

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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|-----------------------------|---|-------------------------------|
| JAMES CAGLE, |) | |
| |) | |
| Plaintiff/Counterclaim |) | |
| Defendant, |) | |
| |) | C.A. No. N25C-07-120 EMD CCLD |
| v. |) | |
| |) | |
| PIONEER SQUARE BRANDS, INC. |) | |
| |) | |
| Defendant/Counterclaim |) | |
| Plaintiff. |) | |

**MEMORANDUM OPINION ON PARTIES’ CROSS-MOTIONS FOR JUDGMENT ON
THE PLEADINGS AND CROSS-MOTIONS TO DISMISS**

DAVIS, P.J.

I. INTRODUCTION

This is a civil action assigned to the Court’s Complex Commercial Litigation Division . The dispute here relates to the scope of an “expert determination” provision in a Unit Purchase Agreement (the “Agreement”)¹ between Plaintiff James Cagle and Defendant Pioneer Square Brands (“PSB”). The Agreement provides that any disputes regarding Earn Out Payments must be resolved by an Independent Accounting Firm (“IAF”) as the “sole and exclusive remedy.” Mr. Cagle initiated this dispute, alleging eight causes of action in his Complaint. PSB responded by filing its Answer and bringing four counterclaims. The parties also filed cross-motions to dismiss the other’s claims.

The main disagreement here is the extent the Agreement divests the Court of jurisdiction over claims related to the Earn Out Payments. Both parties assert competing declaratory

¹ Unit Purchase Agreement (hereinafter the “Purchase Agr.”) (Ex. A) (D.I. No. 1).

judgment causes of action, each seeking a declaration that their interpretation of the IAF's jurisdiction is correct. The parties also bring opposing claims for breaches of the Agreement, breaches of the implied covenant of good faith and fair dealing, and that certain actions taken were done with the intent of diminishing any Earn Out payments.² Several of the parties' claims hinge upon the IAF's jurisdiction.

For the reasons provided below, the Court **DENIES** Mr. Cagle's Count I and **GRANTS** PSB's Counterclaim I, finding the IAF has jurisdiction to resolve disputes regarding Earn Out Payments. The Court **GRANTS** portions of PSB's motion dismiss portions three of five requests in Count II of Mr. Cagle's Complaint. The Court also **STAYS** the two remaining requests in Count II, as well as Counts IV and V of Mr. Cagle's Complaint. Finally, for the remaining Counts III, VI, VII, and VIII of Mr. Cagle's Complaint and PSB's Counterclaims II, III, and IV are linked to the IAF's findings and remain open. The Court will meet with the parties regarding the claims not addressed in this memorandum opinion.

II. RELEVANT FACTS

Section 10.12 provides that “[a]ll issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware[.]”³

A. THE PARTIES

Plaintiff James Cagle is a resident and citizen of North Carolina.⁴ Mr. Cagle was the stockholder of Vault LLC (the “Company”).⁵ Prior to Closing, Vault LLC was a limited liability

² See Complaint ¶¶ 130-209 (hereinafter “Compl.”) (D.I. No. 1); see also Counterclaims ¶¶ 74-127 (hereinafter “Countercl.”) (D.I. No. 6).

³ Compl. ¶16; Purchase Agr. §10.12.

⁴ *Id.* ¶12.

⁵ *Id.* ¶¶1-3, 14; see generally Purchase Agr.

company organized and existing under the laws of the State of North Carolina, with its principal place of business in High Point, North Carolina.⁶

PSB is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in High Point, North Carolina.⁷

B. DISPUTES

On February 10, 2023, the parties executed the Agreement under which PSB would purchase all of Mr. Cagle’s “units” in the Company.⁸ The parties agreed to a purchase price of \$10,984,805.⁹ Under the terms of the Agreement, if the Company’s Contribution Margin reached certain financial targets for 2023 and 2024, Mr. Cagle could receive Earn Out Payments and Bonuses.¹⁰ Under Section 1.5(a):

(a) As additional consideration for the Units, the [PSB] shall pay to [Cagle] an amount up to a total of \$9,000,000 (the “Earn Out Payment”) determined as follows:

(i) If the Company’s Contribution Margin for the twelve-month period ending December 31, 2023 (the “2023 Contribution Margin”) is equal to or greater than \$7,000,000 but less than \$24,000,000, then the Earn Out Payment to be paid by [PSB] to [Cagle] with respect to the 2023 Contribution Margin (the “2023 Earn Out Payment”) shall be an amount equal to twenty-five percent (25%) of the 2023 Contribution Margin. If the 2023 Contribution Margin is equal to or greater than \$24,000,000, then the 2023 Earn Out Payment shall be \$6,000,000.

(ii) If the 2023 Earn Out Payment is less than \$6,000,000 (the amount of such difference, the “Unearned Earn Out Payment”), and the Company’s Contribution Margin for the twelve month period ending December 31, 2024 (the “2024 Contribution Margin”) is equal to or greater than \$7,000,000, then the Earn Out Payment to be paid by [PSB] to [Cagle] with respect to the 2024 Contribution Margin (the “2024 Earn Out Payment”) shall be an amount equal to twenty-five percent (25%) of the 2024 Contribution Margin, provided that the 2024 Earn Out Payment shall not exceed the amount of the Unearned Earn Out Payment.

⁶ Compl. ¶14.

⁷ *Id.* ¶13.

⁸ *Id.* ¶¶ 1-2, 43; PSB’s Answer ¶43; Purchase Agr. at 1.

⁹ Compl. ¶44; PSB’s Answer ¶44; Purchase Agr. Art. IX (“Purchase Price”).

¹⁰ Compl. ¶45; PSB’s Answer ¶45; Purchase Agr. § 1.5(a).

On April 30, 2024, PSB delivered the 2023 Earn Out Statement, calculating a Contribution Margin of \$4,414,825 and a Contribution Margin Percentage of 57%.¹¹ PSB claimed that no Earn Out Payment or Earn Out Bonus was due for the 2023 fiscal year because these figures were less than the \$7 million contractual threshold.¹² Mr. Cagle disputes that the Contribution Percentage fell below historical levels and noted that PSB failed to notify him of this drop.¹³

On May 29, 2024, Mr. Cagle delivered his 2023 Earn Out Statement Objection Notice pursuant to the Agreement.¹⁴ Mr. Cagle objected to, among other things, the specific figures used in the calculations and PSB's accounting methodology, which Mr. Cagle claimed did not comply with the contractually defined Accounting Principles.¹⁵

On August 9, 2024, PSB issued a revised 2023 Earn Out Statement.¹⁶ The revised statement updated the Minimum Contribution Margin to \$5,098,964, the calculated Contribution Margin remained \$4,414,825 with a 57% Margin Percentage.¹⁷ PSB continued to maintain its position that Mr. Cagle did not earn the 2023 Earn Out Payment or Bonus as these figures remained below the \$7 million contractual threshold.¹⁸

On August 16, 2024, Mr. Cagle provided PSB with a supplemental 2023 Earn Out Statement Objection Notice, objecting to the figures and calculations in the revised statement.¹⁹

Along with this notice, Mr. Cagle also delivered a Notice of Claim for Indemnification on

¹¹ Compl. ¶64; PSB's Answer ¶64.

¹² *Id.*

¹³ Compl. ¶65.

¹⁴ *Id.* ¶69; PSB's Answer ¶69.

¹⁵ *Id.*

¹⁶ Compl. ¶70; PSB's Answer ¶70.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Compl. ¶71; PSB's Answer ¶71.

August 16, 2024.²⁰ Pursuant to Sections 7.2(c)(ii) and 7.7(i) of the Agreement, this notice identified multiple alleged contractual breaches by PSB, separate from the specific accounting disagreements regarding the Earn Out calculation.

On April 30, 2025, PSB delivered its proposed 2024 Earn Out Statement.²¹ Moreover, between April 30 and June 13, 2025, PSB sent the final version of this statement.²² The 2024 Earn Out Statement calculated a Contribution Margin of \$3,039,839 and a Contribution Margin Percentage of 39%.²³ PSB informed Mr. Cagle that no Earn Out Payment or Bonus was earned for the 2024 fiscal year because these results were below the \$7 million threshold.²⁴

On May 7, 2025, PSB delivered a revised 2024 Earn Out Statement, which further reduced the calculated metrics to a Contribution Margin of \$2,884,885 and a Contribution Margin Percentage of 37%.²⁵ PSB continued to maintain that no Earn Out Payment or Bonus was due for 2024.²⁶ To date, PSB has made no payments for the 2024 Earn Out period.²⁷

On June 13, 2025, Mr. Cagle delivered his 2024 Earn Out Statement Objection Notice.²⁸ Mr. Cagle challenged the revised 2024 Earn Out Statement on several grounds, including the underlying figures and the accounting methodology used to determine the Contribution Margin, which he asserted did not comply with the mandated Accounting Principles.²⁹

PSB's Earn Out Statements reflected that revenue fell to \$7.7 million from the 2022 levels of \$8.5 million and significantly short of the \$14 million internal projection forecasted in

²⁰ Compl. ¶90; PSB's Answer ¶90.

²¹ Compl. ¶¶78-79; PSB's Answer ¶¶78-79.

²² *Id.*

²³ Compl. ¶78; PSB's Answer ¶78.

²⁴ *Id.*

²⁵ Compl. ¶80; PSB's Answer ¶80.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Compl. ¶83; PSB's Answer ¶83.

²⁹ *Id.*

early 2023.³⁰ This reportedly continued into 2024, with revenue remaining at approximately \$7.8 million, falling approximately \$14.2 million short of the Company's pre-Closing projection of \$22 million for that fiscal year.³¹

The parties agree that PSB made certain changes to the Company after Closing.³² However, the parties disagree on the reasons for these changes and the allegedly deleterious consequences of PSB's changes to the Company's operations.³³

III. PROCEDURAL HISTORY

Mr. Cagle filed his Complaint on July 16, 2025.³⁴ PSB responded with its Answer and Counterclaims on October 27, 2025.³⁵ Mr. Cagle filed his Answer to PSB's Counterclaims on November 26, 2025.³⁶

On October 27, 2025, PSB filed its Motion for Partial Judgment on the Pleadings, to Compel Independent Review, and to Dismiss or Stay Cagle's Complaint.³⁷ PSB filed the Motion's Opening Brief the following day on October 28.³⁸ Mr. Cagle filed his Answering Brief in opposition to PSB's motion on November 26, 2025.³⁹ PSB responded with its Reply Brief in support of its motion on December 17, 2025.⁴⁰

³⁰ Compl. ¶92; PSB's Answer ¶92.

³¹ Compl. ¶93; PSB's Answer ¶93.

³² See Compl. ¶¶94-130; see also PSB's Answer ¶¶94-130.

³³ See Compl. ¶¶94-130; see also PSB's Answer ¶¶94-130.

³⁴ See Compl.

³⁵ See PSB's Answer.

³⁶ See Plaintiff James Cagle's Answer to Defendant's Counterclaims (D.I. No. 19).

³⁷ See Motion for Partial Judgment on the Pleadings, to Compel Independent Review, and to Dismiss or Stay Plaintiff's Complaint (D.I. No. 8).

³⁸ See Opening Brief in Support of its Motion for Partial Judgment on the Pleadings, to Compel Independent Review, and to Dismiss or Stay Plaintiff's Complaint (hereinafter "PSB's Op. Br.") (D.I. No. 9).

³⁹ See Plaintiff James Cagle's Answering Brief in Opposition to Defendant's Motion for Partial Judgment on the Pleadings, to Compel Independent Review, and to Dismiss or Stay Plaintiff's Complaint (hereinafter "Cagle's Opp'n Answer") (D.I. No. 17).

⁴⁰ See Defendant's Reply Brief In Support Of Its Motion For Partial Judgment On The Pleadings, To Compel Independent Review, And To Dismiss Or Stay Plaintiff's Complaint (hereinafter "PSB's Reply Br.") (D.I. No. 31).

Mr. Cagle filed a Motion to Dismiss and a Motion for Partial Motion for Judgment on the Pleadings on November 26, 2025, but provided a Consolidated Opening Brief for his motions.⁴¹ Mr. Cagle filed his Motion for Partial Judgment on the Pleadings in relation to Counterclaim I.⁴² Mr. Cagle's Motion to Dismiss relates to Counterclaims II, III, and IV.⁴³ PSB filed its Answering Brief in opposition on January 15, 2026.⁴⁴ Finally, Cagle filed his Reply Brief in support of his motions on February 16, 2026.⁴⁵

The Court heard oral arguments on April 27, 2026. At the conclusion of the hearing, the Court took all motions under advisement.

IV. PARTIES' CONTENTIONS

The dispute underlying the parties' cross-motions relates to the scope of the IAF's exclusive authority to resolve Earn Out Payment disputes or whether the Court must address them.⁴⁶ The parties agree that the Agreement designated the IAF as an "expert" and not an "arbitrator," and may resolve accounting disputes between the parties.⁴⁷

A. MR. CAGLE

The thrust of Mr. Cagle's Complaint and subsequent motions is that the IAF does not have the power to resolve legal disputes, and that task is reserved to the Court. Specifically, Mr. Cagle asserts that the IAF lacks the jurisdiction to resolve legal claims related to PSB's obligations to:

⁴¹ See Plaintiff's Consolidated Opening Brief in Support of Motion for Judgment on the Pleadings and Motion to Dismiss Defendant's Counterclaims (hereinafter "Cagle's Op. Br.") (D.I. No. 20).

⁴² See Plaintiff James Cagle's Motion for Judgment on the Pleadings as to Counterclaim I (D.I. No. 20).

⁴³ See Plaintiff James Cagle's Motion to Dismiss Counts II, III and IV of Defendant's Counterclaims (D.I. No. 18).

⁴⁴ See Defendant's Answering Brief In Opposition To Plaintiff's Motion For Judgment On The Pleadings And Motion To Dismiss Defendant's Counterclaims (hereinafter "PSB's Opp'n Answer") (D.I. No. 35).

⁴⁵ See Plaintiff's Reply Brief in Support of Motion for Judgment on the Pleadings and Motion to Dismiss Defendant's Counterclaims (hereinafter "Cagle's Reply. Br.") (D.I. No. 36).

⁴⁶ See Compl. ¶ 142; Countercl. ¶¶ 81-82.

⁴⁷ See Section VI, Discussion (A) *infra*; see also Compl. ¶ 134; see also PSB's Op. Br. 13-15; see also Cagle's Op. Br. at 1, 14.

- (1) notify [Mr. Cagle] of anticipated changes in the Company's Contribution Margin or Contribution Percentage;
- (2) continue to operate the Company's business in the Ordinary Course of Business and substantially in the same manner as operated prior to the Closing;
- (3) not act (or fail to act) with the intent of or for the purpose of decreasing any Earn Out Payment or otherwise hindering the Company's ability to achieve Contribution Margin or Contribution Percentage;
- (4) act in good faith with respect to its earn out payment obligations and calculations;
- (5) pay 2023 and 2024 Earn Out Payments and an Earn Out Bonus to [Mr. Cagle]; and
- (6) join [Mr. Cagle] in instructing the Escrow Agent to disburse the remaining Indemnification Escrow Deposit to [Mr. Cagle].⁴⁸

Mr. Cagle maintains that the claims in his Complaint require factual and legal determinations that are beyond the purview of the IAF's area of expertise to resolve.⁴⁹

B. PSB

PSB asserts that the claims in the Complaint arise from Earn Out Payment disputes and are therefore within the IAF's authority to resolve as set out in the Agreement.⁵⁰ PSB refutes Mr. Cagle's contentions that his claims involve legal disputes.⁵¹ PSB alternatively requests that the Court stay any claims the Court finds do require legal determinations until after the IAF conducts a review of the accounting issues.⁵²

⁴⁸ Compl. ¶142.

⁴⁹ See *id.*; see also Cagle's Opp'n Answer at 16-31.

⁵⁰ See Countercl. ¶¶79-82.

⁵¹ See *id.*; see also PSB's Op. Br. 2, 17, 28-29.

⁵² See PSB Op. Br. at 22; see also Reply Br. at 4 n.1, 15-18, 23.

V. STANDARD OF REVIEW

Under Civil Rule 12(b)(1), the Court will “dismiss an action for lack of subject matter jurisdiction if it appears from the record that the Court does not have jurisdiction over the claim.”⁵³ The burden of establishing subject matter jurisdiction lies with “the party seeking the Court’s intervention.”⁵⁴ If a claim is subject to a valid contractual dispute resolution clause, the Court will dismiss for lack of jurisdiction.⁵⁵

VI. DISCUSSION

The Court’s analysis turns on whether the parties contractually agreed to divest the Court of jurisdiction certain matters in favor of resolution by the IAF. In resolving the declaratory judgment claims in Count I and Counterclaim I, the Court finds that the Court finds on the parties agreed to provide the IAF exclusive jurisdiction to resolve disputes related to the Earn Out Payment.

The Court therefore partially grants PSB’s motion to dismiss regarding the first, second, and fourth request of Count II of Mr. Cagle’s Complaint. However, the Court will refrain from ruling on the parties’ remaining claims. As such, the Court stays the third and fifth requests in Count II, as well as IV and V of Mr. Cagle’s Complaint until the IAF conducts its own review. Counts III, VI, VII, and VIII of Mr. Cagle’s Complaint and PSB’s Counterclaims II, III, and IV are linked to the IAF’s findings and remain open. The Court will confer with the parties regarding the claims not addressed by the Court here. The Court will meet with the parties regarding the claims not addressed in this memorandum opinion.

⁵³ *I Am Athlete, LLC v. IM EnMotive, LLC*, 2024 WL 4904685, at *5 (Del. Super. Nov. 27, 2024).

⁵⁴ *Id.*

⁵⁵ *Id.*

A. THE PARTIES’ DECLARATORY JUDGMENTS AND THE SCOPE OF THE IAF’S POWER TO RESOLVE THEIR DISPUTES.

“Under the Delaware Declaratory Judgment Act, Delaware courts ‘have power to declare rights, status and other legal relations whether or not further relief is or could be claimed[.]’”⁵⁶ “There must be an actual controversy present for the [C]ourt to exercise declaratory judgment jurisdiction.”⁵⁷ For an actual controversy to exist: “(i) [i]t must be a controversy involving the rights or other legal relations of the party seeking declaratory relief; (ii) it must be a controversy in which the claim of right or other legal interest is asserted against one who has an interest in contesting the claim; (iii) the controversy must be between parties whose interests are real and adverse; (iv) the issue involved in the controversy must be ripe for judicial determination.”⁵⁸

1. The Clear Language of the Agreement Establishes the IAF’s Jurisdiction to Resolve All Disputes Related to the Earn-Out Payments.

Delaware law respects the ability of parties to enter into agreements and to voluntarily establish their limitations, the means of resolving disputes, and the power to bind themselves to such agreements.⁵⁹ Determining what type of dispute resolution mechanism the parties have agreed to presents a question of contract interpretation.⁶⁰ Under Delaware law, “[w]hen interpreting a contract, the role of a court is to effectuate the parties’ intent.”⁶¹ Absent ambiguity, the court “will give priority to the parties’ intentions as reflected in the four corners of the agreement, construing the agreement as a whole and giving effect to all its provisions.”⁶²

⁵⁶ 10 *Del. C.* § 6501; *WVEC Holdings III Corp., v. Hackman*, 2026 WL 819022, at *9 (Del. Ch. Mar. 25, 2026) (citing *In re Aerojet Rocketdyne Hldgs., Inc.*, 2022 WL 2180240, at *10 (Del. Ch. June 16, 2022)).

⁵⁷ *Hackman*, 2026 WL 819022, at *9 (citing *Cardinale v. Feingold*, 2023 WL 142510, at *2 (Del. Ch. Jan. 10, 2023)).

⁵⁸ *Id.* (citing *XL Specialty Ins. Co. v. WMI Liquidating Tr.*, 93 A.3d 1208, 1217 (Del. 2014)).

⁵⁹ See *Penton Bus. Media Holdings, LLC v. Informa PLC*, 252 A.3d 445, 458-59, 461-62, 465 (Del. Ch. July 9, 2018), *judgment entered*, (Del. Ch. 2018).

⁶⁰ *Id.* at 461.

⁶¹ *Id.*

⁶² *Id.*

In Delaware, parties to an agreement may provide an independent accounting firm with jurisdiction to resolve disputes, but the extent of this jurisdiction depends on the agreement's express language.⁶³ When an agreement states that a third party may resolve the dispute by acting "as an expert and not as an arbitrator," it narrows the scope of the third party's jurisdiction to their area of expertise.⁶⁴ "[A]n expert determination is typically limited "to deciding a specific factual dispute concerning a matter within the special expertise of the decision maker, usually concerning an issue of valuation."⁶⁵ Delaware courts disapprove of efforts by parties to "plead around the scope of a third-party decision-maker's authority by couching delegable disputes in questions of law."⁶⁶

Here, the parties assert cross-motions for judgment on the pleadings for their declaratory judgment claims.⁶⁷ Mr. Cagle requests that the Court grant judgment on the pleadings in his favor by denying PSB's Counterclaim I.⁶⁸ As it relates to Count I, Mr. Cagle contends that he is entitled to a declaratory judgment that certain disputed issues must be resolved by the Court, not the IAF.⁶⁹ According to Mr. Cagle, the scope of the IAF's authority is a present dispute affecting his legal rights under the Agreement, it involves the rights of both parties, the parties have adverse positions, and is ripe for judicial determination.⁷⁰ More specifically, Mr. Cagle seeks a declaration from the Court that:

⁶³ See *id.* at 458-59, 461-62; see also *Stone v. Nationstar Mortgage LLC*, 2020 WL 4037337, at *7-8 (Del. Ch. July 6, 2020); see also *I Am Athlete*, 2024 WL 4904685, at *6-7.

⁶⁴ *Chicago Bridge & Iron Co. N.V. v. Westinghouse Elec. Co. LLC*, 166 A.3d 912, 931 (Del. 2017), *as revised* (June 28, 2017); see also *LDC Parent, LLC v. Essential Utilities, Inc.*, 2021 WL 1884847, at *3, *5 (Del. Super. Apr. 28, 2021); see also *I Am Athlete*, 2024 WL 4904685, at *6-7.

⁶⁵ *AM Buyer LLC v. Argosy Inv. Partners IV, L.P.*, 2024 WL 4024980, at *8 (Del. Super. Sept. 3, 2024), *aff'd sub nom. AM Buyer LLC v. Argosy Inv. Partners IV, L.P.*, 345 A.3d 958 (Del. 2025).

⁶⁶ *Stone*, 2020 WL 4037337, at *8.

⁶⁷ Cagle's Op. Br. at 2, 13-15; PSB's Op. Br. at 1, 12-22.

⁶⁸ Cagle's Op. Br. at 2, 13-15.

⁶⁹ Compl. ¶¶130-42; Cagle's Opp'n Answer at 9.

⁷⁰ Compl. ¶¶133-41.

[T]he scope of the Independent Accounting Firm’s authority does not include making legal determinations, such as interpreting disputed terms or provisions of the Purchase Agreement or adjudicating alleged breaches of the Purchase Agreement, regardless of whether those legal determinations relate to the Earn Out Payments or their calculations....[t]he Independent Accounting Firm’s authority is limited to determining the calculation of disputed items in [PSB]’s Earn Out Statement based on the meaning of defined terms in, and in accordance with the provisions of, the Purchase Agreement, all as determined by this Court.⁷¹

Mr. Cagle argues that the Agreement’s structure and language limit the IAF’s authority to a narrow set of issues.⁷² Most critical to his position, Mr. Cagle insists that the IAF does not have the authority to resolve legal disputes related to contract interpretation or whether PSB acted in good faith.⁷³ Mr. Cagle maintains these issues are outside the scope of the IAF’s expertise.⁷⁴

As to its declaratory judgment claim, PSB requests the Court grant judgment on the pleadings in its favor and dismiss Mr. Cagle’s claim in Count I.⁷⁵ PSB relies on the “unambiguous” language of the Agreement, stating that “resolution by the Independent Accounting Firm shall be the Parties’ sole and exclusive remedy with respect to any dispute regarding an Earn Out Payment.”⁷⁶ PSB argues that the IAF can resolve the disputes raised by Mr. Cagle without employing any legal determinations and rely on its own expertise and the Agreement’s “clear” and “proper” methodology for calculating the Earn-Out Payments.⁷⁷ PSB maintains that the IAF is not limited to the “calculation” of an Earn Out Payment, and the Agreement grants the IAF authority to resolve “*any dispute regarding an Earn Out Payment*” as the parties’ “sole and exclusive remedy” for these disputes.⁷⁸

⁷¹ *Id.* ¶ 141.

⁷² *Id.* ¶¶ 134-36, 141.

⁷³ *Id.* ¶ 142.

⁷⁴ *Id.*

⁷⁵ PSB’s Op. Br. at 1, 12-22.

⁷⁶ Countercl. ¶ 77 (quoting Purchase Agr. §1.5(b)).

⁷⁷ *Id.* ¶81.

⁷⁸ PSB’s Op. Br. at 22.

Where both parties agree, and crucial for the Court’s analysis, is that the Agreement establishes the IAF as an “expert” and not an arbitrator. Section 1.5(b) states unambiguously, “the Independent Accounting Firm...will be instructed to deliver decisions acting as an expert and not as an arbitrator.”⁷⁹ Under Delaware law, this language permits the IAF to act to resolve issues in regard to Earn-Out Payments within the narrower purview of the IAF’s area of expertise.⁸⁰ In accordance with Delaware’s contractarian principles, the parties agreed to have the IAF resolve all disputes regarding an Earn-Out Payment and therefore the IAF has the authority to resolve those disputes.⁸¹

As set out in the Agreement, the IAF must resolve any issue regarding a calculation of the Earn Out Payments that fall within its area of expertise.⁸² The IAF may resolve specific “factual disputes” within its expertise, but this does not extend to issues of “law or legal claims.”⁸³ However, the IAF may utilize its expertise and accounting methodology to assess whether the accounting determinations PSB made and whether the accounting outcome was so extreme as to show a lack of good faith.⁸⁴ “The more closely related the term or provision is to the expert’s area of expertise, the more likely it is that an expert can interpret the term without judicial assistance.”⁸⁵

The Agreement also provides the contours of the process for any disputes. According to Section 1.5(b), the process:

[S]hall not be based on [the IAF’s] own independent review, and instead shall be based solely on a single written presentation by each of [PSB] and [Mr. Cagle] and

⁷⁹ Purchase Agr. §1.5(b).

⁸⁰ *Chicago Bridge & Iron*, 166 A.3d at 931; *see also LDC Parent*, 2021 WL 1884847, at *3, *5; *see also I Am Athlete*, 2024 WL 4904685, at *6-7.

⁸¹ *See Penton*, 252 A.3d at 458-59, 461-62, 465; *AM Buyer*, 2024 WL 4024980, at *8.

⁸² Purchase Agr. §1.5(b).

⁸³ *AM Buyer*, 2024 WL 4024980, at *12.

⁸⁴ *See ArchKey Intermediate Holdings Inc. v. Mona*, 302 A.3d 975, 1001-02 (Del. Ch. Oct. 3, 2023).

⁸⁵ *Id.* at 998.

a single written response...and on the defined terms in this Agreement that are relevant to the calculation of the disputed items.⁸⁶

The Court may stay any claims that relate to the accounting of the Earn Out Payments and allow the IAF to proceed through the review process as the parties agreed. If the IAF finds that PSB's accounting was correct after reviewing the parties' disputes and applying the terms from the Agreement, this may dispose of several claims at issue here. The parties agreed to have the IAF have jurisdiction over disputes regarding the Earn Out Payments, and if the IAF finds that it does not have jurisdiction over a given dispute, they may refer that dispute back to the Court.

For the reasons stated about, the Court **DENIES** Mr. Cagle's motion for judgment on the pleadings as to his claim in Count I. The Court **GRANTS** PSB's motion for judgment on the pleadings on the claim in Counterclaim I to the extent that the claims relate to the IAF's expertise.

2. Cagle's Count II for a Declaratory Judgment Establishing the Meaning of Five Disputed Terms and Provisions of the Agreement.

In Count II, Cagle moves the Court for a declaratory judgment regarding five separate requests regarding certain disputed terms between the parties.

a. First Request on Costs Included in 2023 and 2024 Earn-Out Statements.

Here, the inclusion of certain costs and distributions under the definitions and language provided in the Agreement falls under the IAF's expertise. Article IX's definition of "Contribution Margin" specifically includes that it is determined in accordance with the "Accounting Principles subject to Section 1.5(a)(iv)."⁸⁷ Because these are the types of matters that the IAF is capable of handling and that the parties agreed to, the Court **GRANTS** PSB's motion to dismiss this portion of Cagle's Count II.

⁸⁶ Purchase Agr. §1.5(b).

⁸⁷ Purchase Agr. Art. IX.

b. Second Request on “Misallocated Costs” in the 2023 and 2024 Earn Out Statements.

Here, the attribution and allocation of costs in the Earn Out Statements and what costs should and should not be included are within the IAF’s area of expertise. The IAF can use its expertise, along with the terms and definitions in the Agreement, to resolve this dispute. The Court **GRANTS** PSB’s motion to dismiss Cagle’s second request in Count II.

c. Third Request on Notification Requirement in Section 1.5(a)(iv) if Contribution Percentages Anticipated to Fall Below Historical Levels.

The Agreement’s language appears clear and unambiguous. If PSB expects the Contribution Percentage to drop below the historic levels, it must notify Mr. Cagle. But because the parties dispute if the Contribution Percentage fell below historical levels, the Court **DENIES** PSB’s motion to dismiss this portion of Mr. Cagle’s Count II. The parties should provide the definition of historical levels to the IAF and allow it to determine if and potentially when the Contribution Percentage dropped below historical levels.

d. Fourth Request on Revenue Determinations.

Mr. Cagle seeks a determination that “Revenue” is legal term and defining such a term is beyond the IAF’s area of expertise. The parties agreed to utilize the provided terms and IAF’s expertise to resolve Earn Out Payment disputes.⁸⁸ The IAF can engage in a review of these fact-intensive determinations by utilizing its own expertise, any discounts approved by Mr. Cagle, and the definitions provided in the Agreement to determine what costs should and should not be included in the Earn Out Statements.⁸⁹ For these reasons, the Court **GRANTS** PSB’s motion to dismiss this portion of Cagle’s Count II.

⁸⁸ Purchase Agr. §1.5(b).

⁸⁹ See *I Am Athlete*, 2024 WL 4904685, at *6-7.

e. Fifth Request Regarding the Definition of “Ordinary Course of Business.”

This request is beyond the purview of the IAF. Cagle’s fifth request requires legal analysis and contractual interpretation regarding PSB’s subjective intent behind any changes it made to the Company’s operations. Therefore, the Court **DENIES** PSB’s motion to dismiss this request in Cagle’s Count II.

B. CAGLE’S BREACH CLAIMS IN COUNTS IV AND V FOR FAILURE TO PAY 2023 AND 204 EARN OUT PAYMENTS.

For a claim for breach of contract, the plaintiff must plead (i) the existence of a contractual obligation, (ii) a breach of that obligation, and (iii) damages resulting from the breach.⁹⁰

The parties agreed that the IAF would resolve any disputes regarding the Earn Out Payments.⁹¹ Reviewing the accounting practices and the metrics used by PSB to determine whether Mr. Cagle would not receive an Earn Out Payment is within the IAF’s expertise. However, the Court believes that any resolution by the IAF on this will not totally resolve Mr. Cagle’s claims. Accordingly, the Court **DENIES** PSB’s motion to dismiss and will stay Cagle’s Counts IV and V for failing to pay the 2023 and 2024 Earn Out Payments until after the IAF reviews the parties’ dispute submissions and provides its own calculation.

VII. CONCLUSION

The Court finds that the IAF has authority to resolve the accounting disputes related the Earn Out Payments. That is only part of the inquiry. The Court cannot resolve several of the parties claims at this stage of the proceedings through dispositive motions. Because the parties agreed the IAF has authority to resolve disputes pertaining to the Earn Out Payments, the Court

⁹⁰ *I Am Athlete*, 2024 WL 4904685, at *7.

⁹¹ Purchase Agr. §1.5(b).

will stay the third and fifth request of Count II and Counts IV and V of Cagle's Complaint until the parties turn their dispute over to the IAF for review. As to the other claims, the Court directs the parties to contact Chambers and set up a status conference to address the open issues as to Mr. Cagle's Counts III, VI, VII, and VIII, as well as PSB's Counterclaims II, III, and IV.

June 15, 2026
Wilmington, Delaware

/s/ Eric M. Davis
Eric M. Davis, President Judge

cc: File&ServeXpress