluded" from the very process in which it took center stage. The Debtors bent over backwards to give Thor additional chances on September 17 even after they were deep in negotiating the Hut8 agreements. Thor received the opportunity to agree with respect to every term the Debtors

sought and had every chance to match. The attempt to characterize it in any other way is bad faith.

37. The allegation that Thor would have come back to the table and considered accepting the language at the lower $140 million price is utterly disingenuous. The one and only reason Hut8 was able to walk down the price is because Thor dug its heels in and refused to meet the same terms. Under no circumstances should Thor now be able to re-open the auction. This exposes the Debtors to the very real and unnecessary risk that Hut8 walks away from the deal and permits Thor to benefit from its bad-faith conduct. Thor's refusal to agree to the Debtors' requests is not bad faith. Thor's Objections, its blatant lies, and attempt to blow up the sale and reopen the bidding *is* bad faith. In no uncertain terms, if Hut8 walks away, the Debtors are stuck with negotiating only with Thor and will have again lost their bargaining power against the buyer. The Debtors are then stuck in the same situation with Thor rather than Hut8—the difference being that Hut8 has been straightforward and delivered on every promise so far, while the Debtors reasonably have doubts about doing a deal with Thor. For the avoidance of doubt, sustaining Thor's Objection can lead to no good end for the Debtors and their estates. It is unquestionably unfair to Hut8, Fluidstack Ltd., and Digipower X Inc. who have been straightforward and have conducted themselves in good faith the entire time.

38. Also disingenuous is the claim that Thor had no idea these terms were key in determining the bidder that would ultimately prevail. *See* Supplemental Objection ¶ 27; Tr. Pages 154–157; Ex. A, Emails from Stephen Packman to counsel for all bidders dated September 17, 2026 at 8:20 a.m. [Pyote] and 9:07 a.m. [Tarbush]. Thor claims it thought the APA was acceptable to the Debtors with all of its terms. Supplemental Objection ¶ 30.

Because Thor's deal represented the best deal for the estates at the time of selecting the stalking horse, this was the case. However, if the Debtors were not clear enough prior to the auction that these were key components of the consideration of the winning bidder, **it was made abundantly clear at the auction**, and any attempt to state otherwise is false. *See* Tr. Pages 16, 19, 154–157; Ex. A, Email from Stephen Packman dated September 11, 2026 at 5:26 p.m.

39. Thor's own reliance on the auction record refutes its Objections. Contrary to Supplemental Objection ¶ 21, the Debtors sprang nothing on anyone. Before bidding began, they announced on the record that they "reserve the right to review APAs, exhibits, supporting submissions, markups, and other related documents … in conjunction with confirming and accepting any bid as a highest and best-offer or a backup bid." Tr. Page 16. Contrary to Supplemental Objection ¶¶ 22–23, Thor was neither shut out nor "dismissed." When Thor's counsel asked to understand how the revised APAs deviated, the Debtors responded, "You will get that sense. We fully intend to go back to Thor with certain revisions." Tr. Pages 19–20. Thor asked only that it have "ample time to make competitive additional bids based upon … the disclosures of what those changes look like to the APAs." Thor thus agreed on the record to the very post-auction APA-revision process it now derides as a "secret side auction."

40. The one thing the Debtors could not do was force Thor to say yes, and the Debtors have never suggested otherwise. The Debtors faithfully adhered to the Bidding Procedures and to their fiduciary duties—not any violation of them. It is also the antithesis of coercion or bad faith. The Debtors did not strong-arm Thor; they practically pleaded with Thor to accept the deal that would have won it the assets.

41. The irony of the Supplemental Objection is stark. At the conclusion of the auction, Thor and Hut8 were separated by less than one percent in cash consideration, as set forth above. Once Thor refused to hold or improve its position and walked away from the negotiating table, the Debtors were left with a single willing counterparty. Thor's intransigence stripped the Debtors of the competitive leverage that had kept pricing high. With no credible competing bidder left to discipline the APA negotiation, Hut8 was able to work the Debtors down, and the final Hut8 transaction came in at $140 million—fully $40 million below the $180 million Thor itself had bid.[4] That erosion in value is the direct and foreseeable result of Thor's own conduct. Having destroyed the very leverage that protected estate value, Thor now asks the Court to reward its intransigence by unwinding the sale. The Court should decline. A disappointed bidder cannot manufacture its own harm and then wield it as grounds to undo a sale conducted in good faith.

42. Finally, the Supplemental Objection does nothing to cure the fatal defect identified herein. A transparent, documented, and repeated invitation to the objecting bidder is the antithesis of the fraud, collusion, or grossly unfair advantage that alone could impugn the integrity of the sale or confer standing on a disappointed bidder. Thor still alleges no such misconduct, because none occurred. The Supplemental Objection, like the Objection, should be overruled.

CONCLUSION

43. For the foregoing reasons, the Debtors respectfully request that the Court overrule the Objection and Supplemental Objection of Thor CALAP, LLC in their entirety,

[4] It should be noted that Hut8 proposed alternative transaction structures, the other being a lower cash consideration at closing with deferred, conditional consideration. The Committee rejected this deal in favor of the higher up-front cash price of $140 million at closing. DuFrayne Declaration ¶ 25.

approve the proposed sale, and grant such other and further relief as the Court deems just and proper.

Dated: September 27, 2026

ARCHER & GREINER, P.C.

/s/ Stephen M. Packman

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Natasha M. Songonuga, Esq.
Alexander J. Andrews, Esq.
(Admitted *Pro Hac Vice*)
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aandrews@archerlaw.com

Attorneys for the Debtors

232726647 v4

EXHIBIT A

Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Friday, September 25, 2026 3:28 PM
To: Andrews, Alexander J.
Subject: Fw: Thor Calap/Poolin

Follow Up Flag: Follow up
Flag Status: Flagged

Stephen M. Packman, Esq.
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From: Packman, Stephen M.
Sent: Friday, 11 September 2026 17:26:30
To: Steven Cohen <cohen@wmllp.com>
Cc: mdufrayne <mdufrayne@dufraynellc.com>; Morris Missry <MISSRY@wmllp.com>; Jack J. Sitt <jack@thorequities.com>; gberman@thorequities.com <gberman@thorequities.com>
Subject: RE: Thor Calap/Poolin

Thanks. If you don't want to talk and work through some of this, that is of course prerogative, but your response below doesn't help at all and has now created bigger issues. We cannot confirm your bid or file anything yet with the Court. The sale price changed markedly, the sale price needs to be allocated, the mineral waiver needs to be documented. Further, closing date prior to the December 10 date are illogical. The only reason we did not go through all of this last night with you before ending the auction was the late hour and as a courtesy to Jack. If I thought you were going to take this attitude with us, I would have insisted on keeping everyone there las t night until we had it all resolved. Hut8 was amenable to many of these revisions requested. Have a good holiday and Happy New Year.

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From: Steven Cohen <cohen@wmllp.com>
Sent: Friday, September 11, 2026 4:57 PM
To: Packman, Stephen M. <spackman@archerlaw.com>
Cc: mdufrayne <mdufrayne@dufraynellc.com>; Morris Missry <MISSRY@wmllp.com>; Jack J. Sitt <jack@thorequities.com>; gberman@thorequities.com
Subject: [EXT MAIL] Thor Calap/Poolin

Steve, your proposed amendments to the two APAs are unacceptable to Thor Calap. The APAs and the pre-auction amendment to the Tarbush APA were the product of detailed , lengthy good faith negotiations. Although we were very surprised last night at the end of the 13 hour marathon auction by your statement that proposed amendments would be presented for our consideration today, we said this morning we would review same with the understanding that they would contain no substantive changes. The proposed amendments, however, contain many substantive changes that we will not entertain, far less accept. Your rightfully admonished another bidder after the auction had concluded for attempting to renegotiate terms in the APA that had already been accepted by that bidder in its qualification bid package submitted earlier this week. Incredibly, at this hour, we are still getting coped on emails from Ms/ Cho with more proposed revisions. Surely, there can be no scenario by which Thor Calap can be compelled to accept changes to APAs executed in July -, which APAs, together with the other submissions made by or on behalf of our client in support of its consideration as the stalking horse bidder, which debtor accepted and the court approved—after the auction at which Thor Calap made the highest and best bid.

We understand the filing deadline to announce the winning bid is upon us, and have done our best to consider your proposal, even with the holiday upon us, but Thor Calap stands by its bid of $180 million for Tarbush and Pyote with the waiver of mineral right objections. Please proceed with the filing of the debtor's notice confirming same.

Steve

Steven J. Cohen
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****
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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Monday, September 14, 2026 4:22 PM
To: Morris Missry; Steven Cohen
Subject: SECOND AMENDED ASSET PURCHASE AGREEMENT TARBUSH(232694547.1)
Attachments: SECOND AMENDED ASSET PURCHASE AGREEMENT TARBUSH(232694547.1).docx

Here is a revised proposed amended APA on Tarbush. As you can see, I took out two sections to minimize substance changes. I also included additional language on the Lindsay tract that same must be reasonably satisfactory to buyer at closing. Last, I changed the final paragraph in accordance with my last email to you (closing December 15), extension for 90 days if no ERCOT approval by December 10. If this works, let me know and I will amend Pyote accordingly. If not, I think we are at an impasse, and I will have to move forward otherwise with this matter. I cannot wait any longer to finalize the amended APAs and submit the sale order. Thanks.

Stephen M. Packman, Esq.
Fellow of INSOL

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Tuesday, September 15, 2026 10:18 PM
To: Steven Cohen
Cc: Morris Missry; Scott Lesser
Subject: Re: Amended APAs

Ok

Stephen M. Packman, Esq.
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From: Steven Cohen <cohen@wmllp.com>
Sent: Tuesday, 15 September 2026 22:15:41
To: Packman, Stephen M. <spackman@archerlaw.com>
Cc: Morris Missry <MISSRY@wmllp.com>; Scott Lesser <lesser@wmllp.com>
Subject: [EXT MAIL] Re: Amended APAs

Steve, our client does not accept these additional terms and will be filing an objection.

Sent from my iPhone

On Sep 15, 2026, at 9:32 PM, Packman, Stephen M. <spackman@archerlaw.com> wrote:

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Since we have not heard back from you or received the amended APA's with the requisite language, we have decided to move forward with Hutt eight in the morning. If that is not the case, then you need to let us know immediately. Thx

Stephen M. Packman, Esq.
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From: Morris Missry <MISSRY@wmllp.com>
Sent: Tuesday, 15 September 2026 17:46:06
To: Packman, Stephen M. <spackman@archerlaw.com>; Scott Lesser <lesser@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] Re: Amended APAs

We will get back to you before then but for the record, If you decide to go with another bidder, we hereby lodge an objection and will take the appropriate action to protect Thor's interest. Thank you.

Morris Missry, Esq.
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885 Second Avenue | New York, NY 10017
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Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Tuesday, 15 September 2026 17:36:24
To: Scott Lesser <lesser@wmllp.com>; Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: Amended APAs

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Scott, I tried your line earlier. The CRO and I are waiting to make a decision whether to move forward with Thor and will do so tonight at 8 pm. If we have the APAs before then from you with the markups we discussed this afternoon agreed to by Thor, and which are

in form and content acceptable to Sellers, we will proceed with confirmation of Thor's bid tonight. Otherwise, we are done prolonging this process and will move forward with HUT8 as the winning bidder.

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Friday, September 25, 2026 3:28 PM
To: Andrews, Alexander J.
Subject: Fw: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

Follow Up Flag: Follow up
Flag Status: Flagged

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From: Packman, Stephen M.
Sent: Monday, 14 September 2026 16:55:28
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

I appreciate that and am letting you know that we have held off for today in moving off of Thor's bid. We will not be able to do that for much longer if this doesn't get resolved tomorrow as there are deadlines to meet. We are trying very hard to make this work for both sides but there is a limit to what we can do here. thanks.

Stephen M. Packman, Esq.
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From: Morris Missry <MISSRY@wmllp.com>
Sent: Monday, September 14, 2026 4:40 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

Will do our best.

Morris Missry, Esq.
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Facsimile: 212 909-9448
Email: Missry@wmllp.com
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From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Monday, September 14, 2026 4:39 PM
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

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Please make it early as the Court is inquiring. Thanks.

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Monday, September 14, 2026 4:36 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

We will come back to you tomorrow

Morris Missry, Esq.
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From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Monday, September 14, 2026 4:30 PM
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

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I removed several paragraphs to try to move this along.

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Monday, September 14, 2026 5:04 PM
To: Morris Missry; Steven Cohen
Subject: Re: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

Ok thanks. I am not sure why we can't chat tonight as opposed to tomorrow, but we will wait until noon tomorrow to get this resolved or not. Sorry to have to give you a cut off but at this point, we cannot wait any longer and will move on with the backup bidder if this doesn't get done by noon tomorrow.

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Monday, 14 September 2026 16:58:07
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

I hear you and I tried to solve all issues with a simple, yet elegant solution. I still feel that works best. I'm not sure I can offer anything else but happy to chat tomorrow after reviewing your markups.

Morris Missry, Esq.
WACHTEL MISSRY LLP
One Dag Hammarskjold Plaza
885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Monday, September 14, 2026 4:55 PM
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

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I appreciate that and am letting you know that we have held off for today in moving off of Thor's bid. We will not be able to do that for much longer if this doesn't get resolved tomorrow as there are deadlines to meet. We are trying very hard to make this work for both sides but there is a limit to what we can do here. thanks.

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Monday, September 14, 2026 4:40 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

Will do our best.

Morris Missry, Esq.
WACHTEL MISSRY LLP
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885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Monday, September 14, 2026 4:39 PM
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

Caution: This is an external email. Please take care when clicking links or opening attachments. When in doubt, contact IT.

Please make it early as the Court is inquiring. Thanks.

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Monday, September 14, 2026 4:36 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

We will come back to you tomorrow

Morris Missry, Esq.
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Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Monday, September 14, 2026 4:30 PM
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: FIRST AMENDED ASSET PURCHASE AGREEMENT (PYOTE)(232702965.1)

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I removed several paragraphs to try to move this along.

Stephen M. Packman, Esq.
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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Tuesday, September 15, 2026 9:32 PM
To: Morris Missry; Scott Lesser; Steven Cohen
Subject: Re: Amended APAs

Since we have not heard back from you or received the amended APA's with the requisite language, we have decided to move forward with Hutt eight in the morning. If that is not the case, then you need to let us know immediately. Thx

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Tuesday, 15 September 2026 17:46:06
To: Packman, Stephen M. <spackman@archerlaw.com>; Scott Lesser <lesser@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] Re: Amended APAs

We will get back to you before then but for the record, If you decide to go with another bidder, we hereby lodge an objection and will take the appropriate action to protect Thor's interest. Thank you.

Morris Missry, Esq.
WACHTEL MISSRY LLP
One Dag Hammarskjold Plaza
885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Tuesday, 15 September 2026 17:36:24

To: Scott Lesser <lesser@wmllp.com>; Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: Amended APAs

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Scott, I tried your line earlier. The CRO and I are waiting to make a decision whether to move forward with Thor and will do so tonight at 8 pm. If we have the APAs before then from you with the markups we discussed this afternoon agreed to by Thor, and which are in form and content acceptable to Sellers, we will proceed with confirmation of Thor's bid tonight. Otherwise, we are done prolonging this process and will move forward with HUT8 as the winning bidder.

Stephen M. Packman, Esq.
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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Tuesday, September 15, 2026 8:05 PM
To: Morris Missry; Scott Lesser; Steven Cohen
Subject: Re: Amended APAs

Are we moving forward or done?

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Tuesday, 15 September 2026 17:46:06
To: Packman, Stephen M. <spackman@archerlaw.com>; Scott Lesser <lesser@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] Re: Amended APAs

We will get back to you before then but for the record, If you decide to go with another bidder, we hereby lodge an objection and will take the appropriate action to protect Thor‘s interest. Thank you.

Morris Missry, Esq.
WACHTEL MISSRY LLP
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885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Tuesday, 15 September 2026 17:36:24
To: Scott Lesser <lesser@wmllp.com>; Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: Amended APAs

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Scott, I tried your line earlier. The CRO and I are waiting to make a decision whether to move forward with Thor and will do so tonight at 8 pm. If we have the APAs before then from you with the markups we discussed this afternoon agreed to by Thor, and which are in form and content acceptable to Sellers, we will proceed with confirmation of Thor's bid tonight. Otherwise, we are done prolonging this process and will move forward with HUT8 as the winning bidder.

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Thursday, September 17, 2026 5:28 PM
To: Morris Missry; Steven Cohen
Subject: RE: Poolin Auction Transcript/ Thor Response

I think you should call me so I can understand what Thor is bidding, if anything, here. 609.519.0448.

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Thursday, September 17, 2026 5:24 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] Re: Poolin Auction Transcript/ Thor Response

Steve, just hit off with Thor. Unfortunately, we aren't going to be able to get there on modified terms. Thank you for your efforts.

Morris Missry, Esq.
WACHTEL MISSRY LLP
One Dag Hammarskjold Plaza
885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Thursday, 17 September 2026 13:32:36
To: Morris Missry <MISSRY@wmllp.com>
Subject: FW: Poolin Auction Transcript/ Thor Response

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Morris, just in case you were not aware, on the bid deposit issue, the following applies from the bid procedures:

Other than a Stalking Horse Bid, be accompanied by a good faith deposit by wire transfer or certified check (payable to the order of the Debtors), in an amount equal to five percent (5%) of the cash consideration of the Bid (each, a "Good Faith Deposit"); provided that, to the extent a Bid is modified at or prior to the Auction in any manner that increases the proposed purchase price contemplated by such Bid, the Debtors reserve the right, in consultation with the Committee, to require that such Potential Bidder increase its Good Faith Deposit so that it equals five percent (5%) of the increased aggregate purchase price promptly and in no event no later than one (1) business day following the conclusion of the Auction.

The "Preliminary Bid Documents" that must be submitted to the Recipient Parties on or before August 27, 2026 at 5:00 p.m. (EST) include: (a) an executed confidentiality agreement (a "Confidentiality Agreement") in form and substance reasonably acceptable to the Debtors; (b) sufficient information to show that the Interested Party has sufficient cash on hand or has received sufficient non-contingent debt and/or equity funding commitments to consummate a purchase of the Assets subject to the contemplated bid; and (c) a statement detailing whether the Interested Party is partnering with or otherwise working with any other interested party in connection with the potential submission of a joint bid, the identity of any such party or parties, and a concise description of the nature of such partnership or joint bid to the extent reasonably practicable. Any Interested Party who, in the Debtors' determination, qualifies for access to the Diligence Materials shall be deemed a "Potential Bidder." For the avoidance of doubt, the Stalking Horse Bidder (as defined herein) shall be a Potential Bidder and does not need to submit the Preliminary Bid Documents.

Please let me know where Thor is on the topics we discussed. Thanks.

Stephen M. Packman, Esq.
Fellow of INSOL

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Friday, September 25, 2026 3:29 PM
To: Andrews, Alexander J.; mdufrayne
Subject: Fw: Pyote APA terms
Attachments: Pyote APA terms(232715868.1).docx

Follow Up Flag: Follow up
Flag Status: Flagged

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From: Packman, Stephen M.
Sent: Thursday, 17 September 2026 08:20:02
To: Steven Cohen <cohen@wmllp.com>; Carty, Andrew M. <acarty@brownrudnick.com>; Gordon, Jake William <jake.gordon@foley.com>; Ivolkov@mcgrailbensinger.com <Ivolkov@mcgrailbensinger.com>
Cc: Bradford J. Sandler <bsandler@pszjlaw.com>; mdufrayne <mdufrayne@dufraynellc.com>
Subject: Pyote APA terms

Counsel for bidders on the Pyote assets:

The Debtors intend to confirm the highest and best bid for the Pyote assets, and backup bid, today and file the auction result notice with the Court later this evening. Attached is a document with suggested edits to the Pyote PSA. Please let us know by no later than 5pm NYT today which edits on the attached your bidder will agree to in connection with its bid. The Debtors, in consultation with the Committee, will evaluate each bidder's response in determining the highest and best bid on the Pyote assets, including where a bidder has bid on the Pyote and Tarbush assets. If you wish to discuss any of these edits with me, feel free to call me at 609.519.0448 and I will get back to you as promptly as possible.

Sincerely,

Stephen M. Packman, Esq.
Fellow of INSOL

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Friday, September 25, 2026 3:29 PM
To: Andrews, Alexander J.; mdufrayne
Subject: Fw: Tarbush APA terms
Attachments: Tarbush APA Terms(232715925.1).docx

Follow Up Flag: Follow up
Flag Status: Flagged

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From: Packman, Stephen M.
Sent: Thursday, 17 September 2026 09:07:58
To: Steven Cohen <cohen@wmllp.com>; Carty, Andrew M. <acarty@brownrudnick.com>; Robert E. Grossman <regrossman@duanemorris.com>
Cc: Bradford J. Sandler <bsandler@pszjlaw.com>; mdufrayne <mdufrayne@dufraynellc.com>
Subject: Tarbush APA terms

Counsel for bidders on the Tarbush assets:

The Debtors intend to confirm the highest and best bid for the Tarbush assets, and backup bid, today and file the auction result notice with the Court later this evening. Attached is a document with suggested edits to the Tarbush APA. Please let us know by no later than 5pm NYT today which edits on the attached your bidder will agree to in connection with its bid. The Debtors, in consultation with the Committee, will evaluate each bidder's response in determining the highest and best bid on the Tarbush assets, including where a bidder has bid on the Pyote and Tarbush assets. If you wish to discuss any of these edits with me, feel free to call me at 609.519.0448 and I will get back to you as promptly as possible.

Sincerely,

Stephen M. Packman, Esq.
Fellow of INSOL

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Friday, September 25, 2026 3:30 PM
To: Andrews, Alexander J.
Subject: Fw: Poolin Auction Transcript/ Thor Response

Follow Up Flag: Follow up
Flag Status: Flagged

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Packman, Stephen M.
Sent: Thursday, 17 September 2026 20:19:15
To: Morris Missry <MISSRY@wmllp.com>; Steven Cohen <cohen@wmllp.com>
Subject: RE: Poolin Auction Transcript/ Thor Response

The Committee requested that I confirm with you on behalf of Thor that it is not willing to top up its deposit on the total amount bid to 5%, remove the sole and absolute discretion language in the APAs and agree to a closing date of December 15, with up to a 90-day extension as needed. If that is not the case, please call me before 10pm tonight to discuss. Thank you.

Stephen M. Packman, Esq.
Fellow of INSOL

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Thursday, September 17, 2026 5:24 PM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] Re: Poolin Auction Transcript/ Thor Response

Steve, just hit off with Thor. Unfortunately, we aren't going to be able to get there on modified terms. Thank you for your efforts.

Morris Missry, Esq.
WACHTEL MISSRY LLP
One Dag Hammarskjold Plaza
885 Second Avenue | New York, NY 10017
Telephone: 212 909-9557
Facsimile: 212 909-9448
Email: Missry@wmllp.com
Website: www.wmllp.com

From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Thursday, 17 September 2026 13:32:36
To: Morris Missry <MISSRY@wmllp.com>
Subject: FW: Poolin Auction Transcript/ Thor Response

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Morris, just in case you were not aware, on the bid deposit issue, the following applies from the bid procedures:

Other than a Stalking Horse Bid, be accompanied by a good faith deposit by wire transfer or certified check (payable to the order of the Debtors), in an amount equal to five percent (5%) of the cash consideration of the Bid (each, a "Good Faith Deposit"); provided that, to the extent a Bid is modified at or prior to the Auction in any manner that increases the proposed purchase price contemplated by such Bid, the Debtors reserve the right, in consultation with the Committee, to require that such Potential Bidder increase its Good Faith Deposit so that it equals five percent (5%) of the increased aggregate purchase price promptly and in no event no later than one (1) business day following the conclusion of the Auction.

The "Preliminary Bid Documents" that must be submitted to the Recipient Parties on or before August 27, 2026 at 5:00 p.m. (EST) include: (a) an executed confidentiality agreement (a "Confidentiality Agreement") in form and substance reasonably acceptable to the Debtors; (b) sufficient information to show that the Interested Party has sufficient cash on hand or has received sufficient non-contingent debt and/or equity funding commitments to consummate a purchase of the Assets subject to the contemplated bid; and (c) a statement detailing whether the Interested Party is partnering with or otherwise working with any other interested party in connection with the potential submission of a joint bid, the identity of any such party or parties, and a concise description of the nature of such partnership or joint bid to the extent reasonably practicable. Any Interested Party who, in the Debtors' determination, qualifies for access to the Diligence Materials shall be deemed a "Potential Bidder." For the avoidance of doubt, the Stalking Horse Bidder (as defined herein) shall be a Potential Bidder and does not need to submit the Preliminary Bid Documents.

Please let me know where Thor is on the topics we discussed. Thanks.

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Thursday, September 17, 2026 10:54 AM
To: Morris Missry; Steven Cohen
Subject: RE: Poolin auction bids

Happy to discuss with you if you want. 609.519.0448.

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From: Morris Missry <MISSRY@wmllp.com>
Sent: Thursday, September 17, 2026 10:50 AM
To: Packman, Stephen M. <spackman@archerlaw.com>; Steven Cohen <cohen@wmllp.com>
Subject: [EXT MAIL] RE: Poolin auction bids

Steve, based upon what we've reviewed, is it fair to say that despite what we believe the Bid Procedure Order provides, the CRO, Creditors Committee etc. are not willing to move the closing date to March 31st and move off of the deposit top up?

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From: Packman, Stephen M. <spackman@archerlaw.com>
Sent: Thursday, September 17, 2026 10:39 AM
To: Steven Cohen <cohen@wmllp.com>

Cc: Morris Missry <MISSRY@wmllp.com>
Subject: Poolin auction bids

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Steve, let me know if you have questions and/or want to talk further before we make decisions on the bids later today. Thanks.

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Andrews, Alexander J.

From: Packman, Stephen M.
Sent: Thursday, September 17, 2026 8:19 PM
To: Morris Missry; Steven Cohen
Subject: RE: Poolin Auction Transcript/ Thor Response

The Committee requested that I confirm with you on behalf of Thor that it is not willing to top up its deposit on the total amount bid to 5%, remove the sole and absolute discretion language in the APAs and agree to a closing date of December 15, with up to a 90-day extension as needed. If that is not the case, please call me before 10pm tonight to discuss. Thank you.

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