IN THE CHANCERY COURT, STATE OF WYOMING

2026 WYCH 1

SAPPHIRE STRATEGIC ADVISORY, LLC, a New Jersey Limited Liability Company Plaintiff, v. ALTIUS STRATEGIC CONSULTING LLC, a Wyoming Limited Liability Company Defendant.	Docket No. CH-2025-0000013

ORDER DENYING MOTION FOR SUMMARY JUDGMENT

[¶1] The parties to this compensation dispute agreed in writing that plaintiff Sapphire, as an independent contractor, would receive a bonus from defendant Altius depending on certain performance evaluations and revenue and profit targets. Altius withheld bonus payments for 2024; Sapphire sued for breach of contract and breach of the implied covenant of good faith and fair dealing.

[¶2] Altius moves for summary judgment, arguing that its unprofitable year excuses any obligation to pay bonuses. For the reasons explained below, the court finds judgment inappropriate at this stage because material factual disputes remain regarding the meaning and application of the revenue and profit target provisions in the party's agreement.

BACKGROUND

The Parties

[¶3] Plaintiff, Sapphire Strategic Advisory LLC, is a New Jersey Limited Liability Company owned by Neelam Dutt and Amlanjeet Dutta. *Compl.*, ¶ 1.

[¶4] Defendant, Altius Strategic Consulting, LLC, is a Wyoming Limited Liability Company that provides consulting services through independent contractors who specialize in diverse fields. *Id.* ¶ 2. *Memo. in Supp. MSJ*, FSX No. 77993810, pg. 2. Altius engaged Sapphire as an independent contractor from 2021 through 2024. *Memo. in Supp. MSJ*, pg. 2.

The Agreement

[¶5] This dispute arises from the parties' 2024 Professional Services Agreement (PSA). *Comp. & Ans.*, 6. Under that PSA, Sapphire served as an independent contractor for Altius during 2024. *Id. See also Memo. in Supp. MSJ,* Ex. C. (PSA, Annexure A).

[¶6] The PSA establishes a "performance-based compensation model." *Defs' R. 56.1 Stat., Ex.* C. (PSA, Annexure A), § 5. Under this model, Sapphire receives "70% of its billed amount" as "base compensation." *Id.* at Ex. C, Annex. A, § 5.II. Additional compensation is available based on performance. Sapphire receives an additional 40% for exceeding expectations and an additional 30% for meeting expectations. *Id.*

[¶7] This performance-based compensation model relies on regular performance reviews. Specifically, the PSA provides that "[m]anagement will conduct quarterly performance review[s] against baseline objectives" and will "rate the contractors." *Id.* at Ex. C, Annex. A, § 5.II.a. Underscoring the cadence of these performance reviews, another PSA provision states that "[t]he compensation review cycle for performance-based adjustments shall be conducted every three months (quarterly). Adjustments to the base compensation will be made based on the Independent Contractor's performance evaluation during this review." *Id.* at Ex. C, Annex. A, § 5.IV.

[¶8] The PSA includes a "Performance Grading" table including metrics such as revenue generation, client satisfaction, team engagement, delivery quality, utilization, and performance assessment. The table, inserted below, relies on targets.

Metric	Target	EE: Exceeded Expectations	ME: Met Expectations	DE: Did Not Meet Expectations
Incremental revenue generated over the SOW $ (across all phases of the project)	25%+ above target	30%+	10% to 25%	<10%
Client Satisfaction (surveys and feedback - solicited and unsolicited)	100% favorable	Special remarks from client	100%	<90%
Team engagement, team assessment of client lead(s)	100% favorable	Special remarks from lead	100%	<90%
Late or missed deliveries, rework, and poor delivery quality	0%	0%	0% to 10% within target	>10% of target
Utilization (on client billable engagement)	95%	>100%	90% to 95%	<90%
Performance assessment (during and post engagement, through informal and formal surveys)	100% favorable	Special remarks from client or lead	100%	<90%

Id. at Ex. C, Annex. A, § 1.b.

[¶9] The PSA conditions bonus payments on performance evaluations and targets. Specifically, the PSA provides: "All bonuses and compensation increases are contingent on [Sapphire's] job performance evaluation and are subject to [Altius]'s overall business performance and meeting or exceeding revenue and profit targets set by [Altius]." *Id.* at Ex. C, Annex. A, § 5.III.a.

[¶10] The PSA further qualifies that "[b]onuses will be paid based on the company's current financial circumstance." "It may not be immediately after quarter end but will be paid within the same financial year." *Id.* at Ex. C, Annex. A, § 5.III.b.

[¶11] The PSA includes a 2024 payment schedule showing bonuses were to be paid in June and December of that year, and Sapphire was to receive base pay each month of 2024. *Id.* at Ex. C, Annex. A, § 5.IV.

The Complaint

[¶12] Altius did not pay Sapphire any bonuses under the PSA. *Comp.*, ¶ 18; *Defs' Memo. Supp. MSJ*, pg. 7. Sapphire initiated this action, alleging two claims for relief: breach of contract and breach of the implied covenant of good faith and fair dealing. *Compl.,* ¶¶ 19-29.

[¶13] Sapphire alleges it received "excellent client feedback throughout 2024" and that Altius "met or exceeded all revenue and profit targets for at least a portion of 2024." *Id.* ¶¶ 13, 14. Yet, Sapphire alleges, Altius provided only partial evaluations in the second and third quarters and no evaluation for the fourth quarter of 2024. *Id.* ¶¶ 11, 12.

The Answer

[¶14] Altius answered and counterclaimed, seeking to recover what it alleges is an overpayment. *Ans.*, FSX No. 76625454, *Countercl.*, FSX No. 76625537. Later, Altius moved for summary judgment. *Mot. Sum. Judg.*, FSX No. 77993810. That motion argues only that Altius's payment of the bonus was excused by non-occurrence of conditions precedent to the PSA. *Id.* Altius did not in its answer plead as an affirmative defense that payment of the bonus was excused on account of the non-occurrence of conditions precedent contained in the PSA.

[¶15] Such pleading was required here. *See Elsner v. Campbell Cnty. Hosp. Dist.*, 2025 WY 37, ¶ 74, 566 P.3d 894, 914 (Wyo. 2025) ("The district court addressed this same argument when it denied The Legacy's motion in limine. It found The Legacy failed to raise the affirmative defense of failure to satisfy a condition precedent, and it had therefore waived that defense. We agree with the district court.") *and Sturgeon v. Phifer*, 390 P.2d 727, 729–30 (Wyo. 1964) (noting that "where the defendant has by his act prevented performance by the plaintiff, it is not necessary for the plaintiff to allege and prove his own readiness and ability to perform" rather "it is that the

burden of proof as to an alleged valid excuse for nonperformance of a contract is upon the party raising the issue as an affirmative defense.").[1]

[¶16] The court nonetheless reaches the merits of that affirmative defense because it is the premise of Altius's motion for summary judgment. *Loftus v. Romsa Const., Inc.*, 913 P.2d 856, 862 (Wyo. 1996) ("[T]he assertion of an affirmative defense in a motion for summary judgment is not only appropriate, but is just. A party should not be deprived of his right to prevail on the merits by some technical failure in the pleadings."). And, in any event, Sapphire did not raise the issue.

Altius's Motion for Summary Judgment

[¶17] Altius seeks summary judgment on Sapphire's two claims, arguing that the PSA "makes reaching Altius's revenue and profit targets a condition precedent to any bonus payment" that Altius argues "must be strictly satisfied before duties arise." *Memo. Supp. MSJ*, pgs. 1-2.[2] Altius contends that non-occurrence of those conditions excuses payment of Sapphire's bonus and also prevents Sapphire's claim for a breach of the implied covenant because—short of occurrence of those conditions—nonpayment is expressly allowed by the PSA. *Id.* pgs. 7-9.

[¶18] Altius also contends that it "did not make any profit in 2024 and instead incurred a loss of $579,397.98 – or a loss of 20%." It refers to Exhibit E, which is a profit-and-loss statement for Altius in 2024 showing that the company lost money each quarter of 2024. Altius proposes "Sapphire's breach of the covenant of good faith and fair dealing claims are irrelevant when Altius did not meet its revenue and profit targets for 2024." *Memo. Supp. MSJ*, pg. 7.

Sapphire's Response

[¶19] In response, Sapphire argues that, because it is disputed whether Altius set revenue and profit targets, summary judgment would not be appropriate. *Resp. to MSJ* (FSX No. 78048310). It also argues that Altius should have notified Sapphire of

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[1] *See also* W.R.C.P.Ch.C. 9(c) ("[W]hen denying that a condition precedent has occurred or been performed, a party must do so with particularity."); 5A Wright & Miller, Fed. Prac. & Proc. Civ. § 1303 (4th ed.) ("It must be understood, then, that Rule 9(c) does not impose an obligation on plaintiffs to plead the performance or occurrence of conditions precedent. Rather, it is the applicable substantive law that determines whether the performance or occurrence of conditions precedent is an element of the claim; if so, Rule 8(a)(2) places the burden on the plaintiff to plead that element (and all others) to state a claim successfully. The office of Rule 9(c) is to provide that under such circumstances, the pleading of a condition precedent may be done 'generally.' Unfortunately, many courts have not appreciated this distinction, erroneously reading and applying Rule 9(c) as imposing an affirmative duty on plaintiffs to plead conditions precedent.").

[2] Altius cites two Wyoming cases for this proposition: *Prudential Preferred Props. v. J & J Ventures, Inc.*, 859 P.2d 1267, 1271 (Wyo. 1993) and *Sinclair Oil Corp. v. Republic Ins. Co.*, 929 P.2d 535, 539 (Wyo. 1996). The court did not find these cases to support Altius's position. Wyoming law does not require that conditions precedent are "strictly satisfied before duties arise"; substantial compliance can suffice. *See Casey v. Teton Cnty. Hosp. Dist.*, 2022 WY 112, ¶ 10, 517 P.3d 536, 540 (Wyo. 2022).

those targets. *Id.* pg. 7-8. Sapphire does not dispute the accuracy of Altius's 2024 profit-and-loss statement, but suggests that Altius should have broken that statement down in two halves (representing the biannual bonus under the PSA's payment schedule). *Id.* pg. 6. Sapphire also suggests that the PSA language regarding the targets—Altius's "overall business performance and meeting or exceeding revenue and profit targets set by" Altius—could refer to targets for Sapphire alone or for targets of the "the entire Altius organization[.]" *Id.* The response does not address the law of conditions precedent.

[¶20] Sapphire's Rule 56.1 statement of facts (FSX No. 78048310) asserts that the PSA did not include specifics about the revenue and profit targets, which Altius did not set (or share with Sapphire) until this lawsuit. Sapphire suggests that the targets raised herein—$11,000,000 and 18%—are unreasonable. Sapphire also states that "Altius's partnership distributions in the amount of $493,314.26 and using corporate funds for personal expenses contributed to its financial difficulties." Finally, Sapphire raises a March 6, 2025 email from Altius that calculated proposed payments intended to settle the current dispute. Sapphire raises no other facts.

JURISDICTION AND LEGAL STANDARDS

[¶21] This case seeks damages for a breach of contract and a breach of the corresponding implied covenant of good faith and fair dealing. Both parties herein are companies. The court may hear and decide such cases. Wyo. Stat. § 5-13-115(b)(i).

[¶22] Summary judgment on a defense is appropriate "if a movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." W.R.C.P.Ch.C. 56(a). The movant "carries the initial burden of establishing a prima facie case for summary judgment." *Bear Peak Res., LLC v. Peak Powder River Res., LLC*, 2017 WY 124, ¶ 27, 403 P.3d 1033, 1044 (Wyo. 2017). The non-movant must then "present evidence showing that a genuine issue of material fact does exist." *Lewis v. Francis*, 2025 WY 109, ¶ 11, 577 P.3d 433, 436 (Wyo. 2025) (citations omitted). That evidence is "considered from the vantage point most favorable" to non-movant, who receives "the benefit of all favorable inferences that may fairly be drawn" from the record. *Id.* ¶ 12, 577 P.3d at 437.

[¶23] When interpreting written contracts, the court issues summary judgment cautiously: whenever "any doubt exists as to the meaning of a written instrument, there is a genuine issue of material fact with respect to the parties' intent, and granting a summary judgment is inappropriate." *McNeiley v. Ayres Jewelry Co.*, 855 P.2d 1242, 1244 (Wyo. 1993). In this context: "[t]wo reasonable inferences arising from relevant facts create a genuine issue of material fact making summary judgment inappropriate." *Intermountain Brick Co. v. Valley Bank*, 746 P.2d 427, 430 (Wyo. 1987). The "possibility of a double meaning" created by a contract's "indefiniteness of . . . expression" makes summary judgment improper. *Drewry v. Brenner*, 2025 WY 121, ¶ 33, 579 P.3d 49, 60 (Wyo. 2025). In general, summary judgment "is not a means to allow

judges to jump ahead and write the end of the mystery if a movant fails to make an adequate summary judgment showing, even if the nonmovant's case appears to be weak." *Bogdanski v. Budzik*, 2018 WY 7, ¶ 37, 408 P.3d 1156, 1166 (Wyo. 2018).

LAW

Rules for Interpreting Contracts

[¶24] The court primarily seeks to ascertain the parties' intent when interpreting a contract. *Ultra Res., Inc. v. Hartman*, 2010 WY 36, ¶ 22, 226 P.3d 889, 905 (Wyo. 2010). The court does so by giving "effect in accordance with the meaning which that language would convey to reasonable persons at the time and place of its use" and employing "common sense" while "ascrib[ing] the words with a rational and reasonable intent." *Id.* The court may also consider "the purpose of the agreement to ascertain the intent of the parties at the time the agreement was made." *Schell v. Scallon*, 2019 WY 11, ¶ 15, 433 P.3d 879, 884 (Wyo. 2019).

[¶25] The interpretation of "clear and unambiguous" contract language "is a matter of law for the courts." *Claman v. Popp*, 2012 WY 92, ¶ 27, 279 P.3d 1003, 1013 (Wyo. 2012). But the court "should consider the circumstances surrounding execution of the agreement to determine the parties' intention, even in reviewing unambiguous contracts" if "an otherwise unambiguous term had a different, special, or technical usage at the time the contract was executed." *Chesapeake Expl., LLC v. Morton Prod. Co., LLC*, 2025 WY 15, ¶ 48, 562 P.3d 1286, 1299 (Wyo. 2025). The court may review "the purpose and four corners of the contract" to determine whether the parties intended to give a term a special meaning. *Schell*, ¶ 26, 433 P.3d at 888.

[¶26] Courts may rely on grammatical structure to discern the intent of contracting parties. *See Evans v. Farmers Ins. Exch.*, 2001 WY 110, ¶ 11, 34 P.3d 284, 287 (Wyo. 2001). Under the series-qualifier canon of interpretation, generally "an adjective at the beginning of a conjunctive phrase applies equally to each object within the phrase. In other words, the first adjective in a series of nouns or phrases modifies each noun or phrase in the following series unless another adjective appears." *Lewis v. Jackson Energy Co-op. Corp.*, 189 S.W.3d 87, 92 (Ky. 2005). *See also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts,* 147 (2012) ("When there is a straightforward, parallel construction that involves all nouns or verbs in a series, a prepositive . . . modifier normally applies to the entire series."). *Cf. Powder River Basin Res. Council v. Wyoming Pub. Serv. Comm'n*, 2024 WY 94, ¶ 36, 555 P.3d 932, 943 n.10 (Wyo. 2024) (Gray, J., concurring) ("an adjective before two nouns or noun phrases modifies both nouns or noun phrases when the nouns are not separated by a comma and are joined by the word 'or'") (cleaned up; citation omitted).

[¶27] On the other hand, courts will occasionally "go beyond the rules of grammatical construction to effectuate the intention of the parties." *Kindler v. Anderson*, 433 P.2d 268, 271 (Wyo. 1967). *Cf.* 11 Williston on Contracts § 32:9 (4th ed.) ("Courts often

pay attention to grammar and punctuation in determining the proper interpretation of a contract, but a court will disregard both grammatical constructs and the punctuation used in the written agreement when the context of the contract shows that grammatical or punctuation errors have occurred."). The series-qualifier canon "[p]erhaps more than most of the other canons" of interpretation "is highly sensitive to context." Scalia & Garner, *Reading Law* at 150.

Conditions Precedent to Performance of a Contract

[¶28] A condition precedent is an "an act or event, other than a lapse of time, which must exist or occur before a duty of immediate performance of a promise arises." *In re Sierra Trading Post, Inc.*, 996 P.2d 1144, 1149 (Wyo. 2000) (citations omitted). A condition "must be performed before an agreement shall become a binding contract" and "can relate to the formation of a contract." *Robert W. Anderson Housewrecking & Excavating, Inc. v. Bd. of Trs., Sch. Dist. No. 25, Fremont Cnty., Wyo.*, 681 P.2d 1326, 1331 (Wyo. 1984) (citations omitted). In other words, performance under a contract subject to a condition does not become due until the occurrence of the condition. *Whitlock Const., Inc. v. S. Big Horn Cnty. Water Supply Joint Powers Bd.*, 2002 WY 36, ¶ 22, 41 P.3d 1261, 1267 (Wyo. 2002).

[¶29] Whether a provision amounts to a condition precedent is generally a question of fact driven by the parties' intent; when sufficiently clear from the contractual language, however, the court may decide the question as a matter of law. *See In re Sierra Trading Post, Inc.*, 996 P.2d 1144, 1148 (Wyo. 2000). *See also Frank v. Stratford-Handcock*, 13 Wyo. 37, 77 P. 134, 138 (Wyo. 1904). A term that "all bonuses" are "subject to" a particular condition makes those bonuses subordinate to or subservient to that condition. *See K N Energy, Inc. v. City of Casper*, 755 P.2d 207, 213 (Wyo. 1988) (citing *Chandler v. Hjelle*, 126 N.W.2d 141, 147 (N.D. 1964) (in turn citing Black's Law Dictionary, Fourth Edition)). Consequently, performance "subject to" existence of an event is a condition precedent. *See Saulcy Land Co. v. Jones*, 983 P.2d 1200, 1203 (Wyo. 1999). Conditions may be "cumulative so that performance will not become due unless all of them occur." Restatement (Second) of Contracts § 224 cmt. d (1981). *See also Sky Harbor Air Serv., Inc. v. Cheyenne Reg'l Airport Bd.*, 2016 WY 17, 368 P.3d 264, 274 n.3 (Wyo. 2016) ("The undisputed contractual evidence was that multiple conditions needed to be met by Sky Harbor before the lease could be extended.").

[¶30] The law prefers an objective measure of conditions precedent: when the event triggering performance is the obligor's satisfaction with profitability, "the condition occurs if such a reasonable person in the position of the obligor would be satisfied." Restatement (Second) of Contracts § 228 (1981). *See also N. Silo Res., LLC v. Deselms*, 2022 WY 116A, ¶ 30, 518 P.3d 1074, 1085 (Wyo. 2022) ("When we interpret deed language, we apply common sense and give terms the meaning the language would convey to reasonable persons at the time and place of its use.") (cleaned up).

[¶31] A party is generally not liable for failure to perform a duty conditioned on an event that did not occur. *See Miles v. CEC Homes, Inc.*, 753 P.2d 1021, 1026 (Wyo. 1988) ("the general rule is that a non-occurrence of a condition precedent excuses a party's duty of performance"); Restatement (Second) of Contracts § 225(2), (3) (1981) ("Unless it has been excused, the non-occurrence of a condition discharges the duty when the condition can no longer occur. Non-occurrence of a condition is not a breach by a party unless he is under a duty that the condition occur."); *Frost Const. Co. v. Lobo, Inc.*, 951 P.2d 390, 397 (Wyo. 1998) ("A breach of contract is the nonperformance of some duty created by a promise. A condition precedent should not be described as broken. The condition merely does not exist or does not occur. If the condition consists of action by some person, it may properly be said not to be performed; but such nonperformance is not a breach of contract unless he promised to render the performance—to perform the condition.") (cleaned up).

The Implied Covenant of Good Faith and Fair Dealing

[¶32] Every contract in Wyoming contains an implied covenant of good faith and fair dealing. *Wilcox v. Sec. State Bank*, 2023 WY 2, ¶ 50, 523 P.3d 277, 289 (Wyo. 2023). The covenant "requires that neither party commit an act that would injure the rights of the other party to receive the benefit of their agreement" and that each contracting "party's actions be consistent with the agreed common purpose and justified expectations of the other party." *Chesapeake Expl., LLC v. Morton Prod. Co.*, LLC, 2025 WY 15, ¶ 75, 562 P.3d 1286, 1303 (Wyo. 2025) (quotation omitted). In Wyoming, a breach of the implied covenant "is a separate and distinct claim from a breach of contract claim. The two claims are not mutually dependent, and a party may breach the implied covenant of good faith and fair dealing even if it did not breach the express terms of the contract." *Wilcox*, ¶ 50, 523 P.3d at 290 (cleaned up).

[¶33] The implied covenant is breached "when a party interferes or fails to cooperate in the other party's performance." *Chesapeake*, ¶ 75, 562 P.3d at 1303 (citing *Scherer Const., LLC v. Hedquist Const.*, Inc., 2001 WY 23, ¶ 19, 18 P.3d 645, 653 (Wyo. 2001)). When "one party breaches the contract in bad faith, the injured party can seek damages for breach of the implied covenant of good faith." *Arnold v. Mountain W. Farm Bureau Mut. Ins. Co.*, 707 P.2d 161, 164 (Wyo. 1985). As pertinent here, "where a duty of one party is subject to the occurrence of a condition, the additional duty of good faith and fair dealing imposed on him under . . . may require some cooperation on his part . . . by taking affirmative steps to cause its occurrence." Restatement (Second) of Contracts § 245 cmt a. (1981). *See Gibson v. J. T. Allen Agency*, 407 P.2d 708, 710 (Wyo. 1965); *Thatcher v. Darr*, 27 Wyo. 452, 199 P. 938, 947 (Wyo. 1921).

[¶34] Although the standard of behavior required of the implied covenant is "impossible" to catalogue, Wyoming follows the rules presented in § 205 of the Restatement. *See* Restatement (Second) of Contracts § 205 cmt. d (1981). A few examples of

behavior that breaches the covenant are: "Subterfuges and . . . evasion of the spirit of the bargain, lack of diligence and slacking off, willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance." *PNS Stores, Inc. v. Cap. City Props., LLC*, 2022 WY 101, ¶ 40, 515 P.3d 606, 615 (Wyo. 2022) (quoting § 205).

[¶35] The "purpose, intentions, and expectations of the parties should be determined by considering the contract language and the course of dealings between and conduct of the parties." *Wilcox,* ¶ 50, 523 P.3d at 289. (quotation omitted) Whether a defendant has breached "is a factual inquiry that focuses on the contract and what the parties agreed to." *Scherer Const., LLC v. Hedquist Const., Inc.*, 2001 WY 23, ¶ 19, 18 P.3d 645, 654 (Wyo. 2001) (quotation omitted). But summary judgment may be appropriate upon a claim for such a breach when "under the facts in the record, the party's actions alleged as the basis for the breach of the implied covenant were in conformity with the clear language of the contract." *Id.* n.2. "If the action complained of is clearly within the intention of the parties as expressed within the unambiguous language of the contract, then summary judgment is appropriate." *Id.*

ANALYSIS

Breach of Contract

[¶36] The PSA subjects bonus payments to cumulative conditions, including Sapphire's work performance and Altius meeting or exceeding its revenue and profit targets. These conditions must be met before Altius must pay a bonus to Sapphire.

[¶37] Of the PSA's conditions, the court limits its analysis here to Altius's summary judgment argument that bonus payments were excused because the revenue and profit targets were not met. Summary judgment on this theory is not appropriate because a dispute exists over the meaning of "revenue and profit targets." Altius suggests that the term means its overall revenue and profits, while Sapphire points out that the term might have meant revenue and profit targets for Sapphire's part of Altius's operation

[¶38] The court sees merit in Altius's argument. The series-qualifier canon suggests that the adjective "overall" modifies the noun phrase "revenue and profit targets" in the PSA, meaning under the canon Altius's business had to reach the profit target it set for its overall operation each half of the year before it owed a bonus to Sapphire. And under the PSA, Altius had authority to "set" the revenue and profit targets.

[¶39] Yet, the PSA itself refers to an individual revenue target for Sapphire. The first "metric" in the "performance grading" matrix of the PSA is "Incremental revenue generated over the SOW $ (across all phases of the project)." The "target" for Sapphire was "25% above that target" with performance based on that baseline: Sapphire

would exceed expectations at "30%+," would meet expectations at "10% to 25%," and would not meet expectations at "<10%." These performance evaluation metrics appear to measure whether Sapphire met defined targets for its projects, not whether Altius met overall targets.

[¶40] Thus, the PSA's framework reasonably suggests that the targets could be contractor-specific. It seems the parties may have intended that Altius would set a revenue target for Sapphire and that, during performance evaluations, to what extent Sapphire met or exceeded that target would be calculable. With an individual revenue target contemplated within the PSA, the court cannot say as a matter of law that the PSA's bonus profit target was based on Altius's overall operation. The record contains a genuine factual dispute regarding whether the parties intended that the revenue and profit targets referenced in the bonus condition applied to individual targets that Altius was to set for Sapphire. The otherwise unambiguous term "profit target" may have had a special meaning in the PSA. This dispute is material because it determines whether the condition precedent was satisfied or excused.

[¶41] In sum, the PSA's structure and bonus terms support two reasonable inferences of which profit target conditioned Altius's performance, suggesting that "profit target" may have a special meaning in the PSA. The court cannot determine, as a matter of law, that the contractual condition precedent did not occur.

Breach of Implied Covenant

[¶42] The same factual dispute prevents summary judgment on Sapphire's second claim. Summary judgment for Altius on a breach of the implied covenant of good faith and fair dealing is proper if "the party's actions alleged as the basis for the breach of the implied covenant were in conformity with the clear language of the contract." *Scherer Const.* ¶ 19, 18 P.3d at 654 n.2. Altius argues that not paying Sapphire a bonus was in conformity with the contract.

[¶43] As described above, the parties dispute whether the PSA's profit-target condition applied to Altius's entire operation or a Sapphire-specific target. Summary judgment on this portion of Sapphire's second claim must also be denied.

[¶44] Assuming the profit-target condition applied to Altius's overall profit, the court disagrees that Sapphire's claim for a breach of the implied covenant would be "irrelevant" on account of Altius's unprofitability in 2024. In Wyoming, a breach of the implied covenant is a "separate and distinct" claim that can succeed without breaching the contract. *Wilcox*, ¶ 50, 523 P.3d at 290. Failure to cooperate in the occurrence of a condition precedent can breach the implied covenant. Altius had express duties to evaluate Sapphire's work and to set revenue targets, and may have had implied duties to notify Sapphire of its revenue and profitability goals and to not distribute funds in a way that would prevent it from healthy business performance in

2024. Even if Altius did not owe a bonus, Sapphire might be entitled to recover damages caused by a bad-faith breach of those duties.[3]

[¶45] In short, viewing the record in the light most favorable to Sapphire, the court cannot conclude as a matter of law that Altius's conduct was consistent with its duties of good faith and fair dealing.

CONCLUSION

[¶46] The record leaves the court with some doubt about what profit target Sapphire needed to meet under the PSA's bonus provisions. Genuine disputes of material fact prevent summary judgment. Altius's motion is **DENIED**.

SO ORDERED

Dated: January 13, 2026

/s/ Benjamin M. Burningham
CHANCERY COURT JUDGE

[3] *See Gas Sensing Tech. Corp. v. New Horizon Ventures Pty Ltd as Tr. of Linklater Fam. Tr.*, 2020 WY 114, ¶¶ 51-52, 471 P.3d 294, 306 (Wyo. 2020).