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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

William H. Seals Jr., Circuit Court Judge

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Appellate Case No.: 2025-001409

Civil Case No.: 2022-CP-40-02958

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Michael D. Jordan, Apple Services, Inc. and Plumbinator 1051, LLC ..... Respondents,

v.

Liquid Services and Logistics, LLC and Tim Freeman ..... Defendants,

of which Michael D. Jordan and Apple Services, Inc. are ..... Respondents,

and

Liquid Services and Logistics, LLC is ..... Appellant.

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# RECORD ON APPEAL

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ELECTRONICALLY FILED - 2023 Mar 31 12:09 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND<br><br>MICHAEL D. JORDAN, APPLE SERVICES, INC., and PLUMBINATOR 1051, LLC,<br><br>Plaintiffs,<br>vs.<br><br>LIQUID SERVICES AND LOGISTICS, LLC, and TIM FREEMAN,<br><br>Defendants. | IN THE COURT OF COMMON PLEAS<br>FOR THE FIFTH JUDICIAL CIRCUIT<br><br>CASE NO.: 2022-CP-40-02958<br><br>**ORDER FOR CASE ASSIGNMENT TO THE BUSINESS COURT** |

It is hereby ordered that the above-captioned case be assigned to the Business Court for Richland County. It is further ordered that exclusive jurisdiction over this case be assigned to **The Honorable Clifton Newman** to hear and handle all pretrial motions and other matters pertaining to this case.

**AND IT IS SO ORDERED.**

[*Electronic Signature Page to Follow*]

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Richland Common Pleas

| | |
|---|---|
| **Case Caption:** | Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al |
| **Case Number:** | 2022CP4002958 |
| **Type:** | Order/Case Assignment to Business Court Approved |

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

ELECTRONICALLY FILED - 2024 May 31 9:44 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

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|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND<br><br>MICHAEL D. JORDAN, APPLE SERVICES, INC., and PLUMBINATOR 1051, LLC,<br><br>Plaintiffs,<br>vs.<br><br>LIQUID SERVICES AND LOGISTICS, LLC, and TIM FREEMAN,<br><br>Defendants. | IN THE COURT OF COMMON PLEAS<br>FOR THE FIFTH JUDICIAL CIRCUIT<br><br>CASE NO.: 2022-CP-40-02958<br><br>**ORDER FOR CASE ASSIGNMENT TO THE BUSINESS COURT** |

It is hereby ordered that the above-captioned case be un-assigned from the Honorable Clifton Newman.

It is further ordered that the above-captioned case be assigned to the Business Court for Richland County, and that exclusive jurisdiction over this case be assigned to **The Honorable William H. Seals, Jr.** to hear and handle all pretrial motions and other matters pertaining to this case.

**AND IT IS SO ORDERED.**

[*Electronic Signature Page to Follow*]

ELECTRONICALLY FILED - 2024 May 31 9:44 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

Richland Common Pleas

| | |
|---|---|
| **Case Caption:** | Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al |
| **Case Number:** | 2022CP4002958 |
| **Type:** | Order/Case Assignment to Business Court Approved |

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

ELECTRONICALLY FILED - 2025 Mar 28 3:19 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF RICHLAND | ) | FOR THE FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC, | ) | Civil Action No. 2022-CP-40-02958 |
| Plaintiffs, | ) | |
| v. | ) | **CONSENT ORDER FOR CONTINUANCE OF HEARING ON PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT** |
| Liquid Services and Logistics, LLC, and Tim Freeman, | ) | |
| Defendants. | ) | |

This matter is before the Court on Plaintiffs' Amended Motion for Patrial Summary Judgment, which is currently scheduled for a hearing on March 31, 2025. In light of Defendants' recent substitution of counsel, the Parties have consented to a one-week continuance of the hearing on Plaintiffs' Motion, to be rescheduled for the week of April 7th or at a time convenient for the Court. The parties affirm that their interests will not be harmed if the Court were to grant the continuance, that the request is made in good faith and not for purposes of delay, and that the additional time requested is fair and reasonable. Therefore, it is hereby:

**ORDERED, ADJUDGED AND DECREED** that the hearing on Plaintiffs' Motion for Partial Summary Judgment will be continued until the week of April 7th or as otherwise set by the Court.

**IT IS SO ORDERED**.

[SIGNATURE PAGE TO FOLLOW]

ELECTRONICALLY FILED - 2025 Mar 28 3:19 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

*Electronic signature to follow*
The Honorable William H. Seals, Jr.

**WE SO CONSENT:**

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Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Continuance

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2025 Mar 28 3:19 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF RICHLAND | ) | FOR THE FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC, | ) | Civil Action No. 2022-CP-40-02958 |
| Plaintiffs, | ) | |
| v. | ) | **CONSENT ORDER FOR SUBSTITUTION OF COUNSEL** |
| Liquid Services and Logistics, LLC, and Tim Freeman, | ) | |
| Defendants. | ) | |

Pursuant to Rule 11(b) of the South Carolina Rules of Civil Procedure, the law firm of Robinson Gray Stepp & Laffitte, LLC ("Robinson Gray") at the direction of Defendants Liquid Services and Logistics, LLC and Tim Freeman ("Defendants") and with consent of Maynard Nexsen, PC, moves this Court for an Order substituting Beth B. Richardson and Cordes B. Kennedy now of Robinson Gray as the attorneys of record for Defendants and allowing Angus H. Macaulay, Esquire and Carlee Ann Taber, Esquire of Maynard Nexsen, PC to withdrawal as counsel for Defendants in the above-captioned matter.

**WHEREFORE, IT IS HEREBY ORDERED** that Angus H. Macaulay, Esquire and Carlee Ann Taber, Esquire of Maynard Nexsen, PC are granted leave to withdraw as counsel for Defendants. Beth B. Richardson and Cordes B. Kennedy of Robinson Gray are hereby substituted as counsel of record for Defendants Liquid Services and Logistics, LLC and Tim Freeman in the above captioned action.

**IT IS SO ORDERED**.

The Honorable William H. Seals, Jr.

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**WE SO MOVE:** ROBINSON GRAY STEPP & LAFFITTE, LLC

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***Substituting for Defendants Liquid Services and Logistics, LLC and Tim Freeman***

Columbia, South Carolina
March 27, 2025

**WE CONSENT:** MAYNARD NEXSEN, PC

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***Withdrawing for Defendants Liquid Services and Logistics, LLC and Tim Freeman***

Columbia, South Carolina
March 27, 2025

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***Counsel for Plaintiffs Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC***

ELECTRONICALLY FILED - 2025 Mar 28 3:19 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Substitution of Parties

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | C/A NO: 2022-CP-40-02958 |

**ORDER GRANTING, IN PART, AND DENYING, IN PART, PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

THIS MATTER is before the Court on the Motion for Partial Summary Judgment ("Motion")[1] of Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc., and Plumbinator 1051, LLC (collectively, "Plaintiffs") on their first cause of action for breach-of-contract against Defendant Liquid Services and Logistics, LLC ("LSL"). Plaintiffs also seek an award of prejudgment interest on the amount due under the contract. The Plaintiffs' Complaint was filed on June 8, 2022.

A hearing on this Motion was held on April 17, 2025. As explained below, this Court grants Plaintiffs' Motion, in part, because there is no genuine issue of material fact as to whether LSL breached the contract between the parties by failing to make a required payment to Jordan within a year of the contract closing date.

[1] Plaintiffs filed the Motion for Partial Summary Judgment on October 30, 2023, Supplemental Exhibits in support of the Motion on October 31, 2023, an Amended Motion December 1, 2023, and a Supplemental Memorandum in support of the Motion with discovery responses and other evidence on April 16, 2025. The Defendants did not submit any memoranda, affidavits, or evidence in opposition to the Motion.

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## THE CONTRACT

Plaintiffs' breach-of-contract claim arises from the Asset Purchase and Sale Agreement dated May 10, 2021 between the sellers, Jordan and Apple Services, Inc., and the Buyer, LSL (the "APA").[2] Under the APA, LSL agreed to purchase certain assets of Apple Services, Inc., including its goodwill, furniture, fixtures, and equipment. As part of the purchase, LSL was required to make certain payments to Jordan under the APA, including a payment for the post-closing adjustment of working capital and an earn-out payment. Those payments are subject to certain conditions discussed below.

### A. The Post-Closing Adjustment of Working Capital.

The APA requires LSL to provide Jordan a Closing Working Capital Statement, calculating the Working Capital of the Business as of the date of Closing ("Working Capital Statement"). (*See* APA § 3.2(a)(i).) If the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment"). (*Id.* § 3.2(a)(ii).) If the Working Capital was less than $84,000, Jordan was required to pay the difference to LSL. (*Id.*) Section 3.2(b) contains its own "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment by an "Independent Accountant." Section 3.2(a)(ii) of the APA further states the "Post-Closing Adjustment shall be paid to the applicable Party no later than thirty (30) days *after final determination of the amount* of the Post-Closing Adjustment." (emphasis added.)

[2] A copy of the APA was attached as Exhibit A to the Plaintiffs' Complaint filed on June 8, 2022. In its Answer, LSL does not contest that Exhibit A to the Complaint is a true and accurate copy of the final, fully-executed APA. See Compl. ¶ 8; Ans. of LSL ¶ 8. Plumbinator 1051, LLC was not a party to the APA.

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**B. The Earn-Out Payment**.

Under the APA, LSL was required to and did pay a portion of the purchase price to Jordan at closing, which occurred on May 10, 2021. The remaining balance was to be paid as an earn out. (*See* APA §3.1, §3.3.) Specifically, the APA required LSL to pay Jordan an earn out of $882,000.00 (the "Earn-Out Payment") "so long as LTM Revenue for the Earn-Out Period exceeds the Revenue Threshold." (*Id.* § 3.3(a).)

The APA defines "LTM Revenue" as "the last twelve months' revenue of the [purchased] Business up to the Closing Date ***and*** for the Earn-Out Period." (*Id.* at p. A-4.) (emphasis added). The "Earn-Out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." (*Id.* at p. A-2.) And the "Revenue Threshold" means $1,000,000.00. (*Id*. at p. A-6.) Thus, if the twelve month trailing gross revenue of the purchased Business exceeded $1,000,000.00 as of the Closing Date, *i.e.* May 10, 2021, ***and*** at the end of the Earn-Out Period, *i.e.* August 10, 2021, then LSL was obligated to pay Jordan the Earn-Out Payment.

Subsection 3.3(e) provides a "Right of Set-Off," whereby LSL "shall have the right to withhold and set off against" the Earn-out Payment "the amount of any (i) Post-Closing Adjustment owed to it pursuant to Section 3.2;" and (ii) the amount of any "Adverse Consequences" to which LSL may be entitled under the APA.

"Adverse Consequences" are defined in the APA as claims and resulting damages arising from (a) "misrepresentation or breach of warranty;" (b) "nonfulfillment of any covenant"; (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA; and (d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." (*See* APA §§ 3.3(e), 7.1, and p. A-1.)

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Section 3.3(c) of the APA provides that LSL's "obligation to pay the Earn-out Payment" to [Jordan] "is an *independent* obligation of" LSL. And Section 3.3(d) of the APA states: "Subject to Section 3.3(e) [concerning the "Right to Set Off"], *if [LSL] is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than (12) months after the Closing Date*." (Emphasis added.)

## LEGAL STANDARD

### A. Summary Judgment

This Court must grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; *Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Stated another way, "summary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ." *Rothrock v. Copeland*, 305 S.C. 402, 405, 409 S.E.2d 366, 368 (1991).

Although the "evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party," *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991), "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *Kitchen Planners, LLC v. Friedman*, No. 2020-001669, 2023 WL 5420401 (S.C. Aug. 23, 2023).

Pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, "[w]hen more than one claim for relief is presented in an action, . . . the court may direct the entry of a final judgment as to one or more but fewer than all of the claims [] only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." *See Tommy*

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*L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 467, 570 S.E.2d 197, 200 (Ct. App. 2002) (claims are considered separate when "there is [not] a substantial factual overlap between the claim adjudged and the remaining claims.")

**B. Prejudgment Interest**

Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." *Butler Contracting, Inc. v. Ct. St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing *Smith–Hunter Constr. Co. v. Hopson*, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

**ANALYSIS**

In its responses to Plaintiffs' First Requests for Admission, LSL admitted (1) that the purchased Business exceeded the Revenue Threshold of $1,000,000.00 as of May 10, 2021, and August 10, 2021, (2) that if the Earn-out Payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022, and (3) that Jordan earned the Earn-Out Payment. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 6-8). There is no dispute that LSL has not paid the Earn-Out Payment to Jordan.

As to the Post Closing Adjustment of Working Capital, there appears to be a genuine issue of disputed fact.[3] Jordan presented affidavit testimony from three witnesses at a May 9, 2022 meeting between Jordan and representatives of LSL, including, its accounting manager, Jacob Taylor. Jordan's affidavit stated that Taylor said the Working Capital on the closing date exceeded the $84,000.00 threshold by $79,000.00. The other two witness affidavits did not specify any

[3] It also appears that neither party has invoked the dispute resolution mechanism provided in the APA for final determination of the Post Closing Adjustment of Working Capital.

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particular amount, but did confirm Taylor's statement that the Working Capital calculation would be "to the good," i.e., in Jordan's favor.

LSL, however, claims that it has made a "good faith effort" to make the calculation, "using the information known and readily obtainable to it," but that "Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement." (*See*, LSL Responses to Plaintiff's request to admit 13-14.) LSL further argues that because the Post Closing Adjustment is a set-off to the Earn-Out Payment, the Earn-Out Payment is not yet *due*, even though LSL admits it has been *earned*. (*See generally*, *id*. 9-14.)

Pursuant to the APA, LSL is obligated to provide a Working Capital Statement, not later than August 19, 2021. Now, almost four years later, LSL has not identified what financial documentation or information Jordan has failed to provide or how that information is necessary for completing the Post Closing Adjustment. LSL has also not demonstrated that Jordan is obligated under the APA to provide any information to LSL so that it can prepare the Post Closing Adjustment. Further, LSL has failed to provide any evidence of Adverse Consequences which may provide a set-off to the Earn-Out, even though this Motion has been pending since October 30, 2023. Moreover, the discovery evidence produced by LSL to Plaintiffs included only a single-page "draft," undated spreadsheet showing "Adjusted Net Working Capital" of $85,000.00 at closing. (LSL-Defendant's Doc. Production-000111). If correct, this would mean a Post Closing Adjustment payment of $1,000.00 is due and owing *to Jordan from LSL*, and would result in no set off to the Earn-out Payment.

Finally, LSL argues that the parties mutually adjusted the due-date for the Earn-Out Payment based on a May 17, 2022 email from Jordan's counsel Stephen Porter to counsel for LSL, stating "[i]t appears the working capital adjustment will take some time to calculate based on our

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meeting last week. However, can you provide me with a timeline for payment of the earn-out? I do not know that any of the financial information we discussed last week will impact that analysis." Clearly, this email communication does not express an agreement to extend the due date for any required payment. At most, it acknowledges some difficulty for LSL in preparing the Working Capital Statement, but nothing expressing consent to delayed payment. And in the very next sentence, Jordan's counsel asked LSL's counsel for a timeline on when the Earn-Out Payment would be paid, with the obvious understanding that it was due on May 10, 2022, and was already one-week late. Nothing in the May 17, 2022 email or other evidence in the record establishes an adjusted due date for the Earn-Out Payment. The email also appears to be a Rule 408 SCRCP communication between counsel to facilitate resolution of the dispute that has led to this litigation, and is likely not evidence in this case.

Out of an abundance of caution, the Court concludes that there remain genuine issues of material fact regarding the Post Closing Adjustment of Working Capital which prevent a grant of summary judgment on this issue. But any genuine issue of fact concerning the Working Capital Statement or any right of set-off does not prevent this Court from granting judgment in favor of Plaintiffs for LSL's failure to pay the Earn-Out Payment. The APA does not provide its own dispute resolution mechanism for the Earn-out Payment, as it does for the Post Closing Adjustment of Working Capital, so Plaintiff's only remedy is through this action.

The Earn-out Payment is unquestionably a sum certain that is demandable pursuant to the APA, and LSL's obligation to pay the Earn-out Payment is "independent" of its other obligations in the APA. The undisputed facts and admissions of LSL clearly establish that LTM Revenue for the Earn-Out Period exceeded the Revenue Threshold and that Jordan earned the Earn-out Payment. The plain language of Section 3.3(e) of the APA provides "such payment *shall be made*

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*no later than (12) months after the Closing Date*." (Emphasis added.) In contrast, Section 3.2(a)(ii) of the APA provides that the Post Closing Adjustment of Working Capital "shall be paid to the applicable Party no later than thirty (30) days *after final determination of the amount*." (emphasis added.) The contract plainly envisions that the Earn-out Payment does not have to wait more than 12 months after the Closing Date on calculation and payment of the Post Closing Adjustment of Working Capital. And no reasonable interpretation of the APA would allow LSL to indefinitely withhold a required payment to Jordan based upon a condition, in this instance calculating and proving a possible set-off to the Earn-out Payment, that is largely, if not exclusively within LSL's power to complete. If future proceedings in this case, or in the "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment provided in Section 3.2(b) of the APA, determine that either party owes additional money to the other, then judgment may be granted to that party, and any appropriate set-offs may be applied at that time.

Plaintiffs are thus entitled to a judgment against LSL in the amount of $882,000.00 for non-payment of the Earn-Out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, until the judgment is entered. This order is also without prejudice to any future motion for an award of attorney's fees pursuant to the APA.

Plaintiffs moved for partial summary judgment only as to their breach-of-contract claim against LSL. There is little, if any, and certainly no substantial, factual overlap between the breach-of-contract claim and the remaining tort and other claims Plaintiffs asserted against LSL and the individual defendant in the Complaint. For this reason, there is no just reason to delay the entry of a final judgment for the Earn-out Payment and prejudgment interest until the entire case has concluded.

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## CONCLUSION

Based on the foregoing, this Court grants entry of partial summary judgment in favor of Plaintiffs on the breach of contract claim against Defendants Liquid Services and Logistics, LLC for non-payment of the Earn-Out Payment in the amount of $882,000.00, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment was due, until the date the judgment is entered, and thereafter at the judgment rate until paid in full. Through April 28, 2025, the prejudgment interest owed is $229,199.18, and the combined total owed is $1,111,199.18.

The Court further directs entry of final judgment pursuant to SCRCP 54(b).

**AND IT IS SO ORDERED.**

_____
Honorable William H. Seals, Jr.
Presiding Judge

May _____, 2025

*[Judge's electronic signature page to follow]*

ELECTRONICALLY FILED - 2025 May 07 2:16 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2025 Jun 12 12:19 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | C/A NO: 2022-CP-40-02958 |

**AMENDED**
**ORDER GRANTING, IN PART, AND DENYING, IN PART, PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**[1]

THIS MATTER is before the Court on the Motion for Partial Summary Judgment ("Motion")[2] of Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc.; and Plumbinator 1051, LLC (collectively, "Plaintiffs") on their first cause of action for breach-of-contract against Defendant Liquid Services and Logistics, LLC ("LSL"). Plaintiffs' also seek an award of prejudgment interest on the amount due under the contract. The Plaintiffs' Complaint was filed on June 8, 2022.

A hearing on this Motion was held on April 17, 2025. As explained below, this Court grants Plaintiffs' Motion, in part, because there is no genuine issue of material fact as to whether

[1] The order is amended in response to the Motion to Alter or Amend filed by Defendant Liquid Services and Logistics, LLC. The motion is denied as indicated in the Court's form 4 order with the exception of the corrections made here.

[2] Plaintiffs filed the Motion for Partial Summary Judgment on October 30, 2023, Supplemental Exhibits in support of the Motion on October 31, 2023, an Amended Motion on December 1, 2023, and a Supplemental Memorandum in support of the Motion with discovery responses and other evidence on April 16, 2025. The Defendants did not submit any memoranda, affidavits, or other evidence in opposition to the Motion.

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LSL breached the contract between the parties by failing to make a required payment to Jordan within a year of the contract closing date.

## THE CONTRACT

Plaintiffs' breach-of-contract claim arises from the Asset Purchase and Sale Agreement dated May 10, 2021 between the sellers, Jordan and Apple Services, Inc., and the Buyer, LSL (the "APA").[3] Under the APA, LSL agreed to purchase certain assets of Apple Services, Inc., including its goodwill, furniture, fixtures, and equipment. As part of the purchase, LSL was required to make certain payments to Jordan under the APA, including a payment for the post-closing adjustment of working capital and an earn-out payment. Those payments are subject to certain conditions discussed below.

### A. The Post-Closing Adjustment of Working Capital.

The APA requires LSL to provide Jordan a Closing Working Capital Statement, calculating the Working Capital of the Business as of the date of Closing ("Working Capital Statement"). (*See* APA § 3.2(a)(i).) If the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment"). (*Id.* § 3.2(a)(ii).) If the Working Capital was less than $84,000.00, Jordan was required to pay the difference to LSL. (*Id.*) Section 3.2(b) contains its own "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment by an "Independent Accountant." Section 3.2(a)(ii) of the APA further states the "Post-Closing Adjustment shall be paid to the applicable Party no later than thirty

[3] A copy of the APA was attached as Exhibit A to the Plaintiffs' Complaint filed on June 8, 2022. In its Answer, LSL does not contest that Exhibit A to the Complaint is a true and accurate copy of the final, fully-executed APA. See Compl. ¶ 8; Ans. of LSL ¶ 8. Plumbinator 1051, LLC was not a party to the APA.

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(30) days *after final determination of the amount* of the Post-Closing Adjustment." (emphasis added.)

**B. The Earn-Out Payment**.

Under the APA, LSL was required to and did pay a portion of the purchase price to Jordan at closing, which occurred on May 10, 2021. The remaining balance was to be paid as an earn out. (*See* APA §3.1, §3.3.) Specifically, the APA required LSL to pay Jordan an earn out of $882,000.00 (the "Earn-Out Payment") "so long as LTM Revenue for the Earn-Out Period exceeds the Revenue Threshold." (*Id.* § 3.3(a).)

The APA defines "LTM Revenue" as "the last twelve months' revenue of the [purchased] Business up to the Closing Date ***and*** for the Earn-Out Period." (*Id.* at p. A-4.) (emphasis added). The "Earn-Out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." (*Id.* at p. A-2.) And the "Revenue Threshold" means $1,000,000.00. (*Id.* at p. A-6.) Thus, if the twelve month trailing gross revenue of the purchased Business exceeded $1,000,000.00 as of the Closing Date, *i.e.* May 10, 2021, ***and*** at the end of the Earn-Out Period, *i.e.* August 10, 2021, then LSL was obligated to pay Jordan the Earn-Out Payment.

Subsection 3.3(e) provides a "Right of Set-Off," whereby LSL "shall have the right to withhold and set off against" the Earn-out Payment "the amount of any (i) Post-Closing Adjustment owed to it pursuant to Section 3.2;" and (ii) the amount of any "Adverse Consequences" to which LSL may be entitled under the APA.

"Adverse Consequences" are defined in the APA as claims and resulting damages arising from (a) "misrepresentation or breach of warranty;" (b) "nonfulfillment of any covenant"; (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA; and

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(d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." (*See* APA §§ 3.3(e), 7.1, and p. A-1.)

Section 3.3(c) of the APA provides that LSL's "obligation to pay the Earn-out Payment" to [Jordan] "is an *independent* obligation of" LSL. And Section 3.3(d) of the APA states: "Subject to Section 3.3(e) [concerning the "Right to Set Off"], *if [LSL] is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than (12) months after the Closing Date*." (Emphasis added.)

## LEGAL STANDARD

### A. Summary Judgment

This Court must grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; *Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Stated another way, "summary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ." *Rothrock v. Copeland*, 305 S.C. 402, 405, 409 S.E.2d 366, 368 (1991).

Although the "evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party," *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991), "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *Kitchen Planners, LLC v. Friedman*, No. 2020-001669, 2023 WL 5420401 (S.C. Aug. 23, 2023).

Pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, "[w]hen more than one claim for relief is presented in an action, . . . the court may direct the entry of a final judgment

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as to one or more but fewer than all of the claims [] only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." *See Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 467, 570 S.E.2d 197, 200 (Ct. App. 2002) (claims are considered separate when "there is [not] a substantial factual overlap between the claim adjudged and the remaining claims.")

**B. Prejudgment Interest**

Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." *Butler Contracting, Inc. v. Ct. St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing *Smith–Hunter Constr. Co. v. Hopson*, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

## ANALYSIS

In its responses to Plaintiffs' First Requests for Admission, LSL admitted (1) that the purchased Business exceeded the Revenue Threshold of $1,000,000.00 as of May 10, 2021, and August 10, 2021, (2) that if the Earn-out Payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022, and (3) that Jordan earned the Earn-Out Payment. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 6-8). There is no dispute that LSL has not paid the Earn-Out Payment to Jordan.

As to the Post Closing Adjustment of Working Capital, there appears to be a genuine issue of disputed fact.[4] Jordan presented affidavit testimony from three witnesses at a May 9, 2022

[4] It also appears that neither party has invoked the dispute resolution mechanism provided in the APA for final determination of the Post Closing Adjustment of Working Capital.

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meeting between Jordan and representatives of LSL, including, its accounting manager, Jacob Taylor. Jordan's affidavit stated that Taylor said the Working Capital on the closing date exceeded the $84,000.00 threshold by $79,000.00. The other two witnesses' affidavits did not specify any particular amount, but did confirm Taylor's statement that the Working Capital calculation would be "to the good," i.e., in Jordan's favor.

LSL, however, claims that it has made a "good faith effort" to make the calculation, "using the information known and readily obtainable to it," and that it has provided "several Closing Working Capital Statements to Jordan" but "Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement." (*See*, LSL Responses to Plaintiff's request to admit 13-14.) LSL further argues that because the Post Closing Adjustment is a set-off to the Earn-Out Payment, the Earn-Out Payment is not yet *due*, even though LSL admits it has been *earned*. (*See generally, id*. 9-14.)

Pursuant to the APA, LSL is obligated to provide a Working Capital Statement, not later than August 19, 2021. Jordan has a contractual right under the APA § 3.2(b)(ii) to object to LSL's proposed Working Capital Calculation, and LSL was clearly able to produce "several" Working Capital Statements with the information it had. And now, almost four years later, LSL has not specifically identified what financial documentation or information Jordan has failed to provide or how that information is necessary for completing the Post Closing Adjustment. Further, LSL has failed to provide any evidence of Adverse Consequences which may provide a set-off to the Earn-Out, even though this Motion has been pending since October 30, 2023. Moreover, the discovery evidence produced by LSL to Plaintiffs included only a single-page "draft," undated spreadsheet showing "Adjusted Net Working Capital" of $85,000.00 at closing. (LSL-Defendant's Doc.

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Production-000111). If correct, this would mean a Post Closing Adjustment payment of $1,000.00 is due and owing *to Jordan from LSL*, and would result in no set-off to the Earn-out Payment.

Finally, LSL argues that the parties mutually adjusted the due-date for the Earn-Out Payment based on a May 17, 2022 email from Jordan's counsel Stephen Porter to counsel for LSL, stating "[i]t appears the working capital adjustment will take some time to calculate based on our meeting last week. However, can you provide me with a timeline for payment of the earn-out? I do not know that any of the financial information we discussed last week will impact that analysis." Clearly, this email communication does not express an agreement to extend the due date for any required payment. At most, it acknowledges some difficulty for LSL in preparing the Working Capital Statement, but nothing expressing consent to delayed payment. And in the very next sentence, Jordan's counsel asked LSL's counsel for a timeline on when the Earn-Out Payment would be paid, with the obvious understanding that it was due on May 10, 2022, and was already one-week late. Nothing in the May 17, 2022 email or other evidence in the record establishes an adjusted due date for the Earn-Out Payment. The email also appears to be a Rule 408 SCRCP communication between counsel to facilitate resolution of the dispute that has led to this litigation, and is likely not evidence in this case.

Out of an abundance of caution, the Court concludes that there remain genuine issues of material fact regarding the Post Closing Adjustment of Working Capital which prevent a grant of summary judgment on this issue. But any genuine issue of fact concerning the Working Capital Statement or any right of set-off does not prevent this Court from granting judgment in favor of Plaintiffs for LSL's failure to pay the Earn-Out Payment.

The Earn-out Payment is unquestionably a sum certain that is demandable pursuant to the APA, and LSL's obligation to pay the Earn-out Payment is "independent" of its other obligations

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in the APA. The undisputed facts and admissions of LSL clearly establish that LTM Revenue for the Earn-Out Period exceeded the Revenue Threshold and that Jordan earned the Earn-out Payment. The plain language of Section 3.3(e) of the APA provides "such payment *shall be made no later than (12) months after the Closing Date*." (Emphasis added.) In contrast, Section 3.2(a)(ii) of the APA provides that the Post Closing Adjustment of Working Capital "shall be paid to the applicable Party no later than thirty (30) days *after final determination of the amount*." (emphasis added.) The contract plainly envisions that the Earn-out Payment does not have to wait more than 12 months after the Closing Date on calculation and payment of the Post Closing Adjustment of Working Capital. And no reasonable interpretation of the APA would allow LSL to indefinitely withhold a required payment to Jordan based upon a condition, in this instance calculating and proving a possible set-off to the Earn-out Payment, that is largely within LSL's power to complete. If future proceedings in this case, or in the "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment provided in Section 3.2(b) of the APA, determine that either party owes additional money to the other, then judgment may be granted to that party, and any appropriate set-offs may be applied at that time.

Plaintiffs are thus entitled to a judgment against LSL in the amount of $882,000.00 for non-payment of the Earn-Out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, until the judgment is entered. This order is also without prejudice to any future motion for an award of attorney's fees pursuant to the APA.

Plaintiffs moved for partial summary judgment only as to their breach-of-contract claim against LSL. There is little, if any, and certainly no substantial, factual overlap between the breach-of-contract claim and the remaining tort and other claims Plaintiffs asserted against LSL and the individual defendant in the Complaint. For this reason, there is no just reason to delay the entry

of a final judgment for the Earn-out Payment and prejudgment interest until the entire case has concluded.

## CONCLUSION

Based on the foregoing, this Court grants entry of partial summary judgment in favor of Plaintiffs on the breach of contract claim against Defendants Liquid Services and Logistics, LLC for non-payment of the Earn-Out Payment in the amount of $882,000.00, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment was due, until the date the judgment is entered, and thereafter at the judgment rate until paid in full. Through April 28, 2025, the prejudgment interest owed is $229,199.18, and the combined total owed is $1,111,199.18.

The Court further directs entry of final judgment pursuant to SCRCP 54(b).

**AND IT IS SO ORDERED.**

*[JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW]*

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Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Amend

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2025 Jun 12 12:16 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

**FORM 4**

**STATE OF SOUTH CAROLINA**
**COUNTY OF RICHLAND**

**JUDGMENT IN A CIVIL CASE**

**IN THE COURT OF COMMON PLEAS**

**CASE NO. 2022-CP-40-02958**

| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC | Liquid Services and Logistics, LLC, et al |
|---|---|
| PLAINTIFF(S) | DEFENDANT(S) |

| **Submitted by:** James Y. Becker | **Attorney for :** ☒ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant |
|---|---|

**DISPOSITION TYPE (CHECK ONE)**

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:** ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

**Defendant Liquid Services and Logistics, LLC's Motion filed May 19, 2025, to Alter or Amend the Court's ORDER filed May 7, 2025, Granting, in part, and Denying, in part, Plaintiffs' Motion for Partial Summary Judgment is DENIED, except as reflected in the Court's Amended Order granting partial summary judgment and clarifying certain immaterial facts and making other minor corrections, and which will follow this Form 4 Order. Defendant has failed to demonstrate a genuine issue of material fact or error of law.**

**Defendant Liquid Services and Logistics, LLC's Motion filed May 19, 2025, to Stay Execution of the Judgment pending the Motion to Alter or Amend is DENIED as moot.**

**ORDER INFORMATION**

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

**INFORMATION FOR THE JUDGMENT INDEX**

**Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.**

| **Judgment in Favor of (List name(s) below)** | **Judgment Against (List name(s) below)** | **Judgment Amount To be Enrolled (List amount(s) below)** |
|---|---|---|

ELECTRONICALLY FILED - 2025 Jun 12 12:16 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | | |
|---|---|---|
| Michael D. Jordan, Apple Services, Inc. and Plumbinator 1051, LLC | Liquid Services and Logistics, LLC | $1,108,239.04 |
| | | |
| If applicable, describe the property, including tax map information and address, referenced in the order: | | |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**Circuit Court Judge** **Judge Code** **Date**

## For Clerk of Court Office Use Only

This judgment was entered on the day of , 2025___ and a copy mailed first class or placed in the appropriate attorney's box on this day of , 2025 to attorneys of record or to parties (when appearing pro se) as follows:

Jamie Y. Becker
Alexandra C. Williams
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, SC 29211

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

Beth B. Richardson
Cordes B. Kennedy
Robinson Gray Stepp & Laffitte, LLC
Post Office Box 11449
Columbia, SC 29211

**DEFENDANT**

**CLERK OF COURT**

## Court Reporter:

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1**.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

ELECTRONICALLY FILED - 2025 Jun 12 12:16 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Form 4

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

ELECTRONICALLY FILED - 2022 Jun 08 2:35 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND | ) | IN THE COURT OF COMMON PLEAS<br>FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC.<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | ) | Civil Action No.<br><br>**SUMMONS** |

TO: THE DEFENDANT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 2 W. Washington Street, Suite 400, PO Box 10084 (29603), Greenville, South Carolina 29601, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in said Complaint.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: *s/Samuel W. Outten*

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*Attorneys for Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC*

Greenville, South Carolina
June 8, 2022

ELECTRONICALLY FILED - 2022 Jun 08 2:35 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FIFTH JUDICIAL CIRCUIT |
| COUNTY OF RICHLAND | ) | |
| | ) | |
| | ) | |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC. | ) | Civil Action No.: |
| | ) | |
| Plaintiffs, | ) | |
| | ) | |
| v. | ) | **COMPLAINT** |
| | ) | |
| Liquid Services and Logistics, LLC, and Tim Freeman, | ) | **(Jury Trial Demanded)** |
| | ) | |
| Defendants. | ) | |
| | ) | |

Michael D. Jordan ("Jordan"), Apple Services, Inc. ("Apple"), and Plumbinator 1051, LLC ("Plumbinator") bring this action against Liquid Services and Logistics, LLC ("LSL") and Tim Freeman ("Freeman"), contemporaneously with the Motion for a Temporary Restraining Order, based upon the following allegations:

## PARTIES, JURISDICTION AND VENUE

1. The parties, subject matter, and all matters and things hereinafter alleged are within this Court's jurisdiction.

2. Jordan is a citizen and resident of Richland County, South Carolina. At all times relevant to the Complaint, Jordan was the sole owner of Apple.

3. Apple is a corporation organized and existing under the laws of the State of South Carolina.

4. Plumbinator is a limited liability company organized and existing under the laws of the State of South Carolina. Jordan is the sole owner of Plumbinator.

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5. LSL is limited liability company organized and existing under the laws of the State of Delaware. LSL does business, owns property, and has employees in the State of South Carolina.

6. Freeman is, upon information and belief, a citizen and resident of Richland County, South Carolina.

7. Venue is proper in Richland County, South Carolina.

**FACTS**

8. On May 10, 2021, Jordan, Apple, and LSL entered an "Asset Purchase and Sale Agreement" and related documents and agreements wherein Jordan and Apple agreed to sell, and LSL agreed to purchase, certain assets of Apple. A copy of the Asset Purchase and Sale Agreement ("Agreement") is attached as **Exhibit A** and incorporated by reference.

9. Under the Agreement, on or about May 10, 2021, LSL paid a portion of the purchase price to Apple and Jordan. Apple and Jordan provided those assets identified in the Agreement and otherwise gave their best efforts to ensure an efficient transfer of the business operations. The remaining balance due and owning was and is to be paid as an "earn out," which is tied to certain financial performance of the Apple assets, within twelve months of May 10, 2021.

10. The Agreement and the related closing documents contain obligations as to LSL, Jordan, and Apple that extend beyond May 10, 2021, including, but not limited to, a "Transition Services Agreement," and a "Lease Agreement" by and between LSL and Plumbinator 1047, LLC. Jordan is the sole owner of Plumbinator 1047, LLC. Plumbinator 1047, LLC owns the property and building located at 1047 Gates Road, Irmo, SC (the "Property"), which LSL is currently leasing in furtherance of its business.

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11. Plumbinator owns property directly adjoining the Property leased by LSL. The address of Plumbinator's property is 1051 Gates Road in Irmo, South Carolina (the "1051 Gates Road Property").

12. Since May 10, 2021, Plumbinator has been attempting to develop the 1051 Gates Road Property. LSL and Freeman are aware of Plumbinator's efforts since LSL took possession of the neighboring Property.

13. Since May 10, 2021, LSL and Freeman have repeatedly placed dirt and construction refuse on the 1051 Gates Road Property and have entered the 1051 Gates Road Property without Plumbinator's permission.

14. LSL's and Freeman's unwanted entry onto the 1051 Gates Road Property has caused damages to Plumbinator, in that Plumbinator has suffered needless expenses to remove dirt and construction debris and replace structures removed by LSL and Freeman and has undergone construction delays.

15. Pursuant to Jordan's LSL involvement by and through the Transition Services, Jordan realized that LSL was ill-prepared to assume the day-to-day business operations of Apple. Jordan used his best efforts to assist LSL in transitioning the business, including allowing LSL to use his bank accounts and invoices to invoice customers and collect funds paid on invoices. LSL at that time had not established its own bank accounts and invoicing system. Further, Jordan allowed LSL to use Apple's previously established and personally guaranteed supplier credit accounts to obtain supplies and inventory.

16. However, on or about May 13, 2021, LSL locked Jordan out of the office area of Apple. Further, LSL refused to allow Jordan to remove his information or property from Apple's office or premises.

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17. Jordan was forced to exit the building without gathering many of his personal possessions and belongings, including, but not limited to, historical accounting records, data, and e-mails belonging to Jordan and his spouse. Jordan's accounting records, data, and e-mails are essential to calculating funds paid for work prior to closing as well as calculations required by the Agreement. Upon information and belief, Freeman has permanently destroyed or deleted financial information and e-mails belonging to Jordan.

18. Although LSL has forbidden Jordan from accessing Apple's premises, LSL continued to use his bank accounts, invoicing system, and supplier credit accounts.

19. Over the next approximately nine months, by and through the access LSL has to Apple and/or Jordan's bank accounts, invoicing system, supplier credit accounts, LSL converted to its sole use and possession funds due to Apple and/or Jordan for work performed prior to the Agreement and supplier credit accounts for which Jordan is still the personal guarantor.

20. Jordan has been denied credit from suppliers because the supplier credit accounts converted by LSL are not current as to payments. Further, Jordan has been unable to account for funds due to him for work completed prior to May 10, 2021, because LSL has denied Jordan access to appropriate books and records to account for funds owed to him. LSL has not provided Apple and/or Jordan any funds earned by him prior to May 10, 2021.

21. Further, Jordan learned that LSL, by and through Freeman and others, has told third parties that Jordan has embezzled money from LSL, as well as other defamatory statements.

22. Jordan's inability to access his accounting books, records, and e-mails have caused Jordan damage because Jordan has been unable either to respond to inquiries from the Internal Revenue Service and a previous workman's compensation insurance provider for Apple, or to

account for funds due and owing to Jordan and/or Apple for work performed prior to May 10, 2021.

23. Without access to Apple and/or Jordan's bank accounts, supplier credit accounts, and mail, Jordan has suffered damages because he has been unable to account for funds owed to him for work performed prior to May 10, 2021. Jordan has had to pay professional fees because of his inability to receive his accounting records. Jordan has likewise suffered damage to his creditworthiness because his supplier credit accounts being converted by LSL without his consent.

24. Jordan has also suffered reputational damage with his suppliers and reputational damages within the community due to the statements of Freeman and others.

**FOR A FIRST CAUSE OF ACTION**
**(Breach of Contract as to LSL)**

25. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

26. Under the Agreement, and without limitation, LSL owed Apple and Jordan the following obligations:

a. To prepare and deliver its calculation of closing working capital ("Working Capital") within 100 days of the closing date to determine payment of a post-closing adjustment within 30 days of delivery of the closing working capital ("Post-Closing Adjustment"), *see* Ex. A., Working Capital, Section 3.2;

b. To pay $882,000 ("Earn-Out") if Apple met certain revenue thresholds during the first year after closing, *see* Ex. A., Earn-Out, Section 3.3; and

c. To refrain from disparaging Apple and Jordan, *see* Ex. A., Non-Disparagement, Section 6.5.



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27. Jordan and Apple have performed to the best of their abilities and met all obligations under the Agreement subject to limitations imposed by LSL. Despite this, LSL has failed to provide any Working Capital or Post-Closing Adjustment information or payments to Jordan or Apple. Likewise, upon information and belief, including information provided by LSL on May 10, 2022, the threshold for full payment of the Earn-Out was achieved. No Earn-Out has been paid by LSL to Apple or Jordan.

28. Further, Freeman and other officers of LSL have disparaged Jordan by telling third parties that Jordan has embezzled money from LSL and sabotaged LSL equipment. These are false statements, which LSL and Freeman know to be false.

29. Jordan and Apple have demanded that LSL perform its obligations under the Agreement.

30. LSL has breached its obligations as to Apple and/or Jordan because LSL has failed and refused, and continues to fail and refuse, to perform its obligations under the Agreement

31. Apple and Jordan are informed and believe that they are entitled to actual damages, consequential damages, incidental damages, pre-judgment interest, post-judgment interest, and any additional relief the Court may find just and proper.

**FOR A SECOND CAUSE OF ACTION**
**(Breach of Contract Accompanied by Fraud as to LSL)**

32. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

33. LSL breached the Agreement with Jordan and Apple as described above.

34. Furthermore, LSL acted with fraudulent intent in breaching the Agreement by seeking to improperly diminish the sums owed to Apple and Jordan under the Agreement.

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35. LSL has committed one or more fraudulent acts accompanying the breach, in that LSL has deleted or otherwise destroyed records necessary to properly account to Jordan and LSL.

36. Jordan and/or Apple have been damaged in an amount to be proven at trial.

**FOR A THIRD CAUSE OF ACTION**
**(Conversion as to LSL and Freeman)**

37. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

38. Jordan and/or Apple have, or had, an interest in funds earned by Apple and/or Jordan for work performed prior to May 10, 2021, and Apple and/or Jordan's bank accounts, supplier credit accounts, and mail.

39. LSL and Freeman have temporarily or permanently converted Apple and/or Jordan's property to their own use and appropriation.

40. LSL and Freeman converted Apple and/or Jordan's property to their own use without permission or Jordan and/or Apple, and they had no right to the property converted because this property was not sold pursuant to the Agreement.

41. Jordan and/or Apple have been damaged by LSL's conversion of Jordan and/or Apple's property in an amount to be proven at trial

**FOR A FOURTH CAUSE OF ACTION**
**(Defamation as to LSL and Freeman)**

42. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

43. Freeman, individually and as an employee of LSL, has told one or more third parties that Jordan has embezzled money from LSL, a statement tending to impeach the honesty, integrity, virtue, and reputation of Jordan.

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44. Freeman, individually and as an employee of LSL, has told one or more third parties that Jordan has sabotaged LSL equipment, a statement tending to impeach the honesty, integrity, virtue, and reputation of Jordan.

45. Freeman made and has repeated the statements about Jordan with actual or implied malice.

46. Freeman's statements are false because Jordan has not embezzled money from LSL, caused to be discarded hazardous waste on to the Property, or sabotaged LSL property.

47. As result of Freeman's statements, Jordan has been damaged, including, but not limited to, embarrassment, humiliation, and mental suffering.

**FOR A FIFTH CAUSE OF ACTION**
**(Negligence as to LSL)**

48. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

49. After closing, LSL assumed supplier credit contracts for which Jordan was and, in some cases, still is the personal guarantor, without the consent or permission of Jordan.

50. LSL owes a duty to Jordan to comply with the supplier credit contracts and otherwise pay for inventory and other items purchased under the supplier credit contracts.

51. LSL breached it duty to Jordan and Apply by accumulating significant outstanding balances on the supplier credit accounts that have not been paid.

52. As a direct and proximate result of LSL's breach of its duty to Jordan and Apple, Jordan has had his credit worthiness significantly and irreparably damaged.

53. Jordan is entitled to judgment as to LSL for actual damages to be proven at trial.

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**FOR A SIXTH CAUSE OF ACTION**
**(Negligence as to LSL and Freeman)**

54. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

55. Freeman, individually and as an employee of LSL, has accepted, opened, and delayed mail intended for Apple and/or Jordan.

56. 18 US Code § 1702, Obstruction of Correspondence, provides that:

> Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined under the title or imprisoned not more than five years, or both.

57. Freeman breached his duty to Apple and Jordan when he accepted, opened, delayed, or destroyed mail intended for Apple and/or Jordan.

58. Apple and/or Jordan have been damaged by the negligent actions of Freeman, in Apple and Jordan have been unable to properly respond to the Internal Revenue Service and other business-related matters in a timely fashion.

59. Apple and Jordan believe they are entitled to actual and punitive damages based on Freeman's previous and continuing disregard for the rights of Apple and Jordan.

**FOR A SEVENTH CAUSE OF ACTION**
**(Nuisance/Trespass as to LSL and Freeman)**

60. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

61. Plumbinator owns the 1051 Gates Road Property.

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62. Since May 10, 2021, Plumbinator has been attempting to develop the 1051 Gates Road Property.

63. Since May 10, 2021, LSL and Freeman have repeatedly placed dirt and construction refuse on the 1051 Gates Road Property and have entered the 1051 Gates Road Property without Plumbinator's permission.

64. LSL's and Freeman's unwanted entry onto the 1051 Gates Road Property has caused damages to Plumbinator, in that Plumbinator has suffered needless expenses to remove dirt and construction debris and replace structures removed by LSL and Freeman and has undergone construction delays.

65. LSL's and Freeman's actions constitute substantial and unreasonable interference with Plumbinator's use and enjoyment of the 1051 Gates Road Property.

66. Plumbinator is entitled to actual and punitive damages as to LSL and Freeman and injunctive relief prohibiting LSL and Freeman from trespassing on the 1051 Gates Road Property.

**FOR AN EIGHTH CAUSE OF ACTION**
**(Quantum Meruit as to LSL)**

67. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

68. LSL has accepted money paid for work performed by Apple and/or Jordan prior to May 10, 2021.

69. LSL has realized the benefit intended for Apple and Jordan.

70. It is unjust for LSL to retain Apple and Jordan's money without paying to Apple and Jordan the sums earned and owing to Apple and Jordan.

71. Apple and Jordan are entitled to damages in an amount to be determined by a jury.

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**FOR A NINTH CAUSE OF ACTION**
**(Accounting as to LSL)**

72. Jordan, Apple, and Plumbinator re-allege and reiterate the allegations set forth in the previous paragraphs as if set out verbatim herein to the extent not inconsistent herewith.

73. Under the circumstances of this case, an accounting of the books and records of LSL is necessary to prevent unjust enrichment that may have occurred because of LSL's collection and retention of funds owed to Jordan and/or Apple as well as breaches of the Agreement.

WHEREFORE, Plaintiffs prays for judgment against the Defendants as follows:

On the First Cause of Action, Breach of Contract:

a. Actual Damages;

b. Consequential Damages;

c. Incidental Damages;

d. Attorney's Fees;

e. Any further relief the Court deems just and proper.

On the Second Cause of Action, Breach of Contract Accompanied by Fraud:

a. Actual Damages;

b. Punitive Damages;

c. Any further relief the Court deems just and proper.

On the Third Cause of Action, Conversion:

a. Actual Damages;

b. Punitive Damages;

c. Any further relief the Court deems just and proper.

On the Fourth Cause of Action, Defamation:

a. Actual Damages;

b. Punitive Damages;

c. Any further relief the Court deems just and proper.

On the Fifth Cause of Action, Negligence:

a. Actual Damages;

b. Any further relief the Court deems just and proper.

On the Sixth Cause of Action, Negligence:

a. Actual Damages;

b. Any further relief the Court deems just and proper.

On the Seventh Cause of Action, Nuisance:

a. Actual Damages;

b. Punitive Damages;

c. Injunctive Relief;

d. Any further relief the Court deems just and proper.

On the Eighth Cause of Action, Quantum Meruit:

a. Actual Damages;

b. Any further relief the Court deems just and proper.

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June 8, 2022

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# EXHIBIT A

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# ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase and Sale Agreement is made and entered into as of May 10, 2021 (the "***Effective Date***") by and between Liquid Services and Logistics LLC, a Delaware limited liability company ("***Buyer***"), and Apple Services, Inc., a South Carolina corporation ("***Seller***") and Michael D. Jordan ("***Shareholder***"). Purchaser, Seller and Shareholder will be referred to individually as a "***Party***" and collectively as the "***Parties***".

## RECITALS

A. Seller is in the business, among other things, of plumbing services (e.g., drain cleaning, jetting, video camera inspections, water heater repair and replacement, septic tank maintenance and repair, and backflow testing, maintenance and repair), pumping (e.g., used cooking oil collection, grease trap pumping, and septic tank pumping) and the processing, treatment, and disposal of non-hazardous liquid waste (the "***Business***").

B. Buyer wishes to purchase, and Seller wishes to sell, certain of Seller's assets upon the terms set forth herein.

## AGREEMENT

In consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged by the Parties by their execution hereof), the Parties agree as follows.

### Article I
### Definitions; Construction

1.1. Definitions. Capitalized terms shall have the meanings given to them in this Agreement. Capitalized terms not otherwise defined herein shall have the meanings given to them in Exhibit A attached hereto.

1.2. Construction. Unless the context of this Agreement clearly requires otherwise: (i) references to the plural include the singular and vice versa; (ii) references to any person include such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; (iii) references to one gender include all genders; (iv) "including" is not limiting; (v) "or" has the inclusive meaning represented by the phrase "and/or"; (vi) the words "hereof," "herein," "hereby," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement; (vii) section, clause, Exhibit and Schedule references are to this Agreement unless otherwise specified; (viii) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; and (ix) general or specific references to any Law mean such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, unless the effect thereof is to reduce, limit or otherwise prejudicially affect any obligation or any right, power or remedy hereunder, in which case such amendment, modification, codification or reenactment will not, to the maximum extent permitted by applicable Law, form part of this Agreement and is to be disregarded for purposes of the construction and interpretation hereof. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises regarding this Agreement, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

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## Article II
## Purchase and Sale of Assets

2.1. Conveyance of Purchased Assets. Subject to the terms and conditions hereof, at the Closing, Seller agrees to sell, assign, transfer and deliver to Buyer, and Buyer agrees to purchase from Seller, the Purchased Assets, free from any liens or encumbrances whatsoever.

2.2. Assumed Liabilities. Except for obligations that arise under the Assumed Contracts, and the Transferred Permits after the Closing and which are assumed by Buyer pursuant to the Assignment and Assumption Agreement, Buyer and Seller agree that Buyer is not assuming any liability of Seller or any other Person as a result of the transactions contemplated by this Agreement, and Buyer hereby disclaims any and all such liabilities. Notwithstanding anything to the contrary set forth in this Agreement or in the Assignment and Assumption Agreement, the Parties intend that Buyer is not, nor is it to be deemed, a successor of Seller with respect to any of Seller's liabilities (of any nature) to third Parties arising or accruing before, on or after the Closing Date.

## Article III
## Purchase Price; Conditions to Closing

3.1. Purchase Price.

(a) Subject to the payment of the Earn-out Payment described in Section 3.2.3, the consideration that the Buyer shall pay to the Seller for the Purchased Assets shall be an amount equal to the sum of: (i) Two Million Nine Hundred Thirty Thousand and No/100 Dollars ($2,930,000.00) (the "***Closing Payment***"). At Closing the Closing Payment shall be disbursed as follows: (i) Two Million Eight Hundred Fifteen Thousand Six Hundred Forty-eight and No/100 Dollars ($2,815,648.00) to Seller and (ii) One Hundred Fourteen Thousand Three Hundred Fifty-two and 00/100 Dollars ($114,352.00) to the PPP Escrow Agent. The Seller acknowledges and agrees that the Purchase Price will be allocated in accordance with the allocations set forth on Section 3.1(a) of the Disclosure Schedules. Buyer and Seller shall report, act and file tax returns (including but not limited to Internal Revenue Service Form 8594) in all respects and for all purposes consistent with the allocations shown on Section 3.1(a) of the Disclosure Schedules. The Parties shall timely and properly prepare, execute, file, and deliver all such documents, forms and other information as may reasonably be requested to prepare such final allocation.

(b) The Parties acknowledge and agree that neither Party has provided any advice with respect to Taxes arising out of, related to or in connection with the transactions contemplated under this Agreement to the other Party.

3.2. Working Capital.

(a) Post-Closing Adjustment.

(i) Within one hundred (100) days after the Closing Date, Buyer shall prepare and deliver to Seller (A) a statement setting forth its calculation of Closing Working Capital, which statement shall be substantially in the form of Section 3.2(a)(i) of the Disclosure Schedules (the "***Closing Working Capital Statement***") including a listing of the Current Assets and Current Liabilities, and (B) a certificate of the Controller of Buyer that the Closing Working Capital Statement was prepared in accordance with generally accepted accounting principles ("***GAAP***") applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements (as defined in Section 4.13) for the most recent fiscal year end, subject to the modifications and limitations set forth on Section 3.2(a)(i) of the Disclosure Schedules.

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(ii) The "***Post-Closing Adjustment***" shall be an amount equal to the Closing Working Capital minus Eighty-four Thousand and 00/100 Dollars ($84,000.00). If the Post-Closing Adjustment is a positive number, Buyer shall pay to Seller an amount equal to the Post-Closing Adjustment. If the Post-Closing Adjustment is a negative number, Seller shall pay to Buyer an amount equal to the Post-Closing Adjustment. The Post-Closing Adjustment shall be paid to the applicable Party no later than thirty (30) days after final determination of the amount of the Post-Closing Adjustment (the "***Post-Closing Adjustment Due Date***"). If and to the extent either Party fails to timely pay the Post-Closing Adjustment on the Post-Closing Adjustment Due Date, the amount of the Post-Closing Adjustment remaining unpaid, commencing the day after the Post-Closing Adjustment Due Date, shall accrue interest a twelve percent (12%) per annum until such time as the Post-Closing Adjustment is paid in full. Buyer may set off any past due Post-Closing Adjustment against amounts due to Seller under this Agreement, including amounts payable pursuant to Section 3.3.

(b) Examination and Review.

(i) Examination. After receipt of the Closing Working Capital Statement, Seller shall have thirty (30) days (the "***Review Period***") to review the Closing Working Capital Statement. During the Review Period, Seller shall have full access to the relevant books and records of Buyer, the personnel of, and work papers prepared by, Buyer and/or Buyer's accountants to the extent that they relate to the Closing Working Capital Statement and to such historical financial information (to the extent in Buyer's possession) relating to the Closing Working Capital Statement as Seller may reasonably request for the purpose of reviewing the Closing Working Capital Statement and to prepare a Statement of Objections (defined below), provided, that such access shall be in a manner that does not interfere with the normal business operations of Buyer.

(ii) Objection. On or prior to the last day of the Review Period, Seller may object to the Closing Working Capital Statement by delivering to Buyer a written statement setting forth Seller's objections in reasonable detail, indicating each disputed item or amount and the basis for Seller's disagreement therewith (the "***Statement of Objections***"). If Seller fails to deliver the Statement of Objections before the expiration of the Review Period, the Closing Working Capital Statement and the Post-Closing Adjustment, as the case may be, reflected in the Closing Working Capital Statement shall be deemed to have been accepted by Seller. If Seller delivers the Statement of Objections before the expiration of the Review Period, Buyer and Seller shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the "***Resolution Period***"), and, if the same are so resolved within the Resolution Period, the Post-Closing Adjustment and the Closing Working Capital Statement with such changes as may have been previously agreed in writing by Buyer and Seller, shall be final and binding.

(iii) Resolution of Disputes. If Seller and Buyer fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("***Disputed Amounts***" and any amounts not so disputed, the "***Undisputed Amounts***") shall be submitted to the Independent Accountant (as defined below). Buyer and Seller shall appoint by mutual agreement the office of an impartial nationally recognized firm of independent certified public accountants other than Seller's Accountants or Buyer's Accountants (the "***Independent Accountant***") who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the Post-Closing Adjustment, as the case may be, and the Closing Working Capital Statement. The Parties agree that all adjustments shall be made without regard to materiality. The Independent Accountant shall only decide the specific items under dispute by the Parties and their decision for each Disputed Amount must be within the range of values assigned to each such item in the Closing Working Capital Statement and the Statement of Objections, respectively.

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(iv) Fees of the Independent Accountant. The fees and expenses of the Independent Accountant shall be paid by Seller, on the one hand, and Buyer, on the other hand, based upon the percentage that the amount actually contested but not awarded to Seller or Buyer, respectively, bears to the aggregate amount actually contested by Seller and Buyer.

(v) Determination by Independent Accountant. The Independent Accountant shall make a determination as soon as practicable within thirty (30) days (or such other time as the Parties hereto shall agree in writing) after their engagement, and their resolution of the Disputed Amounts and their adjustments to the Closing Working Capital Statement and/or the Post-Closing Adjustment shall be conclusive and binding upon the Parties.

(vi) Payments of Post-Closing Adjustment. Except as otherwise provided herein, any payment of the Post-Closing Adjustment shall (A) be due (x) within five (5) business days of acceptance of the applicable Closing Working Capital Statement or (y) if there are Disputed Amounts, then within five (5) business days of the resolution described in clause (v) above; and (B) be paid by wire transfer of immediately available funds to such account as is directed by Buyer or Seller, as the case may be.

(c) Adjustments for Tax Purposes. Any payments made pursuant to Section 3.2 shall be treated as an adjustment to the Purchase Price by the Parties for Tax purposes, unless otherwise required by Law.

3.3. Earn-Out.

(a) Earn-out Payment. As additional consideration for the Acquired Assets, at the time provided in Section 3.3(d), Buyer shall pay to Seller with respect to the Earn-out Period an amount, if any (the "***Earn-out Payment***"), equal Eight Hundred Eighty-two Thousand and 00/100 Dollars ($882,000.00) so long as LTM Revenue for the Earn-out Period exceeds the Revenue Threshold. If LTM Revenue does not exceed the Revenue Threshold, no Earn-out Payment shall be due for the Earn-out Period.

(b) Procedures Applicable to Determination of the Earn-out Payments.

(i) On or before the date which is thirty (30) days after the last day of the Earn-out Period, Buyer shall prepare and deliver to Seller a written statement (the "***Earn-out Calculation Statement***") setting forth in reasonable detail its determination of LTM Revenue for the Earn-out Period and whether the Earn-out Payment shall be made (the "***Earn-out Calculation***").

(ii) Seller shall have forty-five (45) days after receipt of the Earn-out Calculation Statement (the "***Earn-out Review Period***") to review the Earn-out Calculation Statement and the Earn-out Calculation set forth therein. During the Earn-out Review Period, Seller shall have the right to inspect Buyer's books and records during normal business hours at Buyer's offices, upon reasonable prior notice and solely for purposes reasonably related to the determinations of LTM Revenue and whether the Earn-out Payment is due. Prior to the expiration of the Earn-out Review Period, Seller may object to the Earn-out Calculation set forth in the Earn-out Calculation Statement by delivering a written notice of objection (an "***Earn-out Calculation Objection Notice***") to Buyer; provided, that the only basis on which Seller may dispute any matter in the Earn-out Calculation is calculation of LTM Revenue. An Earn-out Calculation Objection Notice shall specify the items in the LTM Revenue Earn-out Calculation disputed by Seller and shall describe in reasonable detail the basis for such objection, as well as the amount in dispute. If Seller fails to deliver an Earn-out Calculation Objection Notice to Buyer prior to the expiration of the Earn-out Review Period, then the Earn-out Calculation set forth in the Earn-out Calculation Statement shall be final and binding on the Parties and the Earn-out Payment due and payable

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under the terms of this Agreement. If Seller timely delivers the Earn-out Calculation Objection Notice, Buyer and Seller shall negotiate in good faith to resolve the disputed items and agree upon the resulting amount of the LTM Revenue and the Earn-out Payment, if any. If Buyer and Seller are unable to reach agreement within thirty (30) days after the Earn-out Calculation Objection Notice has been given, all unresolved disputed items shall be promptly referred to the Independent Accountant. The Independent Accountant shall be directed to render a written report on the unresolved disputed items with respect to the applicable Earn-out Calculation as promptly as practicable, but in no event greater than thirty (30) days after such submission to the Independent Accountant, and to resolve only those unresolved disputed items set forth in the Earn-out Calculation Objection Notice. If unresolved disputed items are submitted to the Independent Accountant, Buyer and Seller shall each furnish to the Independent Accountant such work papers, schedules and other documents and information relating to the unresolved disputed items as the Independent Accountant may reasonably request. The Independent Accountant shall resolve the disputed items based solely on the applicable definitions and other terms in this Agreement and the presentations by Buyer and Seller, and not by independent review. The resolution of the dispute and the calculation of LTM Revenue that is the subject of the Earn-out Calculation Objection Notice by the Independent Accountant shall be final and binding on the Parties and the Earn-out Payment due and payable under the terms of this Agreement. The fees and expenses of the Independent Accountant shall be borne by Seller and Buyer in proportion to the amounts by which their respective calculations of LTM Revenue differ from LTM Revenue as finally determined by the Independent Accountant.

(c) Independence of Earn-out Payments. Buyer's obligation to pay the Earn-out Payment to Seller in accordance with Section 3.3(a) is an independent obligation of Buyer.

(d) Timing of Payment of Earn-out Payments. Subject to Section 3.3(e), if Buyer is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than twelve (12) months after the Closing Date. Buyer shall pay to Seller the Earn-out Payment in cash by wire transfer of immediately available funds to the bank account for Seller set forth on Section 3.3(d) of the Disclosure Schedules.

(e) Right of Set-off. Buyer shall have the right to withhold and set off against any amount otherwise due to be paid pursuant to this Section 3.3 by the amount of any (i) Post-Closing Adjustment owed to it pursuant to Section 3.2; and (ii) any Adverse Consequences to which any Buyer Indemnitee may be entitled under Article VII of this Agreement.

(f) No Security. The Parties hereto understand and agree that (i) the contingent rights to receive the Earn-out Payment shall not be represented by any form of certificate or other instrument, are not transferable, except by operation of Law relating to descent and distribution, divorce and community property, and do not constitute an equity or ownership interest in Buyer, (ii) Seller shall not have any rights as a securityholder of Buyer as a result of Seller's contingent right to receive the Earn-out Payment hereunder, and (iii) no interest is payable with respect to the Earn-out Payment.

3.4. Closing. The closing of the purchase and sale of the Purchased Assets contemplated herein (the "***Closing***") is to occur via electronic exchange of documents on the Effective Date, or such other date, time and place that Buyer and Seller mutually agree (the "***Closing Date***"). On the Closing Date, Seller shall surrender to Buyer possession of all the Purchased Assets free from any liens or encumbrances whatsoever in exchange for the payment of the Closing Payment in immediately available funds, as designated in writing by Seller.

3.5. Conditions to Seller's Obligation. Seller's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

(a) the representations and warranties set forth in Article V are true and correct in all material respects as of the Effective Date and the Closing Date;

(b) the covenants, agreements and undertakings of Buyer herein have been complied with in all material respects;

(c) no controversy is pending or threatened by or before any arbitrator or Governmental Authority which is reasonably likely to enjoin, restrain or prohibit, or result in material damages in respect of, or which is related to or arises out of, this Agreement or the consummation of the transactions contemplated hereby;

(d) At Closing, Buyer shall have tendered to Seller the following documents, executed in a manner and otherwise in form and substance reasonably satisfactory to Seller:

(i) the Assignment and Assumption Agreement;

(ii) the Transition Services Agreement;

(iii) the Lease Agreement; and

(iv) the Employment Agreements.

(e) Closing of the transactions contemplated under that certain Purchase and Sale Agreement by and between Greenway Disposal, Inc. and Greenway Disposal LLC (the "***Greenway APA***").

3.6. Conditions to Buyer's Obligation. Buyer's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

(a) the representations and warranties set forth in Article IV are true and correct in all material respects as of the Effective Date and the Closing Date;

(b) the covenants, agreements and undertakings of Seller herein have been complied with in all material respects;

(c) no controversy is pending or threatened by or before any arbitrator or Governmental Authority which: (i) is reasonably likely to enjoin, restrain or prohibit, or result in material damages in respect of, or which is related to or arises out of, this Agreement or the consummation of the transactions contemplated hereby; or (ii) could reasonably be expected to result in a material adverse change to the Business;

(d) no Material Adverse Change has occurred since the date of this Agreement;

(e) Buyer has reviewed the Purchased Assets and the Business and the records thereof and is satisfied in its sole judgment with the information Buyer obtained in such review and with the prospects of the Business.

(f) Buyer has obtained current judgment, pending suit, tax and other lien and Uniform Commercial Code financing statement searches reasonably satisfactory to Buyer with respect to Seller and the Purchased Assets;



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(g) Buyer has received releases and Uniform Commercial Code termination statements, executed by the appropriate secured Party and in a form appropriate for recording or filing, as applicable, that are sufficient to release any lien or encumbrance against the Purchased Assets;

(h) At Closing, Seller shall have tendered to Buyer the following documents, executed in a manner and otherwise in form and substance reasonably satisfactory to Buyer:

(i) the Transfer Documents;

(ii) the Transition Services Agreement;

(iii) the Lease Agreement;

(iv) the Employment Agreements;

(v) the Pay-Off Letters;

(vi) evidence that Buyer has deposited or caused to be deposited with the PPP Lender, pursuant to the PPP Escrow Agreement, the PPP Escrow Amount into a segregated account (such segregated account to be designated in writing by the PPP Lender at least three (3) Business Days prior to the Closing Date);

(vii) a copy of a Certificate of Good Standing with respect to Seller, issued by the South Carolina Secretary of State dated as of a date reasonably acceptable to Buyer;

(viii) a certificate of the secretary of Seller certifying copies of resolutions of the Board of Directors of Seller authorizing the execution, delivery, and performance of this Agreement, the Transfer Documents and the Transition Services Agreement;

(ix) the Consent of Seller to the Collateral Assignment of Related Agreements by and between Buyer and Academy Bank, N.A.; and

(x) the Landlord Waiver and Consent by and between Plumbinator 1047, LLC and Academy Bank, N.A.

(i) Closing of the transactions contemplated under the Greenway APA.

## Article IV
## Representations and Warranties of Seller

Seller hereby represents and warrants that the statements contained in this Article IV are correct and complete as of the Effective Date and will be correct and complete as of the Closing Date as though made then and as though the Closing Date was substituted for the Effective Date throughout this Article IV.

4.1. Organization. Seller is a duly organized and validly existing corporation in good standing under the Laws of the State of South Carolina, and has the power and authority to own, lease and operate its assets and properties and to conduct its business as now being conducted.

4.2. Authorization. There is no provision in Seller's articles of incorporation, its bylaws or other organizational documents which prohibits or limits Seller's ability to consummate the transactions contemplated to be consummated by Seller hereunder. Seller has the full right, power and authority to

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enter into this Agreement and to consummate or cause to be consummated all of the transactions and to fulfill all of the obligations contemplated to be consummated or fulfilled by Seller hereunder. The execution and delivery of this Agreement by Seller and the due consummation by Seller of the transactions contemplated to be consummated by Seller hereby have been duly authorized by all necessary action of the board of directors of Seller. This Agreement constitutes a legal, valid and binding agreement of Seller enforceable against Seller in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles.

4.3. No Conflict or Violation. Except for obtaining the Required Consents, none of the execution and delivery of this Agreement by Seller, the consummation by Seller of the transactions contemplated to be consummated by Seller hereby or compliance by Seller with any of the provisions hereof will result in: (i) a violation of or a conflict with any provision of the articles of incorporation or bylaws of Seller; (ii) a breach of, or right of termination, forfeiture or default under any term, condition or provision of any contractual obligation or permit to which Seller is a Party or by which any of its assets is bound or affected, or an event which, with the giving of notice, lapse of time or both, would result in any such breach, right of termination, forfeiture or default; (iii) a violation of any Law, or order, judgment, writ, injunction, decree or award, or an event which, with the giving of notice, lapse of time or both, would result in any such violation; (iv) an imposition of any lien on any Purchased Asset, or an event which, with the giving of notice, lapse of time or both, would result in any such imposition; or (v) any Person having the right to enjoin, rescind or otherwise prevent or impede the transactions contemplated hereby or to obtain damages from Buyer or to obtain any other judicial or administrative relief as a result of any transaction carried out in accordance with the provisions of this Agreement.

4.4. Litigation and Proceedings. There are no Actions, or to Seller's Knowledge threatened, against or affecting Seller, the Business or any of the Purchased Assets, nor is there any valid basis for any such controversy. Seller has not been charged with, nor to Seller's Knowledge is under investigation with respect to, any charge which has not been resolved concerning any violation of any Law or Permit. No judgment, order, writ, injunction, decree or assessment or other command of any Governmental Authority or arbitrator affecting Seller, the Business or any of the Purchased Assets has been entered which is presently in effect. There is no controversy pending, or to Seller's Knowledge threatened, against Seller which challenges the validity of this Agreement or the transactions contemplated hereunder, or otherwise seeks to prevent, directly or indirectly, the consummation of such transactions, nor is there any valid basis for any such controversy.

4.5. Execution and Binding Effect. This Agreement has been duly and validly executed and delivered by Seller, and the other agreements and instruments to be executed and delivered by Seller pursuant hereto, upon their execution and delivery by Seller, will constitute (assuming, in each case, the due and valid authorization, execution and delivery thereof by Buyer), legal, valid and binding agreements of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, moratorium, insolvency, reorganization, fraudulent conveyance or other Laws affecting the enforcement of creditors' rights generally or by general equitable principles, including, without limitation, those limiting the availability of specific performance, injunctive relief and other equitable remedies and those providing for equitable defenses.

4.6. Consents and Approvals. No consent, approval or authorization of any Person, nor any declaration, filing or registration with any Governmental Authority or other Person, is required to be made or obtained by Seller or by any affiliate of Seller in connection with the execution, delivery and performance by Seller of the transactions contemplated to be consummated by Seller hereunder, except for those consents set forth on Section 4.6 of the Disclosure Schedules (the "***Required Consents***").

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4.7. Purchased Assets. Seller possesses good and marketable title to the Purchased Assets. None of the Purchased Assets are subject to any liens or encumbrances or restriction on transfer (provided the Required Consents are obtained). The Purchased Assets constitute all assets or property (other than the Excluded Assets, which are listed on Section 4.7 of the Disclosure Schedule) owned or leased by Seller and used, held for use or usable in, and necessary to the operation and conduct of, the Business. Other than this Agreement, there are no outstanding options to purchase any of the Purchased Assets or any portion thereof or any interest therein. Seller has the right to sell and transfer the Purchased Assets to Buyer (provided the Required Consents are obtained) free and clear of all liens and encumbrances, as contemplated by this Agreement.

4.8. Personal Property. Except for (i) the 2006 Freightliner 4X2 (VIN 1FUBA5CGX6LV98173); (ii) 2006 FORD ECONOLINE Cargo 15 (VIN 1FTRE14W06HA34947), and (iii) 1997 FORD F-150 S/C 4x2 15 S (VIN 1FTDX1766VNA70772), all tangible items of Purchased Personal Property are in good operating condition, working order and repair, ordinary wear and tear excepted, are suitable for the uses to which customarily put in the conduct of the Business and are not operated in violation of any Law, Permit, or contractual obligation.

4.9. Inventory. Purchased Inventory is of good and merchantable quality and free from any material defects, and, to Seller's Knowledge, except as set forth on Section 4.9 of the Disclosure Schedules, is not subject to any agreement, including any licensing, patent, royalty, trademark, trade name or copyright agreements, with any other Person.

4.10. Liabilities. Seller has no liabilities which relate to the Business except liabilities which have been incurred in the ordinary course of business (none of which results from, arises out of, relates to, is in the nature of or was caused by any breach of contract, breach of warranty, tort, infringement or violation of law).

4.11. Product and Service Liability. The Business has at all times sold to customers products to which Seller had good title, which were merchantable. To Seller's Knowledge, Seller has at all times performed all services in a good and workmanlike manner. To Seller's Knowledge, there is no defect in services rendered by Seller which could give rise to a claim against Buyer after the Closing.

4.12. Taxes. Seller has properly completed, and duly and timely filed, all Tax Returns required to be filed by it, and all such Tax Returns were complete and current, except as listed on Section 4.12 of the Disclosure Schedules. All Taxes and levies of every kind, character or description due and payable by Seller have been timely paid, whether or not shown on any Tax Return. Seller has withheld and paid all Taxes required to be withheld and paid by it in connection with amounts paid or owing to any employee, independent contractor, creditor, member or other third Party. Seller is not and has not been a member of an affiliated group (within the meaning of Code § 1504(a)) filing a consolidated federal income Tax Return.

4.13. Financial Statements. Complete copies of the financial statements consisting of the balance sheet of Seller as at December 31, 2020 and in each of the years 2019 and 2018 and the related statements of income and retained earnings, shareholders' equity, and cash flow for the years then ended (the "***Financial Statements***") have been delivered to Buyer. The Financial Statements have been prepared in accordance with GAAP in effect in the United States from time to time, applied on a consistent basis throughout the period involved. The Financial Statements fairly present in all material respects the financial condition of Seller as of the respective dates they were prepared and the results of the operations of Seller for the periods indicated. The balance sheet of the Business as of December 31, 2020 is referred to herein as the "***Balance Sheet***" and the date thereof as the "***Balance Sheet Date***." As of the Balance Sheet Date, Seller's gross revenues were One Million Five Hundred Sixty-six Thousand Three Hundred

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Ninety-seven and 00/11Dollars ($1,566,397.00) and Seller's net income was Five Hundred Twelve Thousand Four Hundred Fifty and 00/100 Dollars ($512,450).

4.14. Contracts and Commitments.

(a) Set forth on Section 4.14 of the Disclosure Schedules is a complete list of each contractual obligation (excluding Accounts) relating to any of the Purchased Assets or the Business or the operation thereof, and which meets any of the following criteria: (a) involves future expenditures or receipts or other performance with respect to goods or services having a total value in excess of $5,000.00; (b) contains covenants not to compete (or a similar limitation on the ability to conduct business) against or in favor of Seller; (c) involves payments to Seller over the term of the contractual obligation in excess of $5,000.00; (d) is not terminable on 30 days or less notice without a penalty or liquidated damages; (e) involves deposits or payments made to, or discounts or other credits offered by, Seller prior to the Closing Date, for goods or services (including any refunds of any deposits or other amounts) which are to be provided after the Closing Date; or (f) is otherwise material to the Business but is not otherwise listed in categories (a)-(e) of Section 4.14 of the Disclosure Schedules.

(b) Seller has provided to Buyer a complete written copy of each Assumed Contract. The Assumed Contracts have not been modified or amended except as disclosed in writing to Buyer. Each Assumed Contract is valid and enforceable against Seller in accordance with its terms and is in full force and effect and, to Seller's Knowledge, each Assumed Contract constitutes a legal, valid and binding obligation of the other parties thereto, enforceable against them in accordance with its terms. No default and no event which, with the giving of notice, lapse of time or both, would be a default has occurred under any Assumed Contract or will occur as a result of the transactions contemplated hereby. There are no setoffs, counterclaims or disputes existing or asserted with respect to any Assumed Contract. Seller has not made any agreement with any Party to any Assumed Contract for any deduction from or increase to any amount payable thereunder. There are no facts, events or occurrences which in any way impair the validity or enforcement of any Assumed Contract or tend to reduce or increase the amounts payable thereunder. To Seller's Knowledge, there are no controversies which are threatened or pending against any third Party to any such Assumed Contract.

4.15. Environmental Matters.

(a) Seller is currently in compliance with, and since January 1, 2016 has been in material compliance with, all Environmental Laws applicable to the Business.

(b) Seller has obtained, and is in compliance with all Permits required by Environmental Law ("***Environmental Permit***") for the operation of the Business as currently operated. Except for Environmental Permits that are not transferable to the Buyer, neither the execution of this Agreement nor the consummation of the transactions contemplated hereby do or will constitute a violation of or result in a default of, or breach or violation of, any Environmental Permit. Seller has timely filed (i) any required permit renewal applications or (ii) permit modification applications, in each case to maintain the effectiveness of an Environmental Permit or to modify the terms of the Environmental Permit to bring the Business into compliance with the conditions of the Environmental Permit. Section 4.15(b) of the Disclosure Schedules contains a list of all Environmental Permits.

(c) There are no Actions pending, or to the Seller's Knowledge, threatened against Seller alleging any unresolved violation or any unresolved liability arising under Environmental Laws applicable to the Business or the Irmo Real Property.

(d) Except as set forth on Section 4.15(d) of the Disclosure Schedules, there are no conditions existing on the Irmo Real Property that would reasonably be expected to give rise to any

material liability under Environmental Laws, nor has Seller received any written notice that such a condition exists. All matters set forth on Section 4.15(d) of the Disclosure Schedules shall be considered Excluded Liabilities.

(e) To Seller's Knowledge, there has been no Release of Hazardous Materials in violation of any Environmental Laws with respect to the Business, the Purchased Assets, any real property currently owned, operated or leased by Seller in connection with the Business. To Seller's Knowledge, there are no underground storage tanks located on the Irmo Real Property or any real property owned, operated or leased by Seller in connection with the Business. Seller has made available to Purchaser all reports in the possession of the Seller concerning environmental investigations, audits, assessments and remedial activities conducted by or on behalf of the Seller or otherwise relating to owned or leased real property or any Offsite Disposal Facilities used by any Seller in connection with the Business or the Purchased Assets, Customers and Supplies.

(f) Seller has previously made available to Buyer (i) all written communications with any Governmental Authority and (ii) all material environmental reports, information requests, studies, audits and site assessments, in each case regarding compliance with Environmental Law pertaining to the Business which are in the possession or control of Seller.

4.16. Customers and Suppliers. In the past three (3) years, there has not been any material adverse change in the business relationship of Seller with any material customer or material supplier of the Business listed on Section 4.16(a) and Section 4.16(b) of the Disclosure Schedules, nor to Seller's Knowledge has there been any development with respect to any material customer or material supplier of the Business.

4.17. Permits. Section 4.17 of the Disclosure Schedules sets forth a complete written list of all Permits used in the operation of the Business. Such Permits constitute all Permits necessary for the operation of the Business. The Transferred Permits are freely transferable to Buyer as contemplated by this Agreement, and constitute the only Permits set forth on Section 4.17 of the Disclosure Schedules that are freely transferable to Buyer as contemplated by this Agreement. To Seller's Knowledge, there is no reason as to why Buyer may be unable to obtain any of the Permits listed on Section 4.17 of the Disclosure Schedules (other than the Transferred Permits) for Buyer to operate the Business after the Closing Date. All such Permits are valid and subsisting and in full force and effect, and Seller is not in violation of any provision thereof. Seller has not received any notice alleging any violation by Seller of any Permit, which notice has not been resolved as of the Closing Date, nor is there now pending or threatened or, to Seller's Knowledge, is there any basis for any proceeding by or before any Governmental Authority to revoke, cancel, rescind, modify or refuse to renew any Permit.

4.18. Ownership of Seller. Shareholder is the sole shareholder and owner of 100% of the issued and outstanding stock of Seller.

4.19. Real Property. Seller does not own any real property, and Seller is not a party to any option, contract or other document pursuant to which the Seller has the right or obligation to purchase or acquire title to or any interest in any real property. Seller is in possession of property located at 1047 Gates Road, Irmo, South Carolina 29063 and owned by 1047 Plumbinator, LLC (the "***Irmo Real Property***"). Seller has the peaceful and undisturbed possession of the Irmo Real Property. The Irmo Real Property constitutes the only real property in Seller's possession or otherwise used by the Seller in connection with the operation of the Business as currently conducted. Except for the occupancy and use of the Irmo Real Property by the Seller, there are no leases, tenancies, licenses or other rights of occupancy or use for any portion of the Irmo Real Property, and no Person or entity other than the Seller occupies or uses any portion of the Irmo Real Property.



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4.20. Employment Matters. Section 4.20 of the Disclosure Schedules contains a list of all persons who are Employees, independent contractors or consultants of the Business as of the Closing Date, including any Employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full or part time); (iii) hire date; (iv) current annual base compensation rate; (v) commission, bonus or other incentive-based compensation; (vi) accrued but unpaid benefits for time off, such as leave, vacation, sick pay, and sick leave; and (vi) a description of the fringe benefits provided to each such individual as of the Closing Date. Except as set forth in Section 4.20 of the Disclosure Schedules, as of the Closing Date, all compensation, including wages, commissions and bonuses payable to all employees, independent contractors or consultants of the Business for services performed on or prior to the Closing Date have been paid in full and there are no outstanding agreements, understandings or commitments of Seller with respect to any compensation, commissions or bonuses.

4.21. Compliance with Laws. The Business is in compliance with all Laws. Seller has not received any notice alleging (or any notice of any investigation related to) any violation by the Business of any Law, which notice has not been resolved as of the Closing Date.

4.22. Brokers. No agent, broker or other Person acting pursuant to express or implied authority of Seller is entitled to a commission, finder's or similar fee from Buyer in connection with the transactions contemplated by this Agreement, or, pursuant to express or implied authority of Seller, will be entitled to make any claim (including the assertion of a lien) against Buyer or any of the Purchased Assets for a commission, finder's or similar fee.

4.23. Material Omissions. Independent of and in addition to the other representations and warranties contained in this Article IV, neither this Agreement nor any statement, list, certificate or other information furnished or to be furnished by or on behalf of Seller in connection with this Agreement or with any of the transactions contemplated hereby contains or will contain an untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.

## Article V
## Representations and Warranties of Buyer

Buyer hereby represents and warrants that the statements contained in this Article V are correct and complete as of the Effective Date and will be correct and complete as of the Closing Date as though made then and as though the Closing Date was substituted for the Effective Date throughout this Article V.

5.1. Organization. Buyer is a duly organized and validly existing limited liability company in good standing under the Laws of the state of Delaware, and has the power and authority to own, lease and operate its assets and properties and to conduct its business as now being conducted.

5.2. Authorization. There is no provision in Buyer's articles of organization or operating agreement which prohibits or limits Buyer's ability to consummate the transactions contemplated to be consummated by Buyer hereunder. Buyer has the full right, power and authority to enter into this Agreement and to consummate or cause to be consummated all of the transactions and to fulfill all of the obligations contemplated to be consummated or fulfilled by Buyer hereunder. The execution and delivery of this Agreement by Buyer and the due consummation by Buyer of the transactions contemplated to be consummated by Buyer hereby have been duly authorized by all necessary action of the managers and members of Buyer. This Agreement constitutes a legal, valid and binding agreement of Buyer enforceable against Buyer in accordance with its terms, subject to bankruptcy, insolvency, fraudulent

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transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles.

5.3. No Conflict or Violation. None of the execution and delivery of this Agreement by Buyer, the consummation by Buyer of the transactions contemplated to be consummated by Buyer hereby or compliance by Buyer with any of the provisions hereof will result in: (i) a violation of or a conflict with any provision of the certificate of organization or operating agreement (or comparable organizational documents) of Buyer; (ii) a breach of, or right of termination, forfeiture or default under any term, condition or provision of any contractual obligation or permit to which Buyer is a Party or by which any of its assets is bound or affected, or an event which, with the giving of notice, lapse of time or both, would result in any such breach, right of termination, forfeiture or default; (iii) a violation of any Law, or order, judgment, writ, injunction, decree or award, or an event which, with the giving of notice, lapse of time or both, would result in any such violation; or (iv) any Person having the right to enjoin, rescind or otherwise prevent or impede the transactions contemplated hereby or to obtain damages from Seller or to obtain any other judicial or administrative relief as a result of any transaction carried out in accordance with the provisions of this Agreement.

5.4. Litigation and Proceedings. There are no Actions, or to Buyer's Knowledge threatened, against or affecting Buyer's ability to consummate the transactions contemplated under this Agreement. No judgment, order, writ, injunction, decree or assessment or other command of any Governmental Authority or arbitrator affecting Buyer's ability to consummate the transactions contemplated under this Agreement has been entered which is presently in effect. There is no controversy pending, or to Buyer's Knowledge threatened, against Buyer which challenges the validity of this Agreement or the transactions contemplated hereunder, or otherwise seeks to prevent, directly or indirectly, the consummation of such transactions.

5.5. Execution and Binding Effect. This Agreement has been duly and validly executed and delivered by Buyer, and the other agreements and instruments to be executed and delivered by Buyer pursuant hereto, upon their execution and delivery by Buyer, will constitute (assuming, in each case, the due and valid authorization, execution and delivery thereof by Seller), legal, valid and binding agreements of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, moratorium, insolvency, reorganization, fraudulent conveyance or other Laws affecting the enforcement of creditors' rights generally or by general equitable principles, including, without limitation, those limiting the availability of specific performance, injunctive relief and other equitable remedies and those providing for equitable defenses.

5.6. Consents and Approvals. No consent, approval or authorization of any Person, nor any declaration, filing or registration with any Governmental Authority or other Person, is required to be made or obtained by Buyer in connection with the execution, delivery and performance by Buyer of the transactions contemplated to be consummated by Buyer hereunder.

5.7. Brokers. No agent, broker or other Person acting pursuant to express or implied authority of Buyer is entitled to a commission, finder's or similar fee from Seller in connection with the transactions contemplated by this Agreement, or, pursuant to express or implied authority of Buyer, will be entitled to make any claim (including the assertion of a lien) against Seller or any of the Purchased Assets for a commission, finder's or similar fee.

## Article VI
## Actions At and After the Closing

The Parties agree as follows and agree that the obligations set forth in this Article VI survive the Closing.

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6.1. Further Assurances. The Parties will execute and deliver such further documents and do such further acts and things as may be required to carry out the intent and purpose of this Agreement. Without limiting the generality of the foregoing, in case at any time after the Closing Date any further action is necessary or desirable to transfer any of the Purchased Assets to Buyer or otherwise to carry out the purposes of this Agreement, the proper officers of Seller and Buyer will execute such further documents (including assignments, acknowledgements, consents and other instruments of transfer) and will take such further action as may be necessary or desirable to effect such transfer and to otherwise carry out the purposes of this Agreement.

6.2. Confidentiality. Seller and Shareholder hereby agree that they will keep all Confidential Information confidential until such time, if ever, as such Confidential Information becomes available to the public (other than as a result of a disclosure by Seller or Shareholder in violation of its obligations of confidentiality hereunder), and will not, without the prior written consent of Buyer, disclose, print, publish, or otherwise disseminate any Confidential Information to any third party.

6.3. Non-Competition. Seller and Shareholder agree that for the period from the Closing Date until the expiration of five (5) years from the Closing Date (the "***Restricted Period***"), Seller and Shareholder shall not, on behalf of itself or as a partner, agent, advisor, consultant or in any other capacity of or to any Person, directly or indirectly, carry on any business, or become involved in any business activity competitive with the Business as presently conducted during the Restricted Period in the "***Restricted Area***", which shall mean the states of South Carolina and Georgia.

6.4. Non-Solicitation. During the Restricted Period, neither Seller, Shareholder nor their respective affiliates shall, for itself, herself or on behalf of any other Person, directly or indirectly: (i) solicit business of the same or similar type being carried on by Buyer from either the Business or any Person known by Seller or Shareholder to be a customer of Buyer (as demonstrated by billing invoices to such Person within the year prior thereto), except for the benefit of Buyer in connection with the provision of services under the Transition Services Agreement; or (ii) solicit, employ, or otherwise engage as an employee, independent contractor, or otherwise, any Person who was an employee of Seller or is an employee of Buyer, or in any manner induce or attempt to induce any employee of Buyer to terminate such employment with Buyer.

6.5. Non-Disparagement. Neither Seller, Shareholder, nor any of Seller's officers or directors shall, for herself, itself or on behalf of any other Person, directly or indirectly, disparage Buyer or any of its shareholders, directors, managers, officers, employees, or agents. Neither Buyer nor any of its officers or directors shall, for itself or on behalf of any other Person, directly or indirectly, disparage Seller, Shareholder or any of its shareholders, directors, managers, officers, employees, or agents.

6.6. Specific Performance. The Parties agree that irreparable damage could occur if any provision of Section 6.2, Section 6.3, Section 6.4 and Section 6.5 were not performed in accordance with the terms thereof and that the Parties shall be entitled, without posting a bond or similar indemnity, to seek an injunction or injunctions to prevent breaches of Section 6.3 and Section 6.4 or to seek specific enforcement of the performance of the terms and provisions hereof.

6.7. Severability. It is expressly understood and agreed that although Seller, Shareholder and Buyer consider the restrictions contained in Section 6.2, Section 6.3, Section 6.4 and Section 6.5 to be reasonable in the context in which made, if a final judicial determination is made that the time, territory, scope or any other restriction contained in Section 6.3 and Section 6.4 is unreasonable or otherwise unenforceable, neither this Agreement nor the provisions of Section 6.3 and Section 6.4, as applicable, shall be rendered void, but shall be deemed amended to apply as to such maximum scope, time and territory and to such other extent as such court may judicially determine or indicate to be reasonable, and as so modified, the restrictions contained in Section 6.3 and Section 6.4 shall be binding and enforceable.

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In the event any court of competent jurisdiction shall determine that the time restriction in Section 6.3 and Section 6.4 is unreasonable or otherwise not enforceable and shall decline to modify it as provided in this Section, Buyer and Seller agree that the term "***Restricted Period***" as used in this Agreement shall mean the period from the Closing Date until the expiration of two (2) years from the Closing Date. Moreover, in the event any court of competent jurisdiction shall determine that geographic restriction in Section 6.3 is unreasonable or otherwise not enforceable and shall decline to modify it as provided in this Section, Buyer and Seller agree that the term "***Restricted Area***" as used in this Agreement shall mean anywhere within a fifty (50) mile radius of the property commonly known as 1047 Gates Road, Irmo, South Carolina 29063.

6.8. Employment. Seller agrees as follows:

(a) Buyer is under no obligation to employ any employee of Seller, except for Shareholder under the Transition Service Agreement and the employees listed on Section 6.8 of the Disclosure Sections, all pursuant to the Employment Agreements, or assume or continue any Employee Benefit Plan of Seller. Buyer may offer employment to such employees of Seller who, in the sole discretion of Buyer, will adequately satisfy the needs of Buyer and who satisfy the criteria and tests customarily used by such Buyer in its employment practices, including drug tests, background tests and other employee screening tests. In accordance with Section 8.13, Seller agrees that the timing and manner in which existing employees are notified of the sale of the Business and other related aspects of this transaction must be coordinated in advance with and be reasonably acceptable to Buyer.

(b) Those employees of Seller who accept an offer of employment from Buyer (to the extent Buyer may extend any such offers) prior to Closing will become employees of Buyer effective at the Closing Date and will cease to be employees of Seller as of that time. Notwithstanding anything herein to the contrary, Seller shall terminate the employment of each and every employee immediately prior to Closing.

(c) Seller shall remain responsible for the payment of all wages and any other obligations of Seller to its employees accrued as of the Closing Date including, but not limited to, all Employee Benefit Plans, vacation pay, sick pay and all other employment policies and practices in effect prior to the Closing Date. Seller shall remain responsible for compliance with all requirements under Law that are applicable to Seller's Employee Benefit Plans.

6.9. Transfer of Permits

(a) Seller shall transfer to Buyer, at Buyer's sole costs and expense, all Permits required for the use of the Purchased Assets, except those which by Law or by their terms are non-transferable (but including those which by Law or their terms are transferable with third Party consent, provided such consent is obtained), and shall fully cooperate with Buyer, at no cost to Seller, and provide such consents as may be reasonably necessary in order to accomplish each such permitted transfer. In addition to the foregoing, Seller shall maintain the Mechanical Contractor License, #106179, issued by the State of South Carolina Department of Labor, Licensing and Regulation such (the "***MC Permit***") through its date of expiration, October 31, 2021 and renew the MC Permit on or before such expiration. Buyer shall be responsible for all costs and expenses related to such renewal. Seller shall make the MC Permit available to Buyer for operation its business on and after the Closing Date including after renewal of the MC Permit on or before October 31, 2021 up to and through October 31, 2023 (the "***MC Permit Period***"). If and to the extent Seller fails to renew the MC Permit, unless due to the gross negligence of Buyer, Buyer may reduce or eliminate the payment of the Earn-out Payment. Section 6.9 of the Disclosure Schedules contains a copy of the MC Permit.

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(b) During the MC Permit Period, Shareholder and Seller shall be named an additional insured under Buyer's insurance policies related to the Business. Additionally, Buyer agrees to indemnify and hold Shareholder and Seller harmless from and against any and all claims, demands, actions, causes of action, suits, proceedings, assessments, judgements, losses, liabilities, expense or damage (including court costs and attorneys' fees) incurred by Seller or Shareholder resulting, directly or indirectly, from, or in any way connected to Buyer's operation of its business under the MC Permit.

6.10. Seller Vehicle. On or about April 26, 2021, the Seller Vehicle was involved in a collision (the "***Vehicle Accident***") more particularly described in Section 6.10 of the Disclosure Schedules. Seller shall take any and all actions necessary to repair the Seller Vehicle to substantially the same condition as the Seller Vehicle was in prior to the Vehicle Accident, at Seller's sole cost and expense. Seller shall undertake any claims for reimbursement for repair of the Seller Vehicle and shall assume and undertake the defense of any and all claims made against any of the Parties arising out of the Vehicle Accident and shall be responsible for payment of any and all costs, including, without limitation, attorneys' fees, expenses or any liabilities arising out of such Vehicle Accident, including any claims of employees of Seller involved in such Vehicle Accident.

## Article VII
## Indemnification

7.1. By Seller. Seller and Shareholder hereby unconditionally, irrevocably and absolutely agrees to protect, defend, indemnify and hold harmless Buyer, and Buyer's past, present and future officers, directors, shareholders, members, managers, employees, agents, attorneys and representatives, and each of the foregoing's heirs, personal representatives, successors and assigns (collectively, "***Buyer Indemnitees***"), from and against any and all Adverse Consequences incurred, paid or sustained by any Buyer Indemnitees, in each case in connection with, arising out of, based upon, relating to or otherwise involving:

(a) Shareholder's or Seller's misrepresentation or breach of warranty in this Agreement;

(b) Shareholder's or Seller's nonfulfillment of any covenant under this Agreement;

(c) any liability or obligation of Seller to any Party not being assumed by Buyer hereunder, including any recall, design defect or similar claims arising out of, relating to or otherwise involving any of the Purchased Assets or any products sold or distributed by the Seller prior to the Closing, including the Warranty Products; or

(d) any liability or obligation arising out of the operation of the Business prior to the Closing, including, without limitation, the Vehicle Accident.

7.2. By Buyer. Buyer hereby unconditionally, irrevocably and absolutely agrees to protect, defend, indemnify and hold harmless Seller, and Seller's past, present and future officers, directors, shareholders, employees, agents, attorneys and representatives, and each of the foregoing's heirs, personal representatives, successors and assigns (collectively, "***Seller Indemnitees***"), from and against any and all Adverse Consequences incurred, paid or sustained by any Seller Indemnitees, in each case in connection with, arising out of, based upon, relating to or otherwise involving:

(a) Buyer's misrepresentation or breach of warranty in this Agreement;

(b) Buyer's nonfulfillment of any covenant under this Agreement;

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(c) any liability or obligation of Seller expressly assumed by Buyer hereunder; or

(d) any liability or obligation arising out of the operation of the Business after the Closing.

7.3. Survival. No claim for indemnification under Section 7.1(a) or Section 7.2(a) may be made more than thirty-six months after the Closing Date; provided, however, that: (a) the representations set forth in Sections 4.12 and 4.15 survive the Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof) plus ninety (90) days. However, any such claim made during such applicable periods may continue to be prosecuted in accordance with this Agreement after such applicable periods. The limitations contained in this Section 7.3 do not apply to a claim to a claim for indemnification under Sections 7.1(b) through (d) and Sections 7.2(b) through (d) or based upon any intentional breach, misrepresentation or fraud.

7.4. Limitations. Notwithstanding anything to the contrary set forth in this Agreement, claims for indemnification under Article VII shall be subject to the following limitations:

(a) Neither Shareholder nor Seller shall be liable for indemnification under Section 7.1(a) until the aggregate amount of all Adverse Consequences incurred, paid or sustained by the Buyer Indemnitees exceeds Twenty-five Thousand and 00/100 Dollars ($25,000.00) (the "***Basket***"), in which event Seller shall be liable for all such Adverse Consequences from the first dollar. The aggregate amount of all Adverse Consequences for which Seller and Shareholder shall be liable pursuant to Section 7.1(a) shall not exceed the amount of the Purchase Price (the "***Cap***").

(b) Buyer shall not be liable for indemnification under Section 7.2(a) until the aggregate amount of all Adverse Consequences incurred, paid or sustained by Seller Indemnitees exceeds the Basket, in which event Buyer shall be liable for all such Adverse Consequences from the first dollar. The aggregate amount of all Adverse Consequences for which Buyer shall be liable under Section 7.2(a), in each case, shall not exceed the Cap.

(c) Notwithstanding the foregoing, the limitations set forth in Sections 7.4(a) and 7.4(b) shall not apply to Adverse Consequences based upon, arising out of, with respect to or by reason of any inaccuracy or breach of any representation or warranty in Sections 4.1, 4.2, the last sentence of 4.4, 4.7, 4.12, 4.15, 4.20, 4.22, 5.1, 5.2, 5.4, 5.5, or 5.8.

7.5. Independent Significance. The Parties intend that each representation, warranty and covenant contained herein has independent significance. If any Party has breached any representation, warranty or covenant contained herein in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the Party has not breached will not detract from or mitigate the fact that the Party is in breach of the first representation, warranty or covenant.

## Article VIII
## General Provisions

8.1. Amendment and Modification. No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the Party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

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8.2. Assignments. No Party may directly or indirectly assign or transfer any of its rights or obligations under this Agreement (whether voluntarily or involuntarily or by operation of Law (including a merger or consolidation), judicial decree or otherwise) to any other Person without the prior written consent of the other Parties.

8.3. Counterparts. This Agreement may be executed by the Parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the Parties notwithstanding that all the Parties are not signatories to the same counterpart.

8.4. Counterpart Facsimile Execution. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or .pdf attachment to an e-mail is to be treated as an original document. The signature of any Party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document.

8.5. Entire Agreement. This Agreement, together with the Transfer Documents, constitute the entire agreement among the Parties pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the Parties, whether oral or written.

8.6. Exhibits and Schedules. All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

8.7. Expenses of the Parties. Except as otherwise provided herein or agreed to in writing by the Parties, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby are to be paid by the Party incurring such costs and expenses. Seller agrees to pay directly all Taxes, fees and other charges, including all sales Taxes, transfer Taxes and recording charges, incurred as a result of the consummation of the transactions contemplated by this Agreement.

8.8. Failure or Delay. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any Party in any case entitles such Party to any other or further notice or demand in similar or other circumstances.

8.9. Governing Law. This Agreement and the rights and obligations of the Parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of South Carolina applicable to contracts made and to be performed wholly within South Carolina, without regard to choice or conflict of Laws rules. Each Party submits to the jurisdiction of the Courts of the State of South Carolina.

8.10. Legal Fees. In the event any Party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another Party, the prevailing Party, as determined by the court or arbitrator, as the case may be, in such suit or arbitration proceeding is entitled to recover its reasonable attorneys' fees and expenses.

8.11. No Joint Venture or Partnership. The Parties agree that nothing contained herein is to be construed as making the Parties joint venturers or partners.

8.12. Notices Between the Parties. All notices, consents, requests, demands and other communications hereunder are to be in writing, and are deemed to have been duly given or made:

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(i) when delivered in person; (ii) three days after deposited in the United States mail, first class postage prepaid; (iii) in the case of overnight courier services, one business day after delivery to the telegraph company or overnight courier service with payment provided; or (iv) in the case of electronic transmission such as e-mail, when sent, provided a hard copy of such email or notice is sent via overnight courier service on the same day; in each case addressed as follows, or to such other address as any Party may designate by notice to the other Party in accordance with the terms of this Section:

if to Buyer:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

with a copy to (which shall not constitute notice):

Lewis Rice LLC
Attn: William Bolster
600 Washington Ave., Suite 2500
St. Louis, MO 63101
e-mail: wbolster@lewisrice.com

if to Seller:

Apple Services, Inc.
Attention: Michael D. Jordan
37 Will Richardson Road
Irmo, SC 29063
Email: mjordan@appleservicesplumbing.com

with a copy to (which shall not constitute notice):

Rogers Lewis Jack Mann & Quinn, LLC
Attn: Michael H. Quinn, Jr.
1201 Main Street, Suite 120
Columbia, SC 29201
Email: mquinn@rogerslewis.com

8.13. Publicity Regarding This Agreement. The Parties will keep the terms of this Agreement confidential. Any publicity release, advertisement, filing, public statement or announcement made by or at the request of either Party regarding this Agreement or any of the transactions contemplated hereby is to be first reviewed by and must be reasonably satisfactory to the other Party.

8.14. Remedies Cumulative. Each and every right granted hereunder and the remedies provided for under this Agreement are cumulative and are not exclusive of any remedies or rights that may be available to any Party at law, in equity or otherwise.

8.15. Successors and Assigns. All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the Parties and their respective heirs, executors, administrators or other legal representatives and successors and permitted assigns.

8.16. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their permitted assigns and nothing herein, express or implied, is intended to or will confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

8.17. Severability. If any provision of this Agreement shall be declared void or unenforceable by any judicial or administrative authority, the validity of any other provision and or the entire Agreement shall not be affected and shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**"BUYER"**

Liquid Services and Logistics LLC, a Delaware limited liability company

By: _____
Keith Harbison, Chairman and President

**"SHAREHOLDER"**

_____
Michael D. Jordan

**"SELLER"**

Apple Services, Inc.

By: _____
Michael D. Jordan, President and Sole Shareholder



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By:_____
Keith Harbison, Chairman and President

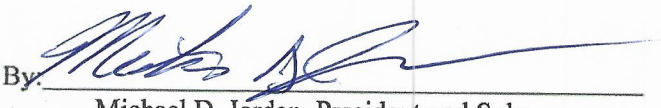
**"SHAREHOLDER"**



Michael D. Jordan

**"SELLER"**

Apple Services, Inc.

By: 
Michael D. Jordan, President and Sole Shareholder



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# EXHIBIT A

## DEFINITIONS

"***Accounts***" means any and all rights of Seller to payment for goods and services sold and delivered prior to the Closing.

"***Action***" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"***Adverse Consequences***" means any and all manner of claims, controversies, damages, liabilities, losses, penalties, fines, amounts paid in settlement and reasonably incurred costs, expenses and fees (including reasonable attorneys' fees and court costs).

"***Agreement***" means this Asset Purchase and Sale Agreement, including all Exhibits and Schedules hereto.

"***Assignment and Assumption Agreement***" means that Assignment and Assumption Agreement in the form of Exhibit B whereby Seller will assign, and Buyer will assume, Seller's rights and obligations under the Assumed Contracts and the Transferred Permits.

"***Assumed Contracts***" means those contracts of Seller listed on Section 4.14 of the Disclosure Schedules.

"***Balance Sheet***" has the meaning set forth in Section 4.13.

"***Balance Sheet Date***" has the meaning set forth in Section 4.13.

"***Basket***" has the meaning set forth in Section 7.4(a).

"***Bill of Sale***" means that bill of sale in the form of Exhibit C whereby Seller will convey the Purchased Inventory and the Purchased Personal Property to Buyer.

"***Business***" has the meaning set forth in Recital A.

"***Buyer***" has the meaning set forth in the opening paragraph of this Agreement.

"***Buyer Indemnitees***" has the meaning set forth in Section 7.1.

"***Buyer's Knowledge***" means the knowledge, after reasonable investigation and due inquiry, of any officer of Buyer or any employee of Buyer with direct management authority over the relevant operations of the Buyer's business.

"***Cap***" has the meaning set forth in Section 7.4(a).

"***Closing***" has the meaning set forth in Section 3.4.

"***Closing Date***" has the meaning set forth in Section 3.4.

"***Closing Payment***" has the meaning set forth in Section 3.1(a).

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"***Closing Working Capital Statement***" has the meaning set forth in Section 3.2(a)(i).

"***Code***" means the United States Internal Revenue Code of 1986.

"***Confidential Information***" means the terms of this Agreement and any technical or non-technical information relating to the Business, whether available to Seller orally, electronically, visually or in writing. "Confidential Information" shall not include information (a) which is or becomes generally known or available by publication through no fault of Seller; or (b) which is lawfully obtained from a third Party that has right to make such disclosure as shown by Seller's written records.

"***Current Assets***" means the current assets of the Business as of the Closing Date as provided by Seller two days before the Closing Date, as accepted by Buyer on or prior to the Closing Date and as listed on Section 3.2(a)(i) of the Disclosure Schedules.

"***Current Liabilities***" means the current liabilities of the Business as of the Closing Date as provided by Seller two days before the Closing Date, as accepted by Buyer on or prior to the Closing Date and as listed on Section 3.2(a)(i) of the Disclosure Schedules.

"***Disclosure Schedules***" means the disclosure schedules delivered by Seller to Buyer on the date hereof.

"***Disputed Amounts***" has the meaning set forth in Section 3.2(b)(iii).

"***Earn-out Calculation Objection Notice***" has the meaning set forth in Section 3.3(b)(ii).

"***Earn-out Payment***" has the meaning set forth in Section 3.3(c).

"***Earn-out Period***" means the period beginning on the Closing Date and ending on the three month anniversary of the Closing Date.

"***Earn-out Review Period***" has the meaning set forth in Section 3.3(b)(ii).

"***Effective Date***" has the meaning set forth in the opening paragraph of this Agreement.

"***Employee Benefit Plan***" means any (A) nonqualified deferred compensation arrangement, (B) qualified defined contribution retirement plan or qualified defined benefit retirement plan which is an "employee pension benefit plan" under §3(2) of the Employee Retirement Income Security Act of 1974, as amended ("***ERISA***") (including any "multiemployer plan" under §3(37)(A) of ERISA), (C) any "employee welfare benefit plan" under §3(2) of ERISA, or material fringe benefit or other retirement, bonus, or severance plan or program, or (D) obligation, arrangement or customary practice to provide benefits, other than salary, as compensation for services rendered, to present and former directors, employees, or agents, including employee stock option or purchase plans or arrangements.

"***Employment Agreements***" shall mean those certain employment agreements between Buyer, on the one hand, and Craig Owens, Vermillian Martin, Blake Davis, Jennifer Larmon, and Tim Freeman, on the other hand, in the form shown on Exhibit E.

"***Environmental Laws***" means all Laws relating to pollution or protection of the environment (including ambient air, surface water, groundwater, land, or surface or subsurface strata) including Laws relating to emissions, discharges, releases or threatened releases of pollutants,

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contaminants, chemicals, petroleum, or industrial, toxic or hazardous substances or wastes into the environment and Laws relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any of the foregoing including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et. seq. ("***CERCLA***"), the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq., and the rules and regulations promulgated under any of the foregoing, all as amended and supplemented from time to time, and together with any successors thereto.

"***Environmental Permit***" has the meaning set forth in Section 4.15.

"***Excluded Assets***" means those assets of Seller listed on Section 4.7 of the Disclosure Schedules.

"***Financial Statements***" has the meaning set forth in Section 4.13.

"***GAAP***" has the meaning set forth in Section 3.2(a)(i).

"***Governmental Authority***" means any: (A) nation, state, county, city, town, borough, village, district or other jurisdiction; (B) federal, state, local, municipal, foreign or other government; (C) governmental or quasi-Governmental Authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); (D) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; (E) any regulatory or self-regulatory authority compliance with which is required by Law; or (F) an official of any of the foregoing.

"***Hazardous Materials***" means all explosive or regulated radioactive materials or substances, hazardous or toxic substances, reactive, corrosive, carcinogenic, flammable or hazardous pollutant or other substance, hazardous wastes or chemicals, petroleum or petroleum distillates, natural gas or synthetic gas, asbestos or asbestos containing materials and all other materials or chemicals regulated pursuant to any Environmental Laws, including any "hazardous substance" or "hazardous waste" as defined in Environmental Laws, materials listed in 49 C.F.R. §172.101, materials defined as hazardous pursuant to § 101(14) of CERCLA, special nuclear or by product material, as defined by the Atomic Energy Act of 1954, 42 U.S.C.A. §3011 et seq. and the rules and regulations promulgated thereunder.

"***Indebtedness***" means, any of the following which is secured by any claim, lien, pledge or other encumbrance or cloud on title on any interest in any of the Purchased Assets: (i) the principal of and accrued and unpaid interest in respect of (A) indebtedness for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds, guarantees or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations issued or assumed as the deferred purchase price of any property and all conditional sale obligations (but excluding trade accounts payable and other accrued current liabilities); (iii) all obligations under leases required to be capitalized in accordance with generally accepted accounting principles; (iv) all obligations under any interest rate, currency, swap or other hedging agreements, in each case, excluding any undrawn letters of credit; (v) all obligations for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction that has been drawn upon; in each case, including any and all accrued interest, prepayment fees, expenses, premiums or penalties, related thereto.

"***Intellectual Property***" means: (i) trademarks; (ii) trade names; (iii) inventions and all improvements thereto; (iv) patents, patent applications, patent disclosures and inventions upon which patent applications have not yet been filed; (v) copyrightable works, copyrights and all applications,

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registrations and renewals in connection therewith; (vi) computer software, firmware and all related source code, test scripts, and other development pipeline tooling (excluding computer software which may be purchased or licensed at retail off the shelf and which has not been modified by or for Seller); (vii) trade secrets and confidential business information; (viii) other proprietary rights; (ix) copies and tangible embodiments of any of the foregoing, in whatever form or medium; (x) goodwill associated with any of the foregoing; (xi) licenses and sublicenses granted or obtained with respect to any of the foregoing; (xii) rights under any of the foregoing; (xiii) rights to sue at law or in equity and all remedies against infringements of any of the foregoing; and (xiv) rights to protection or extension of interests in any of the foregoing under all applicable Laws.

"***Independent Accountant***" has the meaning set forth in Section 3.2(b)(iii).

"***Inventory***" means any and all of the following: (i) goods, merchandise, supplies and other personal property that may at any time be held for sale or lease or furnished under any contract of service, or constitute raw materials, work in process, supplies or materials that are or might be used or consumed in business or in connection with the manufacture, packing, shipping, advertising, selling, leasing or furnishing of such goods, merchandise and other personal property, together with all attachments, accessories, replacements, substitutions, additions and improvements to any of the foregoing; and (ii) bills of lading, warehouse receipts or documents of title relating to, covering or evidencing any right, title, interest or claim in or to any of the foregoing.

"***Irmo Real Property***" has the meaning set forth in Section 4.19.

"***Law***" means any law, rule, regulation, order, decree or other requirement having the force of law and, where applicable, any interpretation thereof by any authority having jurisdiction with respect thereto or charged with the administration thereof.

"***Lease Agreement***" means that certain Lease by and between Plumbinator 1047, LLC and Liquid Services and Logistics LLC for certain real property located at 1047 Gates Road, Irmo, SC 29063, the form of which is attached hereto as Exhibit F.

"***LTM Revenue***" means, with respect to the Earn-out Period, the last twelve months revenue of the Business up to the Closing Date and for the Earn-out Period, determined, in accordance with GAAP but applied and calculated in a manner consistent with the LTM Revenue calculation delivery from the Financial Statements for the most recent fiscal year end.

"***Material Adverse Change***" means a material adverse change in any of: (i) the condition (financial or otherwise), business, performance, prospects, results of operations or properties of the Business; (ii) the value of the Business; (iii) the legality, validity or enforceability of this Agreement; or (iv) the rights and remedies of Buyer under this Agreement.

"***Material Customers***" means those customers listed on Section 4.16(a) of the Disclosure Schedules.

"***Material Suppliers***" means those suppliers listed on Section 4.16(b) of the Disclosure Schedules.

"***MC Permit***" has the meaning set forth in Section 6.8(c).

"***Pay-Off Letters***" means pay-off letters from each holder of Indebtedness that is secured by a lien or encumbrance on the Purchased Assets, in form reasonably satisfactory to the Purchaser,

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setting forth the total amounts payable to each such holder of Indebtedness to fully satisfy all such Indebtedness as of the anticipated Closing Date (and the daily accrual thereafter), together with appropriate wire instructions, and the agreement of each such holder of Indebtedness that upon payment in full of all such amounts owed to such holder such holder shall release and terminate all liens and encumbrances on the Purchased Assets securing such Indebtedness, together with any applicable documents necessary to evidence the release and termination of all such liens and encumbrances.

"***Permits***" means all approvals, authorizations, consents, licenses, franchises, orders, registrations, certificates and certifications, variances, permits and similar rights, in each case obtained from or issued by any Governmental Authority to Seller or any other Party in connection with the Business.

"***Person***" means an individual, a partnership, a corporation, an association, a limited liability company, a joint stock company, a trust, a joint venture, an unincorporated organization, or a Governmental Authority.

"***Personal Property***" means any and all of the following: furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, telephones, phone numbers, Intellectual Property, websites, web domains, email addresses, general intangibles, instruments, books, records, ledgers, files, documents, invoices, lists (including vendor lists, customer lists and sales history by customer), supplies, correspondence, memoranda, plats, architectural plans, final working drawings, plans and specifications, shop drawings, change orders, environmental reports, maintenance records, engineering drawings and reports, creative materials, advertising and promotional materials, studies, reports and other printed or written or electronic materials and all other personal property (tangible or intangible), in each case, that are owned by Seller and are used or usable in connection with the Business.

"***Post-Closing Adjustment***" has the meaning set forth in Section 3.2(a)(i).

"***Post-Closing Adjustment Due Date***" has the meaning set forth in Section 3.2(a)(i).

**"PPP Escrow Agent"** means Webb Law Office, LLC.

"***PPP Escrow Agreement***" means the Escrow Agreement by and among Seller, PPP Lender and Webb Law Office, LLC.

"***PPP Escrow Amount***" means One Hundred Fourteen Thousand Three Hundred Fifty-Two and 00/100 Dollars ($114,352.00).

"***PPP Lender***" means First Community Bank.

"***PPP Loan***" means the loan made by PPP Lender to Seller, on April 15, 2020, in the original principal amount of One Hundred Fourteen Thousand Three Hundred Fifty-Two and 00/100 Dollars ($114,352.00) and designated by the PPP Lender as Loan No. 2857667209 under the United States Treasury's Paycheck Protection Program (the "***PPP***") under Section 7(a) of the Small Business Act as authorized by the CARES ACT, the principal and accrued interest on which may be forgivable, in whole or in part, under Section 1106 of the CARES Act.

"***Purchase Price***" shall mean the sum of: (i) the Closing Payment, (ii) the PPP Escrow Amount, and (iii) the Earn-out Payment.

"***Purchased Assets***" means (i) the Purchased Inventory, (ii) the Purchased Personal Property, (iii) the Assumed Contracts, and (iv) the Transferred Permits, but does not include the Excluded Assets.

"***Purchased Inventory***" means all Inventory that is used, held for use or usable in connection with the Business.

"***Purchased Personal Property***" means all Personal Property located at 1047 Gates Road, Irmo, SC 29063 that is used, held for use or usable in connection with the Business.

"***Release***" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, abandonment, disposing, or allowing to escape or migrate into or through the environment (including without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"***Required Consents***" has the meaning set forth in Section 4.5.

"***Resolution Period***" has the meaning set forth in Section 3.2(b)(ii).

"***Restricted Period***" has the meaning set forth in Section 6.3.

"***Revenue Threshold***" means $1,000,000.00.

"***Review Period***" has the meaning set forth in Section 3.2(b)(i).

"***Seller***" has the meaning set forth in the opening paragraph of this Agreement.

"***Seller Indemnities***" has the meaning set forth in Section 7.2.

"***Seller's Knowledge***" means the knowledge, after reasonable investigation and due inquiry, of Michael D. Jordan.

"***Seller Vehicle***" means the 2016 Ram Truck more particularly described in Section 6.10 of the Disclosure Schedules

"***Statement of Objections***" has the meaning set forth in Section 3.2(b)(ii) above.

"***Tax***" or "***Taxes***" shall mean all taxes, charges, fees, duties, levies or other assessments, including income, gross receipts, net proceeds, ad valorem, real and personal property (tangible and intangible), sales, use, franchise, excise, value added, license, payroll, unemployment, environmental, customs duties, capital stock, disability, stamp, user, transfer, fuel, excess profits, windfall profits, severance and employees' income withholding and Social Security taxes imposed by the United States or by any state, municipality, subdivision or instrumentality of the Unites States or by any other tax authority, including all applicable interest, penalties or additions to tax attributable to such taxes.

"***Tax Return***" shall mean any report, return, document, declaration, payee statement or other information or filing required to be filed or provided by Seller to any Tax authority with respect to Taxes.



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"***Transfer Documents***" means the Assignment and Assumption Agreement, the Bill of Sale and all other assignments, certificates of title and other transfer documents required to transfer the Purchased Assets to Buyer.

"***Transferred Permits***" means those Permits of Seller which are assignable and are listed on Section 4.17 of the Disclosure Schedules.

"***Transition Services Agreement***" means that Transition Services Agreement in the form of Exhibit D.

"***Undisputed Amounts***" has the meaning set forth in Section 3.2(b)(iii) above.

"***Vehicle Accident***" has the meaning set forth in Section 6.10 above.

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**EXHIBIT B**

**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

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# ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "***Agreement***"), dated May 10, 2021, is made and entered into by and between Apple Services, Inc., a South Carolina corporation (the "***Seller***"), Michael D. Jordan (the "***Shareholder***") and Liquid Services and Logistics, LLC, a Delaware limited liability company (the "***Purchaser***").

## RECITALS

A. Seller, Shareholder and Purchaser are Parties to that certain Asset Purchase and Sale Agreement (the "***Purchase Agreement***"), dated as of May 10, 2021, pursuant to which Seller agreed to sell, assign, transfer, convey and deliver to Purchaser all of Seller's right, title and interest in and to the Purchased Assets.

B. Seller and Purchaser are entering into this Agreement to evidence the sale, assignment, transfer, conveyance and delivery of the Purchased Assets by Seller to Purchaser, and the assumption of the assumed liabilities by Buyer, in accordance with the terms of the Purchase Agreement.

## AGREEMENT

In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which Seller and Buyer hereby acknowledge, the parties hereto agree as follows:

1. **ASSIGNMENT AND ASSUMPTION.**

(a) Assignment. Subject to the terms, conditions and limitations set forth in the Purchase Agreement, effective as of the Closing, Seller hereby sells, assigns, transfers, conveys and delivers to Purchaser all of Seller's right, title and interest in and to the Purchased Assets.

(b) Assumption. Subject to the terms, conditions and limitations set forth in the Purchase Agreement, effective as of the Closing, Purchaser hereby assumes the assumed liabilities. Purchaser assumes no liabilities other than the assumed liabilities, and the parties hereto agree that all such excluded liabilities shall remain the sole responsibility of Seller.

2. **MISCELLANEOUS**.

(a) Capitalized Terms. Capitalized terms used but not defined herein have the meanings assigned to them in the Purchase Agreement.

(b) Necessary Action. Seller and Purchaser shall perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

(c) Binding Effect. This Agreement will be binding upon, and will inure to the benefit of, the Parties hereto and their respective successors and assigns.

(d) Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina as to all matters, without giving effect to any applicable choice or conflict of law provision or rule.

(e) Captions. The captions or headings in this Agreement are for convenience and general reference only and shall not be construed to describe, define or limit the scope or intent of the provisions of this Agreement.

(f) Counterparts; Facsimile Signature. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any signatory to this Agreement may deliver the Agreement or any other document by such signatory by means of facsimile, or e-mail, and the Parties agree that such delivery shall be effective and binding.

(g) Amendments. No amendment, modification, or termination of this Agreement will be deemed valid unless in writing and signed by Seller and Purchaser.

(h) Purchase Agreement. This Agreement is being made and delivered pursuant and subject to the terms of the Purchase Agreement. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms of this Agreement, the terms of the Purchase Agreement shall govern. In no event will this Agreement expand, limit or otherwise modify, amend, or change in any way the rights and obligations of Seller and Purchaser under the Purchase Agreement. All notices and other communications hereunder shall be delivered as set forth in the Purchase Agreement.

[*Signature Page Follows*]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

**SELLER:**

Apple Services, Inc.

By: _____
Michael D. Jordan, President and Sole Shareholder

**SHAREHOLDER:**

_____
Michael D. Jordan

**PURCHASER:**

Liquid Services and Logistics, LLC, a Delaware limited liability company

By: _____
Keith Harbison, Chairman and President

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# ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "***Agreement***"), dated May 10, 2021, is made and entered into by and between Apple Services, Inc., a South Carolina corporation (the "***Seller***"), Michael D. Jordan (the "***Shareholder***") and Liquid Services and Logistics, LLC, a Delaware limited liability company (the "***Purchaser***").

## RECITALS

A. Seller, Shareholder and Purchaser are Parties to that certain Asset Purchase and Sale Agreement (the "***Purchase Agreement***"), dated as of May 10, 2021, pursuant to which Seller agreed to sell, assign, transfer, convey and deliver to Purchaser all of Seller's right, title and interest in and to the Purchased Assets.

B. Seller and Purchaser are entering into this Agreement to evidence the sale, assignment, transfer, conveyance and delivery of the Purchased Assets by Seller to Purchaser, and the assumption of the assumed liabilities by Buyer, in accordance with the terms of the Purchase Agreement.

## AGREEMENT

In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which Seller and Buyer hereby acknowledge, the parties hereto agree as follows:

1. **ASSIGNMENT AND ASSUMPTION.**

(a) Assignment. Subject to the terms, conditions and limitations set forth in the Purchase Agreement, effective as of the Closing, Seller hereby sells, assigns, transfers, conveys and delivers to Purchaser all of Seller's right, title and interest in and to the Purchased Assets.

(b) Assumption. Subject to the terms, conditions and limitations set forth in the Purchase Agreement, effective as of the Closing, Purchaser hereby assumes the assumed liabilities. Purchaser assumes no liabilities other than the assumed liabilities, and the parties hereto agree that all such excluded liabilities shall remain the sole responsibility of Seller.

2. **MISCELLANEOUS**.

(a) Capitalized Terms. Capitalized terms used but not defined herein have the meanings assigned to them in the Purchase Agreement.

(b) Necessary Action. Seller and Purchaser shall perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

(c) Binding Effect. This Agreement will be binding upon, and will inure to the benefit of, the Parties hereto and their respective successors and assigns.

(d) Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina as to all matters, without giving effect to any applicable choice or conflict of law provision or rule.

(e) Captions. The captions or headings in this Agreement are for convenience and general reference only and shall not be construed to describe, define or limit the scope or intent of the provisions of this Agreement.

(f) Counterparts; Facsimile Signature. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any signatory to this Agreement may deliver the Agreement or any other document by such signatory by means of facsimile, or e-mail, and the Parties agree that such delivery shall be effective and binding.

(g) Amendments. No amendment, modification, or termination of this Agreement will be deemed valid unless in writing and signed by Seller and Purchaser.

(h) Purchase Agreement. This Agreement is being made and delivered pursuant and subject to the terms of the Purchase Agreement. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms of this Agreement, the terms of the Purchase Agreement shall govern. In no event will this Agreement expand, limit or otherwise modify, amend, or change in any way the rights and obligations of Seller and Purchaser under the Purchase Agreement. All notices and other communications hereunder shall be delivered as set forth in the Purchase Agreement.

[*Signature Page Follows*]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

**SELLER:**

Apple Services, Inc.

By: _____
Michael D. Jordan, President and Sole Shareholder

**SHAREHOLDER:**

_____
Michael D. Jordan

**PURCHASER:**

Liquid Services and Logistics, LLC, a Delaware limited liability company

By: _____
Keith Harbison, Chairman and President

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**EXHIBIT C**

**FORM OF BILL OF SALE**

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# BILL OF SALE

May 10, 2021

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Apple Services, Inc., a South Carolina corporation (the "***Seller***") and Michael D. Jordan (the "***Shareholder***") hereby sells, assigns, transfers, delivers, and conveys to Liquid Services and Logistics, LLC, a Delaware limited liability company (the "***Purchaser***") all of the Seller's right, title and interest in and to the Purchased Assets, free from any liens or encumbrances or restriction on transfer. All capitalized terms used but not defined in this Bill of Sale have the meanings set forth in that certain Asset Purchase and Sale Agreement dated as of May 10, 2021, by and among Seller, Shareholder, and Purchaser (the "***Agreement***").

This Bill of Sale is being delivered subject to and pursuant to the terms and conditions of the Agreement. The rights and obligations of the Parties set forth in the representations, warranties, covenants, indemnities, agreements and other terms and provisions of the Agreement shall be neither limited, altered or impaired nor enhanced or enlarged hereby or by performance hereunder.

In case at any time after the date hereof any further actions are necessary or desirable to carry out the purposes of this Bill of Sale, each of the Parties shall take such further actions (including the execution and delivery of such further instruments and documents) as the other party may reasonably request in order to effectuate the intent of this Bill of Sale and to provide such other party in all material respects with the intended benefits of this Bill of Sale.

This Bill of Sale may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be on the same agreement. A signed copy of this Bill of Sale delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Bill of Sale.

This Bill of Sale shall be governed by and construed in accordance with the laws of the State of South Carolina without regard to the principles of conflicts of laws thereunder.

This Bill of Sale may be modified only by subsequent written instruments signed by the Parties.

[*remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the day and year first above written.

**SELLER:**

Apple Services, Inc.

By: _____
Michael D. Jordan, President and Sole Shareholder

**SHAREHOLDER:**

_____
Michael D. Jordan

**PURCHASER:**

Liquid Services and Logistics LLC, a Delaware limited liability company

By: _____
Keith Harbison, Chairman and President



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**EXHIBIT D**

**FORM OF TRANSITION SERVICES AGREEMENT**

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# TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this "Agreement") is made and entered into as of May 10, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company ("Purchaser"), and Michael D. Jordan ("Shareholder"). Purchaser and Shareholder will be referred to individually as a "Party" and collectively as the "Parties."

## RECITALS

A. Purchaser, Shareholder and Apple Services, Inc. ("Company") and Seller are parties to that certain Asset Purchase Agreement, dated as of May 10, 2021 (the "Purchase Agreement"; capitalized terms used herein but otherwise not defined shall have the meanings ascribed to such terms in the Purchase Agreement), pursuant to which, among other things, Purchaser will purchase from Company substantially all of the assets of Company, the sole shareholder of which is Shareholder.

B. Purchaser desires that Shareholder continue to provide certain services to Purchaser and its affiliates for a period of time following the Closing.

## AGREEMENT

In consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties by their execution hereof), the parties agree as follows.

1. Services for Purchaser.

(a) During the Term (defined below), between the hours of 10:00 a.m. to 5:00 p.m. Monday through Friday, Shareholder agrees to provide to Purchaser those services described on Schedule A attached hereto and made a part hereof (the "Services"). Shareholder will provide the Services for the term (the "Term") set forth on Schedule A, unless earlier terminated by either party as provided herein. The fees payable by Purchaser for the Services shall be as set forth on Schedule A (the "Fees").

(b) Except as specifically set forth in this Agreement, Shareholder agrees to perform the Services in a manner consistent with the services that were provided to Company Closing.

(d) Purchaser may terminate any or all of the Services at any time.

(e) Subject to such confidentiality and other reasonable restrictions as Purchaser may require, Purchaser shall provide Shareholder access to any and all properties and other assets as are reasonably necessary for the provision of the Services contemplated hereunder.

2. Confidentiality of Information.

(a) The confidentiality provisions of Section 6.2 of the Purchase Agreement are incorporated herein by this reference and Shareholder acknowledges and agrees that in carrying out Shareholder's duties and obligations under this Agreement, Shareholder is bound by the confidentiality obligations under Section 6.2 of the Purchase Agreement.

(b) The provisions of this Section 2 are in addition to and not in lieu of or substitution for any other agreements or covenants between the Parties regarding confidentiality and limitation of use, and each such agreement and covenant shall survive the execution and delivery of this Agreement.

3. Shareholder Standard of Care; Limitation of Liability; Indemnification.

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(a) In providing the Services, Shareholder shall be required to utilize at least substantially the same effort, skill and standard of care he utilized in providing services to Seller prior to the Closing Date.

(b) The Parties acknowledge and agree that Shareholder's timely provision of Services is dependent upon Shareholder's timely receipt of various data and other information from Purchaser, including decisions from the Purchaser about how, when and where Shareholder should provide various Services. Accordingly, Shareholder shall have no responsibility or liability for failure or delay in providing the Services to the extent such failure or delay was caused by the failure or delay of Purchaser in providing any such data or other information.

4. Miscellaneous.

(a) Amendment and Modifications. No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the Party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

(b) Assignments. No Party may directly or indirectly assign or transfer any of its rights or obligations under this Agreement (whether voluntarily or involuntarily or by operation of law (including a merger or consolidation), judicial decree or otherwise) to any other person or entity without the prior written consent of the other Party.

(c) Counterpart; Facsimile Signature. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any signatory to this Agreement may deliver the Agreement or any other document by such signatory by means of facsimile, or e-mail, and the Parties agree that such delivery shall be effective and binding.

(d) Entire Agreement. This Agreement constitutes the entire agreement among the parties pertaining to the specific subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the parties, whether oral or written.

(e) Exhibits and Schedules. All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

(f) Failure or Delay. No failure on the part of any party to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any party in any case entitles such party to any other or further notice or demand in similar or other circumstances.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of South Carolina or any other jurisdiction).

(h) Notices Between the Parties. All notices, consents, requests, demands and other communications hereunder are to be in writing, and are deemed to have been duly given or made: (i) when delivered in person; (ii) three days after deposited in the United States mail, first class postage prepaid;

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(iii) in the case of overnight courier services, one business day after delivery to the telegraph company or overnight courier service with payment provided; or (iv) in the case of electronic transmission such as e-mail, when sent; in each case addressed as follows, or to such other address as any party may designate by notice to the other party in accordance with the terms of this Section:

if to Purchaser:

Alitus Partners
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, Missouri 63105
e-mail: wharbison@alituspartners.com

if to Shareholder:

Michael D. Jordan
37 Will Richardson Road
Irmo, South Carolina 29063
e-mail: mjordan@appleservicesplumbing.com

(i) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the prior written consent of the other Parties. No assignment shall relieve the assigning Party of any of its obligations hereunder.

(j) No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(k) Relationship of the Parties. Notwithstanding any other agreement the Parties have entered into (or have contemporaneously entered into with this Agreement), the Parties' relationship to each other with respect to any and all matters addressed or covered by this Agreement, including, without limitation, the provision of the Services to Purchaser, shall for all purposes be one of vendor and vendee only. Nothing in this Agreement or any other agreement between the Parties shall be interpreted as making either Party the partner, joint venturor, employee or agent of the other with respect to any and all matters addressed or covered by this Agreement. It is agreed and understood that the Parties have no special relationship to each other (either fiduciary, confidential, except as expressly set forth herein, or other) under this Agreement, and no Party shall have any special duty or obligation to the other except as expressly set forth in this Agreement. Moreover, neither Party shall have the authority to assume or create any liability or obligation, express or implied, on behalf of, or bind in any manner, the other Party. All persons providing Services on behalf of Shareholder to Purchaser shall not be deemed employees or agents of Purchaser.

*[remainder of page intentionally left blank; signatures appear on following page]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SHAREHOLDER:

MICHAEL D. JORDAN

_____

PURCHASER:

LIQUID SERVICES AND LOGISTICS LLC

By:_____
Name: Keith Harbison
Title: Chairman & President

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**SCHEDULE A**

**SERVICES, TERM AND FEES**

| Services | Term | Fees |
|---|---|---|
| Shareholder shall provide Services (as defined below) to Purchaser , provided, however, that the scope and substance of such Services, shall not interfere with or limit the Purchaser's operation of the business; provided, however, for the first ninety (90) days of the Term, Shareholder shall not be required to work more than thirty (30) hours per week and, if the Term is extended, Shareholder shall not be required to work more than two (2) hours per week and solely through telephonic or electronic means.<br><br>Such Services shall be solely limited to a consulting and advisory role to include, the following:<br><br>• Consulting with Purchaser about operation and management of the Business, including Greenway Disposal LLC;<br>• Assistance in the integration of systems and processes; and<br>• lending friendly assistance and good faith efforts to help facilitate a smooth transition of customers, vendors, employees, and key relationships.<br>• | The term of this Agreement shall commence as of the Effective Date, and continue for a period of ninety (90) days following the Effective Date, unless either terminated pursuant to this Agreement or extended an additional sixty (60) days by mutual agreement of Purchaser and Shareholder. Purchaser shall provide Shareholder ten (10) days written notice if Purchaser wants to extend the Term for an additional sixty (60) days.<br><br>Notwithstanding anything contained herein to the contrary, the parties agree that Seller shall be entitled to take a vacation from June 15, 2021 through June 27, 2021 and the period from July 4, 2021 through July 11, 2021; provided any vacation time taken by Seller during the Term, at Purchaser's option, and upon Five (5) days prior written notice, may be added to end of the Term. | Purchaser shall be responsible for Shareholder's business and vehicle expenses incurred related to Shareholder's Services during the Term, and any extension thereof. |

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**EXHIBIT E**

**FORM OF EMPLOYMENT AGREEMENT**

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# EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of the 10th day of May, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company (the "Company" or "Employer"), on the one hand, and Tim Freeman ("Employee"), on the other hand. The Company and Employee are sometimes collectively referred to herein as the "Parties", and each separately as a "Party".

## RECITALS

A. Employee desires to be employed by the Company and the Company desires to employ Employee under the terms and conditions set forth in this Agreement.

B. It is the Company's intention to employ Employee upon the terms and conditions herein, which recognize and compensate Employee for the obligations of Employee undertaken hereunder, including specifically, but not by way of limitation, the covenants of Employee not to compete with the business of the Company, as provided in Paragraph 4.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereby agree as follows:

1. **Employment**. The Company shall employ Employee, and Employee shall be employed by the Company, subject to the terms and conditions of this Agreement. During the term of this Agreement, Employee shall devote all of Employee's business time, skill, attention, and best efforts to the business of the Company and its subsidiaries and affiliates to the extent necessary to discharge Employee's responsibilities during the period of Employee's employment hereunder. Employee shall be employed as a general manager of the Company and shall serve in such other capacities and perform such duties as the Company may from time to time determine.

2. **Term**. The term of this Agreement shall be for the period commencing on the date hereof and ending six months thereafter unless extended or sooner terminated as provided herein (the "Initial Term"). If Employee should remain employed following the Initial Term, his employment shall be terminable at will by either Employee or Company, subject to the provisions of Paragraph 4. The Employee's period of actual employment shall constitute the "Term" of this Agreement.

3. **Compensation and Benefits**. During Employee's employment, Employee shall receive the compensation and benefits set forth below.

(a) Salary. The Company shall pay Employee a weekly salary at the rate of not less than $1,000 per week, which amount may be adjusted annually by the Company in its sole discretion. Employee shall receive Employee's salary in accordance with the Company's normal payroll schedule and practices, which is currently on a schedule weekly installments.

(b) Other Benefit Plans, Fringe Benefits, Vacations and Expenses. Employee shall be entitled to participate in the Company's employee benefit plans and receive all fringe benefits and

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vacations for which Employee's level of employment makes Employee eligible in accordance with the Company's policies and plans in effect from time to time. The Company shall promptly reimburse Employee for Employee's ordinary and necessary business expenses incurred in the performance of Employee's duties hereunder, provided that such expenses are supported by appropriate documentation in accordance with the Company's usual policy. The Company reserves the right to approve or disapprove any expense, irrespective of amount, if, in the Company's sole discretion, it determines that the expense is not reasonable and/or appropriate.

4. **Restrictions**. Employee acknowledges and recognizes the highly competitive nature of the business of the Company and its subsidiaries and affiliates, and acknowledges that the restrictions contained herein are fair and reasonable. Employee shall provide a copy of this Agreement to any future Employer following Employee's Termination Date (as defined below).

(a) Non-Solicitation and Non-Disparaging. During Employee's employment with the Company and, if the employment of Employee is terminated for any reason whatsoever, whether by Employee or the Company and whether with Cause or without Cause), for a period of two (2) years after the date of such termination (the "Termination Date"), Employee agrees that Employee will not:

(i) directly or indirectly solicit, recruit or induce any employees of the Company or any of its subsidiaries or affiliates to terminate their employment with the Company or any of its subsidiaries or affiliates, and will not directly or indirectly employ or offer employment to any person who was employed by the Company or any of its subsidiaries or affiliates unless such person shall have ceased to be employed by the Company or any of its subsidiaries or affiliates for a period of at least 24 months;

(ii) directly or indirectly solicit or accept business from or otherwise divert or interfere with the Company's relationship with any customer, supplier or vendor of the Company, or use any confidential or non-confidential information regarding any of the Company's customers, suppliers or vendors in any way which would detrimentally affect the Company; and

(iii) disparage the Company or any of its affiliates in any way that could adversely affect the goodwill, reputation or business relationships of the Company or any of its affiliates with the public generally, or with any of their customers, suppliers or employees; provided, Employee agrees that the foregoing non-disparagement restriction shall have no time limit.

(b) Confidential Information. All of the information which Employee obtains and/or develops in connection with his engagement with the Company shall be treated, maintained and held by Employee as confidential information, which Employee shall not disclose or use for any purpose other than in the performance of this Agreement without the Company's prior written consent in each instance ("Confidential Information"). Employee agrees, on Employee's behalf and on behalf of Employee's agents, employees or owners, that Employee will receive and maintain such Confidential Information, and the Work Product and Intellectual Property (as hereinafter defined), in the strictest confidence and will not, at any time, without the express

written permission of the Company, use such Confidential Information, Work Product and/or Intellectual Property in any way adverse to the interests of the Company, in any manner other than as specifically agreed with the Company, or reproduce any such Confidential Information, Work Product and/or Intellectual Property or disclose it to others.

(i) For purposes of this Agreement, Confidential Information shall not include information, technical data, or know-how that:

1. is legally in Employee's possession at the time of disclosure as verifiable by Employee's files and records or other written documentation in existence prior to the time of disclosure; or

2. before or after the Confidential Information has been disclosed, is or becomes part of the public domain, through no fault or result of any act by Employee; or

3. is independently developed by Employee without use of or reference to the Company's Confidential Information, as shown by documents and other competent evidence in Employee's possession; or

4. is required by law to be disclosed by Employee, provided that Employee gives the Company prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

(ii) If so requested in writing by the Company, Employee will immediately return to Company or destroy all Confidential Information received from Company and any information, data, or devices derived from or otherwise related to the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Employee shall continue to be bound by its confidentiality and other obligations hereunder.

(c) Severability. It is expressly understood and agreed that although Employee and the Company consider the restrictions contained in Paragraph 4 of this Agreement to be reasonable for the purpose of preserving the Company's and its subsidiaries' and affiliates' good will, and going concern value, if a court of competent jurisdiction should determine that any of the geographic, durational or other provisions of this Agreement are unenforceable because of the scope of such provisions, such court shall modify such provisions in a manner to render them enforceable, and such provisions, as may be modified, shall be fully enforceable as though set forth herein. Any such modification shall not affect the other provisions or clauses of this Agreement in any respect.

(d) Injunctive Relief. Employee acknowledges and agrees that the Company's and its subsidiaries' and affiliates' remedies at law for a breach or threatened breach of any of the provisions of Paragraph 4 of this Agreement would be inadequate and, in recognition of this fact, Employee agrees that, in the event of a breach or threatened breach by Employee of the provisions of Paragraph 4 of this Agreement, in addition to any other remedies at law, the Company and its subsidiaries and affiliates shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary, or preliminary or permanent. The Company



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may pursue either equitable or legal relief concurrently or consecutively in any order as to any breach or violation, such that pursuit of one remedy at any time shall not be deemed an election of remedies or waiver of the right to pursue any other remedy. Employee shall pay any and all court costs, reasonable attorneys' fees, and related expenses incurred by the Company in enforcing Paragraph 4 of this Agreement, including without limitation, obtaining the injunctive relief provided for in this subparagraph 4(d). Employee further agrees that no bond need be filed in connection with any request by the Company for a temporary restraining order or for temporary or preliminary injunctive relief.

**5. Termination.** During the Initial Term, this Agreement may be terminated on the following bases:

(a) Termination by Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent of both Employer and Employee.

(b) Termination by Employer for Cause. Employer may immediately terminate this Agreement for Cause.

(c) Termination by Employee. Employee may terminate this Agreement for any reason by providing Employer's President written notice of his intent to terminate at least fourteen (14) business days in advance of such termination ("Notice Period"). At Employer's option and in Employer's sole discretion, Employee may be requested to end his service at any point after he provides notice of termination under this Paragraph 5(c) and Employee agrees that, if Employer chooses, in its sole discretion, not to allow Employee to continue in his service during the Notice Period and instead to separate his employment before the Notice Period expires, Employee's compensation or benefits under this Agreement will end on the date Employer exercises this option, and Employee shall be entitled only to his earned and accrued but unpaid compensation as of the date Employee exercises this option.

(d) Definition of Cause. For purposes of this Agreement, a termination for "Cause" shall mean termination of employee's employment and this Agreement due to: (i) flagrant disregard of or intentional failure to follow any written rules or policies of the Company; (ii) failure or refusal of the Employee to perform his duties hereunder; (iii) dishonesty, embezzlement, misappropriation of assets or property (tangible or intangible) of the Company; (iv) gross negligence, willful misconduct, neglect of duties, theft, fraud, or breach of fiduciary duty to the Company; (v) violation of federal or state securities laws; (vi) breach of an employment, consulting or other agreement; (vii) the unauthorized disclosure of any Confidential Information; (viii) the commission of an act which constitutes unfair competition with the Company or which induces any customer or supplier to breach a contract with the Company; (ix) an act by the Employee which creates adverse publicity for the company; or (x) the conviction of a felony, including a plea of guilty or nolo contendere.

**6. Employee's Representations and Warranties**.

(a) General. Employee represents and warrants to the Company that the execution of this Agreement and the performance of his duties as contemplated hereunder do not conflict with any other agreement, law, rule, regulation, or court order by which she is bound.

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(b) No Impairment. Employee represents and warrants that Employee is not subject to any agreement or contract that would preclude or impair, in any way, his ability to carry out Employee's duties under this Agreement for the Company.

(c) No Restrictive Agreements. Employee represents and warrants that, Employee has not heretofore entered into, has not been and is currently not subject to the provisions of, any employment contract, sales and purchase agreement or other agreement (whether oral or written) of any nature whatsoever with any other organization, individual or business entity, which prevents or restricts Employee from competing with, or soliciting the clients, customers, patients, business or employees (including, without limitation for the purposes of hiring such employees) of, such other organization, individual or business entity or any other entity for any period of time or within any geographical area, whether heretofore expired or not, other than such contracts or agreements as Employee has heretofore disclosed to Company in writing.

7. **Miscellaneous**.

(a) Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or if mailed by registered or certified mail, return receipt requested, to the Parties at the following addresses or to such other addresses as a Party may from time notify the other Party.

(i) If to the Company, to:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

(ii) If to Employee, to:

Tim Freeman
1047 Gates Road
Irmo, SC 29063

or to Employee's most recent home address as reflected in the personnel records of the Company.

(b) Assignment. Except as otherwise provided in this subparagraph 7(b) of this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and assigns. However, this Agreement shall not be assignable by Employee and shall be assignable by the Company only to a wholly-owned subsidiary of the Company, an affiliate of the Company or a purchaser of the Company or its subsidiaries or affiliates or their assets. Employee hereby consents to the assignment of this Agreement by the Company as provided in this subparagraph 7(b) and waives any assertion or

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claim that Employee's contemporaneous consent for such an assignment is needed for the assignment to be effective.

(c) Waiver. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(d) Entire Agreement; Amendment; Miscellaneous. This Agreement shall supersede and replace any and all prior and existing agreements between Employee and the Company or any of its subsidiaries or affiliates. This Agreement may not be amended except by written agreement signed by both Parties. Each of the Parties voluntarily is entering into this Agreement, and understands its terms.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The Parties agree that the exclusive venue and jurisdiction for any litigation concerning the enforcement or enforceability of the terms of this Agreement shall be the County Circuit Courts of Richland County or Lexington County, in the State of South Carolina. The Parties expressly consent to the personal jurisdiction of these courts.

(f) Heading. Paragraph headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement.

(g) Survival of Obligations. The obligations of Employee pursuant to Paragraph 4 of this Agreement shall survive any termination of Employee's employment hereunder for a period of twenty-four (24) months.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be original and all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(i) Severability. The invalidity or unenforceability of any provision or clause of this Agreement shall not affect the continued validity or enforceability of any other provision or clause hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or clause were omitted.

***Signature Page Follows This Page; Remainder of Page Left Blank Intentionally***

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first written.

| EMPLOYEE | Liquid Services and Logistics LLC |
| --- | --- |
| _____ | _____ |
| Name: Tim Freeman | Name: Keith Harbison |
| | Title: Chairman & President |

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# EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of the 10th day of May, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company (the "Company" or "Employer"), on the one hand, and Jennifer Larmon ("Employee"), on the other hand. The Company and Employee are sometimes collectively referred to herein as the "Parties", and each separately as a "Party".

## RECITALS

A. Employee desires to be employed by the Company and the Company desires to employ Employee under the terms and conditions set forth in this Agreement.

B. It is the Company's intention to employ Employee upon the terms and conditions herein, which recognize and compensate Employee for the obligations of Employee undertaken hereunder, including specifically, but not by way of limitation, the covenants of Employee not to compete with the business of the Company, as provided in Paragraph 4.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereby agree as follows:

1. **Employment**. The Company shall employ Employee, and Employee shall be employed by the Company, subject to the terms and conditions of this Agreement. During the term of this Agreement, Employee shall devote all of Employee's business time, skill, attention, and best efforts to the business of the Company and its subsidiaries and affiliates to the extent necessary to discharge Employee's responsibilities during the period of Employee's employment hereunder. Employee shall be employed as a dispatcher of the Company and shall serve in such other capacities and perform such duties as the Company may from time to time determine.

2. **Term**. The term of this Agreement shall be for the period commencing on the date hereof and ending six months thereafter unless extended or sooner terminated as provided herein (the "Initial Term"). If Employee should remain employed following the Initial Term, his employment shall be terminable at will by either Employee or Company, subject to the provisions of Paragraph 4. The Employee's period of actual employment shall constitute the "Term" of this Agreement.

3. **Compensation and Benefits**. During Employee's employment, Employee shall receive the compensation and benefits set forth below.

(a) Salary. The Company shall pay Employee an hourly wage at the rate of not less than $14.00 per hour, which amount may be adjusted annually by the Company in its sole discretion. Employee shall receive Employee's salary in accordance with the Company's normal payroll schedule and practices, which is currently on a schedule weekly installments.

(b) Other Benefit Plans, Fringe Benefits, Vacations and Expenses. Employee shall be entitled to participate in the Company's employee benefit plans and receive all fringe benefits and

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vacations for which Employee's level of employment makes Employee eligible in accordance with the Company's policies and plans in effect from time to time. The Company shall promptly reimburse Employee for Employee's ordinary and necessary business expenses incurred in the performance of Employee's duties hereunder, provided that such expenses are supported by appropriate documentation in accordance with the Company's usual policy. The Company reserves the right to approve or disapprove any expense, irrespective of amount, if, in the Company's sole discretion, it determines that the expense is not reasonable and/or appropriate.

4. **Restrictions**. Employee acknowledges and recognizes the highly competitive nature of the business of the Company and its subsidiaries and affiliates, and acknowledges that the restrictions contained herein are fair and reasonable. Employee shall provide a copy of this Agreement to any future Employer following Employee's Termination Date (as defined below).

(a) Non-Solicitation and Non-Disparaging. During Employee's employment with the Company and, if the employment of Employee is terminated for any reason whatsoever, whether by Employee or the Company and whether with Cause or without Cause), for a period of two (2) years after the date of such termination (the "Termination Date"), Employee agrees that Employee will not:

(i) directly or indirectly solicit, recruit or induce any employees of the Company or any of its subsidiaries or affiliates to terminate their employment with the Company or any of its subsidiaries or affiliates, and will not directly or indirectly employ or offer employment to any person who was employed by the Company or any of its subsidiaries or affiliates unless such person shall have ceased to be employed by the Company or any of its subsidiaries or affiliates for a period of at least 24 months;

(ii) directly or indirectly solicit or accept business from or otherwise divert or interfere with the Company's relationship with any customer, supplier or vendor of the Company, or use any confidential or non-confidential information regarding any of the Company's customers, suppliers or vendors in any way which would detrimentally affect the Company; and

(iii) disparage the Company or any of its affiliates in any way that could adversely affect the goodwill, reputation or business relationships of the Company or any of its affiliates with the public generally, or with any of their customers, suppliers or employees; provided, Employee agrees that the foregoing non-disparagement restriction shall have no time limit.

(b) Confidential Information. All of the information which Employee obtains and/or develops in connection with his engagement with the Company shall be treated, maintained and held by Employee as confidential information, which Employee shall not disclose or use for any purpose other than in the performance of this Agreement without the Company's prior written consent in each instance ("Confidential Information"). Employee agrees, on Employee's behalf and on behalf of Employee's agents, employees or owners, that Employee will receive and maintain such Confidential Information, and the Work Product and Intellectual Property (as hereinafter defined), in the strictest confidence and will not, at any time, without the express

written permission of the Company, use such Confidential Information, Work Product and/or Intellectual Property in any way adverse to the interests of the Company, in any manner other than as specifically agreed with the Company, or reproduce any such Confidential Information, Work Product and/or Intellectual Property or disclose it to others.

(i) For purposes of this Agreement, Confidential Information shall not include information, technical data, or know-how that:

1. is legally in Employee's possession at the time of disclosure as verifiable by Employee's files and records or other written documentation in existence prior to the time of disclosure; or

2. before or after the Confidential Information has been disclosed, is or becomes part of the public domain, through no fault or result of any act by Employee; or

3. is independently developed by Employee without use of or reference to the Company's Confidential Information, as shown by documents and other competent evidence in Employee's possession; or

4. is required by law to be disclosed by Employee, provided that Employee gives the Company prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

(ii) If so requested in writing by the Company, Employee will immediately return to Company or destroy all Confidential Information received from Company and any information, data, or devices derived from or otherwise related to the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Employee shall continue to be bound by its confidentiality and other obligations hereunder.

(c) Severability. It is expressly understood and agreed that although Employee and the Company consider the restrictions contained in Paragraph 4 of this Agreement to be reasonable for the purpose of preserving the Company's and its subsidiaries' and affiliates' good will, and going concern value, if a court of competent jurisdiction should determine that any of the geographic, durational or other provisions of this Agreement are unenforceable because of the scope of such provisions, such court shall modify such provisions in a manner to render them enforceable, and such provisions, as may be modified, shall be fully enforceable as though set forth herein. Any such modification shall not affect the other provisions or clauses of this Agreement in any respect.

(d) Injunctive Relief. Employee acknowledges and agrees that the Company's and its subsidiaries' and affiliates' remedies at law for a breach or threatened breach of any of the provisions of Paragraph 4 of this Agreement would be inadequate and, in recognition of this fact, Employee agrees that, in the event of a breach or threatened breach by Employee of the provisions of Paragraph 4 of this Agreement, in addition to any other remedies at law, the Company and its subsidiaries and affiliates shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary, or preliminary or permanent. The Company



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may pursue either equitable or legal relief concurrently or consecutively in any order as to any breach or violation, such that pursuit of one remedy at any time shall not be deemed an election of remedies or waiver of the right to pursue any other remedy. Employee shall pay any and all court costs, reasonable attorneys' fees, and related expenses incurred by the Company in enforcing Paragraph 4 of this Agreement, including without limitation, obtaining the injunctive relief provided for in this subparagraph 4(d). Employee further agrees that no bond need be filed in connection with any request by the Company for a temporary restraining order or for temporary or preliminary injunctive relief.

**5. Termination.** During the Initial Term, this Agreement may be terminated on the following bases:

(a) Termination by Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent of both Employer and Employee.

(b) Termination by Employer for Cause. Employer may immediately terminate this Agreement for Cause.

(c) Termination by Employee. Employee may terminate this Agreement for any reason by providing Employer's President written notice of his intent to terminate at least fourteen (14) business days in advance of such termination ("Notice Period"). At Employer's option and in Employer's sole discretion, Employee may be requested to end his service at any point after he provides notice of termination under this Paragraph 5(c) and Employee agrees that, if Employer chooses, in its sole discretion, not to allow Employee to continue in his service during the Notice Period and instead to separate his employment before the Notice Period expires, Employee's compensation or benefits under this Agreement will end on the date Employer exercises this option, and Employee shall be entitled only to his earned and accrued but unpaid compensation as of the date Employee exercises this option.

(d) Definition of Cause. For purposes of this Agreement, a termination for "Cause" shall mean termination of employee's employment and this Agreement due to: (i) flagrant disregard of or intentional failure to follow any written rules or policies of the Company; (ii) failure or refusal of the Employee to perform his duties hereunder; (iii) dishonesty, embezzlement, misappropriation of assets or property (tangible or intangible) of the Company; (iv) gross negligence, willful misconduct, neglect of duties, theft, fraud, or breach of fiduciary duty to the Company; (v) violation of federal or state securities laws; (vi) breach of an employment, consulting or other agreement; (vii) the unauthorized disclosure of any Confidential Information; (viii) the commission of an act which constitutes unfair competition with the Company or which induces any customer or supplier to breach a contract with the Company; (ix) an act by the Employee which creates adverse publicity for the company; or (x) the conviction of a felony, including a plea of guilty or nolo contendere.

**6. Employee's Representations and Warranties**.

(a) General. Employee represents and warrants to the Company that the execution of this Agreement and the performance of his duties as contemplated hereunder do not conflict with any other agreement, law, rule, regulation, or court order by which she is bound.

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(b) No Impairment. Employee represents and warrants that Employee is not subject to any agreement or contract that would preclude or impair, in any way, his ability to carry out Employee's duties under this Agreement for the Company.

(c) No Restrictive Agreements. Employee represents and warrants that, Employee has not heretofore entered into, has not been and is currently not subject to the provisions of, any employment contract, sales and purchase agreement or other agreement (whether oral or written) of any nature whatsoever with any other organization, individual or business entity, which prevents or restricts Employee from competing with, or soliciting the clients, customers, patients, business or employees (including, without limitation for the purposes of hiring such employees) of, such other organization, individual or business entity or any other entity for any period of time or within any geographical area, whether heretofore expired or not, other than such contracts or agreements as Employee has heretofore disclosed to Company in writing.

7. **Miscellaneous**.

(a) Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or if mailed by registered or certified mail, return receipt requested, to the Parties at the following addresses or to such other addresses as a Party may from time notify the other Party.

(i) If to the Company, to:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

(ii) If to Employee, to:

Jennifer Larmon
1047 Gates Road
Irmo, SC 29063

or to Employee's most recent home address as reflected in the personnel records of the Company.

(b) Assignment. Except as otherwise provided in this subparagraph 7(b) of this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and assigns. However, this Agreement shall not be assignable by Employee and shall be assignable by the Company only to a wholly-owned subsidiary of the Company, an affiliate of the Company or a purchaser of the Company or its subsidiaries or affiliates or their assets. Employee hereby consents to the assignment of this Agreement by the Company as provided in this subparagraph 7(b) and waives any assertion or

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claim that Employee's contemporaneous consent for such an assignment is needed for the assignment to be effective.

(c) Waiver. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(d) Entire Agreement; Amendment; Miscellaneous. This Agreement shall supersede and replace any and all prior and existing agreements between Employee and the Company or any of its subsidiaries or affiliates. This Agreement may not be amended except by written agreement signed by both Parties. Each of the Parties voluntarily is entering into this Agreement, and understands its terms.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The Parties agree that the exclusive venue and jurisdiction for any litigation concerning the enforcement or enforceability of the terms of this Agreement shall be the County Circuit Courts of Richland County or Lexington County, in the State of South Carolina. The Parties expressly consent to the personal jurisdiction of these courts.

(f) Heading. Paragraph headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement.

(g) Survival of Obligations. The obligations of Employee pursuant to Paragraph 4 of this Agreement shall survive any termination of Employee's employment hereunder for a period of twenty-four (24) months.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be original and all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(i) Severability. The invalidity or unenforceability of any provision or clause of this Agreement shall not affect the continued validity or enforceability of any other provision or clause hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or clause were omitted.

***Signature Page Follows This Page; Remainder of Page Left Blank Intentionally***

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first written.

| EMPLOYEE | Liquid Services and Logistics LLC |
| --- | --- |
| _____ | _____ |
| Name: Jennifer Larmon | Name: Keith Harbison |
| | Title: Chairman & President |

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# EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of the 10th day of May, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company (the "Company" or "Employer"), on the one hand, and Blake Davis ("Employee"), on the other hand. The Company and Employee are sometimes collectively referred to herein as the "Parties", and each separately as a "Party".

## RECITALS

A. Employee desires to be employed by the Company and the Company desires to employ Employee under the terms and conditions set forth in this Agreement.

B. It is the Company's intention to employ Employee upon the terms and conditions herein, which recognize and compensate Employee for the obligations of Employee undertaken hereunder, including specifically, but not by way of limitation, the covenants of Employee not to compete with the business of the Company, as provided in Paragraph 4.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereby agree as follows:

1. **Employment**. The Company shall employ Employee, and Employee shall be employed by the Company, subject to the terms and conditions of this Agreement. During the term of this Agreement, Employee shall devote all of Employee's business time, skill, attention, and best efforts to the business of the Company and its subsidiaries and affiliates to the extent necessary to discharge Employee's responsibilities during the period of Employee's employment hereunder. Employee shall be employed as a service manager of the Company and shall serve in such other capacities and perform such duties as the Company may from time to time determine.

2. **Term**. The term of this Agreement shall be for the period commencing on the date hereof and ending six months thereafter unless extended or sooner terminated as provided herein (the "Initial Term"). If Employee should remain employed following the Initial Term, his employment shall be terminable at will by either Employee or Company, subject to the provisions of Paragraph 4. The Employee's period of actual employment shall constitute the "Term" of this Agreement.

3. **Compensation and Benefits**. During Employee's employment, Employee shall receive the compensation and benefits set forth below.

(a) Salary. The Company shall pay Employee an hourly wage at the rate of not less than $19.50 per hour, which amount may be adjusted annually by the Company in its sole discretion. Employee shall receive Employee's salary in accordance with the Company's normal payroll schedule and practices, which is currently on a schedule weekly installments.

(b) Other Benefit Plans, Fringe Benefits, Vacations and Expenses. Employee shall be entitled to participate in the Company's employee benefit plans and receive all fringe benefits and

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vacations for which Employee's level of employment makes Employee eligible in accordance with the Company's policies and plans in effect from time to time. The Company shall promptly reimburse Employee for Employee's ordinary and necessary business expenses incurred in the performance of Employee's duties hereunder, provided that such expenses are supported by appropriate documentation in accordance with the Company's usual policy. The Company reserves the right to approve or disapprove any expense, irrespective of amount, if, in the Company's sole discretion, it determines that the expense is not reasonable and/or appropriate.

4. **Restrictions**. Employee acknowledges and recognizes the highly competitive nature of the business of the Company and its subsidiaries and affiliates, and acknowledges that the restrictions contained herein are fair and reasonable. Employee shall provide a copy of this Agreement to any future Employer following Employee's Termination Date (as defined below).

(a) Non-Solicitation and Non-Disparaging. During Employee's employment with the Company and, if the employment of Employee is terminated for any reason whatsoever, whether by Employee or the Company and whether with Cause or without Cause), for a period of two (2) years after the date of such termination (the "Termination Date"), Employee agrees that Employee will not:

(i) directly or indirectly solicit, recruit or induce any employees of the Company or any of its subsidiaries or affiliates to terminate their employment with the Company or any of its subsidiaries or affiliates, and will not directly or indirectly employ or offer employment to any person who was employed by the Company or any of its subsidiaries or affiliates unless such person shall have ceased to be employed by the Company or any of its subsidiaries or affiliates for a period of at least 24 months;

(ii) directly or indirectly solicit or accept business from or otherwise divert or interfere with the Company's relationship with any customer, supplier or vendor of the Company, or use any confidential or non-confidential information regarding any of the Company's customers, suppliers or vendors in any way which would detrimentally affect the Company; and

(iii) disparage the Company or any of its affiliates in any way that could adversely affect the goodwill, reputation or business relationships of the Company or any of its affiliates with the public generally, or with any of their customers, suppliers or employees; provided, Employee agrees that the foregoing non-disparagement restriction shall have no time limit.

(b) Confidential Information. All of the information which Employee obtains and/or develops in connection with his engagement with the Company shall be treated, maintained and held by Employee as confidential information, which Employee shall not disclose or use for any purpose other than in the performance of this Agreement without the Company's prior written consent in each instance ("Confidential Information"). Employee agrees, on Employee's behalf and on behalf of Employee's agents, employees or owners, that Employee will receive and maintain such Confidential Information, and the Work Product and Intellectual Property (as hereinafter defined), in the strictest confidence and will not, at any time, without the express

written permission of the Company, use such Confidential Information, Work Product and/or Intellectual Property in any way adverse to the interests of the Company, in any manner other than as specifically agreed with the Company, or reproduce any such Confidential Information, Work Product and/or Intellectual Property or disclose it to others.

(i) For purposes of this Agreement, Confidential Information shall not include information, technical data, or know-how that:

1. is legally in Employee's possession at the time of disclosure as verifiable by Employee's files and records or other written documentation in existence prior to the time of disclosure; or

2. before or after the Confidential Information has been disclosed, is or becomes part of the public domain, through no fault or result of any act by Employee; or

3. is independently developed by Employee without use of or reference to the Company's Confidential Information, as shown by documents and other competent evidence in Employee's possession; or

4. is required by law to be disclosed by Employee, provided that Employee gives the Company prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

(ii) If so requested in writing by the Company, Employee will immediately return to Company or destroy all Confidential Information received from Company and any information, data, or devices derived from or otherwise related to the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Employee shall continue to be bound by its confidentiality and other obligations hereunder.

(c) Severability. It is expressly understood and agreed that although Employee and the Company consider the restrictions contained in Paragraph 4 of this Agreement to be reasonable for the purpose of preserving the Company's and its subsidiaries' and affiliates' good will, and going concern value, if a court of competent jurisdiction should determine that any of the geographic, durational or other provisions of this Agreement are unenforceable because of the scope of such provisions, such court shall modify such provisions in a manner to render them enforceable, and such provisions, as may be modified, shall be fully enforceable as though set forth herein. Any such modification shall not affect the other provisions or clauses of this Agreement in any respect.

(d) Injunctive Relief. Employee acknowledges and agrees that the Company's and its subsidiaries' and affiliates' remedies at law for a breach or threatened breach of any of the provisions of Paragraph 4 of this Agreement would be inadequate and, in recognition of this fact, Employee agrees that, in the event of a breach or threatened breach by Employee of the provisions of Paragraph 4 of this Agreement, in addition to any other remedies at law, the Company and its subsidiaries and affiliates shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary, or preliminary or permanent. The Company



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may pursue either equitable or legal relief concurrently or consecutively in any order as to any breach or violation, such that pursuit of one remedy at any time shall not be deemed an election of remedies or waiver of the right to pursue any other remedy. Employee shall pay any and all court costs, reasonable attorneys' fees, and related expenses incurred by the Company in enforcing Paragraph 4 of this Agreement, including without limitation, obtaining the injunctive relief provided for in this subparagraph 4(d). Employee further agrees that no bond need be filed in connection with any request by the Company for a temporary restraining order or for temporary or preliminary injunctive relief.

**5. Termination.** During the Initial Term, this Agreement may be terminated on the following bases:

(a) Termination by Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent of both Employer and Employee.

(b) Termination by Employer for Cause. Employer may immediately terminate this Agreement for Cause.

(c) Termination by Employee. Employee may terminate this Agreement for any reason by providing Employer's President written notice of his intent to terminate at least fourteen (14) business days in advance of such termination ("Notice Period"). At Employer's option and in Employer's sole discretion, Employee may be requested to end his service at any point after he provides notice of termination under this Paragraph 5(c) and Employee agrees that, if Employer chooses, in its sole discretion, not to allow Employee to continue in his service during the Notice Period and instead to separate his employment before the Notice Period expires, Employee's compensation or benefits under this Agreement will end on the date Employer exercises this option, and Employee shall be entitled only to his earned and accrued but unpaid compensation as of the date Employee exercises this option.

(d) Definition of Cause. For purposes of this Agreement, a termination for "Cause" shall mean termination of employee's employment and this Agreement due to: (i) flagrant disregard of or intentional failure to follow any written rules or policies of the Company; (ii) failure or refusal of the Employee to perform his duties hereunder; (iii) dishonesty, embezzlement, misappropriation of assets or property (tangible or intangible) of the Company; (iv) gross negligence, willful misconduct, neglect of duties, theft, fraud, or breach of fiduciary duty to the Company; (v) violation of federal or state securities laws; (vi) breach of an employment, consulting or other agreement; (vii) the unauthorized disclosure of any Confidential Information; (viii) the commission of an act which constitutes unfair competition with the Company or which induces any customer or supplier to breach a contract with the Company; (ix) an act by the Employee which creates adverse publicity for the company; or (x) the conviction of a felony, including a plea of guilty or nolo contendere.

**6. Employee's Representations and Warranties**.

(a) General. Employee represents and warrants to the Company that the execution of this Agreement and the performance of his duties as contemplated hereunder do not conflict with any other agreement, law, rule, regulation, or court order by which she is bound.

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(b) No Impairment. Employee represents and warrants that Employee is not subject to any agreement or contract that would preclude or impair, in any way, his ability to carry out Employee's duties under this Agreement for the Company.

(c) No Restrictive Agreements. Employee represents and warrants that, Employee has not heretofore entered into, has not been and is currently not subject to the provisions of, any employment contract, sales and purchase agreement or other agreement (whether oral or written) of any nature whatsoever with any other organization, individual or business entity, which prevents or restricts Employee from competing with, or soliciting the clients, customers, patients, business or employees (including, without limitation for the purposes of hiring such employees) of, such other organization, individual or business entity or any other entity for any period of time or within any geographical area, whether heretofore expired or not, other than such contracts or agreements as Employee has heretofore disclosed to Company in writing.

7. **Miscellaneous**.

(a) Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or if mailed by registered or certified mail, return receipt requested, to the Parties at the following addresses or to such other addresses as a Party may from time notify the other Party.

(i) If to the Company, to:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

(ii) If to Employee, to:

Blake Davis
1047 Gates Road
Irmo, SC 29063

or to Employee's most recent home address as reflected in the personnel records of the Company.

(b) Assignment. Except as otherwise provided in this subparagraph 7(b) of this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and assigns. However, this Agreement shall not be assignable by Employee and shall be assignable by the Company only to a wholly-owned subsidiary of the Company, an affiliate of the Company or a purchaser of the Company or its subsidiaries or affiliates or their assets. Employee hereby consents to the assignment of this Agreement by the Company as provided in this subparagraph 7(b) and waives any assertion or

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claim that Employee's contemporaneous consent for such an assignment is needed for the assignment to be effective.

(c) Waiver. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(d) Entire Agreement; Amendment; Miscellaneous. This Agreement shall supersede and replace any and all prior and existing agreements between Employee and the Company or any of its subsidiaries or affiliates. This Agreement may not be amended except by written agreement signed by both Parties. Each of the Parties voluntarily is entering into this Agreement, and understands its terms.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The Parties agree that the exclusive venue and jurisdiction for any litigation concerning the enforcement or enforceability of the terms of this Agreement shall be the County Circuit Courts of Richland County or Lexington County, in the State of South Carolina. The Parties expressly consent to the personal jurisdiction of these courts.

(f) Heading. Paragraph headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement.

(g) Survival of Obligations. The obligations of Employee pursuant to Paragraph 4 of this Agreement shall survive any termination of Employee's employment hereunder for a period of twenty-four (24) months.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be original and all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(i) Severability. The invalidity or unenforceability of any provision or clause of this Agreement shall not affect the continued validity or enforceability of any other provision or clause hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or clause were omitted.

***Signature Page Follows This Page; Remainder of Page Left Blank Intentionally***

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first written.

| EMPLOYEE | Liquid Services and Logistics LLC |
| --- | --- |
| _____ | _____ |
| Name: Blake Davis | Name: Keith Harbison<br>Title: Chairman & President |

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# EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of the 10th day of May, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company (the "Company" or "Employer"), on the one hand, and Vermillian Martin ("Employee"), on the other hand. The Company and Employee are sometimes collectively referred to herein as the "Parties", and each separately as a "Party".

## RECITALS

A. Employee desires to be employed by the Company and the Company desires to employ Employee under the terms and conditions set forth in this Agreement.

B. It is the Company's intention to employ Employee upon the terms and conditions herein, which recognize and compensate Employee for the obligations of Employee undertaken hereunder, including specifically, but not by way of limitation, the covenants of Employee not to compete with the business of the Company, as provided in Paragraph 4.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereby agree as follows:

1. **Employment**. The Company shall employ Employee, and Employee shall be employed by the Company, subject to the terms and conditions of this Agreement. During the term of this Agreement, Employee shall devote all of Employee's business time, skill, attention, and best efforts to the business of the Company and its subsidiaries and affiliates to the extent necessary to discharge Employee's responsibilities during the period of Employee's employment hereunder. Employee shall be employed as a truck driver and trainer of the Company and shall serve in such other capacities and perform such duties as the Company may from time to time determine.

2. **Term**. The term of this Agreement shall be for the period commencing on the date hereof and ending six months thereafter unless extended or sooner terminated as provided herein (the "Initial Term"). If Employee should remain employed following the Initial Term, his employment shall be terminable at will by either Employee or Company, subject to the provisions of Paragraph 4. The Employee's period of actual employment shall constitute the "Term" of this Agreement.

3. **Compensation and Benefits**. During Employee's employment, Employee shall receive the compensation and benefits set forth below.

(a) Salary. The Company shall pay Employee an hourly wage at the rate of not less than $22.50 per hour, which amount may be adjusted annually by the Company in its sole discretion. Employee shall receive Employee's salary in accordance with the Company's normal payroll schedule and practices, which is currently on a schedule weekly installments.

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(b) Other Benefit Plans, Fringe Benefits, Vacations and Expenses. Employee shall be entitled to participate in the Company's employee benefit plans and receive all fringe benefits and vacations for which Employee's level of employment makes Employee eligible in accordance with the Company's policies and plans in effect from time to time. The Company shall promptly reimburse Employee for Employee's ordinary and necessary business expenses incurred in the performance of Employee's duties hereunder, provided that such expenses are supported by appropriate documentation in accordance with the Company's usual policy. The Company reserves the right to approve or disapprove any expense, irrespective of amount, if, in the Company's sole discretion, it determines that the expense is not reasonable and/or appropriate.

4. **Restrictions**. Employee acknowledges and recognizes the highly competitive nature of the business of the Company and its subsidiaries and affiliates, and acknowledges that the restrictions contained herein are fair and reasonable. Employee shall provide a copy of this Agreement to any future Employer following Employee's Termination Date (as defined below).

(a) Non-Solicitation and Non-Disparaging. During Employee's employment with the Company and, if the employment of Employee is terminated for any reason whatsoever, whether by Employee or the Company and whether with Cause or without Cause), for a period of two (2) years after the date of such termination (the "Termination Date"), Employee agrees that Employee will not:

(i) directly or indirectly solicit, recruit or induce any employees of the Company or any of its subsidiaries or affiliates to terminate their employment with the Company or any of its subsidiaries or affiliates, and will not directly or indirectly employ or offer employment to any person who was employed by the Company or any of its subsidiaries or affiliates unless such person shall have ceased to be employed by the Company or any of its subsidiaries or affiliates for a period of at least 24 months;

(ii) directly or indirectly solicit or accept business from or otherwise divert or interfere with the Company's relationship with any customer, supplier or vendor of the Company, or use any confidential or non-confidential information regarding any of the Company's customers, suppliers or vendors in any way which would detrimentally affect the Company; and

(iii) disparage the Company or any of its affiliates in any way that could adversely affect the goodwill, reputation or business relationships of the Company or any of its affiliates with the public generally, or with any of their customers, suppliers or employees; provided, Employee agrees that the foregoing non-disparagement restriction shall have no time limit.

(b) Confidential Information. All of the information which Employee obtains and/or develops in connection with his engagement with the Company shall be treated, maintained and held by Employee as confidential information, which Employee shall not disclose or use for any purpose other than in the performance of this Agreement without the Company's prior written consent in each instance ("Confidential Information"). Employee agrees, on Employee's behalf and on behalf of Employee's agents, employees or owners, that Employee will receive and

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maintain such Confidential Information, and the Work Product and Intellectual Property (as hereinafter defined), in the strictest confidence and will not, at any time, without the express written permission of the Company, use such Confidential Information, Work Product and/or Intellectual Property in any way adverse to the interests of the Company, in any manner other than as specifically agreed with the Company, or reproduce any such Confidential Information, Work Product and/or Intellectual Property or disclose it to others.

(i) For purposes of this Agreement, Confidential Information shall not include information, technical data, or know-how that:

1. is legally in Employee's possession at the time of disclosure as verifiable by Employee's files and records or other written documentation in existence prior to the time of disclosure; or

2. before or after the Confidential Information has been disclosed, is or becomes part of the public domain, through no fault or result of any act by Employee; or

3. is independently developed by Employee without use of or reference to the Company's Confidential Information, as shown by documents and other competent evidence in Employee's possession; or

4. is required by law to be disclosed by Employee, provided that Employee gives the Company prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

(ii) If so requested in writing by the Company, Employee will immediately return to Company or destroy all Confidential Information received from Company and any information, data, or devices derived from or otherwise related to the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Employee shall continue to be bound by its confidentiality and other obligations hereunder.

(c) Severability. It is expressly understood and agreed that although Employee and the Company consider the restrictions contained in Paragraph 4 of this Agreement to be reasonable for the purpose of preserving the Company's and its subsidiaries' and affiliates' good will, and going concern value, if a court of competent jurisdiction should determine that any of the geographic, durational or other provisions of this Agreement are unenforceable because of the scope of such provisions, such court shall modify such provisions in a manner to render them enforceable, and such provisions, as may be modified, shall be fully enforceable as though set forth herein. Any such modification shall not affect the other provisions or clauses of this Agreement in any respect.

(d) Injunctive Relief. Employee acknowledges and agrees that the Company's and its subsidiaries' and affiliates' remedies at law for a breach or threatened breach of any of the provisions of Paragraph 4 of this Agreement would be inadequate and, in recognition of this fact, Employee agrees that, in the event of a breach or threatened breach by Employee of the provisions of Paragraph 4 of this Agreement, in addition to any other remedies at law, the Company and its

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subsidiaries and affiliates shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary, or preliminary or permanent. The Company may pursue either equitable or legal relief concurrently or consecutively in any order as to any breach or violation, such that pursuit of one remedy at any time shall not be deemed an election of remedies or waiver of the right to pursue any other remedy. Employee shall pay any and all court costs, reasonable attorneys' fees, and related expenses incurred by the Company in enforcing Paragraph 4 of this Agreement, including without limitation, obtaining the injunctive relief provided for in this subparagraph 4(d). Employee further agrees that no bond need be filed in connection with any request by the Company for a temporary restraining order or for temporary or preliminary injunctive relief.

**5. Termination.** During the Initial Term, this Agreement may be terminated on the following bases:

(a) Termination by Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent of both Employer and Employee.

(b) Termination by Employer for Cause. Employer may immediately terminate this Agreement for Cause.

(c) Termination by Employee. Employee may terminate this Agreement for any reason by providing Employer's President written notice of his intent to terminate at least fourteen (14) business days in advance of such termination ("Notice Period"). At Employer's option and in Employer's sole discretion, Employee may be requested to end his service at any point after he provides notice of termination under this Paragraph 5(c) and Employee agrees that, if Employer chooses, in its sole discretion, not to allow Employee to continue in his service during the Notice Period and instead to separate his employment before the Notice Period expires, Employee's compensation or benefits under this Agreement will end on the date Employer exercises this option, and Employee shall be entitled only to his earned and accrued but unpaid compensation as of the date Employee exercises this option.

(d) Definition of Cause. For purposes of this Agreement, a termination for "Cause" shall mean termination of employee's employment and this Agreement due to: (i) flagrant disregard of or intentional failure to follow any written rules or policies of the Company; (ii) failure or refusal of the Employee to perform his duties hereunder; (iii) dishonesty, embezzlement, misappropriation of assets or property (tangible or intangible) of the Company; (iv) gross negligence, willful misconduct, neglect of duties, theft, fraud, or breach of fiduciary duty to the Company; (v) violation of federal or state securities laws; (vi) breach of an employment, consulting or other agreement; (vii) the unauthorized disclosure of any Confidential Information; (viii) the commission of an act which constitutes unfair competition with the Company or which induces any customer or supplier to breach a contract with the Company; (ix) an act by the Employee which creates adverse publicity for the company; or (x) the conviction of a felony, including a plea of guilty or nolo contendere.

**6. Employee's Representations and Warranties**.

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(a) General. Employee represents and warrants to the Company that the execution of this Agreement and the performance of his duties as contemplated hereunder do not conflict with any other agreement, law, rule, regulation, or court order by which she is bound.

(b) No Impairment. Employee represents and warrants that Employee is not subject to any agreement or contract that would preclude or impair, in any way, his ability to carry out Employee's duties under this Agreement for the Company.

(c) No Restrictive Agreements. Employee represents and warrants that, Employee has not heretofore entered into, has not been and is currently not subject to the provisions of, any employment contract, sales and purchase agreement or other agreement (whether oral or written) of any nature whatsoever with any other organization, individual or business entity, which prevents or restricts Employee from competing with, or soliciting the clients, customers, patients, business or employees (including, without limitation for the purposes of hiring such employees) of, such other organization, individual or business entity or any other entity for any period of time or within any geographical area, whether heretofore expired or not, other than such contracts or agreements as Employee has heretofore disclosed to Company in writing.

7. **Miscellaneous**.

(a) Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or if mailed by registered or certified mail, return receipt requested, to the Parties at the following addresses or to such other addresses as a Party may from time notify the other Party.

(i) If to the Company, to:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

(ii) If to Employee, to:

Vermillian Martin
1047 Gates Road
Irmo, SC 29063

or to Employee's most recent home address as reflected in the personnel records of the Company.

(b) Assignment. Except as otherwise provided in this subparagraph 7(b) of this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and assigns. However, this Agreement shall not be assignable by Employee and shall be assignable by the Company only to a wholly-owned

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subsidiary of the Company, an affiliate of the Company or a purchaser of the Company or its subsidiaries or affiliates or their assets. Employee hereby consents to the assignment of this Agreement by the Company as provided in this subparagraph 7(b) and waives any assertion or claim that Employee's contemporaneous consent for such an assignment is needed for the assignment to be effective.

(c) Waiver. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(d) Entire Agreement; Amendment; Miscellaneous. This Agreement shall supersede and replace any and all prior and existing agreements between Employee and the Company or any of its subsidiaries or affiliates. This Agreement may not be amended except by written agreement signed by both Parties. Each of the Parties voluntarily is entering into this Agreement, and understands its terms.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The Parties agree that the exclusive venue and jurisdiction for any litigation concerning the enforcement or enforceability of the terms of this Agreement shall be the County Circuit Courts of Richland County or Lexington County, in the State of South Carolina. The Parties expressly consent to the personal jurisdiction of these courts.

(f) Heading. Paragraph headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement.

(g) Survival of Obligations. The obligations of Employee pursuant to Paragraph 4 of this Agreement shall survive any termination of Employee's employment hereunder for a period of twenty-four (24) months.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be original and all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(i) Severability. The invalidity or unenforceability of any provision or clause of this Agreement shall not affect the continued validity or enforceability of any other provision or clause hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or clause were omitted.

***Signature Page Follows This Page; Remainder of Page Left Blank Intentionally***

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first written.

| EMPLOYEE | Liquid Services and Logistics LLC |
| --- | --- |
| _____ | _____ |
| Name: Vermillian Martin | Name: Keith Harbison |
| | Title: Chairman & President |

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# EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement") is entered into as of the 10th day of May, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company (the "Company" or "Employer"), on the one hand, and Craig Owens ("Employee"), on the other hand. The Company and Employee are sometimes collectively referred to herein as the "Parties", and each separately as a "Party".

## RECITALS

A. Employee desires to be employed by the Company and the Company desires to employ Employee under the terms and conditions set forth in this Agreement.

B. It is the Company's intention to employ Employee upon the terms and conditions herein, which recognize and compensate Employee for the obligations of Employee undertaken hereunder, including specifically, but not by way of limitation, the covenants of Employee not to compete with the business of the Company, as provided in Paragraph 4.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereby agree as follows:

1. **Employment**. The Company shall employ Employee, and Employee shall be employed by the Company, subject to the terms and conditions of this Agreement. During the term of this Agreement, Employee shall devote all of Employee's business time, skill, attention, and best efforts to the business of the Company and its subsidiaries and affiliates to the extent necessary to discharge Employee's responsibilities during the period of Employee's employment hereunder. Employee shall be employed as a service technician of the Company and shall serve in such other capacities and perform such duties as the Company may from time to time determine.

2. **Term**. The term of this Agreement shall be for the period commencing on the date hereof and ending six months thereafter unless extended or sooner terminated as provided herein (the "Initial Term"). If Employee should remain employed following the Initial Term, his employment shall be terminable at will by either Employee or Company, subject to the provisions of Paragraph 4. The Employee's period of actual employment shall constitute the "Term" of this Agreement.

3. **Compensation and Benefits**. During Employee's employment, Employee shall receive the compensation and benefits set forth below.

(a) Salary. The Company shall pay Employee an hourly wage at the rate of not less than $18.50 per hour, which amount may be adjusted annually by the Company in its sole discretion. Employee shall receive Employee's salary in accordance with the Company's normal payroll schedule and practices, which is currently on a schedule weekly installments.

(b) Other Benefit Plans, Fringe Benefits, Vacations and Expenses. Employee shall be entitled to participate in the Company's employee benefit plans and receive all fringe benefits and

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vacations for which Employee's level of employment makes Employee eligible in accordance with the Company's policies and plans in effect from time to time. The Company shall promptly reimburse Employee for Employee's ordinary and necessary business expenses incurred in the performance of Employee's duties hereunder, provided that such expenses are supported by appropriate documentation in accordance with the Company's usual policy. The Company reserves the right to approve or disapprove any expense, irrespective of amount, if, in the Company's sole discretion, it determines that the expense is not reasonable and/or appropriate.

4. **Restrictions**. Employee acknowledges and recognizes the highly competitive nature of the business of the Company and its subsidiaries and affiliates, and acknowledges that the restrictions contained herein are fair and reasonable. Employee shall provide a copy of this Agreement to any future Employer following Employee's Termination Date (as defined below).

(a) Non-Solicitation and Non-Disparaging. During Employee's employment with the Company and, if the employment of Employee is terminated for any reason whatsoever, whether by Employee or the Company and whether with Cause or without Cause), for a period of two (2) years after the date of such termination (the "Termination Date"), Employee agrees that Employee will not:

(i) directly or indirectly solicit, recruit or induce any employees of the Company or any of its subsidiaries or affiliates to terminate their employment with the Company or any of its subsidiaries or affiliates, and will not directly or indirectly employ or offer employment to any person who was employed by the Company or any of its subsidiaries or affiliates unless such person shall have ceased to be employed by the Company or any of its subsidiaries or affiliates for a period of at least 24 months;

(ii) directly or indirectly solicit or accept business from or otherwise divert or interfere with the Company's relationship with any customer, supplier or vendor of the Company, or use any confidential or non-confidential information regarding any of the Company's customers, suppliers or vendors in any way which would detrimentally affect the Company; and

(iii) disparage the Company or any of its affiliates in any way that could adversely affect the goodwill, reputation or business relationships of the Company or any of its affiliates with the public generally, or with any of their customers, suppliers or employees; provided, Employee agrees that the foregoing non-disparagement restriction shall have no time limit.

(b) Confidential Information. All of the information which Employee obtains and/or develops in connection with his engagement with the Company shall be treated, maintained and held by Employee as confidential information, which Employee shall not disclose or use for any purpose other than in the performance of this Agreement without the Company's prior written consent in each instance ("Confidential Information"). Employee agrees, on Employee's behalf and on behalf of Employee's agents, employees or owners, that Employee will receive and maintain such Confidential Information, and the Work Product and Intellectual Property (as hereinafter defined), in the strictest confidence and will not, at any time, without the express

written permission of the Company, use such Confidential Information, Work Product and/or Intellectual Property in any way adverse to the interests of the Company, in any manner other than as specifically agreed with the Company, or reproduce any such Confidential Information, Work Product and/or Intellectual Property or disclose it to others.

(i) For purposes of this Agreement, Confidential Information shall not include information, technical data, or know-how that:

1. is legally in Employee's possession at the time of disclosure as verifiable by Employee's files and records or other written documentation in existence prior to the time of disclosure; or

2. before or after the Confidential Information has been disclosed, is or becomes part of the public domain, through no fault or result of any act by Employee; or

3. is independently developed by Employee without use of or reference to the Company's Confidential Information, as shown by documents and other competent evidence in Employee's possession; or

4. is required by law to be disclosed by Employee, provided that Employee gives the Company prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

(ii) If so requested in writing by the Company, Employee will immediately return to Company or destroy all Confidential Information received from Company and any information, data, or devices derived from or otherwise related to the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Employee shall continue to be bound by its confidentiality and other obligations hereunder.

(c) Severability. It is expressly understood and agreed that although Employee and the Company consider the restrictions contained in Paragraph 4 of this Agreement to be reasonable for the purpose of preserving the Company's and its subsidiaries' and affiliates' good will, and going concern value, if a court of competent jurisdiction should determine that any of the geographic, durational or other provisions of this Agreement are unenforceable because of the scope of such provisions, such court shall modify such provisions in a manner to render them enforceable, and such provisions, as may be modified, shall be fully enforceable as though set forth herein. Any such modification shall not affect the other provisions or clauses of this Agreement in any respect.

(d) Injunctive Relief. Employee acknowledges and agrees that the Company's and its subsidiaries' and affiliates' remedies at law for a breach or threatened breach of any of the provisions of Paragraph 4 of this Agreement would be inadequate and, in recognition of this fact, Employee agrees that, in the event of a breach or threatened breach by Employee of the provisions of Paragraph 4 of this Agreement, in addition to any other remedies at law, the Company and its subsidiaries and affiliates shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary, or preliminary or permanent. The Company



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may pursue either equitable or legal relief concurrently or consecutively in any order as to any breach or violation, such that pursuit of one remedy at any time shall not be deemed an election of remedies or waiver of the right to pursue any other remedy. Employee shall pay any and all court costs, reasonable attorneys' fees, and related expenses incurred by the Company in enforcing Paragraph 4 of this Agreement, including without limitation, obtaining the injunctive relief provided for in this subparagraph 4(d). Employee further agrees that no bond need be filed in connection with any request by the Company for a temporary restraining order or for temporary or preliminary injunctive relief.

**5. Termination.** During the Initial Term, this Agreement may be terminated on the following bases:

(a) Termination by Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent of both Employer and Employee.

(b) Termination by Employer for Cause. Employer may immediately terminate this Agreement for Cause.

(c) Termination by Employee. Employee may terminate this Agreement for any reason by providing Employer's President written notice of his intent to terminate at least fourteen (14) business days in advance of such termination ("Notice Period"). At Employer's option and in Employer's sole discretion, Employee may be requested to end his service at any point after he provides notice of termination under this Paragraph 5(c) and Employee agrees that, if Employer chooses, in its sole discretion, not to allow Employee to continue in his service during the Notice Period and instead to separate his employment before the Notice Period expires, Employee's compensation or benefits under this Agreement will end on the date Employer exercises this option, and Employee shall be entitled only to his earned and accrued but unpaid compensation as of the date Employee exercises this option.

(d) Definition of Cause. For purposes of this Agreement, a termination for "Cause" shall mean termination of employee's employment and this Agreement due to: (i) flagrant disregard of or intentional failure to follow any written rules or policies of the Company; (ii) failure or refusal of the Employee to perform his duties hereunder; (iii) dishonesty, embezzlement, misappropriation of assets or property (tangible or intangible) of the Company; (iv) gross negligence, willful misconduct, neglect of duties, theft, fraud, or breach of fiduciary duty to the Company; (v) violation of federal or state securities laws; (vi) breach of an employment, consulting or other agreement; (vii) the unauthorized disclosure of any Confidential Information; (viii) the commission of an act which constitutes unfair competition with the Company or which induces any customer or supplier to breach a contract with the Company; (ix) an act by the Employee which creates adverse publicity for the company; or (x) the conviction of a felony, including a plea of guilty or nolo contendere.

**6. Employee's Representations and Warranties**.

(a) General. Employee represents and warrants to the Company that the execution of this Agreement and the performance of his duties as contemplated hereunder do not conflict with any other agreement, law, rule, regulation, or court order by which she is bound.

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(b) No Impairment. Employee represents and warrants that Employee is not subject to any agreement or contract that would preclude or impair, in any way, his ability to carry out Employee's duties under this Agreement for the Company.

(c) No Restrictive Agreements. Employee represents and warrants that, Employee has not heretofore entered into, has not been and is currently not subject to the provisions of, any employment contract, sales and purchase agreement or other agreement (whether oral or written) of any nature whatsoever with any other organization, individual or business entity, which prevents or restricts Employee from competing with, or soliciting the clients, customers, patients, business or employees (including, without limitation for the purposes of hiring such employees) of, such other organization, individual or business entity or any other entity for any period of time or within any geographical area, whether heretofore expired or not, other than such contracts or agreements as Employee has heretofore disclosed to Company in writing.

7. **Miscellaneous**.

(a) Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or if mailed by registered or certified mail, return receipt requested, to the Parties at the following addresses or to such other addresses as a Party may from time notify the other Party.

(i) If to the Company, to:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105
e-mail: wharbison@alituspartners.com

(ii) If to Employee, to:

Craig Owens
1047 Gates Road
Irmo, SC 29063

or to Employee's most recent home address as reflected in the personnel records of the Company.

(b) Assignment. Except as otherwise provided in this subparagraph 7(b) of this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and assigns. However, this Agreement shall not be assignable by Employee and shall be assignable by the Company only to a wholly-owned subsidiary of the Company, an affiliate of the Company or a purchaser of the Company or its subsidiaries or affiliates or their assets. Employee hereby consents to the assignment of this Agreement by the Company as provided in this subparagraph 7(b) and waives any assertion or

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claim that Employee's contemporaneous consent for such an assignment is needed for the assignment to be effective.

(c) Waiver. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(d) Entire Agreement; Amendment; Miscellaneous. This Agreement shall supersede and replace any and all prior and existing agreements between Employee and the Company or any of its subsidiaries or affiliates. This Agreement may not be amended except by written agreement signed by both Parties. Each of the Parties voluntarily is entering into this Agreement, and understands its terms.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The Parties agree that the exclusive venue and jurisdiction for any litigation concerning the enforcement or enforceability of the terms of this Agreement shall be the County Circuit Courts of Richland County or Lexington County, in the State of South Carolina. The Parties expressly consent to the personal jurisdiction of these courts.

(f) Heading. Paragraph headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement.

(g) Survival of Obligations. The obligations of Employee pursuant to Paragraph 4 of this Agreement shall survive any termination of Employee's employment hereunder for a period of twenty-four (24) months.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be original and all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(i) Severability. The invalidity or unenforceability of any provision or clause of this Agreement shall not affect the continued validity or enforceability of any other provision or clause hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or clause were omitted.

***Signature Page Follows This Page; Remainder of Page Left Blank Intentionally***

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first written.

| EMPLOYEE | Liquid Services and Logistics LLC |
| --- | --- |
| _____ | _____ |
| Name: Craig Owens | Name: Keith Harbison |
| | Title: Chairman & President |

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**EXHIBIT F**

**FORM OF LEASE AGREEMENT**

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# LEASE

THIS LEASE ("**Lease**") is made and entered into as of this 10th day of May, 2021 (the "**Effective Date**") by and between Liquid Services and Logistics LLC (hereinafter referred to as "**Tenant**") and Plumbinator 1047, LLC (hereinafter referred to as "**Landlord**").

## ARTICLE I – PREMISES; RENEWAL TERMS

Landlord hereby leases to Tenant and Tenant leases from Landlord for the term, at the rental, and upon all of the conditions set forth herein, collectively the parcel of real property located at 1047 Gates Rd, Irmo, South Carolina, along with the buildings, other improvements and fixtures located thereon (herein after referred to as the "**Real Property**" or the "**Premises**").

## ARTICLE II - TERM

2.01 Term. The term of this Lease shall be for a period of five (5) years commencing on May 10, 2021 and ending on May 31, 2026 (the "**Initial Term**") unless sooner terminated pursuant to any provision hereof.

2.02 Renewal Terms. Provided Tenant is not in default under this Lease beyond all applicable notice and cure periods, Tenant is granted the options to extend the Initial Term (each a "Renewal Option") for three (3) consecutive terms of three (3) years each (each a "**Renewal Term**") (the Initial Term and any exercised Renewal Term are hereinafter sometimes collectively referred to as the "**Term**"), provided Tenant gives written notice of its exercise of the Renewal Option at least one hundred twenty (120) days prior to the expiration of the immediately preceding Initial Term or Renewal Term, as applicable (the "**Renewal Notice**"). The Base Rent for each Renewal Term shall increase three percent (3%) over the Base Rent for the immediately preceding 12-month period. All other terms and conditions set forth in the Lease, except the monthly Rent (as hereinafter defined), shall remain the same.

2.03 Early Termination Right. Notwithstanding anything in this Lease to the contrary, Tenant shall have a one-time right, to terminate this Lease within the first thirty-six (36) months of the Initial Term (the "**Early Termination Date**"). If Tenant desires to exercise such right, Tenant shall deliver to Landlord written notice thereof not less than six (6) months prior to the Early Termination Date.

## ARTICLE III - RENT

3.01 Payment of Rent. Tenant shall pay to Landlord as base rent for the Premises equal monthly payments of Three Thousand and No/100 Dollars ($3,000.00), ("**Rent**") in advance, on the first day of each month of the Term. Rent for any period during the Term hereof which is for less than one month shall be a pro rata portion of the monthly installment. Rent shall be payable in lawful money of the United States to Landlord at the address stated herein or to such other persons or at such other places as Landlord may designate in writing.

3.02 Net Lease. During the Term, Landlord shall not be required to incur any costs, pay any expenses or perform any obligations of any kind relating to the maintenance or operation of the Premises, except as expressly required pursuant to the provisions of this Lease.

## ARTICLE IV – USE AND CONDITION

4.01 Use/ Compliance with Laws. The Premises may be used and occupied for any lawful use related to Tenant's plumbing business and any ancillary uses thereto. Tenant shall not violate any

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applicable statutes, ordinances, rules, regulations, orders, restrictions of record and requirements in effect during the term or any part of the term hereof regulating the use by Tenant of the Premises. Tenant shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance or in any manner which would adversely affect the terms and conditions of a standard fire insurance policy or increase the fire insurance premium.

4.02 Condition of Premises. Tenant hereby accepts the Premises in their "As Is" condition existing as of the date of the execution hereof, subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and to all matters disclosed thereby and by any exhibits attached hereto.

## ARTICLE V – ALTERATIONS, BUILDING SERVICES AND REPAIRS

5.01 Alterations. Tenant shall make no alterations, additions, improvements, or installations to the Premises, other than decorative changes, without the prior written consent of Landlord, which consent shall not be in Landlord's sole discretion. All such alterations, (including but not limited to carpeting, doors, etc.) and additions, improvements and installations shall become a part of the Premises when made and shall remain upon and be surrendered with the Premises at the end of the term, excluding Tenant's removable personal property and trade fixtures, which can be removed without materially damaging the Premises. Tenant shall obtain all approvals, permits and consents required by law in connection with such alterations, additions, improvements and installations and removals thereof prior to the commencement of any such work. Any alterations, additions, improvements, or installations to the Premises made by Tenant shall be in compliance with all applicable rules, regulations, laws and ordinances and shall be done in a good workman-like manner.

5.02 HVAC Maintenance. Tenant agrees to cooperate with Landlord and to comply with all rules and regulations which Landlord may reasonably require for the proper functioning and protection of the air conditioning, ventilating and heating system. Landlord reserves the right to interrupt the heating, air conditioning, light, water and other services at such times as may be necessary and for as long as may be reasonably required for the making of repairs, alterations or improvements.

5.03 Repairs.

(a) Repairs by Landlord. Landlord shall maintain the roof and other structural portions and components of the Premises, except for painting. In no event shall Landlord be obligated to repair any damage caused by any act, omission or negligence of Tenant or its employees, agents, licensees, subtenants, invitees or contractors. Landlord shall perform all of the repairs so as not to unreasonably interfere with Tenant's business operations in the Premises.

(b) Repairs by Tenant. Tenant shall, at its sole cost and expense, and except for the repairs and maintenance to be performed by Landlord under subparagraph (a) of this paragraph 5.03, repair and maintain in good order, condition, and repair the Premises, ordinary wear and tear excepted. Tenant's responsibility for repairs and maintenance shall include, but is not limited to, the heating and air conditioning system, electrical and plumbing, and all interior fixtures and improvements, the repair and maintenance of all exterior and interior glass, windows, and window frames, exterior entrances, doors (exterior and interior), door hardware and equipment incidental to the operation thereof.

(c) Repairs by Landlord on Tenant's Behalf. If Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, as required hereunder, Landlord shall have the right, but not the obligation, upon giving Tenant thirty (30) days prior written notice of Landlord's election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Tenant if Tenant is

obligated to make such repairs or maintenance and fails to do so within the thirty (30) days of prior written notice from Landlord required under this Section 5.02(b). In such event, such repairs and maintenance shall be paid by Tenant as additional rent promptly upon receipt of a bill therefore.

## ARTICLE VI - INSURANCE AND INDEMNITY

6.01 Liability and Property Insurance.

(a) Tenant shall procure and maintain, at its cost, a policy or policies of commercial general liability insurance, with companies with an A.M. Best rating of A- VIII or better, insuring against liability for bodily injury and property damage and providing coverage of not less than the Two Million Dollars ($2,000,000) of general aggregate coverage, including not less than One Million Dollars ($1,000,000) for bodily injury, death and property damage arising out of any one occurrence, worker's compensation and employer's liability coverage of not less than that required under law. Tenant shall pay all premiums for all such required insurance when due and, at all times during the Term, Tenant shall maintain with Landlord, at all times during the Term, current and proper certificates of such insurance evidencing that such insurance coverage is in full force and effect and that the premiums therefor have been paid.

(b) Tenant shall deliver to Landlord a certificate of liability insurance evidencing such liability coverage as required hereunder duly authenticated by the issuing company. All such liability insurance shall name Landlord as an additional insured. Tenant may carry any insurance coverage through blanket insurance covering the Premises and other locations of Tenant or Tenant's affiliates, provided such blanket insurance policy specifically designates the Premises and allocates specific coverage limits to the Premises as required hereunder, which shall not be reduced by claims as to other property covered by such policy.

(c) In the event that Tenant fails to obtain and maintain liability insurance as provided in this Lease, Landlord may obtain any such insurance coverage and pay premiums therefor, but only after giving Tenant thirty (30) days prior written notice and opportunity to purchase such insurance prior to the expiration of such thirty (30) day period, and all premiums so paid by Landlord shall be deemed additional Rent hereunder and shall be payable by Tenant to Landlord upon the next due date of Rent hereunder and in accordance with the provisions of this Lease. All of the aforesaid policies obtained by Tenant shall provide that they shall not be cancelled unless thirty (30) days prior written notice is given Landlord.

(d) Landlord shall procure and maintain, at its cost, such hazard insurance on the Premises as Landlord deems appropriate, which insurance shall be for the benefit of Landlord only.

6.02 Waiver of Subrogation. Tenant and Landlord each hereby waive any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against (or required hereunder to be insured against) under any property insurance policy in force at the time of such loss or damages. The insuring party shall give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease. All policies of insurance obtained by Landlord and Tenant, and affecting the Premises, shall provide for waiver of subrogation as to Landlord and Tenant; further, Landlord and Tenant and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the Premises, or covered by insurance in connection with property on or activities conducted on the Premises, regardless of the cause of the damage or loss.

6.03 Indemnity.



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(a) By Tenant. Tenant shall indemnify, defend and hold harmless Landlord from and against any and all claims, actions, damages, liability, and expense, including attorneys' fees, costs, and interest, in connection with loss of life, personal injury and/or damage to property, arising from, out of, or in connection with in any manner Tenant's use or occupancy of the Premises or from the conduct of Tenant's business on the Premises and shall further indemnify and hold harmless Landlord from and against any and all claims, actions, damages, liability, and expense, including attorneys' fees, costs, and interest, arising from any breach or default in the performance of any obligation on Tenant's part to be performed, or arising from any negligence of the Tenant, or any of Tenant's officers, agents, contractors, any permitted subtenant, invitees or employees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant, on notice from Landlord, shall defend the same at Tenant's expense.

(b) By Landlord. Landlord shall indemnify, defend and hold harmless Tenant from and against any and all claims, actions, damages, liability, and expense, including attorneys' fees, costs, and interest, in connection with loss of life, personal injury and/or damage to property, arising from any act by Landlord or its officers, agents, contractors or employees and shall further indemnify and hold harmless Tenant from and against any and all claims, actions, damages, liability, and expense, including attorneys' fees, costs, and interest, arising from any breach or default in the performance of any obligation on Landlord's part to be performed, or arising from any negligence of the Landlord, or any of Landlord's agents, contractors, or employees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Tenant by reason of any such claim, Landlord, on notice from Tenant, shall defend the same at Landlord's expense.

## ARTICLE VII - DAMAGE OR DESTRUCTION

In the event any improvements on or forming part of the Premises are damaged or destroyed, partially or totally, and the cost to restore the same is in excess of fifty percent (50%) of the value of the building, Tenant may terminate this Lease by written notice to Landlord. In the event a substantial portion of the buildings on the Premises are damaged or destroyed, partially or totally, and Landlord determines that it would take longer than one hundred eighty (180) days to restore the same, Tenant or Landlord may terminate this Lease by written notice. If neither Landlord nor Tenant terminates this Lease, Landlord shall, to the extent of the availability of insurance proceeds, repair, restore, and rebuild the improvements (excluding any improvements made by Tenant and any trade fixtures or other personal property owned by Tenant), and this Lease shall continue in full force and effect. Such repair, restoration and rebuilding (all of which are herein called "repair") shall be commenced within a reasonable time after such damage or destruction, and shall be diligently pursued to completion. If the Premises is not restored to useable condition within seventy-five (75) days (without extension for force majeure, impossibility or otherwise), Tenant may terminate this Lease by written notice to Landlord. All rent and other charges under this Lease shall abate during any period which Tenant is not able to use and does not use the Premises in proportion to the interference with such use.

## ARTICLE VIII – TAXES

Tenant shall pay, prior to delinquency, all taxes assessed against and levied on, furnishings, equipment and all other personal property of Tenant and Landlord in, on or about the Premises. Landlord shall pay, prior to delinquency, all real estate taxes assessed against the Premises, however, Tenant shall reimburse Landlord, at the time of payment of each monthly rental payment, one-twelfth (1/12) of the annual real estate taxes on the Premises, provided Landlord supplies Tenant with any real estate tax bill(s)

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within thirty (30) days of billing by the taxing authority. Landlord shall hold all such monthly payments of taxes from Tenant in trust and make all required tax payments during the term and any renewal terms directly to the taxing authority, keeping the premises free of all tax liens and similar encumbrances. If taxes for the current year have not been determined, taxes for the previous year shall be used for the monthly payment, and an adjustment shall be made upward or downward when taxes for the current year have been established.

## ARTICLE IX - UTILITIES

Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon. Tenant shall pay all such charges directly to the respective utility company where possible provided that if Landlord pays any such charges, Tenant shall reimburse Landlord for such charges within thirty (30) days after delivery of invoice.

## ARTICLE X - ASSIGNMENT AND SUBLETTING

Except as set forth herein, Tenant shall not voluntarily or by operation of law further assign, transfer, mortgage, license, sublet or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises, without Landlord's prior written consent, which Landlord shall not unreasonably withhold. Except as set forth herein, any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void, and shall constitute a breach of this Lease. Regardless of Landlord's consent, no subletting or assignment shall release Tenant of Tenant's obligation or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

Notwithstanding any provision of this Lease to the contrary, Tenant may assign this Lease or sublet the Premises, without Landlord's consent, to any affiliate of Tenant, in which Tenant is a majority owner.

## ARTICLE XI - DEFAULTS; REMEDIES

11.01 Default by Tenant. The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant:

(a) If Tenant shall (i) fail to pay any Rent or any other payment or sum due hereunder within fifteen (15) days after written notice thereof to Tenant, or (ii) breach any other term, covenant, condition or agreement contained in this Lease or shall fail to perform any obligation herein set forth to be performed by Tenant, and if such breach or failure to perform shall continue and not be remedied by Tenant within thirty (30) days after written notice to Tenant, or, in the case of a happening or default, which cannot with due diligence be cured within thirty (30) days and the continuance will not subject Landlord to the risk of criminal liability or foreclosure of any mortgage or deed of trust, then be diligently and continuously prosecuted to completion of the required remedy, or (iii) make an assignment for the benefit of creditors, or (iv) file a voluntary petition in bankruptcy or under any state insolvency laws, or (v) admit in writing its insolvency, or (vi) have filed against it and such filing is not stayed or vacated within sixty (60) days of filing any petition in bankruptcy or similar state creditor's laws, or (vii) have a receiver appointed to control its assets, or (viii) make a transfer in fraud of creditors (each of the foregoing being an "**Event of Default**"), then upon the occurrence of any such Event of Default (regardless of the pendency of any proceeding which

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has, or might have, the effect of preventing Tenant from complying with the terms of this Lease), Landlord, at any time thereafter, and with or without terminating the Lease, may:

(b) re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, perform or abide by any term, condition, covenant, or agreement of this Lease. Tenant shall reimburse and compensate Landlord within fifteen (15) days after delivery of any statement to Tenant by Landlord for any expenditures made by Landlord in making such corrections or repairs;

(c) re-enter the Premises and remove Tenant and all other persons and any and all property from the Premises, by peaceful means, summary proceedings, ejectment, or otherwise;

(d) relet the Premises or any part thereof for such time or times and at such rent or rents and upon such other terms and conditions as Landlord in Landlord's reasonable discretion may deem advisable; and Landlord may make any alterations or repairs to the Premises which Landlord may deem reasonably necessary or proper to facilitate such reletting. Tenant shall pay all reasonable costs of such reletting including the reasonable cost of any such alterations and repairs to the Premises; and, if this Lease shall not have been terminated, then, Landlord may require Tenant to continue to pay all Rent and other obligations of Tenant due under this Lease up to and including the date of beginning of payment of rent by any subsequent tenant of part or all of the Premises, and thereafter, Tenant shall pay monthly during the remainder of the term of this Lease the difference, if any, between the rent and all other sums collected from any such subsequent tenant or tenants and the Rent reserved in this Lease, but Tenant shall not be entitled to receive any excess of any such rents and other sums collected over the Rent and other sums reserved herein;

(e) declare the entire amount of all Rent and all other monetary obligations of Tenant hereunder which would have been owed by Tenant, from the date of default to the end of the then term (without reckoning any renewal options) had there been no default, at once due and payable in full;

(f) terminate this Lease and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination, and upon such termination Landlord shall have and recover from Tenant all damages Landlord may suffer by reason of such termination, including, without limitation, the cost (including legal expenses and reasonable attorneys' fees) of recovering possession of the Premises and the cost of any repairs to the Premises which are necessary or proper to prepare the same for reletting. In addition thereto, Landlord, at its election, shall have and recover from Tenant an amount equal to the total amount of all Rent and other sums to be paid by Tenant for the remainder of the Term; or

(g) pursue all other rights and remedies provided by law, or in equity, to a landlord with respect to a defaulting tenant.

11.02 Landlord's Expenses. In the case of an Event of Default not otherwise cured as provided hereunder, Landlord shall be entitled to recover from Tenant all damages suffered thereby, including a reasonable sum for attorney's fees incurred by Landlord in enforcing its rights hereunder. Notwithstanding any of the foregoing provisions in this Article XI to the contrary, Landlord shall not be required to mitigate Landlord's damages.

11.03 Cumulative Remedies. All of the rights and remedies conferred upon Landlord by the terms of this Article XI are cumulative and not exclusive of any other right or remedy, and may be exercised singly or in combination at Landlord's sole election. No reentry or taking of possession by Landlord shall be construed as an election to terminate this Lease unless a written notice of such election to terminate is delivered to Tenant.

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11.04 No Security Interest under South Carolina Law. This Lease shall not serve as a security agreement and Landlord shall have no rights and remedies of a Secured Party under the Uniform Commercial Code as adopted in the State of South Carolina.

11.05 Default by Landlord. Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such 30-day period and thereafter diligently and continuously prosecutes the same to completion.

## ARTICLE XII - CONDEMNATION

If any of the Premises or more than twenty-five percent (25%) of the land area owned by Landlord upon which the Premises is located not occupied by any building is taken under the power of eminent domain or sold under the threat of the exercise of said power (herein called "**condemnation**"), Landlord or Tenant may terminate this Lease by notice to the other party. In the event of a condemnation for which neither party has the right to terminate this Lease or for which neither party does terminate this Lease, this Lease shall remain in full force and effect as to the portion of the Premises remaining and there shall be no reduction in Rent. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the sole property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any award made separately to Tenant for relocation expenses.

## ARTICLE XIII- REAL ESTATE BROKER

Tenant and Landlord represent to the other that neither has dealt with any broker in connection with this Lease and that insofar as each of them knows, no broker or finder negotiated this Lease or is entitled to any commission or fee in connection herewith. Each of Landlord and Tenant agrees to indemnify, defend and hold the other free and harmless from and against all claims for broker's commissions or finder's fees by any person claiming to have been retained by them in connection with this transaction or to have caused this transaction.

## ARTICLE XIV - GENERAL PROVISIONS

14.01 Estoppel Certificate. Tenant shall at any time upon not less than thirty (30) days' prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed and (iii) certifying such other facts as requested by Landlord, Landlord's lender or any potential purchaser of the Premises. Any such statement may be conclusively relied upon by Landlord and any prospective purchaser or encumbrancer (lender) of the Premises. Tenant's failure to deliver such an estoppel certificate within the time period set forth above shall constitute an immediate default under this Lease and no notice or cure period otherwise allowed in this Lease for Tenant default shall apply to this default.

14.02 Landlord's Liability. The term "Landlord" as used herein shall mean only the owner or owners at the time in question of the fee title or a lessee's interest in a ground lease of the Premises, and in

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the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers the then Landlord) shall be relieved, released and discharged from and after the date of such transfer of all liability and obligations thereafter under this Lease and Landlord herein named shall not be liable for the return of any security deposit or any other funds in the hands of Landlord or the then Landlord at the time of such transfer to the extent such security deposit or funds are delivered to or credited to the grantee. The obligations contained in this Lease to be performed by Landlord shall, subject as aforesaid, be binding on Landlord's successors and assigns, only during their respective periods of ownership.

14.03 Time of Essence/Captions/Severability. Time is of the essence. Section captions are not a part hereof. The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

14.04 Incorporation of Prior Agreements; Amendments. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

14.05 Notices. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, reputable overnight courier or by certified mail, and if given personally, by reputable overnight currier or by mail, shall be deemed sufficiently given if addressed as set forth below on the date delivered if by personal delivery, on the day after deposit if delivered by reputable overnight courier and two days after deposit if delivered by certified mail:

If to Tenant:

Liquid Services and Logistics LLC
c/o Alitus Partners, LLC
Attn: Walker Harbison
7701 Forsyth Blvd., Suite 1000
Clayton, MO 63105

With a copy to:

Lewis Rice LLC
Attn: William M. Bolster
600 Washington Ave., Suite 2500
St. Louis, MO 63101

If to Tenant:

Plumbinator 1047, LLC
Attn: Michael D. Jordan
37Will Richardson Road
Irmo, SC 29063

With a copy to:

Rogers Lewis Jackson Mann & Quinn, LLC
Attn: Michael H. Quinn, Jr.
1901 Main Street, Suite 1200
Columbia, SC 29211

Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time hereafter designate by notice to Tenant.

14.06 Waivers. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision. Consent to or approval of any act shall not be deemed to render unnecessary the obtaining of consent to or approval of any subsequent act. The acceptance of Rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular Rent so

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accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

14.07 Recording. Tenant shall not record this Lease without Landlord's prior written consent, which consent shall be in Landlord's sole discretion, and such recordation shall, at the option of Landlord, constitute a non-curable default of Tenant hereunder.

14.08 Holding Over. If Tenant remains in possession of the Premises or any part thereof after the expiration of the Term without the express written consent of Landlord, such occupancy shall be a holdover and a default hereunder and Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month. Tenant shall pay during such period of holdover Rent at 150% of the amount of the last monthly rental plus all other charges payable hereunder, and upon all the terms hereof applicable to a month-to-month tenancy, and in no event shall there be any renewal of this Lease by operation of law.

14.09 Binding Effect; Choice of Law. Subject to any provisions hereof restricting assignment or subletting by Tenant, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of South Carolina.

14.10 Subordination. This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon the Real Property and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the Rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien or any mortgage, deed of trust or ground lease, as the case may be, and failing to do so within ten (10) days after written demand shall (i) constitute an immediate default by Tenant under this Lease and no notice or cure period otherwise allowed in this Lease for a Tenant default shall apply to this default and (ii) serve to make constitute and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place and stead, to do so.

14.11 Landlord's Access. Landlord and Landlord's agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers, or lenders, or lessees, and making such alterations, repairs, improvements or additions to the Premises or to the building of which they are a part as Landlord may deem necessary or desirable; provided that Landlord uses good faith efforts to minimize interference with Tenant's business operations. Landlord may at any time place on or about the Premises any ordinary "For Sale" signs and Landlord may at any time during the last 120 days of the Term place on or about the Premises any ordinary "For Lease" signs, all without rebate of Rent or liability to Tenant.

14.12 Authority. Each individual executing this Lease on behalf of said Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant and that this Lease is binding upon Tenant in accordance with its terms.

14.13 Legal Fees. In the event of legal action between Landlord and Tenant arising under this Lease, the substantially prevailing party, as determined by the court, arbitrator or other dispute resolution party, as applicable, in such action shall be entitled to be reimbursed by the other party in the amount of all

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reasonable attorneys' fees and other costs incurred by the substantially prevailing party in connection with such action. In the event either party ("**Added Party**") shall, without fault on its part, be made a party to any action commenced against the other party ("**Primary Party**") or on account of any acts or omissions of the Primary Party, Primary Party shall pay all costs and reasonable attorneys' fees incurred or paid by Added Party in connection with such litigation.

14.14 Force Majeure. Except as provided otherwise in this Lease, each party shall be excused from performing any obligation under this Lease (except payment of Rent or additional rent), and any delay in the performance of any obligations under this Lease (except the payment of Rent or additional rent) shall be excused, if and so long as the performance of the obligation is prevented, delayed or otherwise hindered by acts of God, fire, earthquake, floods, explosion, acts of the elements, war, riots, mob violence, inability to procure or a general shortage of skilled labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, laws or orders of governmental or military authorities or any other cause, whether similar or dissimilar to the foregoing, not within the control of the applicable party.

14.15 Surrender. On the last day of the Term, or on any sooner termination, Tenant shall surrender the Premises to Landlord in the same condition as when received, broom clean, ordinary wear and tear excepted.

14.16 Abandonment of Premises and/or Discontinuance of Business Operations on the Premises. If, for any reason, Tenant abandons the Premises or, for a period of thirty (30) days without reasonable cause, discontinues its business operation on the Premises, then, in either of said events, Landlord, at Landlord's sole option, shall have the right to terminate this Lease, in which event, neither party shall be obligated to the other for matters thereafter occurring.

14.17 Interest on Rent Arrearages. Any installment of rent accruing under the provisions of this Lease that shall not be paid within fifteen (15) days of the due date shall bear interest at the rate of twelve (12%) percent per annum from the date when the same was payable under the terms hereof, until the same shall be paid by Tenant to Landlord.

14.18. Liens.

(a) Tenant covenants and agrees that if it engages contractors or others to provide services at the Premises, Tenant shall notify such persons or entities that they may not subject the Premises to any mechanics' or materialmens' liens or liens of any kind.

(b) Tenant agrees, upon written request of Landlord, to furnish Landlord with a list of all persons or entities furnishing labor or materials to said Premises so that Landlord may advise such persons or entitles of the provisions of this Section 14.18 but may not disclose this Lease in such context.

(c) Tenant covenants and agrees with Landlord that Tenant will not permit or suffer to be filed or claimed against the interest of Landlord in the Premises during the continuance of this Lease any lien or claim of any kind, and if such lien be claimed or filed, it shall be the duty of Tenant within ten (10) days after written notice from Landlord to cause the Premises to be released from such claim, either by payment or by the posting of bond or by the payment into the Court of the amount necessary to relieve and release the premises from such claim. Any lien placed by Tenant on the demised premises shall be subject to and subordinate to Landlord's interest in the Premises.

14.19 Compliance with the Americans with Disabilities Act. Landlord represents and warrants that the Premises is in full compliance with the public accommodations provisions of Title III of the Americans with

Disabilities Act of 1990, as amended (the "**ADA**"). Landlord shall bear the cost of any improvements, repairs, renovations, or modifications to the Premises that may from time to time be required to bring the Premises into compliance with or maintain the Premises in compliance with Title III of the ADA. Tenant shall indemnify and hold Landlord harmless from and against any losses, costs, damages, or claims of whatever nature, arising out of or in connection with the compliance requirements set forth in the ADA, as amended, relating to the use and occupancy of the Premises and/or alteration and/or renovation of the Premises, including, but not limited to, any changes necessitated because of the specific needs of Tenant.

14.20 Property of Tenant. Tenant agrees that all furnishings, trade fixtures and other property of the Tenant located on the Premises shall be so located at the sole risk of Tenant and Landlord shall not, in any manner whatsoever, be liable for any damage to any such property of Tenant unless due to the will misconduct or gross negligence of Landlord.

[Remainder of page intentionally left blank. Signature Page to follow.]



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The parties hereto have executed this Lease the date first shown above.

**Landlord:**

Plumbinator 1047, LLC

By:_____

Name:_____

Title:_____

**Tenant:**

Liquid Services and Logistics LLC

By:_____

Name:_____

Title:_____

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**DISCLOSURE SCHEDULES**

**TO**

**ASSET PURCHASE AND SALE AGREEMENT**

**by and between**

**LIQUID SERVICES AND LOGISTICS LLC,**

**APPLE SERVICES, INC.,**

**AND**

**MICHAEL D. JORDAN**

**Dated as of May 10, 2021**

---

These Disclosure Schedules (the "Disclosure Schedule") contain information related to, and are part of, the Asset Purchase and Sale Agreement (the "Agreement") dated May 10, 2021 by and between Liquid Services and Logistics LLC, a Delaware limited liability company ("***Buyer***"), Apple Services, Inc., a South Carolina corporation ("***Seller***") and Michael D. Jordan ("***Shareholder***"). Purchaser, Seller and Shareholder will be referred to individually as a "***Party***" and collectively as the "***Parties***".

Any disclosures set forth in any section of these Disclosure Schedules shall be deemed set forth for purposes of any other section of these Disclosure Schedules if the applicability of the disclosure to such other section is readily apparent on its face. The inclusion of information in these Disclosure Schedules shall not be construed as an admission that such information is material to the Agreement.

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**Schedule 3.1(a)**

Purchase Price

(a) Furniture, fixtures and equipment - $250,000.00;

(b) Non-Compete - $125,000.00;

(c) Goodwill - $3,437,000.00

**Schedule 3.2(a)(i)**

Closing Working Capital

See Attached.

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**Apple + Greenway NWC Calculation**

| US$ in thousands | Jan-20 | Feb-20 | Mar-20 | Apr-20 | May-20 | Jun-20 | Jul-20 | Aug-20 | Sep-20 | Oct-20 | Nov-20 | Dec-20 | Trailing Avg. 12m |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Cash | 74 | 87 | 87 | 98 | 158 | 331 | 332 | 269 | 268 | 294 | 275 | 219 | 208 |
| Accounts Receivable | 1,278 | 1,259 | 1,256 | 1,219 | 1,211 | 1,218 | 1,220 | 1,194 | 1,200 | 1,216 | 1,203 | 1,212 | 1,224 |
| Other Current Assets | 11 | 13 | 13 | 127 | 82 | 36 | 15 | 23 | 24 | 2 | 15 | 14 | 31 |
| **Current Assets** | **1,362** | **1,359** | **1,356** | **1,444** | **1,450** | **1,585** | **1,567** | **1,486** | **1,492** | **1,512** | **1,493** | **1,445** | **1,463** |
| Accounts Payable | 107 | 107 | 110 | 90 | 99 | 103 | 75 | 79 | 81 | 105 | 83 | 85 | 94 |
| Credit Cards | 6 | 5 | 5 | 4 | 3 | 3 | 2 | 1 | 1 | (0) | (1) | (1) | 2 |
| Other Current Liabilities | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 |
| **Current Liabilities** | **144** | **143** | **145** | **125** | **133** | **137** | **108** | **110** | **113** | **136** | **113** | **114** | **127** |
| **Reported Net Working Capital** | **1,218** | **1,215** | **1,211** | **1,320** | **1,317** | **1,448** | **1,458** | **1,376** | **1,379** | **1,376** | **1,379** | **1,331** | **1,336** |
| **Definitional Adjustments:** | | | | | | | | | | | | | |
| Cash | (74) | (87) | (87) | (98) | (158) | (331) | (332) | (269) | (268) | (294) | (275) | (219) | (208) |
| **Definitional Net Working Capital** | **1,144** | **1,128** | **1,124** | **1,222** | **1,159** | **1,117** | **1,126** | **1,106** | **1,112** | **1,082** | **1,104** | **1,111** | **1,128** |
| **Adjustments:** | | | | | | | | | | | | | |
| Accrual to Cash Adjustment | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | 2 | 2 | (1) |
| PPP Loan Asset | - | - | - | (114) | (68) | (21) | (2) | (2) | (11) | (2) | (2) | (1) | (18) |
| Intercompany Balances | (541) | (543) | (546) | (543) | (538) | (538) | (532) | (532) | (531) | (526) | (523) | (514) | (534) |
| Related Party Receivables | (485) | (493) | (501) | (501) | (505) | (515) | (513) | (517) | (526) | (528) | (528) | (528) | (512) |
| Contributed Capital | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 |
| Bad Debt | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) |
| **Total Adjustments** | **(1,007)** | **(1,018)** | **(1,027)** | **(1,139)** | **(1,092)** | **(1,055)** | **(1,027)** | **(1,032)** | **(1,048)** | **(1,037)** | **(1,031)** | **(1,021)** | **(1,044)** |
| **Adjusted Net Working Capital** | **138** | **111** | **97** | **83** | **67** | **62** | **100** | **75** | **64** | **45** | **73** | **90** | **84** |

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**Schedule 4.6**

Required Consents

None

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**Schedule 4.7**

Excluded Assets

Nothing herein contained shall be deemed to sell, transfer, assign or convey the Excluded Assets to Purchaser, and Seller shall retain all right, title and interest to, in and under the Excluded Assets. "**Excluded Assets**" shall mean each of the following: (1) cash on hand or in bank accounts as of the date of Closing, (2) all assets related to or owned by, and all rights in and to, any Employee Benefit Plan, and (3) any of the following assets shown on Seller's Quickbook Tax Asset list previously provided to Purchaser identified as:

(i) Laptop listed as "Group 16";

(ii) Rims listed as "Group 36";

(iii) Real Property and improvement located at 1047 Gates Road, Irmo, SC (recently conveyed to Plumbinator 1047, LLC listed as "Group 46";

(iv) B&E Trucks listed as "Group 4";

(v) Utility Truck listed as "Group 5";

(vi) 1997 Nissan Truck listed as "Group 17";

(vii) Work Truck listed as "Group 22";

(viii) 04 F-150 Truck listed as "Group 24";

(ix) 08 Chevy Box listed as "Group 29";

(x) Mazda Co Sales Vehicle listed as "Group 30";

(xi) Tahoe listed as "Group 34";

(xii) 2011 Terex TC listed as "Group 38";

(xiii) Equipment Trailer listed as "Group 44";

(xiv) 2017 GMC Yukon listed as "Group 55";

(xv) 2017 Ford F-150 listed as "Group 58"; and

(xvi) Any vehicles, trailers or other heavy equipment not listed below:

(a) 2016 DODGE Ram Promaster 3500 (VIN 3C6URVJG0GE129042);

(b) 2016 DODGE Ram Promaster 3500 (VIN 3C6URVJG4GE130565);

(c) 2008 GMC/CHEVY 2500, 3500 C S (VIN 1GBJC34K88E124044);

(d) 2006 FREIGHTLINER 4x2 123.6" (VIN 1FUBA5CGX6LV98173);

(e) 2005 FREIGHTLINER 4x2 M2 Series (VIN 1FVACXDC75HU57121);

(f) 2006 FORD ECONOLINE Cargo 15 (VIN 1FTRE14W06HA34947);

(g) 1997 FORD F-150 S/C 4x2 15 S (VIN 1FTDX1766VNA70772);

(h) 2008 MACK 4x2 Pinnacle 117.3 (VIN 1M2AW02C18N002280);

(i) 2018 FORD Transit T350HD High (VIN 1FTRS4XG7JKA34065);

(j) 2019 FORD SUPER DUTY F250 Su (VIN 1FD7X2A65KEC71047);

(k) 2019 FORD SUPER DUTY F250 Cr (VIN 1FD7W2A65KED72401);

(l) HYTER Trank Trailer - Tank Trailer (VIN 3H3C242S4ST003814);

(m) 2015 KENWORTH - 4x2 T680 Tractor w/A (VIN 1XKYAR8X1FJ458163);

(n) 2006 GMC/CHEVY - C4500-C7500 Series 4 (VIN 1GDG5C1G56F902724);

(o) 1999 HARBEN Jetter (VIN 1H9T1520XXC122015);

(p) 2020 BOBCAT (VIN S/N B3Y114129); and

(q) ROLL-OFF TRAILER (VIN 88405)

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**Schedule 4.9**

Inventory

None

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**Schedule 4.12**

Taxes

Seller has filed for an extension on 2020 taxes.

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**Schedule 4.14**

Assumed Contracts

Prisma Health Contract (previously provided to Purchaser)

Richland School District 5 (previously provided to Purchaser)

**Schedule 4.15(b)**

Environmental Permits

SC DHEC Waste Haulers Permit No. 40026

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**Schedule 4.15(d)**

Excluded Liabilities

None

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**Schedule 4.16(a)**

Material Customers

None

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**Schedule 4.16(b)**

Material Suppliers

None

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**Schedule 4.17**

Transferred Permits

None

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**Schedule 4.20**

Employees

| Name | Title | Hire Date | Annual Base Compensation Rate | Commission, Bonus or other Incentive-Based Compensation | Accrued, Unpaid Benefits for Time Off | Fringe Benefits |
|---|---|---|---|---|---|---|
| Tim Freeman | General Manager | | | | | |
| Yvonne Mulherin | Accounting Manager | | | | | |
| Stephen Blake Davis | Service Manager | | | | | |
| Vermillian Martin | Pump Truck Drive | | | | | |
| Romeo Alexander | Pump Truck Drive | | | | | |
| Craig Owens | Plumber Technician | | | | | |
| Chris Davis | Plumber Technician | | | | | |
| Tyler Bouton | Plumber Technician | | | | | |
| Stephen Carswell | Plumber Technician | | | | | |
| Dylan Christley | Helper/In Training | | | | | |
| Curnell Burns | Driver | | | | | |
| Andrew Tilson | Helper/In Training | | | | | |
| Antonio Sanders | Greenway | | | | | |
| Jonathan Brooks | Helper/In Training | | | | | |
| Jennifer Larmon | Dispatcher | | | | | |
| Krista Davis | Dispatcher | | | | | |

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**Schedule 6.8**

Retained Employees

| Name | Title |
|---|---|
| Tim Freeman | General Manager |
| Yvonne Mulherin | Accounting Manager |
| Stephen Blake Davis | Service Manager |
| Vermillian Martin | Pump Truck Drive |
| Romeo Alexander | Pump Truck Drive |
| Craig Owens | Plumber Technician |
| Chris Davis | Plumber Technician |
| Tyler Bouton | Plumber Technician |
| Stephen Carswell | Plumber Technician |
| Dylan Christley | Helper/In Training |
| Curnell Burns | Driver |
| Andrew Tilson | Helper/In Training |
| Antonio Sanders | Greenway |
| Jonathan Brooks | Helper/In Training |
| Jennifer Larmon | Dispatcher |
| Krista Davis | Dispatcher |

**Schedule 6.9**

(COPY OF MC PERMIT TO BE ATTACHED)

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- Pull card off backing

WALL CERTIFICATE BELOW:

CCG 1025148

STATE OF SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SC CONTRACTOR'S LICENSING BOARD

# LICENSE CERTIFICATE

LICENSE# - CLM.106719

The following licensee:

LICENSE# - CLM.106719

**APPLE SERVICES INC**
**1047 GATES ROAD**
**IRMO SC 29063-2810**

*has met the necessary qualifications required by the laws of the state of South Carolina and is duly qualified and entitled to practice as a:*

## MECHANICAL CONTRACTOR

*for the Classification(s) and Group Limitation shown below:*

**PB4**

Initial License Date: .....11/20/2003
License Print Date: .....10/22/2019
Expiration Date: .....10/31/2021

*** Group Numbers and Dollar Limitations: ***
The number after your 2-letter classification(s) above is your Group#
Group #1 - $17,500
Group #2 - $50,000
Group #3 - $100,000
Group #4 - $200,000
Group #5 - $Unlimited

Molly L. Brien
Administrator

*Qualifying Party(s): MICHAEL D JORDAN*
*(a Primary QP will have a "PQ" after their certificate number)*

It is at the discretion of the licensee, not the Board, to authorize officers or employees of the company to pull permits and conduct business.



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**Schedule 6.10**

Description of Seller Vehicle Collision

(COPY OF FR-10 ACCIDENT REPORT TO BE ATTACHED)

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Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 ( REV. 02/2019)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company Representatives can submit your Insurance Information at WWW.SC-ALIR.COM

| Date | Time | County | 1 - Interstate 4 - Secondary 2 - US Primary 5 - County 3 - SC Primary 6 - PP | Collision Location (Rt # / Name) | 0 - Main Line 6 - Connection 2 - Alternate 7 - Business 5 - Spur | Miles: | Dir. N E S W | In Near City or Town of: |
|---|---|---|---|---|---|---|---|---|
| 04-26-2021 | 0955 | 32 | 2 | 5 378 / SUNSET BLVD | | | | WEST COLUMBIA |

To Vehicle Owner/ Operator: **Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.**

**W-675851**

Driver/Pedestrian's Full Name: PINCKNEY MARVIN LEO

Unit # 01 | #Occ 2 | Sex | Race | Birth Date
Street: 1421 BLUE JOHNSON RD
City, State, & Zip: HOPKINS SC 290619075

State: SC | Driver's License #: 4526539 D | Insurance Company: USAA

Year: 2007 | Body: PK | Vehicle Make: TOYT | VIN #: 5TBRU541X7S451271

State: SC | Year: 2021 | License Plate #: VT39720 | Owner's D.L. #: 4526539

Home Telephone:
Owner's Full Name: PINCKNEY MARVIN LEO

Bus. Telephone:
Street: 1421 BLUE JOHNSON RD

Contributed To Collision: (Yes) No
City, State & Zip: HOPKINS SC 290619075

**W-675852**

Driver/Pedestrian's Full Name: BOUTON TYLER CRAIG

Unit # 02 | #Occ 1 | Sex | Race | Birth Date
Street: 2170 N LAKE DR APT 4018
City, State, & Zip: COLUMBIA SC 292128124

State: SC | Driver's License #: 100561377 D | Insurance Company: FRANKENMUTH MUTUAL

Year: 2016 | Body: VN | Vehicle Make: RAM | VIN #: 3C6URVJG4GE130565

State: SC | Year: 2022 | License Plate #: MYC367 | Owner's D.L. #: NONE

Home Telephone:
Owner's Full Name: APPLE SERVICES IN

Bus. Telephone:
Street: 1047 GATES RD

Contributed To Collision: Yes (No)
City, State, & Zip: IRMO SC 290638632

Driver/Pedestrian's Full Name:

Unit # | #Occ | Sex | Race | Birth Date
Street:
City, State, & Zip:

State | Driver's License # | Insurance Company:

Year | Body | Vehicle Make | VIN #

State | Year | License Plate # | Owner's D.L. #

Home Telephone:
Owner's Full Name:

Bus. Telephone:
Street:

Contributed To Collision: Yes No
City, State, & Zip:

## All Units Insurance Information
( to be completed by Investigating Officer)

Accident Insurance Information for Unit # 01
Company Name: USAA
Area Code/Phone Number: ( 800 ) 5318722
Agency Name:
Policy Number: 02967 35 99G 7102 6

Accident Insurance Information for Unit # 02
Company Name: FRANKENMUTH MUTUAL
Area Code/Phone Number: ( 989 ) 6526121
Agency Name:
Policy Number: 6622218

Accident Insurance Information for Unit #
Company Name:
Area Code/Phone Number: ( )
Agency Name:
Policy Number:

## Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature

Y N Refused to Affix Signature?
Y N Vehicle Subject to Registration in SC?

To Be Completed Below or Entered at WWW.SC-ALIR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically

Reference to Unit #: _____. I here by affirm that to the best of my knowledge the vehicle described above was insured by the below stated Insurance company on the date of the collision.

The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is imputed into the above mentioned insurance as I have listed herein

Insurance Company | Policy #: | Signature | Title

Beginning Date: | Ending Date: | Policy Holder: | NAIC# (Assigned by S.C. Dept. of Ins.) | Bus. Telephone ( )

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

Form FR-10 Not Issued: Section 56-10-520

- ☐ Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle
- ☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____
- ☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements

Signature | Date

No FR-10 Issued to Operator/ Owner of Unit #: _____
Summons Issued to:
For operating or allowing the operation of an uninsured vehicle
Summons Number:
Signature

| Investigating Officer's Name | Rank | SCCJA # | Code | Date | Reviewer's Name | Rank | Internal Agency Code |
|---|---|---|---|---|---|---|---|
| C SHARPE | PTL | 9779-8286 | 3205 | | | | 2111278 |



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| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND<br><br>Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>vs.<br><br>Liquid Services and Logistics LLC, and Tim Freeman,<br><br>Defendants. | IN THE COURT OF COMMON PLEAS<br>FIFTH JUDICIAL CIRCUIT<br><br>Case No. 2022-CP-40-02958<br><br>**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS LIQUID SERVICES AND LOGISTICS LLC, AND TIM FREEMAN** |

The Defendants, Liquid Services and Logistics LLC ("LSL"), and Tim Freeman ("Freeman") (collectively referred to as the "Defendants"), answering the Plaintiffs' Complaint herein:

**FOR A FIRST DEFENSE TO "PARTIES, JURISDICTION, AND VENUE"**

1. The allegations of Paragraph 1 of the Plaintiffs' Complaint contain legal conclusions to which no response is required. To the extent a response is required, Defendants admit those allegations.

2. Admit, upon information and belief, the allegations of Paragraph 2 of the Plaintiffs' Complaint.

3. Admit, upon information and belief, the allegations of Paragraph 3 of the Plaintiffs' Complaint.

4. Admit, upon information and belief, the allegations of Paragraph 4 of the Plaintiffs' Complaint.

5. Admit the allegations of Paragraph 5 of the Plaintiffs' Complaint.

6. Admit the allegations of Paragraph 6 of the Plaintiffs' Complaint.

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7. The allegations of Paragraph 7 of the Plaintiffs' Complaint contain legal conclusions to which no response is required. To the extent a response is required, Defendants admit those allegations.

**FOR A FIRST DEFENSE AS TO THE FACTS**

8. LSL admits the allegations of Paragraph 8 of the Plaintiffs' Complaint.

9. LSL admits only so much of the allegations of Paragraph 9 of the Plaintiffs' Complaint as alleges, or may be construed to allege, that on or about May 10, 2021, LSL paid a portion of the purchase price to Apple Services, Inc. ("Apple") and Apple D. Jordan ("Jordan") pursuant to the Asset Purchase and Sale Agreement ("Agreement"). Defendant LSL also admits that Apple and Jordan provided those assets identified in the Agreement. No response to the remaining allegations of Paragraph 9 of the Plaintiffs' Complaint is required because the Agreement speaks for itself, including the entirety and its text and content. To the extent a response is required, Defendants crave reference to the Agreement and deny any of the Plaintiffs' allegations that are inconsistent with the Agreement.

10. Defendant LSL admits only so much of the allegations of Paragraph 10 of the Plaintiffs' Complaint as alleges, or may be construed to allege, that Plaintiff Michael D. Jordan is the sole owner of Plumbinator 1047, LLC ("Plumbinator"). Further, Defendant LSL admits that Plumbinator owns the property located at 1047 Gates Road, Irmo, South Carolina (the "Property"), which LSL is currently leasing in furtherance of its business. No response to the remaining allegations of Paragraph 10 of the Plaintiffs' Complaint is required because the Agreement speaks for itself, including the entirety and its text and content. To the extent a response is deemed required, Defendants crave reference to the Agreement and deny any of the Plaintiffs' allegations that are inconsistent with the Agreement.

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11. Admit the allegations of Paragraph 11 of the Plaintiffs' Complaint.

12. Admit, upon information and belief, the allegations of Paragraph 12 of the Plaintiffs' Complaint.

13. Deny the allegations of Paragraph 13 of the Plaintiffs' Complaint.

14. Deny the allegations of Paragraph 14 of the Plaintiffs' Complaint.

15. Deny the allegations of Paragraph 15 of the Plaintiffs' Complaint.

16. Deny the allegations of Paragraph 16 of the Plaintiffs' Complaint.

17. Deny the allegations of Paragraph 17 of the Plaintiffs' Complaint.

18. Deny the allegations of Paragraph 18 of the Plaintiffs' Complaint.

19. Deny the allegations of Paragraph 19 of the Plaintiffs' Complaint.

20. Deny the allegations of Paragraph 20 of the Plaintiffs' Complaint.

21. Deny the allegations of Paragraph 21 of the Plaintiffs' Complaint.

22. Deny the allegations of Paragraph 22 of the Plaintiffs' Complaint.

23. Deny the allegations of Paragraph 23 of the Plaintiffs' Complaint.

24. Deny the allegations of Paragraph 24 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION**
**(Breach of Contract as to LSL)**

25. Responding to the allegations of Paragraph 25 of the Plaintiffs' Complaint, Defendant LSL realleges Paragraph 1 through 24 above as fully as if set forth herein verbatim.

26. No response to the allegations of Paragraph 26, or its subparts a-c, of the Plaintiffs' Complaint is required because the Agreement speaks for itself, including the entirety and its text and content. To the extent a response is deemed required, Defendants crave reference to the Agreement and deny any of the Plaintiffs' allegations that are inconsistent with the Agreement.

27. Deny the allegations of Paragraph 27 of the Plaintiffs' Complaint.

28. Deny the allegations of Paragraph 28 of the Plaintiffs' Complaint.

29. Deny the allegations of Paragraph 29 of the Plaintiffs' Complaint.

30. Deny the allegations of Paragraph 30 of the Plaintiffs' Complaint.

31. Deny the allegations of Paragraph 31 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION**
**(Breach of Contract Accompanied by Fraud as to LSL)**

32. Responding to the allegations of Paragraph 32 of the Plaintiffs' Complaint, Defendant LSL realleges Paragraphs 1 through 31 above as fully as if set forth herein verbatim.

33. Denies the allegations of Paragraph 33 of the Plaintiffs' Complaint.

34. Denies the allegations of Paragraph 34 of the Plaintiffs' Complaint.

35. Denies the allegations of Paragraph 35 of the Plaintiffs' Complaint.

36. Denies the allegations of Paragraph 36 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION**
**(Conversion as to LSL and Freeman)**

37. Responding to the allegations of Paragraph 37 of the Plaintiffs' Complaint, Defendants realleges Paragraphs 1 through 36 above as fully as if set forth herein verbatim.

38. Deny the allegations of Paragraph 38 of the Plaintiffs' Complaint.

39. Deny the allegations of Paragraph 39 of the Plaintiffs' Complaint.

40. Deny the allegations of Paragraph 40 of the Plaintiffs' Complaint.

41. Deny the allegations of Paragraph 41 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE TO THE FOURTH CAUSE OF ACTION**
**(Defamation as to LSL and Freeman)**

42. Responding to the allegations of Paragraph 42 of the Plaintiffs' Complaint, Defendants realleges Paragraphs 1 through 41 above as fully as if set forth herein verbatim.

43. Deny the allegations of Paragraph 43 of the Plaintiffs' Complaint.



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44. Deny the allegations of Paragraph 44 of the Plaintiffs' Complaint.

45. Deny the allegations of Paragraph 45 of the Plaintiffs' Complaint.

46. Deny the allegations of Paragraph 46 of the Plaintiffs' Complaint.

47. Deny the allegations of Paragraph 47 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE FIFTH CAUSE OF ACTION**
**(Negligence as to LSL)**

48. Responding to the allegations of Paragraph 48 of the Plaintiffs' Complaint, Defendant LSL realleges Paragraphs 1 through 47 above as fully as if set forth herein verbatim.

49. Denies the allegations of Paragraph 49 of the Plaintiffs' Complaint.

50. Denies the allegations of Paragraph 50 of the Plaintiffs' Complaint.

51. Denies the allegations of Paragraph 51 of the Plaintiffs' Complaint.

52. Denies the allegations of Paragraph 52 of the Plaintiffs' Complaint.

53. Denies the allegations of Paragraph 53 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE SIXTH CAUSE OF ACTION**
**(Negligence as to LSL and Freeman)**

54. Responding to the allegations of Paragraph 54 of the Plaintiffs' Complaint, Defendants reallege Paragraphs 1 through 53 above as fully as if set forth herein verbatim.

55. Deny the allegations of Paragraph 55 of the Plaintiffs' Complaint.

56. No response to the allegations of Paragraph 56 of the Plaintiffs' Complaint is required because the cited statutory section, 18 U.S.C § 1702, speaks for itself, including the entirety and its text and content. To the extent a response is deemed required, Defendants crave reference to the statutory section and deny any of the Plaintiffs' allegations that are inconsistent with the statutory section.

57. Deny the allegations of Paragraph 57 of the Plaintiffs' Complaint.

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58. Deny the allegations of Paragraph 58 of the Plaintiffs' Complaint.

59. Deny the allegations of Paragraph 59 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE SEVENTH CAUSE OF ACTION**
**(Nuisance/Trespass as to LSL and Freeman)**

60. Responding to the allegations of Paragraph 60 of the Plaintiffs' Complaint, Defendants reallege Paragraphs 1 through 59 above as fully as if set forth herein verbatim.

61. Admit the allegations of Paragraph 61 of the Plaintiffs' Complaint.

62. Admit, upon information and belief, the allegations of Paragraph 62 of the Plaintiffs' Complaint.

63. Deny the allegations of Paragraph 63 of the Plaintiffs' Complaint.

64. Deny the allegations of Paragraph 64 of the Plaintiffs' Complaint.

65. Deny the allegations of Paragraph 65 of the Plaintiffs' Complaint.

66. Deny the allegations of Paragraph 66 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE EIGHTH CAUSE OF ACTION**
**(Quantum Meruit as to LSL)**

67. Responding to the allegations of Paragraph 67 of the Plaintiffs' Complaint, Defendant LSL realleges Paragraphs 1 through 66 above as fully as if set forth herein verbatim.

68. Admits the allegations of Paragraph 68 of the Plaintiffs' Complaint.

69. Denies the allegations of Paragraph 69 of the Plaintiffs' Complaint.

70. Denies the allegations of Paragraph 70 of the Plaintiffs' Complaint.

71. Denies the allegations of Paragraph 71 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE NINTH CAUSE OF ACTION**
**(Accounting as to LSL)**

72. Responding to the allegations of Paragraph 72 of the Plaintiffs' Complaint, Defendant LSL realleges Paragraphs 1 through 71 above as fully as if set forth herein verbatim.

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73. Denies the allegations of Paragraph 73 of the Plaintiffs' Complaint.

**FOR A FIRST DEFENSE AS TO THE PLAINTIFFS' CLAIM FOR DAMAGES**

74. Defendants deny that the Plaintiffs' are entitled to the damages as listed on Pages 12 and 13 of the Plaintiffs' Complaint.

**FOR A SECOND DEFENSE AS TO THE PLAINTIFFS' CLAIMS**

75. Plaintiffs' Complaint fails to state claims upon which relief can be granted.

**FOR A THIRD DEFENSE AS TO THE PLAINTIFFS' CLAIMS**

76. Plaintiffs have failed to mitigate their damages as required by law.

**FOR A FOURTH DEFENSE AS TO THE PLAINTIFFS' CLAIMS**

77. Plaintiffs have failed to meet the applicable statutes of limitation.

**FOR A FIFTH DEFENSE AS TO THE PLAINTIFFS' CLAIMS**

78. Plaintiffs' claims are barred by the applicable doctrines of laches, waiver, estoppel, and unclean hands.

**FOR A SIXTH DEFENSE AS TO THE PLAINTIFFS' CLAIMS**

79. Defendants are entitled to recover attorney's fees and court costs incurred in this action as provided by the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code § 15-36-10 through 50 (2000).

**FOR A SEVENTH DEFENSE TO THE FOURTH CAUSE OF ACTION**

80. Plaintiffs' claim for defamation is barred by Plaintiff Jordan's own publication and/or the publication by others.

**FOR AN EIGHTH DEFENSE TO THE FOURTH CAUSE OF ACTION**

81. Any statements published by Defendants of or concerning Plaintiffs were true or substantially true, and the Defendants plead truth as a complete defense.

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**FOR A NINTH DEFENSE TO THE FOURTH CAUSE OF ACTION**

82. Plaintiffs' claim for defamation is barred because any alleged statement was not published by Defendants.

**FOR A TENTH DEFENSE TO THE FOURTH CAUSE OF ACTION**

83. Plaintiffs' claim for defamation is barred because no defamatory statement was made and/or published.

**FOR A SEVENTH DEFENSE TO THE FIFTH AND SIXTH CAUSES OF ACTION**

84. Plaintiffs' claims are barred by the doctrine of comparative negligence because Plaintiffs are more than 51% at fault for any alleged damages.

**FOR AN EIGHTH TO THE FIFTH AND SIXTH CAUSES OF ACTION**

85. Plaintiffs' claims are not cognizable and/or are barred, but even if they are not, Plaintiffs' damages should be reduced in accordance with the comparative negligence doctrine.

WHEREFORE, having fully answered, Defendants Liquid Services and Logistics LLC, and Tim Freeman request that the Court dismiss the Plaintiffs' Complaint, in its entirety, with prejudice, and that the Defendants be granted their fees and costs occurred in the defense of this matter.

s/ Angus H. Macaulay
Angus H. Macaulay, SC Bar No. 15044
Brittany N. Clark, SC Bar No. 100573
Darra James Coleman, SC Bar No. 15666
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, SC 29202
Telephone: 803.771.8900
AMacaulay@nexsenpruet.com
BClark@nexsenpruet.com
DColeman@nexsenpruet.com

*Attorneys for Defendants Liquid Services and Logistics LLC, and Tim Freeman*

October 28, 2022
Columbia, South Carolina

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2022-CP-40-02958 |

**PLAINTIFFS' MOTION FOR**
**PARTIAL SUMMARY JUDGMENT**

Pursuant to Rules 54 and 56 of the South Carolina Rules of Civil Procedure, Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc. ("Apple Services") (collectively, "Plaintiffs") move the court for an order granting partial summary judgment on the Plaintiffs' claims for breach of contract against Defendant Liquid Services and Logistics, LLC ("LSL") in this matter.

As set forth in more detail below, there is no genuine issue of material fact that LSL breached the Asset Purchase and Sale Agreement between Apple Services, Jordan, and LSL by failing to make certain required payments to Jordan, specifically the Earn-out Payment and Post-Closing adjustment of Working Capital, or to provide the appropriate calculations for those payments, as required under that agreement.

This motion is based on the pleadings filed to date, the discovery responses exchanged between the parties, the Affidavit of Michael D. Jordan *see* **Exhibit A**, the Affidavit of Ashley Hawn, an employee of Jordan *see* **Exhibit B**, and the Affidavit of Stephen D. Porter, an attorney for all Plaintiffs *see* **Exhibit C**.

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## RELEVANT FACTS

**The Asset Purchase Agreement**.

Jordan is the sole shareholder of Apple Services and Plumbinator. *See* Jordan Aff. ¶ 1. On May 10, 2021, Jordan and Apple Services entered into and closed an Asset Purchase and Sale Agreement with LSL for the purchase by LSL of certain assets of Apple Services, including goodwill, furniture, fixtures, and equipment ("APA"). Id. ¶ 4. A fully executed copy of the APA, including all exhibits and schedules, is attached as Exhibit A to Plaintiffs' Complaint filed on June 8, 2022, and as Exhibit A to Jordan's Affidavit. LSL in its Answer does not contest that Exhibit A to the Complaint is a true and accurate copy of the final, fully-executed APA. *See* Compl. ¶ 8; Ans. of LSL ¶ 8.

**The Earn-out Payment**.

The APA required that LSL pay a portion of the purchase price to Jordan at closing on May 10, 2021, with the remaining balance paid as an earn out. *See* APA §3.1 and §3.3. Specifically, LSL was required to pay Jordan an earn out payment of $882,000.00 (the "Earn Out"), "so long as LTM Revenue for the Earn-out Period exceeds the Revenue Threshold." Id. § 3.3(a). The APA defines LTM Revenue as "the last twelve months [sic] revenue of the Business up to the Closing Date ***and*** for the Earn-out Period." Id. at p. A-4 (emphasis added). The "Earn-out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." Id. at p. A-2. And the "Revenue Threshold" means $1,000,000.00. Id. at p. A-6. Thus, if the 12 month trailing gross revenue of Apple Services exceeded $1,000,000.00 as of the Closing Date ***and*** at the end of the Earn-out Period, *i.e.* August 10, 2021, then the Earn-out payment is earned and due to be paid to Jordan.

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The APA set forth a specific procedure for confirming Jordan's entitlement to the Earn-out Payment:

> On or before the date which is thirty (30) days after the last day of the Earn-out Period, [LSL] shall prepare and deliver to [Jordan] a written statement (the "***Earn-out Calculation Statement")*** setting forth in reasonable detail its determination of LTM Revenue for the Earn-out Period and whether the Earn-out Payment shall be made (the "***Earn-out Calculation").***

*See* APA § 3.3(b)(i).

Thirty days after the last day of the Earn-out Period is September 9, 2021. Jordan then had 45 days after receipt of the Earn-out Calculation Statement to review the calculation and to inspect LSL's books and records to confirm the accuracy of the calculation, and if warranted, to object to it. *See* APA § 3.3(b)(ii). If the Earn-out payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022. Id. § 3.3(d).

LSL's obligation to make the Earn-out Payment is an "independent obligation," Id. 3.3(c), subject only to limited rights of set-off involving (1) the post-closing adjustment of working capital (discussed *infra*), and (2) any "Adverse Consequences" to LSL, as set forth in Article VII, and specifically §7.1, of the APA. Id. § 3.3(e). These "Adverse Consequences" are claims and resulting damages arising from (a) "misrepresentation or breach of warranty," (b) "nonfulfillment of any covenant," (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA, and (d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." *See* APA §§ 3.3(e); 7.1, and p. A-1. Importantly, LSL has provided ***no evidence*** of any Post Closing Adjustment due to LSL or any Adverse Consequences to LSL.

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**The Post Closing Adjustment of Working Capital**.

Additionally, the APA required that LSL pay Jordan a Post-Closing Adjustment of Working Capital. *See* APA § 3.2. Not later than 100 days after the May 10, 2021, Closing date, or August 19, 2021, LSL was required to provide Jordan a Closing Working Capital Statement, calculating the Working Capital as of the date of Closing. Id. § 3.2(a)(i). If the calculation of the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment") within 30 days of that determination, which was September 20, 2021. Id. § 3.2(a)(ii). If Working Capital was less than $84,000, Jordan was required to pay the difference to LSL.

The APA also provides of the payment of interest if the required Post-Closing Adjustment is not timely paid:

> If and to the extent either Party fails to timely pay the Post-Closing Adjustment on the Post-Closing Adjustment Due Date, the amount of the Post-Closing Adjustment remaining unpaid, commencing the day after the Post-Closing Adjustment Due Date, shall accrue interest a twelve percent (12%) per annum until such time as the Post-Closing Adjustment is paid in full.

Id.

**LSL has failed to account for and pay both the Earn-out Payment and Post-Closing Adjustment**.

As evidenced by the Jordan Affidavit, LSL has completely failed to deliver any Earn-out Calculation Statement, as required by § 3.3(b)(1) of the APA. *See* Jordan Aff. ¶ 24.

The Jordan Affidavit also demonstrates that the Revenue Threshold was unquestionably exceeded. As of May 20, 2021, the total amount of Apple Services' trailing 12 months' sales revenues equaled $1,768,766.22, which significantly exceeded the $1,000,000.00 Revenue Threshold. Id. ¶ 12, Ex. 2. LSL's accounting software, also revealed that as of June 8, 2021, the Revenue Threshold was met. Id. ¶¶ 13–14, Ex. 3. At that time, the total amount of Apple Services'

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trailing twelve-month sales equaled $1,787,559.41 – once again establishing that the Revenue Threshold was met. Id. ¶ 14, Ex. 3. Again, on August 3, 2023, just one week before the close of the Earn-out Period, LSL's accounting software showed that that total sales for the 12 month period ending August 3, 2021, totaled $1,226,048.77.[1] Id. ¶¶ 15–18, Ex. 4.

On May 9, 2022, and one day before the Earn Out was due, Michael Jordan, Ashley Hawn, and Stephen Porter attended a meeting at the offices of Nexsen Pruet, LLC, currently known as Maynard Nexsen, with LSL employees. *See* Jordan Aff. ¶ 19; Hawn Aff. ¶ 4; Porter Aff. ¶ 5. The meeting was held for Jordan, Apple Services, and LSL to discuss several issues related to the APA, including the overdue working capital adjustment. *See* Jordan Aff. ¶ 19; Hawn Aff. ¶ 4; Porter Aff. ¶ 5. Darra Coleman, an attorney for LSL; Tim Freeman ("Freeman"), LSL's manager; Jacob Taylor ("Taylor"), LSL's accountant; and an IT specialist from Nexsen Pruet attended the meeting on behalf of LSL. *See* Jordan Aff. ¶ 20; Hawn Aff. ¶ 5; Porter Aff. ¶ 6.

At that meeting, Taylor presented financial information regarding Apple Services' performance under the APA to all the meeting participants. *See* Jordan Aff. ¶ 21; Hawn Aff. ¶ 6; Porter Aff. ¶ 7. While pointing at the screen displaying $2.7 million dollars in total sales, Taylor stated "Mike likes this number as he exceeded his earn out requirement." *See* Jordan Aff. ¶ 21; Hawn Aff. ¶ 6. Taylor also stated that Apple Services was "$79,000 to the good" on the working capital adjustment, meaning LSL owed Jordan a Post-Closing Working Capital Adjustment equal to $79,000.00. *See* Jordan Aff. ¶ 22; Hawn Aff. ¶ 7. Finally, on October 17, 2022, Jacob Sturdy, LSL's CFO, informed Jordan that the Revenue Threshold had been met and the Earn Out achieved. *See* Jordan Aff. ¶ 23.

[1] It is unclear to Plaintiffs as to why the total sales would have decreased from June to August. Plaintiffs have information to believe that one of LSL's employees was purposefully deleting invoices to lessen the total sales. *See* Jordan Aff. ¶ 18. Nonetheless, Exhibit 3 still establishes that the Revenue Threshold had been met.

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Accordingly, LSL was required to pay Jordan the Earn Out on or before May 10, 2022, and timely remit the Post-Closing Working Capital Adjustment. To date, LSL has not paid Jordan any portion of the Earn Out Payment or the Post-Closing Adjustment. Id. ¶¶ 24–25.

## LEGAL STANDARD

This Court must grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; Singleton v. Sherer, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Stated another way, "[S]ummary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ." Rothrock v. Copeland, 305 S.C. 402, 405, 409 S.E.2d 366, 368 (1991).

Although the "evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party," Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991), "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine," Kitchen Planners, LLC v. Friedman, No. 2020-001669, 2023 WL 5420401 (S.C. Aug. 23, 2023).

## ARGUMENT

**1. This Court should grant summary judgment as to Plaintiffs' breach of contract claims because there is no genuine issue of material fact as to whether LSL breached the APA by failing to pay Jordan the Earn Out and the Post-Closing Working Capital Adjustment.**

It cannot be reasonably disputed that LSL owes Jordan the Earn Out and the Post-Closing Working Capital Adjustment. LSL, and its agents, have represented to Jordan on numerous occasions that he satisfied the APA's conditions to receive the Earn Out. And although LSL failed to provide Jordan with the closing working capital calculation as required by the APA, LSL

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determined that it owes Jordan a minimum of $79,000.00 as the Post-Closing Working Capital Adjustment.

**a. There is no genuine issue of material fact as to whether LSL breached the APA by failing to provide Jordan the Earn-out Calculation Statement and by failing to pay Jordan the Earn Out.**

To begin, LSL admits to executing the APA, *see* Ans. of LSL ¶ 8, and in response to Plaintiffs' breach of contract allegation for failing to pay the Earn Out, LSL did not deny the allegations, but instead, merely craved reference to the APA. Id. ¶ 26. The terms of the APA are clear and unambiguous: if during the period from May 10, 2021, to August 10, 2021, the long-term revenue of Apple Services for the twelve months preceding May 10, 2021, exceeded the Revenue Threshold, Jordan was entitled to the Earn Out. As evidenced by Exhibit 2 of Jordan's affidavit, Apple Services met the Revenue Threshold by May 20, 2021, if not before. The Revenue Threshold was also exceeded in June of 2021 and August of 2021.

Not only did LSL's accounting software show that the Revenue Threshold had been met on May 20, 2021, June 8, 2021, and August 3, 2021, both LSL's accountant and CFO told Jordan that the Revenue Threshold had been met and Jordan achieved the Earn Out. At the May 9, 2022, meeting, Jacob Taylor – LSL's accountant – unequivocally told everyone at the meeting that Jordan "exceeded [the] earn out requirement" by displaying total sales of $2.7 million. Just a few months later and after the deadline for payment of the Earn Out had passed, Jake Sturdy – LSL's CFO – also told Jordan that the Earn Out had been achieved. While it is undisputed that the Revenue Threshold was met, LSL has not paid Jordan the Earn Out to Jordan as required by the APA. Accordingly, there is no genuine issue of material fact as to whether LSL breached the APA by failing to pay Jordan the Earn Out.

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**b. There is no genuine issue of material fact as to whether LSL breached the APA by failing to deliver to Jordan the working capital adjustment calculation and failing to pay Jordan the Post-Closing Working Capital Adjustment.**

And again, in response to Plaintiffs' allegations in their Complaint that LSL breached the APA for failing to deliver the Closing Working Capital Statement, LSL did not deny the allegations; instead, LSL merely craved reference to the APA. *See* Ans. of LSL ¶ 26. The APA is just as clear as to the working capital calculation requirements: the APA required LSL to provide Jordan with the calculation for the working capital within 100 days of May 10, 2021. *See* APA § 3.2(a)(i). To date, LSL has failed to provide Jordan with the Closing Working Capital Statement. As such, LSL is in breach of the APA. *See* Jordan Aff. ¶ 24. Additionally, the Post-Closing Working Capital Adjustment was required to be paid no later than 30 days after the working capital determination, which has not occurred. Accordingly, LSL is in breach of the APA for failing to pay Jordan the Post-Closing Working Capital Adjustment, which it has effectively if not expressly admitted it owes.

At the May 9, 2022, meeting, Jacob Taylor again unequivocally stated that Jordan was "$79,000 to the good" on the working capital adjustment. This was understood to mean that, at that time, LSL owed Jordan a working capital adjustment payment of $79,000.00 based on the terms of the APA. While LSL has failed to provide Jordan with the Closing Working Capital Statement as required by the APA, as of May 9, 2022, LSL determined that it owed Jordan at least $79,000.00 for the Post-Closing Adjustment. Accordingly, this Court should grant Plaintiffs' motion for summary judgment because there is no genuine issue of material fact as to whether LSL breached the APA for failing to provide working capital adjustment calculation and failing to pay Jordan a Post-Closing Working Capital Adjustment.

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**2. LSL owes prejudgment interest of 8.75% per annum on the Earn Out, as well as prejudgment interest of 12% per annum on the Post-Closing Adjustment.**

Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." Butler Contracting, Inc. v. Ct. St., LLC, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing Smith–Hunter Constr. Co. v. Hopson, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Importantly:

> The fact that the sum due is disputed does not render the claim unliquidated for the purposes of an award of prejudgment interest. The proper test for determining whether prejudgment interest may be awarded is whether or not the measure of recovery, not necessarily the amount of damages, is fixed by conditions existing at the time the claim arose.

Hopson, 365 S.C. at 128, 616 S.E.2d at 421.

Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

Turning first to prejudgment interest on the Earn Out, LSL was required to pay Jordan and Apple the Earn Out on or before May 10, 2022, pursuant to the APA. The Earn Out of $882,000.00 is clearly a liquidated sum certain, Hopson, 365 S.C. at 128, 616 S.E.2d at 421 (finding an award of prejudgment interest proper when the sum was "capable of being reduced to a sum certain"), and was demandable on May 10, 2022, pursuant to the APA. As of October 25, 2023, the prejudgment interest owed to Jordan and Apple Services for the Earn Out is $112,485.21.

Regarding the prejudgment interest on the Post-Closing Adjustment, the APA provides:

> [I]f and to the extent either Party fails to timely pay the Post-Closing Adjustment, on the Post-Closing Adjustment Due Date, the amount of the Post-Closing Adjustment remaining unpaid, commencing the day after the Post-Closing Adjust Due Date, shall accrue interest at twelve percent (12%) per annum until such time as the Post-Closing Adjustment is paid.

The APA authorizes prejudgment interest in the amount of 12% for any amounts remaining unpaid. As outlined above, LSL's accountant stated on May 9, 2022, that Jordan was owed $79,000.00 for

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the working capital adjustment. At that time, the amount owed had been reduced to a sum certain. Even so, the working capital adjustment was or should have been calculable by September 20, 2021, 100 days after the closing date of May 10, 2022. The amount was due and demandable on the due date of 30 days thereafter. Accordingly, as of October 25, 2023, the prejudgment interest owed to Jordan and Apple Services for the working capital adjustment is $19,869.21.

**3. Jordan and Apple Services' attorney's fees and costs are recoverable under the APA.**

Attorney's fees and costs are generally "not recoverable unless authorized by contract or statute." Blumberg v. Nealco, Inc., 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). Here, the APA provides for attorney's fees and costs as follows:

> Legal Fees. In the event any Party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another Party, the prevailing Party, as determined by the court or arbitrator, as the case may be, in such suit or arbitration proceeding is entitled to recover its reasonable attorneys' fees and expenses.

*See* APA § 8.10.

Plaintiffs commenced this suit to enforce the provisions of the APA, including LSL's obligation to pay the Earn Out Payment and Post-Closing Adjustment. Accordingly, Plaintiffs' are entitled to recover their reasonable attorney's fees and costs should the Court grant summary judgment in their favor. In the event that the Court does so, Plaintiffs will submit a motion for an award of fees supported by appropriate affidavits.

## CONCLUSION

Based on the foregoing, this Court should grant summary judgment in favor of Plaintiffs on their breach of contract claims for the following:

i) Judgment in the amount of $882,000 for non-payment of the Earn-out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment

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was due, until the date the judgment is entered (through October 25, 2023 the combined total is $994,485.21);

ii) Judgment in the amount of $79,000 for non-payment of the Post-Closing Adjustment from September 20, 2021, until the date the judgment is entered (through October 25, 2023, the combined total is $98,869.21);

iii) Attorneys' fees and costs in an appropriate amount, to be determined after entry of judgment and the submission of a motion and supporting affidavits;

Pursuant to Rule 54(b), Plaintiffs request that the Court provide an express determination that there is no just reason for delay and further direct the entry of a final judgment as to the Plaintiffs' breach of contract claims against Liquid Services and Logistics, LLC, as set forth and requested in this motion;

In the alternative, and pursuant to Rule 56(d), Plaintiffs request that the Court examine the pleadings and the evidence before it, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted, and make an order specifying the same, including the extent to which the amount of damages or other relief is not in controversy, and directing such other and further proceeding in this action as are just.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/: *James Y. Becker*
James Y. Becker (SC Bar No. 64991)
Alexandra C. Glunt (SC Bar No. 105761)
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-and-

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stephen@porterquinnlaw.com

October 30, 2023

Columbia, South Carolina

# EXHIBIT A

(Affidavit of Michael Jordan)

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| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2023-CP-40-02958 |

**AFFIDAVIT OF MICHAEL JORDAN**

Personally appeared before me, Michael D. Jordan, who being duly sworn, deposes and states as follows:

1. I am the founder and sole owner of Apple Services, Inc. ("Apple Services") and Plumbinator 1051, LLC ("Plumbinator").

2. I am over the age of 18 and competent to testify as to the matters contained in this affidavit. I am fully authorized to make this Affidavit on behalf of Apple Services and Plumbinator.

3. The statements contained in this Affidavit are based upon my own personal knowledge and my knowledge of the business records and accounting information maintained by Apple Services in the ordinary course of business and on accounting information provided to me by employees of the Defendant Liquid Services and Logistics, LLC ("LSL").

4. On May 10, 2021, I entered into an Asset Purchase and Sale Agreement ("APA") to sell certain business assets of Apple Services to LSL. A copy of the fully-executed APA is attached as **Exhibit 1** and is also attached as Exhibit A to the original Complaint filed in this

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action. At the same time, I also entered into an asset purchase agreement to sell the assets of Greenway Disposal, LLC ("Greenway"), a commercial waste disposal company, to LSL, but the agreement for the sale of that business is not involved in this lawsuit because LSL paid the entire purchase money for Greenway in full at the Closing Date.

5. Prior to the APA, I had operated Apple Services for approximately 22 years and Greenway for approximately 10 years. Apple Services provided plumbing services to retail and commercial customers, and Greenway provided waste disposal services to commercial customers, such as restaurants and other food service providers. These business were very complimentary in terms of customers and services offered and, over the years that I operated them, enjoyed substantial, steady growth in sales revenue. At the time I sold these businesses to LSL, they both had a lengthy list of customers and suppliers, and a dedicated and loyal group of employees. The businesses provided excellent work product and customer service. The gross sales of the combined businesses exceeded approximately $2,000,000, in each of the three years prior to the closing of the APA. Apple Services' annual sales were approximately $1,500,000 and Greenway's annual sales were approximately $500,000 during this three-year period.

6. Under the APA for Apple Services, LSL paid a substantial portion of the purchase price to me on May 10, 2021, the Closing Date, with the remaining balance of $882,000.00 to be paid as an Earn-out Payment, not later than 12 months later, which is May 10, 2022.

7. Under section 3.3 of the APA, LSL agreed to pay me the Earn-out Payment if, during the period from May 10, 2021, to August 10, 2021, the trailing 12-month revenue of Apple Services exceeded the Revenue Threshold of $1,000,000.00. LSL also agreed to provide me, on or before September 9, 2021, with an Earn-out Calculation Statement, setting forth in

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reasonable detail its determination of whether the Earn-out calculation requirements had been met.

8. Under section 3.2 of the APA, the parties also agreed that the Purchased Assets would include working capital of at least $84,000. LSL thus agreed to pay me a Post-Closing Adjustment in an amount equal to the Working Capital as of the Closing Date, minus $84,000. If the closing working capital was less than $84,000, I was obligated to pay the difference to LSL. LSL also agreed to provide to me, within 100 days of the Closing Date, which is August 18, 2021, a Closing Working Capital Statement, setting forth its calculation of Closing Working Capital, as further defined in the APA.

9. Based on my knowledge of the business, my personal interactions with LSL employees, and the information provided to me by LSL employees, the Revenue Threshold for the Earn-out Payment has been met and exceeded, and a Post-Closing Adjustment of approximately $79,000 should be paid to me.

10. On May 20, 2021, just 10 days after the Closing Date, I met with Tim Freeman ("Freeman"), LSL's manager, and Blake Davis ("Davis"), another LSL employee, in Freeman's office located at 1047 Gates Road, Irmo, South Carolina. The purpose of the meeting was, in part, to review financial information of Apple Services for the preceding 12-month period, as demonstrated by the dispatch and accounting software in use at the business, with which I am very familiar. The software is called ESC, or Electronic Service Control, which is a complete service management software that lets service companies manage customers, work, and finances, and which can transfer data to QuickBooks accounting software.

11. During the meeting, Freeman's computer was displaying accounting information from the ESC software. In plain view of both Freeman and Davis, I took a picture of the

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information being displayed. A copy of the picture is attached as **Exhibit 2**. Exhibit 2 fairly and accurately depicts the accounting information on the computer screen at the time that I took the picture.

12. Exhibit 2 shows the monthly sales for the 6 full months preceding May 20, 2021, and the sales to date for the month of May, 2021. Exhibit 2 also includes the total sales revenue for the 12-month period ending May 20, 2021, which was $1,768,766.22, confirming that the Revenue Threshold had been substantially exceeded as of May 20, 2021.

13. On June 8, 2021, I met again with Freeman and Davis in Freeman's office to, among other things, review the current accounting information. While in Freeman's office, and in the plain view of Freeman and Davis, I took a picture of Freeman's computer, which was displaying accounting information through June 8, 2021, from the ESC software. A copy of the picture is attached as **Exhibit 3**. Exhibit 3 fairly and accurately depicts the accounting information on the computer screen at the time I took the picture.

14. Exhibit 3 shows the monthly sales for the 6 full months preceding June 8, 2021, and the sales to date for the month of June, 2021. Exhibit 3 also includes the total sales revenue for the 12-month period ending June 8, 202, which was $1,787,559.41, establishing that the Revenue Threshold had been substantially exceeded through June 8, 2021.

15. On August 3, 2021, I again met with Freeman at his office to, among other things, review accounting information. While in Freeman's office, and in the plain view of Freeman, I took a picture of Freeman's computer, which was displaying sales information from the ESC software. A copy of the picture is attached as **Exhibit 4**. Exhibit 4 fairly and accurately depicts the accounting information on the computer screen at the time that I took the picture.

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16. The bar graph at the top of Exhibit 4 is entitled "Sales Trend" and shows total monthly sales from August 1, 2020 to through August 3, 2021. All of the monthly sales numbers shown in the bar graph exceed $100,000, except for August, 2021, which depicts sales for only two to three days of that month.

17. The pie chart in the middle of Exhibit 4 is entitled "Sales By Department | Year To Date" and shows that the trailing 12 months sales through August 3, 2021, totaled a combined $1,226,048.77, composed of $910,547.35 in Service Sales (plumbing) and $315,501.42 in VAC Truck Services (waste disposal). Once again, this demonstrates that the Revenue Threshold had been exceeded as of August 3, 2021.

18. It is interesting that total trailing 12-month sales from June 8, 2021 to August, 3, 2021, appear to have decreased by approximately $521,000. I believe this anomaly results from Tim Freeman's intentional deletion of certain sales invoices from the accounting software, which was reported to me by several LSL employees prior to this time, prior to August 3, 2021. Even assuming this deletion of information did not actually occur, the ESC software in use at the business as of August 3, 2021 showed trailing twelve-month sales which exceeded $1,000,000.

19. On or about May 9, 2022, which was at or about the time that the Earn-out Payment was due, I attended a meeting at the offices of Nexsen Pruet, LLC located at 1230 Main Street in Columbia SC for the purpose of discussing several issues related to the APA, including the overdue Closing Working Capital Statement and the overdue Earn-out Calculation Statement required by the APA.

20. Ashley Hawn, Stephen Porter, and I attended the meeting on behalf of Apple Services. From my recollection, Darra Coleman (an attorney for LSL), Jacob Taylor (LSL's

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accountant), Freeman, and an IT specialist from Nexsen Pruet attended the meeting on behalf of LSL. Coleman and Taylor had invited us to the meeting.

21. During the course of the meeting, Jacob Taylor presented financial information regarding Apple Services financial performance under the APA to everyone in the meeting. While pointing at a computer screen displaying LSL's ESC accounting software and showing $2.7 million dollars in total sales, Jacob Taylor stated "Mike [Jordan] likes this number as he exceeded his earn-out requirement," or words to that effect.

22. Jacob Taylor also stated that I was "$79,000 to the good" on the working capital adjustment. I and the others in the meeting, clearly understood this to mean that LSL owed me a working capital adjustment payment of at least $79,000.00 based on the terms of the APA and LSL's accounting records.

23. On October 17, 2022, I met with Jacob Taylor and Jake Sturdy, LSL's CFO. At that time, Jake Sturdy stated that I had achieved the Earn Out payment.

24. As of this affidavit, LSL still has not provided me the Earn-out Calculation Statement, despite numerous requests, and I have not been paid the required Earn-out Payment, even though the requirements have been met, as demonstrated herein.

25. As of the date of this affidavit, LSL still has not provided me with a Closing Working Capital Statement, despite numerous requests, and I have not been paid the required Post Closing Adjustment, even though the requirements have been met, as demonstrated herein.

Michael D. Jordan

SWORN to and subscribed before me
on this 30 day of October, 2023.

(Seal)



HSB #8853437 v4

Print Name: Jason Rogers
Notary Public for the State of South Carolina
My commission expires: August 14, 2030

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# EXHIBIT B

(Affidavit of Ashley Hawn)

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| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2023-CP-40-02958 |

**AFFIDAVIT OF ASHLEY HAWN**

Personally appeared before me, Ashley Hawn, who being duly sworn, deposes and states as follows:

1. I am currently employed by Michael D. Jordan.

2. I am duly authorized to make this Affidavit. I am over the age of 18 and competent to testify as to the matters contained in this affidavit.

3. The statements contained in this Affidavit are based upon my own personal knowledge.

4. On or about May 9, 2022, I attended a meeting at the offices of Nexsen Pruet, LLC located at 1230 Main Street in Columbia SC for the purpose of discussing several issues that arose between Michael Jordan, Apple Services, and LSL related to the APA, including the overdue working capital adjustment.

5. Stephen Porter, Michael Jordan, and I attended the meeting on behalf Apple Services. From my recollection, Darra Coleman (an attorney for LSL), Tim Freeman (a manager

for LSL), Jacob Taylor (LSL's accountant), and an IT specialist from Nexsen Pruett attended the meeting on behalf of LSL.

6. During the course of the meeting, Jacob Taylor presented financial information regarding Apple Services performance under the APA to everyone in the meeting. While pointing at a computer screen, displaying LSL's ESC accounting software and showing $2.7 million dollars in total sales, Jacob Taylor stated "Mike [Jordan] likes this number as he exceeded his earn out requirement," or words to that effect.

7. Jacob Taylor also stated that Apple Services was "$79,000 to the good" on the working capital adjustment. I, as well as others in the meeting, took this to mean that LSL owed Michael Jordan a working capital adjustment payment of $79,000.00 based on the terms of the APA.

Ashley Hawn

SWORN to and subscribed before me
on this 30 day of October, 2023.

(Seal)

Print Name: Jason Rogers
Notary Public for the State of South Carolina
My commission expires: August 14, 2030



HSB #8911975 v2



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# EXHIBIT C

(Affidavit of Stephen Porter)

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| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND | IN THE COURT OF COMMON PLEAS<br><br>FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2023-CP-40-02958 |

**AFFIDAVIT OF STEPHEN D. PORTER**

Personally appeared before me, Stephen D. Porter, who being duly sworn, deposes and states as follows:

1. I give this affidavit for the limited purpose of supporting a Motion for Partial Summary Judgment filed by Plaintiffs.

2. I am duly authorized to make this Affidavit. I am over the age of 18 and am competent to testify as to the matters contained in this affidavit.

3. The statements contained in this Affidavit are based upon my own personal knowledge.

4. I am a licensed South Carolina attorney, practicing with the law firm of Porter & Quinn, LLC, and I represent the Plaintiffs in this civil action.

5. On or about May 9, 2022, I attended a meeting at the offices of Nexsen Pruet, LLC, the attorneys for the Defendants in this action, located at 1230 Main Street in Columbia SC for the purpose of discussing several issues that arose between Michael Jordan, Apple Services, and LSL related to the APA, including the Earn-out Payment and working capital adjustment.

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6. Ashley Hawn, Michael Jordan, and I attended the meeting on behalf Apple Services. From my recollection, Darra Coleman (an attorney for LSL), Tim Freeman (a manager for LSL), Jacob Taylor (LSL's accountant), and an IT specialist from Nexsen Pruett attended the meeting on behalf of LSL. To my recollection, Tim Freeman did not stay at the meeting long.

7. During the course of the meeting, Jacob Taylor presented financial information regarding Apple Services performance under the APA to everyone in the meeting. While pointing at a computer screen displaying LSL's ESC accounting software, Jacob Taylor stated "Mike [Jordan] likes this number as he exceeded his earn out requirement," or words to that effect.

8. Jacob Taylor also stated that Apple Services was some amount "to the good" on the working capital adjustment. I took this to mean that LSL owed Michael Jordan a working capital adjustment payment based on the terms of the APA.

Stephen D. Porter

SWORN to and subscribed before me
on this 30 day of October, 2023.

(Seal)
Print Name: Anne Allison
Notary Public for the State of South Carolina
My commission expires: 6-15-2028

ANNE ALLISON
NOTARY
PUBLIC
SOUTH CAROLINA

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|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2022-CP-40-02958 |

**NOTICE OF PLAINTIFFS**

PLEASE TAKE NOTICE that Plaintiffs, by and through their undersigned counsel, hereby stipulate that the Affidavit of Stephen D. Porter, an attorney for all Plaintiffs, which was attached as Exhibit C to Plaintiff's original Motion for Partial Summary Judgment filed October 30, 2023, is hereby withdrawn for all purposes.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/: *James Y. Becker*
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November 8, 2023

Columbia, South Carolina

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| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2022-CP-40-02958 |

**PLAINTIFFS' *AMENDED* MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rules 54 and 56 of the South Carolina Rules of Civil Procedure, Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc. (collectively, "Plaintiffs") submit this **amended** motion requesting that the court enter an order granting partial summary judgment on the Plaintiffs' claims for breach of contract against Defendant Liquid Services and Logistics, LLC ("LSL") in this matter.

As set forth in more detail below, there is no genuine issue of material fact that LSL breached the Asset Purchase and Sale Agreement between Apple Services, Inc., Jordan, and LSL by failing to make certain required payments to Jordan, specifically the Earn-out Payment and Post-Closing Adjustment of Working Capital, or to provide the appropriate calculations for those payments, as required under that agreement.

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This motion is based on the pleadings filed to date, the discovery responses exchanged between the parties, the Amended Affidavit of Michael Jordan *see* **Exhibit A**, the Affidavit of Ashley Hawn, an employee of Jordan *see* **Exhibit B**.[1]

## RELEVANT FACTS

**The Asset Purchase Agreement**.

Jordan is the sole shareholder of Apple Services, Inc. and Plumbinator. *See* Jordan Amend. Aff. ¶ 1. On May 10, 2021, Jordan and Apple Services, Inc. entered into and closed an Asset Purchase and Sale Agreement with LSL for the purchase by LSL of certain assets of Apple Services, Inc. including goodwill, furniture, fixtures, and equipment ("APA"). Id. ¶ 4. A fully executed copy of the APA, including all exhibits and schedules, is attached as Exhibit A to Plaintiffs' Complaint filed on June 8, 2022. LSL in its Answer does not contest that Exhibit A to the Complaint is a true and accurate copy of the final, fully-executed APA. *See* Compl. ¶ 8; Ans. of LSL ¶ 8.

After the closing of the APA, LSL began operating the purchased "Business," under a Delaware corporate entity, Apple Services Plumbing, LLC, which is also its trade name. *See* Jordan Amend. Aff. ¶ 6. This motion and the supporting affidavits refer to the seller entity as "Apple Services, Inc." and sometimes refer to the purchased Business as "Apple Services."

**The Earn-out Payment**.

The APA required that LSL pay a portion of the purchase price to Jordan at closing on May 10, 2021, with the remaining balance paid as an earn out. *See* APA §3.1 and §3.3. Specifically, LSL was required to pay Jordan an Earn-out Payment of $882,000.00 (the "Earn-out Payment" or

[1] The Affidavit of Stephen D. Porter, an attorney for all Plaintiffs, which was attached as Exhibit C to Plaintiff's original Motion for Partial Summary Judgment filed October 30, 2023, has previously been withdrawn for all purposes.

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"Earn Out"), "so long as LTM Revenue for the Earn-out Period exceeds the Revenue Threshold." Id. § 3.3(a). The APA defines LTM Revenue as "the last twelve months' revenue of the [purchased] Business up to the Closing Date ***and*** for the Earn-out Period." Id. at p. A-4 (emphasis added). The "Earn-out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." Id. at p. A-2. And the "Revenue Threshold" means $1,000,000.00. *Id*. at p. A-6. Thus, if the twelve month trailing gross revenue of the purchased Business, exceeded $1,000,000.00 as of the Closing Date ***and*** at the end of the Earn-out Period, *i.e*. August 10, 2021, then the Earn-out payment was earned and due to be paid to Jordan.

The APA set forth a specific procedure for confirming Jordan's entitlement to the Earn-out Payment:

> On or before the date which is thirty (30) days after the last day of the Earn-out Period, [LSL] shall prepare and deliver to [Jordan] a written statement (the "***Earn-out Calculation Statement")*** setting forth in reasonable detail its determination of LTM Revenue for the Earn-out Period and whether the Earn-out Payment shall be made (the "***Earn-out Calculation").***

*See* APA § 3.3(b)(i).

Thirty days after the last day of the Earn-out Period was September 9, 2021. Jordan then had forty-five days after receipt of the Earn-out Calculation Statement to review the calculation and to inspect LSL's books and records to confirm the accuracy of the calculation, and if warranted, to object to it. *See* APA § 3.3(b)(ii). If the Earn-out Payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022. Id. § 3.3(d).

LSL's obligation to make the Earn-out Payment is an "independent obligation," Id. 3.3(c), subject only to limited rights of set-off involving (1) the post-closing adjustment of working capital

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(discussed *infra*), and (2) any "Adverse Consequences" to LSL, as set forth in Article VII, and specifically §7.1, of the APA. Id. § 3.3(e). These "Adverse Consequences" are claims and resulting damages arising from (a) "misrepresentation or breach of warranty," (b) "nonfulfillment of any covenant," (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA, and (d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." *See* APA §§ 3.3(e); 7.1, and p. A-1. Importantly, LSL has provided ***no evidence*** of any Post Closing Adjustment payment due to LSL (as further explained herein) or of any Adverse Consequences to LSL.

**The Post Closing Adjustment of Working Capital**.

Additionally, the APA requires that LSL pay Jordan a Post-Closing Adjustment of Working Capital. *See* APA § 3.2. Not later than one-hundred days after the May 10, 2021 Closing date, or August 19, 2021, LSL was required to provide Jordan a Closing Working Capital Statement, calculating the Working Capital as of the date of Closing. Id. § 3.2(a)(i). If the calculation of the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment") within thirty days of that determination, which was September 20, 2021. Id. § 3.2(a)(ii). If Working Capital was less than $84,000, Jordan was required to pay the difference to LSL.

The APA also requires the payment of interest if the required Post-Closing Adjustment is not timely paid:

> If and to the extent either Party fails to timely pay the Post-Closing Adjustment on the Post-Closing Adjustment Due Date, the amount of the Post-Closing Adjustment remaining unpaid, commencing the day after the Post-Closing Adjustment Due Date, shall accrue interest a twelve percent (12%) per annum until such time as the Post-Closing Adjustment is paid in full.

Id.

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**LSL has failed to account for and pay both the Earn-out Payment and Post-Closing Adjustment**.

As evidenced by the Jordan Amended Affidavit, LSL has completely failed to deliver any Earn-out Calculation Statement, as required by § 3.3(b)(1) of the APA. *See* Jordan Amend. Aff. ¶ 24.

The Jordan Affidavit and the Jordan Amended Affidavit also demonstrate that Apple Services unquestionably exceeded the Revenue Threshold. As of May 20, 2021, the total amount of Apple Services' trailing twelve months' sales revenues equaled $1,768,766.22, which significantly exceeded the $1,000,000.00 Revenue Threshold. *Id.* ¶ 12, Ex. 2. LSL's accounting software also revealed that, as of June 8, 2021, the Revenue Threshold was met. *Id.* ¶¶ 13–14, Ex. 3. At that time, the total amount of Apple Services' trailing twelve-month sales equaled $1,787,559.41 – once again establishing that the Revenue Threshold was met. *Id.* ¶ 14, Ex. 3. On August 3, 2023, just one week before the close of the Earn-out Period, LSL's accounting software showed that total sales for the twelve month period ending August 3, 2021, totaled $1,226,048.77.[2] *Id.* ¶¶ 15–18, Ex. 4. These revenue numbers are entirely consistent with the $1,832,544 annual gross revenue reported on Apple Services, Inc.'s 2020 federal income tax return and with the $873,801 of gross revenue for the partial year (approximately four and a half months) of operations reported on Apple Services, Inc.'s federal income tax return for 2021. *See* Jordan Amend. Aff. ¶¶ 26-28. These revenue numbers are also entirely consistent with Apple Services, Inc.'s annual revenue during the four-year period from 2017 through 2020, which ranged from $1,567,245 to $1,832,544 and averaged $1,661,075 during this time. *Id.*

[2] It is unclear to Plaintiffs as to why the total sales would have decreased from June to August. Plaintiffs have information to believe that one of LSL's employees was purposefully deleting invoices to lessen the total sales. *See* Jordan Amend. Aff. ¶ 18. Nonetheless, Exhibit 3 still establishes that the Revenue Threshold had been met.

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On May 9, 2022, and one day before the Earn-out Payment was due, Michael Jordan, Ashley Hawn, and Stephen Porter, an attorney for Plaintiffs, attended a meeting at the offices of Nexsen Pruet, LLC, currently known as Maynard Nexsen, with LSL employees. *See* Jordan Amend. Aff. ¶ 19; Hawn Aff. ¶ 4. The meeting was held for Jordan, Apple Services, Inc. and LSL to discuss several issues related to the APA, including the overdue working capital adjustment. *See* Jordan Amend. Aff. ¶ 19; Hawn Aff. ¶ 4. Darra Coleman, an attorney for LSL; Tim Freeman ("Freeman"), LSL's manager; Jacob Taylor ("Taylor"), LSL's accountant; and an IT specialist from Nexsen Pruet attended the meeting on behalf of LSL. *See* Jordan Amend. Aff. ¶ 20; Hawn Aff. ¶ 5.

At that meeting, Taylor presented financial information regarding Apple Services' performance under the APA to all the meeting participants. *See* Jordan Amend. Aff. ¶ 21; Hawn Aff. ¶ 6. While pointing at the screen displaying $2.7 million dollars in total sales, Taylor stated "Mike likes this number as he exceeded his earn out requirement." *See* Jordan Amend. Aff. ¶ 21; Hawn Aff. ¶ 6. Taylor also stated that Apple Services was "$79,000 to the good" on the working capital adjustment, meaning LSL owed Jordan a Post-Closing Working Capital Adjustment equal to $79,000.00. *See* Jordan Amend. Aff. ¶ 22; Hawn Aff. ¶ 7. Finally, on October 17, 2022, Jacob Sturdy, LSL's CFO, informed Jordan that the Revenue Threshold had been met and the Earn Out achieved. *See* Jordan Amend. Aff. ¶ 23.

Accordingly, LSL was required to pay Jordan the Earn-out Payment on or before May 10, 2022, and to timely remit the Post-Closing Adjustment. To date, LSL has not paid Jordan any portion of the Earn-out Payment or the Post-Closing Adjustment. *Id.* ¶¶ 24–25.

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## LEGAL STANDARD

This Court must grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP; *Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Stated another way, "[s]ummary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ." *Rothrock v. Copeland*, 305 S.C. 402, 405, 409 S.E.2d 366, 368 (1991).

Although the "evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party," *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991), "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine," *Kitchen Planners, LLC v. Friedman*, No. 2020-001669, 2023 WL 5420401 (S.C. Aug. 23, 2023).

## ARGUMENT

**1. This Court should grant summary judgment as to Plaintiffs' breach of contract claims because there is no genuine issue of material fact that LSL breached the APA by failing to pay Jordan the Earn-out Payment and the Post-Closing Working Capital Adjustment.**

It cannot be reasonably disputed that LSL owes Jordan the Earn-out Payment and the Post-Closing Adjustment. LSL, and its agents, represented to Jordan on numerous occasions that he satisfied the APA's conditions to receive the Earn-out Payment. And although LSL failed to provide Jordan with the closing working capital calculation as required by the APA, LSL determined that it owes Jordan a minimum of $79,000.00 as the Post-Closing Adjustment.

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**a. There is no genuine issue of material fact that LSL breached the APA by failing to provide Jordan the Earn-out Calculation Statement and by failing to pay Jordan the Earn-out Payment.**

To begin, LSL admits to executing the APA, *see* Ans. of LSL ¶ 8, and in response to Plaintiffs' breach of contract allegation for failing to pay the Earn-out Payment, LSL did not deny the allegations, but instead, merely craved reference to the APA. *Id.* ¶ 26. The terms of the APA are clear and unambiguous: if on May 10, 2021, and on August 10, 2021, the long-term revenue of Apple Services for the preceding twelve months exceeded the Revenue Threshold, Jordan was entitled to the Earn-out Payment. *See* APA § 3.3. As evidenced by Exhibit 2 of Jordan's Amended Affidavit, Apple Services met the Revenue Threshold by May 20, 2021, if not before. The Revenue Threshold was also exceeded in June of 2021 and August of 2021. This is totally consistent with the federal income tax returns filed by Jordan. *See* Jordan Amend. Aff. ¶ 26.

Not only did LSL's accounting software show that the Revenue Threshold had been met on May 20, 2021, June 8, 2021, and August 3, 2021, both LSL's accountant and CFO told Jordan that the Revenue Threshold had been met and Jordan achieved the Earn-out Payment. At the May 9, 2022, meeting, Jacob Taylor – LSL's accountant – unequivocally told everyone at the meeting that Jordan "exceeded [the] earn out requirement" by displaying total sales of $2.7 million. Just a few months later and after the deadline for payment of the Earn Out had passed, Jake Sturdy – LSL's CFO – also told Jordan that the Earn Out had been achieved. It cannot be reasonably disputed that the Revenue Threshold was met or that LSL has not paid Jordan the Earn-out Payment as required by the APA.

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**b. There is no genuine issue of material fact that LSL breached the APA by failing to provide Jordan the Closing Working Capital Statement and failing to pay Jordan the Post-Closing Adjustment.**

And again, in response to Plaintiffs' allegations in their Complaint that LSL breached the APA for failing to deliver the Closing Working Capital Statement, LSL did not deny the allegations; instead, LSL merely craved reference to the APA. *See* Ans. of LSL ¶ 26. The APA is just as clear as to the working capital calculation requirements: the APA requires LSL to provide Jordan with the calculation for the working capital within one-hundred days of May 10, 2021. *See* APA § 3.2(a)(i). To date, LSL has failed to provide Jordan with the Closing Working Capital Statement. As such, LSL is in breach of the APA. *See* Jordan Amend. Aff. ¶ 25. Additionally, the Post-Closing Adjustment was required to be paid no later than thirty days after the working capital determination, which has not occurred. Accordingly, LSL is in breach of the APA for failing to provide Jordan with the Closing Working Capital Statement and the Post-Closing Adjustment, which it has effectively—if not expressly—admitted it owes.

At the May 9, 2022 meeting, Jacob Taylor again unequivocally stated that Jordan was "$79,000 to the good" on the working capital adjustment. This was understood to mean that, at that time, LSL owed Jordan a working capital adjustment payment of $79,000.00 based on the terms of the APA. While LSL has failed to provide Jordan with the Closing Working Capital Statement as required by the APA, as of May 9, 2022, LSL determined that it owed Jordan at least $79,000.00 for the Post-Closing Adjustment. Accordingly, this Court should grant Plaintiffs' motion for summary judgment because there is no genuine issue of material fact as to whether LSL breached the APA for failing to provide Closing Working Capital Statement and failing to pay Jordan the Post-Closing Adjustment.

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**2. LSL owes prejudgment interest of 8.75% per annum on the Earn-out Payment, as well as prejudgment interest of 12% per annum on the Post-Closing Adjustment.**

Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." *Butler Contracting, Inc. v. Ct. St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing *Smith–Hunter Constr. Co. v. Hopson*, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Importantly:

> The fact that the sum due is disputed does not render the claim unliquidated for the purposes of an award of prejudgment interest. The proper test for determining whether prejudgment interest may be awarded is whether or not the measure of recovery, not necessarily the amount of damages, is fixed by conditions existing at the time the claim arose.

*Hopson*, 365 S.C. at 128, 616 S.E.2d at 421.

Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

Turning first to prejudgment interest on the Earn-out Payment, LSL was required to pay Jordan the Earn-out Payment on or before May 10, 2022, pursuant to the APA. The Earn-out Payment of $882,000.00 is clearly a liquidated sum certain, *Hopson*, 365 S.C. at 128, 616 S.E.2d at 421 (finding an award of prejudgment interest proper when the sum was "capable of being reduced to a sum certain"), and was demandable on May 10, 2022, pursuant to the APA. As of October 25, 2023, the prejudgment interest owed to Jordan and Apple Services for the Earn-out Payment is $112,485.21.

Regarding the prejudgment interest on the Post-Closing Adjustment, the APA provides:

> [I]f and to the extent either Party fails to timely pay the Post-Closing Adjustment, on the Post-Closing Adjustment Due Date, the amount of the Post-Closing Adjustment remaining unpaid, commencing the day after the Post-Closing Adjust Due Date, shall accrue interest at twelve percent (12%) per annum until such time as the Post-Closing Adjustment is paid.

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The APA authorizes prejudgment interest in the amount of 12% for any amounts remaining unpaid. As outlined above, LSL's accountant stated on May 9, 2022, that Jordan was owed $79,000.00 for the working capital adjustment. At that time, the amount owed had been reduced to a sum certain. Even so, the working capital adjustment was or should have been calculable by September 20, 2021, one-hundred days after the closing date of May 10, 2022. The amount was due and demandable on the due date of thirty days thereafter. Accordingly, as of October 25, 2023, the prejudgment interest owed to Jordan and Apple Services for the working capital adjustment is $19,869.21.

**3. Jordan and Apple Services' attorney's fees and costs are recoverable under the APA.**

Attorney's fees and costs are generally "not recoverable unless authorized by contract or statute." *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). Here, the APA provides for attorney's fees and costs as follows:

> Legal Fees. In the event any Party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another Party, the prevailing Party, as determined by the court or arbitrator, as the case may be, in such suit or arbitration proceeding is entitled to recover its reasonable attorneys' fees and expenses.

*See* APA § 8.10.

Plaintiffs commenced this suit to enforce the provisions of the APA, including LSL's obligation to pay the Earn-out Payment and Post-Closing Adjustment. Accordingly, Plaintiffs are entitled to recover their reasonable attorney's fees and costs should the Court grant summary judgment in their favor. In the event that the Court does so, Plaintiffs will submit a motion for an award of fees supported by appropriate affidavits.

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## CONCLUSION

Based on the foregoing, this Court should grant summary judgment in favor of Plaintiffs on their breach of contract claims for the following:

i) Judgment in the amount of $882,000 for non-payment of the Earn-out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment was due, until the date the judgment is entered (through October 25, 2023 the combined total is $994,485.21);

ii) Judgment in the amount of $79,000 for non-payment of the Post-Closing Adjustment from September 20, 2021, until the date the judgment is entered (through October 25, 2023, the combined total is $98,869.21);

iii) Attorneys' fees and costs in an appropriate amount, to be determined after entry of judgment and the submission of a motion and supporting affidavits;

Pursuant to Rule 54(b), Plaintiffs request that the Court provide an express determination that there is no just reason for delay and further direct the entry of a final judgment as to the Plaintiffs' breach of contract claims against Liquid Services and Logistics, LLC, as set forth and requested in this motion;

In the alternative, and pursuant to Rule 56(d), Plaintiffs request that the Court examine the pleadings and the evidence before it, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted, and make an order specifying the same, including the extent to which the amount of damages or other relief is not in controversy, and directing such other and further proceeding in this action as are just.

Respectfully submitted,

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HAYNSWORTH SINKLER BOYD, P.A.

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stephen@porterquinnlaw.com

December 1, 2023

Columbia, South Carolina

# EXHIBIT A

(Amended Affidavit of Michael Jordan)

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| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2023-CP-40-02958 |

**_AMENDED_ AFFIDAVIT OF MICHAEL JORDAN**
**IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT**

Personally appeared before me, Michael D. Jordan, who being duly sworn, deposes and states as follows:

1. I am the founder and sole owner of Apple Services, Inc. and Plumbinator 1051, LLC ("Plumbinator").

2. I am over the age of 18 and competent to testify as to the matters contained in this affidavit. I am fully authorized to make this Affidavit on behalf of Apple Services, Inc. and Plumbinator.

3. The statements contained in this Affidavit are based upon my own personal knowledge and my knowledge of the business records and accounting information maintained by Apple Services, Inc. in the ordinary course of business and on accounting information provided to me by employees of the Defendant Liquid Services and Logistics, LLC ("LSL").

4. On May 10, 2021, I entered into an Asset Purchase and Sale Agreement ("APA") to sell certain business assets of Apple Services, Inc. to LSL. A copy of the fully-executed APA

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is attached as Exhibit A to the original Complaint filed in this action. At the same time, I also entered into an asset purchase agreement to sell the assets of Greenway Disposal, LLC ("Greenway"), a commercial waste disposal company, to LSL, but the agreement for the sale of that business is not involved in this lawsuit because LSL paid the entire purchase money for Greenway in full at the Closing Date.

5. Prior to the APA, I had operated Apple Services, Inc. for approximately 22 years and Greenway for approximately 10 years. Apple Services, Inc. provided plumbing services to retail and commercial customers, and Greenway provided waste disposal services to commercial customers, such as restaurants and other food service providers. These business were very complimentary in terms of customers and services offered and, over the years that I operated them, enjoyed substantial, steady growth in sales revenue. At the time I sold these businesses to LSL, they both had a lengthy list of customers and suppliers, and a dedicated and loyal group of employees. The businesses provided excellent work product and customer service. The gross sales of the combined businesses exceeded approximately $2,000,000, in each of the three years prior to the closing of the APA. Apple Services' annual sales were approximately $1,500,000 and Greenway's annual sales were approximately $500,000 during this three-year period.

6. Under the APA for Apple Services, Inc., LSL paid a substantial portion of the purchase price to me on May 10, 2021, the Closing Date, with the remaining balance of $882,000.00 to be paid as an Earn-out Payment, not later than 12 months later, which is May 10, 2022. After the closing, LSL began operating the purchased Business under a Delaware corporate entity, Apple Services Plumbing, LLC, which is also its trade name.

7. Under section 3.3 of the APA, LSL agreed to pay me the Earn-out Payment if, during the period from May 10, 2021, to August 10, 2021, the trailing 12-month revenue of the

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purchased Business exceeded the Revenue Threshold of $1,000,000.00. LSL also agreed to provide me, on or before September 9, 2021, with an Earn-out Calculation Statement, setting forth in reasonable detail its determination of whether the Earn-out calculation requirements had been met.

8. Under section 3.2 of the APA, the parties also agreed that the Purchased Assets would include working capital of at least $84,000. LSL thus agreed to pay me a Post-Closing Adjustment in an amount equal to the Working Capital as of the Closing Date, minus $84,000. If the closing working capital was less than $84,000, I was obligated to pay the difference to LSL. LSL also agreed to provide to me, within 100 days of the Closing Date, which is August 18, 2021, a Closing Working Capital Statement, setting forth its calculation of Closing Working Capital, as further defined in the APA.

9. Based on my knowledge of the purchased Business, my personal interactions with LSL employees, and the information provided to me by LSL employees, the Revenue Threshold for the Earn-out Payment has been met and exceeded, and a Post-Closing Adjustment of approximately $79,000 should be paid to me.

10. On May 20, 2021, just 10 days after the Closing Date, I met with Tim Freeman ("Freeman"), LSL's manager, and Blake Davis ("Davis"), another LSL employee, in Freeman's office located at 1047 Gates Road, Irmo, South Carolina. The purpose of the meeting was, in part, to review financial information of the purchased Business for the preceding 12-month period, as demonstrated by the dispatch and accounting software in use at the business, with which I am very familiar. The software is called ESC, or Electronic Service Control, which is a complete service management software that lets service companies manage customers, work, and finances, and which can transfer data to QuickBooks accounting software.

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11. During the meeting, Freeman's computer was displaying accounting information from the ESC software. In plain view of both Freeman and Davis, I took a picture of the information being displayed. A copy of the picture is attached as **Exhibit 2**.[1] Exhibit 2 fairly and accurately depicts the accounting information on the computer screen at the time that I took the picture.

12. Exhibit 2 shows the monthly sales for the 6 full months preceding May 20, 2021, and the sales to date for the month of May, 2021. Exhibit 2 also includes the total sales revenue for the 12-month period ending May 20, 2021, which was $1,768,766.22, confirming that the Revenue Threshold had been substantially exceeded as of May 20, 2021.

13. On June 8, 2021, I met again with Freeman and Davis in Freeman's office to, among other things, review the current accounting information of the purchased Business. While in Freeman's office, and in the plain view of Freeman and Davis, I took a picture of Freeman's computer, which was displaying the accounting information through June 8, 2021, from the ESC software. A copy of the picture is attached as **Exhibit 3**. Exhibit 3 fairly and accurately depicts the accounting information on the computer screen at the time I took the picture.

14. Exhibit 3 shows the monthly sales for the 6 full months preceding June 8, 2021, and the sales to date for the month of June, 2021. Exhibit 3 also includes the total sales revenue for the 12-month period ending June 8, 2021, which was $1,787,559.41, establishing that the Revenue Threshold had been substantially exceeded through June 8, 2021.

15. On August 3, 2021, I again met with Freeman at his office to, among other things, review accounting information of the purchased Business. While in Freeman's office, and in the plain view of Freeman, I took a picture of Freeman's computer, which was displaying sales

[1] There is no Exhibit 1 to this Amended affidavit.

information from the ESC software. A copy of the picture is attached as **Exhibit 4**. Exhibit 4 fairly and accurately depicts the accounting information on the computer screen at the time that I took the picture.

16. The bar graph at the top of Exhibit 4 is entitled "Sales Trend" and shows total monthly sales from August 1, 2020 to through August 3, 2021. All of the monthly sales numbers shown in the bar graph exceed $100,000, except for August, 2021, which depicts sales for only two to three days of that month.

17. The pie chart in the middle of Exhibit 4 is entitled "Sales By Department | Year To Date" and shows that the trailing 12 months sales through August 3, 2021, totaled a combined $1,226,048.77, composed of $910,547.35 in Service Sales (plumbing) and $315,501.42 in VAC Truck Services (waste disposal). Once again, this demonstrates that the Revenue Threshold had been exceeded as of August 3, 2021.

18. It is interesting that total trailing 12-month sales from June 8, 2021 to August, 3, 2021, appear to have decreased by approximately $521,000. I believe this anomaly results from Tim Freeman's intentional deletion of certain sales invoices from the accounting software, which was reported to me by several LSL employees prior to this time, prior to August 3, 2021. Even assuming this deletion of information did not actually occur, the ESC software in use at the business as of August 3, 2021 showed trailing twelve-month sales which exceeded $1,000,000.

19. On or about May 9, 2022, which was at or about the time that the Earn-out Payment was due, I attended a meeting at the offices of Nexsen Pruet, LLC located at 1230 Main Street in Columbia, SC for the purpose of discussing several issues related to the APA, including the overdue Closing Working Capital Statement and the overdue Earn-out Calculation Statement required by the APA.



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20. Ashley Hawn, Stephen Porter, and I attended the meeting on behalf of Apple Services. From my recollection, Darra Coleman (an attorney for LSL), Jacob Taylor (LSL's accountant), Freeman, and an IT specialist from Nexsen Pruet attended the meeting on behalf of LSL. Coleman and Taylor had invited us to the meeting.

21. During the course of the meeting, Jacob Taylor presented financial information regarding the purchased Business' financial performance under the APA to everyone in the meeting. While pointing at a computer screen displaying LSL's ESC accounting software and showing $2.7 million dollars in total sales, Jacob Taylor stated "Mike [Jordan] likes this number as he exceeded his earn-out requirement," or words to that effect.

22. Jacob Taylor also stated that I was "$79,000 to the good" on the working capital adjustment. I and the others in the meeting, clearly understood this to mean that LSL owed me a working capital adjustment payment of at least $79,000.00 based on the terms of the APA and LSL's accounting records.

23. On October 17, 2022, I met with Jacob Taylor and Jake Sturdy, LSL's CFO. At that time, Jake Sturdy stated that I had achieved the Earn-out Payment.

24. As of this affidavit, LSL still has not provided me the Earn-out Calculation Statement, despite numerous requests, and I have not been paid the required Earn-out Payment, even though the requirements have been met, as demonstrated herein.

25. As of the date of this affidavit, LSL still has not provided me with a Closing Working Capital Statement, despite numerous requests, and I have not been paid the required Post Closing Adjustment, even though the requirements have been met, as demonstrated herein.

26. I have attached true and accurate copies of selected portions of the 2020 and 2021 Federal Tax Returns and relevant schedules for Apple Services, Inc. as **Exhibits 5 & 6**. The 2020



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tax return demonstrates that Apple Services, Inc.'s reported gross annual receipts from 2017 through 2020 were as follows:

| Tax Year | Gross Receipts |
|---|---|
| 2017 | $1,645,651 |
| 2018 | $1,598,860 |
| 2019 | $1,567,245 |
| 2020 | $1,832,544 |

27. In 2021, Apple Services, Inc. reported gross revenue of $873,801, for the approximately 4.33 months ending May 10, 2021.

28. The reported gross revenue for the approximately 16.33 months ending May 10, 2021, equals $2,706,345, or approximately $165,728 per month. Using this average monthly revenue figure, the trailing 12-month revenue on May 10, 2021 would have been approximately $1,988,741. Using the average monthly revenue for the 4.33 months in 2021 of $201,802, yields trailing 12-month revenue as of May 10, 2021 of approximately $2,421,619. Apple Services, Inc.'s reported gross revenue is consistent with my understanding from the LSL employees mentioned in this affidavit that the Revenue Threshold for the Earn-out Payment was timely met and exceeded. I have never been told by any employee or agent of LSL that the purchased Business failed to meet the requirements for the Earn-out Payment.

Michael D. Jordan

SWORN to and subscribed before me
on this 30th day of November, 2023.

(Seal)
Print Name: Victoria L. Baker
Notary Public for the State of South Carolina
My commission expires: 4/25/2029

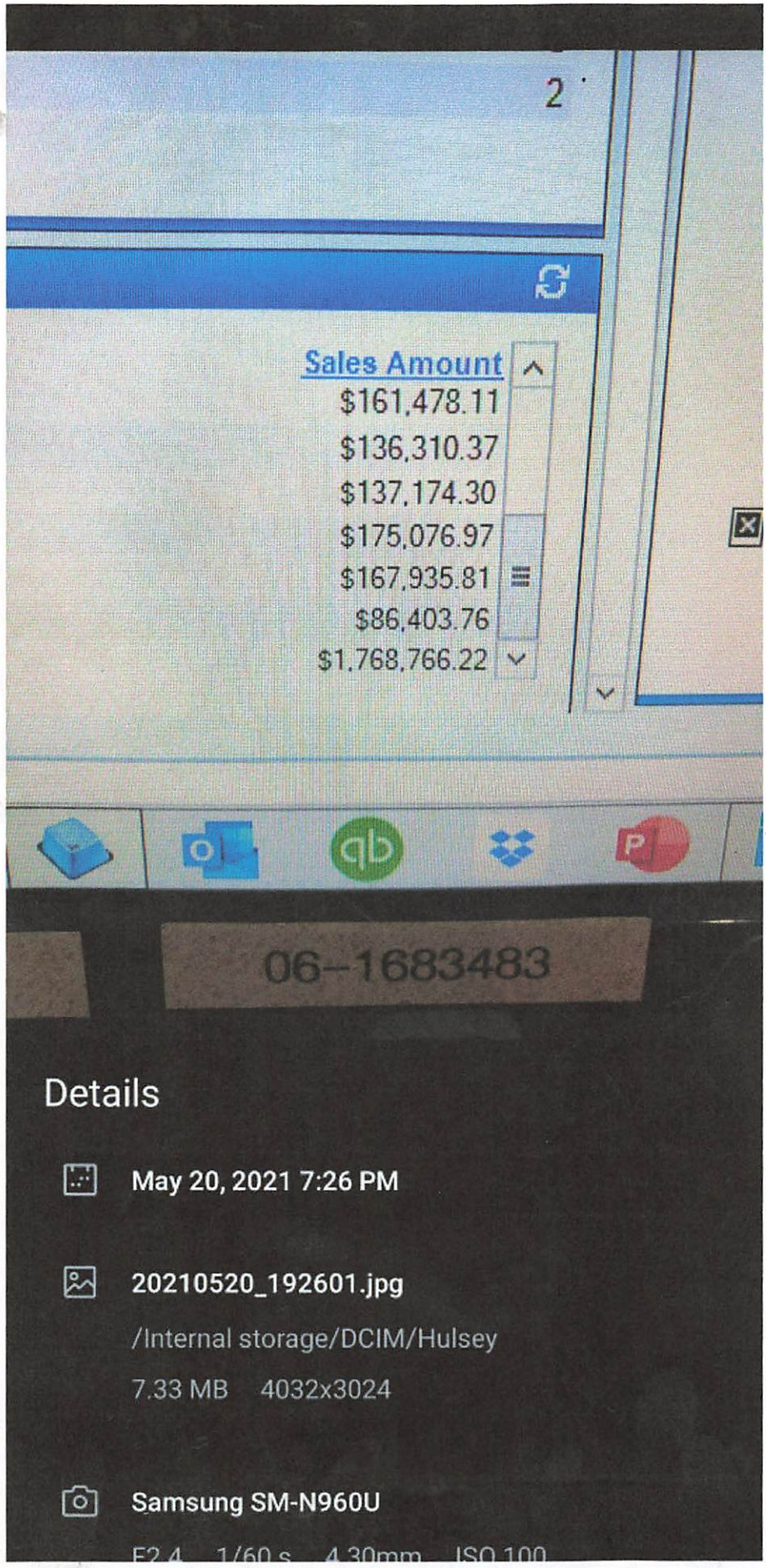
VICTORIA L. BAKER
NOTARY PUBLIC
SOUTH CAROLINA
MY COMMISSION EXPIRES 4/25/2029



HSB #8971615 v2

# EXHIBIT 2

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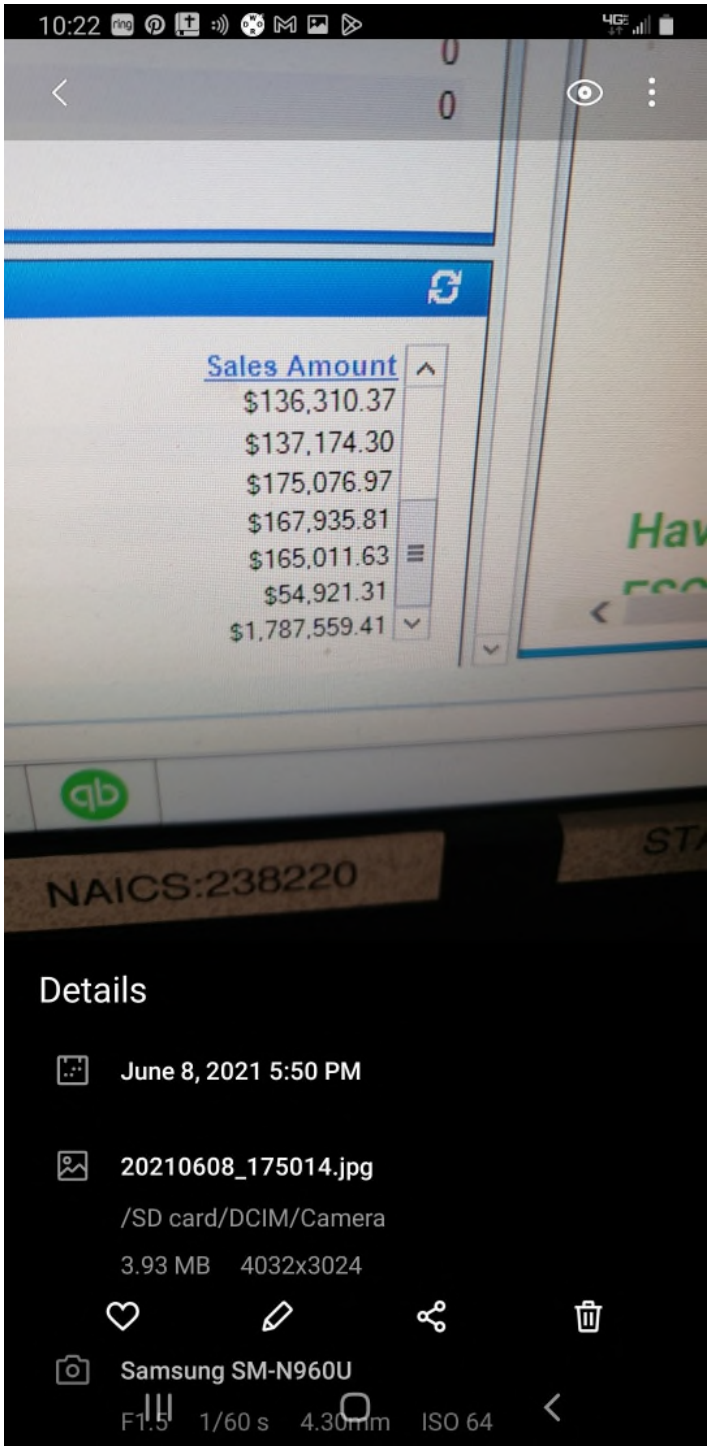



Earnout calculation

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# EXHIBIT 3

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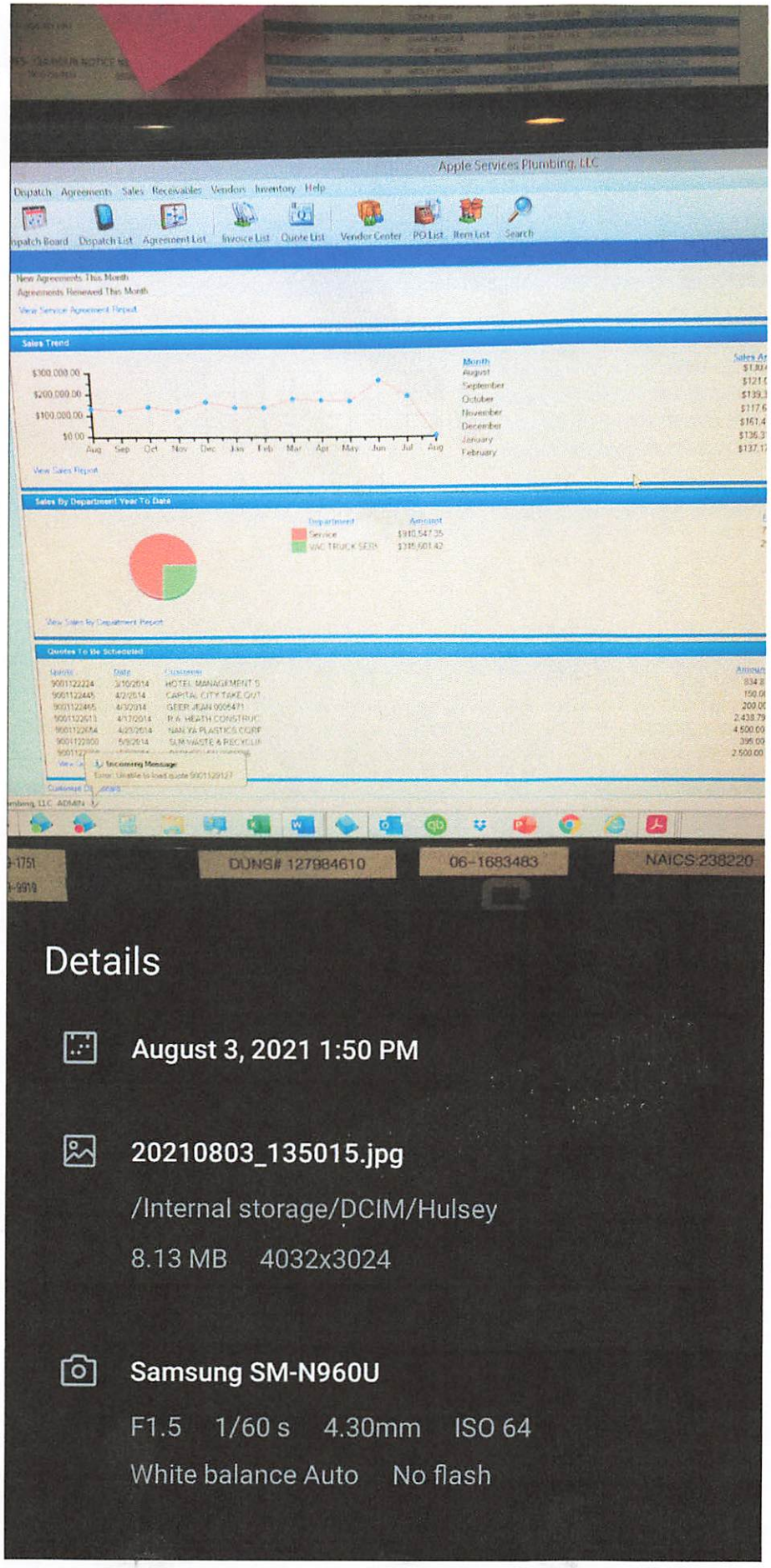



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# EXHIBIT 4

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# EXHIBIT A –Part 2

(Exhibits 5-6 to Amended Affidavit of Michael Jordan)

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# EXHIBIT 5

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# Apple Services, Inc.

Corporate Income Tax Returns

*For the Year Ended December 31, 2020*

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**Scott and Company LLC**
**P.O. Box 8388**
**Columbia, SC 29202**
**803-256-6021**

September 15, 2021

**CONFIDENTIAL**

Apple Services, Inc.
37 Will Richardson Road
Irmo, SC 29063

Dear MICHAEL:

We have prepared the following returns from information provided by you without verification or audit:

U.S. Income Tax Return for an S Corporation (Form 1120-S)
South Carolina S Corporation Income Tax Return (Form SC1120S)

We suggest that you examine these returns carefully to fully acquaint yourself with all items contained therein to ensure that there are no omissions or misstatements. Attached are instructions for signing and filing each return. Please follow those instructions carefully.

Also enclosed is any material you furnished for use in preparing the returns. If the returns are examined, requests may be made for supporting documentation. Therefore, we recommend that you retain all pertinent records for at least seven years.

In order that we may properly advise you of tax considerations, please keep us informed of any significant changes in your financial affairs or of any correspondence received from taxing authorities.

If you have any questions, or if we can be of assistance in any way, please call.

Sincerely,

Sandra Krell Cooper

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# Filing Instructions

## Apple Services, Inc.

## Form 8879-S

## U.S. S Corporation Income Tax Declaration for an IRS *e-file* Return with Electronic Filing Personal Identification Number

## Taxable Year Ended December 31, 2020

**Date Due:** September 15, 2021

**Remittance:** None is required. No amount is due or overpaid.

**Signature:** You are using the Personal Identification Number (PIN) for signing your return electronically. Form 8879-S, IRS e-file Signature Authorization for Form 1120S should be signed and dated by an authorized officer of the corporation and returned to:

Scott and Company LLC
P.O. Box 8388
Columbia, SC 29202

***Important:*** **Your return will not be filed with the IRS until the signed Form 8879-S, IRS e-file Signature Authorization for Form 1120S has been received by this office.**

**Other:** Your return is being filed electronically with the IRS and is not required to be mailed. If you mail a paper copy of Form 1120-S to the IRS it will delay processing of your return.

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Form **8879-S**

Department of the Treasury
Internal Revenue Service

# IRS *e-file* Signature Authorization for Form 1120-S

▶ ERO must obtain and retain completed Form 8879-S.

▶ Go to *www.irs.gov/Form8879S* for the latest information.

For calendar year 2020, or tax year beginning , and ending

OMB No. 1545-0123

**2020**

Name of corporation

Apple Services, Inc.

Employer identification number

[redacted]

**Part I Tax Return Information** (Whole dollars only)

| | | | |
|---|---|---|---|
| 1 | Gross receipts or sales less returns and allowances (Form 1120-S, line 1c) | 1 | 1,832,544 |
| 2 | Gross profit (Form 1120-S, line 3) | 2 | 1,428,404 |
| 3 | Ordinary business income (loss) (Form 1120-S, line 21) | 3 | 72,693 |
| 4 | Net rental real estate income (loss) (Form 1120-S, Schedule K, line 2) | 4 | |
| 5 | Income (loss) reconciliation (Form 1120-S, Schedule K, line 18) | 5 | 72,693 |

**Part II Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)**

Under penalties of perjury, I declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2020 electronic income tax return and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the corporation's electronic income tax return. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the corporation's return to the IRS and to receive from the IRS **(a)** an acknowledgement of receipt or reason for rejection of the transmission, **(b)** the reason for any delay in processing the return or refund, and **(c)** the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the corporation's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at **1-888-353-4537** no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the corporation's electronic income tax return and, if applicable, the corporation's consent to electronic funds withdrawal.

**Officer's PIN: check one box only**

☒ I authorize Scott and Company LLC (ERO firm name) to enter my PIN [redacted] (Don't enter all zeros) as my signature on the corporation's 2020 electronically filed income tax return.

☐ As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2020 electronically filed income tax return.

Officer's signature ▶ _____ Date ▶ 09/14/21 Title ▶ President

MICHAEL D JORDAN

**Part III Certification and Authentication**

**ERO's EFIN/PIN.** Enter your six-digit EFIN followed by your five-digit self-selected PIN. [redacted] (Don't enter all zeros)

I certify that the above numeric entry is my PIN, which is my signature on the 2020 electronically filed income tax return for the corporation indicated above. I confirm that I am submitting this return in accordance with the requirements of **Pub. 3112,** IRS *e-file* Application and Participation, and **Pub. 4163,** Modernized e-File (MeF) Information for Authorized IRS *e-file* Providers for Business Returns.

ERO's signature ▶ Sandra Krell Cooper Date ▶ 09/14/21

**ERO Must Retain This Form — See Instructions**
**Don't Submit This Form to the IRS Unless Requested To Do So**

**For Paperwork Reduction Act Notice, see instructions.** Form **8879-S** (2020)

DAA

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Form **1120-S**

Department of the Treasury
Internal Revenue Service

# U.S. Income Tax Return for an S Corporation

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.
▶ Go to *www.irs.gov/Form1120S* for instructions and the latest information.

OMB No. 1545-0123

**2020**

For calendar year 2020 or tax year beginning , ending

| | | | |
|---|---|---|---|
| A S election effective date **04/01/03** | TYPE OR PRINT | Name **Apple Services, Inc.** | D Employer identification number [redacted] |
| B Business activity code number (see instructions) [redacted] | | Number, street, and room or suite no. If a P.O. box, see instructions. **37 Will Richardson Road** | E Date incorporated **04/01/2003** |
| C Check if Sch. M-3 attached ☐ | | City or town, state or province, country, and ZIP or foreign postal code **Irmo SC 29063** | F Total assets (see instructions) $ **836,590** |

G Is the corporation electing to be an S corporation beginning with this tax year? ☐ Yes ☒ No If "Yes," attach Form 2553 if not already filed

H Check if: (1) ☐ Final return (2) ☐ Name change (3) ☒ Address change (4) ☐ Amended return (5) ☐ S election termination or revocation

I Enter the number of shareholders who were shareholders during any part of the tax year ▶ **1**

J Check if corporation: (1) ☐ Aggregated activities for section 465 at-risk purposes (2) ☐ Grouped activities for section 469 passive activity purposes

**Caution:** Include **only** trade or business income and expenses on lines 1a through 21. See the instructions for more information.

| | | | | | |
|---|---|---|---|---|---|
| **Income** | 1a | Gross receipts or sales | 1a **1,832,544** | | |
| | b | Returns and allowances | 1b | | |
| | c | Balance. Subtract line 1b from line 1a | | 1c | **1,832,544** |
| | 2 | Cost of goods sold (attach Form 1125-A) | | 2 | **404,140** |
| | 3 | Gross profit. Subtract line 2 from line 1c | | 3 | **1,428,404** |
| | 4 | Net gain (loss) from Form 4797, line 17 (attach Form 4797) | | 4 | |
| | 5 | Other income (loss) (see instructions—attach statement) **See Stmt 1** | | 5 | **-66,085** |
| | 6 | **Total income (loss).** Add lines 3 through 5 ▶ | | 6 | **1,362,319** |
| **Deductions (see instructions for limitations)** | 7 | Compensation of officers (see instructions–attach Form 1125-E) | | 7 | **126,959** |
| | 8 | Salaries and wages (less employment credits) | | 8 | **483,074** |
| | 9 | Repairs and maintenance | | 9 | **66,943** |
| | 10 | Bad debts | | 10 | |
| | 11 | Rents | | 11 | |
| | 12 | Taxes and licenses | | 12 | **70,278** |
| | 13 | Interest (see instructions) | | 13 | **27,477** |
| | 14 | Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562) | | 14 | **137,998** |
| | 15 | Depletion **(Do not deduct oil and gas depletion.)** | | 15 | |
| | 16 | Advertising | | 16 | |
| | 17 | Pension, profit-sharing, etc., plans | | 17 | |
| | 18 | Employee benefit programs | | 18 | **4,122** |
| | 19 | Other deductions (attach statement) **See Stmt 2** | | 19 | **372,775** |
| | 20 | **Total deductions.** Add lines 7 through 19 ▶ | | 20 | **1,289,626** |
| | 21 | **Ordinary business income (loss).** Subtract line 20 from line 6 | | 21 | **72,693** |
| **Tax and Payments** | 22a | Excess net passive income or LIFO recapture tax (see instructions) | 22a | | |
| | b | Tax from Schedule D (Form 1120-S) | 22b | | |
| | c | Add lines 22a and 22b (see instructions for additional taxes) | | 22c | |
| | 23a | 2020 estimated tax payments and 2019 overpayment credited to 2020 | 23a | | |
| | b | Tax deposited with Form 7004 | 23b | | |
| | c | Credit for federal tax paid on fuels (attach Form 4136) | 23c | | |
| | d | Reserved for future use | 23d | | |
| | e | Add lines 23a through 23d | | 23e | |
| | 24 | Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ ☐ | | 24 | |
| | 25 | **Amount owed.** If line 23e is smaller than the total of lines 22c and 24, enter amount owed | | 25 | |
| | 26 | **Overpayment.** If line 23e is larger than the total of lines 22c and 24, enter amount overpaid | | 26 | |
| | 27 | Enter amount from line 26: **Credited to 2021 estimated tax** ▶ **Refunded** ▶ | | 27 | |

**Sign Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer **MICHAEL D JORDAN** Date

**President** Title

May the IRS discuss this return with the preparer shown below? See instructions. ☒ Yes ☐ No

**Paid Preparer Use Only**

| | | | |
|---|---|---|---|
| Print/Type preparer's name **Sandra Krell Cooper** | Preparer's signature **Sandra Krell Cooper** | Date **09/15/21** | Check ☐ if self-employed PTIN [redacted] |
| Firm's name ▶ **Scott and Company LLC** | | | Firm's EIN ▶ [redacted] |
| Firm's address ▶ **P.O. Box 8388 Columbia, SC 29202** | | | Phone no. **803-256-6021** |

**For Paperwork Reduction Act Notice, see separate instructions.** Form **1120-S** (2020)

DAA

**Schedule B Other Information** (see instructions)

| | | Yes | No |
|---|---|---|---|
| 1 | Check accounting method: a [X] Cash b [ ] Accrual c [ ] Other (specify) ▶ | | |
| 2 | See the instructions and enter the: a Business activity ▶ SERVICE b Product or service ▶ PLUMBING | | |
| 3 | At any time during the tax year, was any shareholder of the corporation a disregarded entity, a trust, an estate, or a nominee or similar person? If "Yes," attach Schedule B-1, Information on Certain Shareholders of an S Corporation | | X |
| 4 | At the end of the tax year, did the corporation: | | |
| a | Own directly 20% or more, or own, directly or indirectly, 50% or more of the total stock issued and outstanding of any foreign or domestic corporation? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below | | X |

| (i) Name of Corporation | (ii) Employer Identification Number (if any) | (iii) Country of Incorporation | (iv) Percentage of Stock Owned | (v) If Percentage in (iv) Is 100%, Enter the Date (if any) a Qualified Subchapter S Subsidiary Election Was Made |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| | | | |
|---|---|---|---|
| b | Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below | | X |

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Maximum Percentage Owned in Profit, Loss, or Capital |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| | | | |
|---|---|---|---|
| 5a | At the end of the tax year, did the corporation have any outstanding shares of restricted stock? | | X |
| | If "Yes," complete lines (i) and (ii) below. | | |
| | (i) Total shares of restricted stock ▶ | | |
| | (ii) Total shares of non-restricted stock ▶ | | |
| b | At the end of the tax year, did the corporation have any outstanding stock options, warrants, or similar instruments? | | X |
| | If "Yes," complete lines (i) and (ii) below. | | |
| | (i) Total shares of stock outstanding at the end of the tax year ▶ | | |
| | (ii) Total shares of stock outstanding if all instruments were executed ▶ | | |
| 6 | Has this corporation filed, or is it required to file, **Form 8918,** Material Advisor Disclosure Statement, to provide information on any reportable transaction? | | X |
| 7 | Check this box if the corporation issued publicly offered debt instruments with original issue discount ▶ [ ] If checked, the corporation may have to file **Form 8281,** Information Return for Publicly Offered Original Issue Discount Instruments. | | |
| 8 | If the corporation **(a)** was a C corporation before it elected to be an S corporation **or** the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation, **and (b)** has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years. See instructions ▶ $ | | |
| 9 | Did the corporation have an election under section 163(j) for any real property trade or business or any farming business in effect during the tax year? See instructions | | X |
| 10 | Does the corporation satisfy one or more of the following? See instructions | | X |
| a | The corporation owns a pass-through entity with current, or prior year carryover, excess business interest expense. | | |
| b | The corporation's aggregate average annual gross receipts (determined under section 448(c)) for the 3 tax years preceding the current tax year are more than $26 million and the corporation has business interest expense. | | |
| c | The corporation is a tax shelter and the corporation has business interest expense. If "Yes," complete and attach Form 8990. | | |
| 11 | Does the corporation satisfy **both** of the following conditions? | | X |
| a | The corporation's total receipts (see instructions) for the tax year were less than $250,000. | | |
| b | The corporation's total assets at the end of the tax year were less than $250,000. If "Yes," the corporation is not required to complete Schedules L and M-1. | | |



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| Schedule B Other Information (see instructions) (continued) | Yes | No |
|---|---|---|
| 12 During the tax year, did the corporation have any non-shareholder debt that was canceled, was forgiven, or had the terms modified so as to reduce the principal amount of the debt? | | X |
| If "Yes," enter the amount of principal reduction ▶ $ | | |
| 13 During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions | | X |
| 14a Did the corporation make any payments in 2020 that would require it to file Form(s) 1099? | | X |
| b If "Yes," did the corporation file or will it file required Forms 1099? | | |
| 15 Is the corporation attaching Form 8996 to certify as a Qualified Opportunity Fund? | | X |
| If "Yes," enter the amount from Form 8996, line 15 ▶ $ | | |

| Schedule K Shareholders' Pro Rata Share Items | | | Total amount |
|---|---|---|---|
| Income (Loss) | 1 Ordinary business income (loss) (page 1, line 21) | 1 | 72,693 |
| | 2 Net rental real estate income (loss) (attach Form 8825) | 2 | |
| | 3a Other gross rental income (loss) 3a | | |
| | b Expenses from other rental activities (attach statement) 3b | | |
| | c Other net rental income (loss). Subtract line 3b from line 3a | 3c | |
| | 4 Interest income | 4 | |
| | 5 Dividends: a Ordinary dividends | 5a | |
| | b Qualified dividends 5b | | |
| | 6 Royalties | 6 | |
| | 7 Net short-term capital gain (loss) (attach Schedule D (Form 1120-S)) | 7 | |
| | 8a Net long-term capital gain (loss) (attach Schedule D (Form 1120-S)) | 8a | |
| | b Collectibles (28%) gain (loss) 8b | | |
| | c Unrecaptured section 1250 gain (attach statement) 8c | | |
| | 9 Net section 1231 gain (loss) (attach Form 4797) | 9 | |
| | 10 Other income (loss) (see instructions) Type ▶ | 10 | |
| Deductions | 11 Section 179 deduction (attach Form 4562) | 11 | |
| | 12a Charitable contributions | 12a | |
| | b Investment interest expense | 12b | |
| | c Section 59(e)(2) expenditures Type ▶ | 12c | |
| | d Other deductions (see instructions) Type ▶ | 12d | |
| Credits | 13a Low-income housing credit (section 42(j)(5)) | 13a | |
| | b Low-income housing credit (other) | 13b | |
| | c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468, if applicable) | 13c | |
| | d Other rental real estate credits (see instructions) Type ▶ | 13d | |
| | e Other rental credits (see instructions) Type ▶ | 13e | |
| | f Biofuel producer credit (attach Form 6478) | 13f | |
| | g Other credits (see instructions) Type ▶ | 13g | |
| Foreign Transactions | 14a Name of country or U.S. possession ▶ | | |
| | b Gross income from all sources | 14b | |
| | c Gross income sourced at shareholder level | 14c | |
| | Foreign gross income sourced at corporate level | | |
| | d Reserved for future use | 14d | |
| | e Foreign branch category | 14e | |
| | f Passive category | 14f | |
| | g General category | 14g | |
| | h Other (attach statement) | 14h | |
| | Deductions allocated and apportioned at shareholder level | | |
| | i Interest expense | 14i | |
| | j Other | 14j | |
| | Deductions allocated and apportioned at corporate level to foreign source income | | |
| | k Reserved for future use | 14k | |
| | l Foreign branch category | 14l | |
| | m Passive category | 14m | |
| | n General category | 14n | |
| | o Other (attach statement) | 14o | |
| | Other information | | |
| | p Total foreign taxes (check one): ▶ ☐ Paid ☐ Accrued ▶ | 14p | |
| | q Reduction in taxes available for credit (attach statement) | 14q | |
| | r Other foreign tax information (attach statement) | | |



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| Schedule K Shareholders' Pro Rata Share Items *(continued)* | | | Total amount |
|---|---|---|---|
| Alternative Minimum Tax (AMT) Items | 15a Post-1986 depreciation adjustment | 15a | -256 |
| | b Adjusted gain or loss | 15b | |
| | c Depletion (other than oil and gas) | 15c | |
| | d Oil, gas, and geothermal properties – gross income | 15d | |
| | e Oil, gas, and geothermal properties – deductions | 15e | |
| | f Other AMT items (attach statement) | 15f | |
| Items Affecting Shareholder Basis | 16a Tax-exempt interest income | 16a | |
| | b Other tax-exempt income | 16b | |
| | c Nondeductible expenses | 16c | 9,652 |
| | d Distributions (attach statement if required) (see instructions) | 16d | |
| | e Repayment of loans from shareholders | 16e | 113,534 |
| Other Information | 17a Investment income | 17a | |
| | b Investment expenses | 17b | |
| | c Dividend distributions paid from accumulated earnings and profits | 17c | |
| | d Other items and amounts (attach statement) See Statement 3 | | |
| Reconciliation | 18 **Income (loss) reconciliation.** Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and 14p | 18 | 72,693 |

| Schedule L Balance Sheets per Books | Beginning of tax year | | End of tax year | |
|---|---|---|---|---|
| Assets | (a) | (b) | (c) | (d) |
| 1 Cash | | 77,145 | | 229,335 |
| 2a Trade notes and accounts receivable | | | | |
| b Less allowance for bad debts | ( ) | | ( ) | |
| 3 Inventories | | | | |
| 4 U.S. government obligations | | | | |
| 5 Tax-exempt securities (see instructions) | | | | |
| 6 Other current assets (attach statement) | | | | |
| 7 Loans to shareholders | | | | |
| 8 Mortgage and real estate loans | | | | |
| 9 Other investments (attach statement) | | | | |
| 10a Buildings and other depreciable assets | 1,013,954 | | 1,116,762 | |
| b Less accumulated depreciation | ( 804,410 ) | 209,544 | ( 942,408 ) | 174,354 |
| 11a Depletable assets | | | | |
| b Less accumulated depletion | ( ) | | ( ) | |
| 12 Land (net of any amortization) | | 238,177 | | 238,177 |
| 13a Intangible assets (amortizable only) | | | | |
| b Less accumulated amortization | ( ) | | ( ) | |
| 14 Other assets (attach statement) Stmt 4 | | 155,040 | | 194,724 |
| 15 Total assets | | 679,906 | | 836,590 |
| **Liabilities and Shareholders' Equity** | | | | |
| 16 Accounts payable | | | | |
| 17 Mortgages, notes, bonds payable in less than 1 year | | 6,595 | | 2,095 |
| 18 Other current liabilities (attach statement) | | | | |
| 19 Loans from shareholders | | 163,096 | | 49,562 |
| 20 Mortgages, notes, bonds payable in 1 year or more | | 387,502 | | 636,393 |
| 21 Other liabilities (attach statement) Stmt 5 | | 68,214 | | 31,000 |
| 22 Capital stock | | 1,000 | | 1,000 |
| 23 Additional paid-in capital | | | | |
| 24 Retained earnings | | 53,499 | | 116,540 |
| 25 Adjustments to shareholders' equity (attach statement) | | | | |
| 26 Less cost of treasury stock | | ( ) | | ( ) |
| 27 Total liabilities and shareholders' equity | | 679,906 | | 836,590 |



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## Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

**Note:** The corporation may be required to file Schedule M-3. See instructions.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Net income (loss) per books | 63,041 | 5 | Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize): | |
| 2 | Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize) | | a | Tax-exempt interest $ | |
| 3 | Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14p (itemize): | | 6 | Deductions included on Schedule K, lines 1 through 12 and 14p, not charged against book income this year (itemize): | |
| a | Depreciation $ | | a | Depreciation $ | |
| b | Travel and entertainment $ 1,617 | | | | |
| | Stmt 6 8,035 | 9,652 | 7 | Add lines 5 and 6 | |
| 4 | Add lines 1 through 3 | 72,693 | 8 | Income (loss) (Schedule K, line 18). Subtract line 7 from line 4 | 72,693 |

## Schedule M-2 Analysis of Accumulated Adjustments Account, Shareholders' Undistributed Taxable Income Previously Taxed, Accumulated Earnings and Profits, and Other Adjustments Account (see instructions)

| | | (a) Accumulated adjustments account | (b) Shareholders' undistributed taxable income previously taxed | (c) Accumulated earnings and profits | (d) Other adjustments account |
|---|---|---|---|---|---|
| 1 | Balance at beginning of tax year | 53,499 | | | |
| 2 | Ordinary income from page 1, line 21 | 72,693 | | | |
| 3 | Other additions | | | | |
| 4 | Loss from page 1, line 21 | ( ) | | | |
| 5 | Other reductions Stmt 7 | ( 9,652) | | | ( ) |
| 6 | Combine lines 1 through 5 | 116,540 | | | |
| 7 | Distributions | | | | |
| 8 | Balance at end of tax year. Subtract line 7 from line 6 | 116,540 | | | |



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Form **1125-A**
(Rev. November 2018)
Department of the Treasury
Internal Revenue Service

# Cost of Goods Sold

▶ **Attach to Form 1120, 1120-C, 1120-F, 1120S, or 1065.**
▶ **Go to *www.irs.gov/Form1125A* for the latest information.**

OMB No. 1545-0123

Name
**Apple Services, Inc.**

Employer identification number
[redacted]

| | | | |
|---|---|---|---|
| 1 | Inventory at beginning of year | 1 | |
| 2 | Purchases | 2 | 404,140 |
| 3 | Cost of labor | 3 | |
| 4 | Additional section 263A costs (attach schedule) | 4 | |
| 5 | Other costs (attach schedule) | 5 | |
| 6 | **Total.** Add lines 1 through 5 | 6 | 404,140 |
| 7 | Inventory at end of year | 7 | |
| 8 | **Cost of goods sold.** Subtract line 7 from line 6. Enter here and on Form 1120, page 1, line 2 or the appropriate line of your tax return. See instructions | 8 | 404,140 |

**9a** Check all methods used for valuing closing inventory:
- *(i)* [X] Cost
- *(ii)* [ ] Lower of cost or market
- *(iii)* [ ] Other (Specify method used and attach explanation.) ▶

**b** Check if there was a writedown of subnormal goods ▶ [ ]

**c** Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ▶ [ ]

**d** If the LIFO inventory method was used for this tax year, enter amount of closing inventory computed under LIFO — 9d

**e** If property is produced or acquired for resale, do the rules of section 263A apply to the entity? See instructions — [ ] Yes [X] No

**f** Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation — [ ] Yes [X] No

**For Paperwork Reduction Act Notice, see instructions.**

Form **1125-A** (Rev. 11-2018)

DAA

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## Statement 1 - Form 1120-S, Page 1, Line 5 - Other Income (Loss)

| Description | Amount |
|---|---|
| Core, LLC | $ -66,396 |
| Misc Income | 311 |
| Total | $ -66,085 |

## Statement 2 - Form 1120-S, Page 1, Line 19 - Other Deductions

| Description | Amount |
|---|---|
| Bank/Credit Card Fees | $ 12,359 |
| Disposal Fees | 117,444 |
| Dues | |
| Equipment Rental | 7,868 |
| Insurance | 49,881 |
| Postage | 689 |
| Professional Fees | 24,095 |
| Recruiting | 10,376 |
| Small Equipemnt <2500 | 12,451 |
| Subcontractor Expense | 11,920 |
| Supplies | 20,200 |
| Telephone | 21,423 |
| Travel | 3,945 |
| Uniforms | 1,180 |
| Utilities | 9,811 |
| Vehicle Expense-Fuel | 66,992 |
| Various | 523 |
| Other Misc Exp | |
| 50% of Meals | 1,618 |
| Total | $ 372,775 |

## Statement 3 - Form 1120-S, Page 4, Schedule K, Line 17d - Other Items and Amounts

| Description | Amount |
|---|---|
| Section 199A Information - See Attached Wrk | |

## Statement 4 - Form 1120-S, Page 4, Schedule L, Line 14 - Other Assets

| Description | Beginning of Year | End of Year |
|---|---|---|
| LOAN TO GREENWAY | $ 155,040 | $ 194,724 |
| Total | $ 155,040 | $ 194,724 |



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## Statement 5 - Form 1120-S, Page 4, Schedule L, Line 21 - Other Liabilities

| Description | Beginning of Year | End of Year |
|---|---|---|
| OTHER LIABILITY | $ 31,000 | $ 31,000 |
| NBSC - LOAN 2 FOR GATES | 37,214 | 0 |
| Total | $ 68,214 | $ 31,000 |

## Statement 6 - Form 1120-S, Page 5, Schedule M-1, Line 3 - Expenses on Books Not on Return

| Description | Amount |
|---|---|
| Officer Life Ins Premiums | $ 8,035 |
| Total | $ 8,035 |

## Statement 7 - Form 1120-S, Page 5, Schedule M-2, Line 5(a) - Other Reductions

| Description | Amount |
|---|---|
| Travel & Entertainment | $ 1,617 |
| Officer Life Ins Premiums | 8,035 |
| Total | $ 9,652 |



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**Regular Depreciation**

**Statement 8 - Form 4562, Part V, Line 26 - Property Used More Than 50% in Qualified Business**

| Property Type | Date in Service | Busn Use % | Cost or Basis | Basis For Depr | Per | Meth | Deduct | Sec 179 |
|---|---|---|---|---|---|---|---|---|
| B&E TRUCKS | 2/19/04 | 100.00 | $ 15,890 | $ 7,945 | 5.0 | 200DBHY | $ | $ |
| 1997 NISSAN TRUCK | 6/09/05 | 100.00 | 2,200 | 2,200 | 5.0 | 200DBHY | | |
| MAZDA CO SALES VEHICLE | 12/26/07 | 100.00 | 16,363 | 16,363 | 5.0 | 200DBMQ | | |
| VEHICLES | 6/01/03 | 100.00 | 2,500 | 1,250 | 5.0 | 200DBHY | | |
| TAHOE | 3/15/12 | 100.00 | 30,133 | 5,133 | 5.0 | 200DBHY | | |
| Total | | | $ 67,086 | $ 32,891 | | | $ 0 | $ 0 |



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[redacted]

# Federal Statements

## Michael Jordan

[redacted]

### Schedule K-1, Box 16, Code C - Nondeductible Expenses

| Description | Shareholder Amount |
|---|---|
| Officer Life Premiums | $ 8,035 |
| Page 1 Meals | 1,617 |
| Total | $ 9,652 |

### Schedule K-1, Box 17, Code AC - Gross Receipts for Section 448(c)

| Description | Shareholder Amount |
|---|---|
| 8990 Gross Receipts for 2019 | 1,567,245 |
| 8990 Gross Receipts for 2018 | 1,598,860 |
| 8990 Gross Receipts for 2017 | 1,645,651 |

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Form **1120-S**

## Retained Earnings Reconciliation Worksheet

For calendar year 2020 or tax year beginning , ending

**2020**

Name

**Apple Services, Inc.**

Employer Identification Number

[redacted]

### Schedule L - Retained Earnings

| | |
|---|---|
| Retained Earnings - Unappropriated (Accumulated E&P) | 0 |
| Accumulated Adjustments Account | 116,540 |
| Undistributed Previously Taxed Income | 0 |
| Other Adjustments Account | 0 |
| Retained Earnings Timing Differences | 0 |
| Schedule L, Line 24 - Retained Earnings | 116,540 |

### Schedule M-2 - Retained Earnings

| | Accumulated Adjustments Account | Undistributed Previously Taxed Income | Accumulated Earnings and Profits | Other Adjustments Account | Retained Earnings Timing Differences | Total Retained Earnings |
|---|---|---|---|---|---|---|
| Beginning of Year | 53,499 | 0 | 0 | 0 | 0 | 53,499 |
| Ordinary Income (Loss) | 72,693 | | | | | 72,693 |
| Other Additions | | | | | | |
| Other Reductions | 9,652 | | | | | 9,652 |
| Distributions | | | | | | |
| End of Year | 116,540 | 0 | 0 | 0 | 0 | 116,540 |

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## Form 1120-S, Retained Earnings Reconciliation Worksheet, AAA - Other Reductions

| Description | Amount |
|---|---|
| Travel & Entertainment | $ 1,617 |
| Officer Life Ins Premiums | 8,035 |
| Total | $ 9,652 |

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[redacted]

# Federal Statements

## Form 1120-S, Page 1, Line 1a - Gross Receipts or Sales

| Description | Amount |
|---|---|
| Sales | $ 1,621,985 |
| Service | 212,085 |
| Returned Checks | -1,526 |
| Total | $ 1,832,544 |

## Form 1120-S, Page 1, Line 12 - Taxes and Licenses

| Description | Amount |
|---|---|
| LICENSES & PERMITS | $ 4,236 |
| PAYROLL TAXES | 48,633 |
| PROPERTY TAXES | 16,857 |
| OTHER TAXES | 552 |
| Total | $ 70,278 |

## Form 1120-S, Page 1, Line 18 - Employee Benefit Programs

| Description | Amount |
|---|---|
| Employee Benefit Program | $ 4,122 |
| Total | $ 4,122 |

## Form 1120-S, Page 4, Schedule K, Line 16c - Nondeductible Expenses

| Description | Amount |
|---|---|
| Officer Life Premiums | $ 8,035 |
| Page 1 Meals | 1,617 |
| Total | $ 9,652 |

## Form 1120-S, Page 4, Schedule L, Line 17 - Mortgages, Notes, Bonds Payable in Less Than One Year

| Description | Beginning of Year | End of Year |
|---|---|---|
| Mort., Note, Less Than 1 Yr. | $ 6,595 | $ 2,095 |
| Total | $ 6,595 | $ 2,095 |

## Form 1120-S, Page 4, Schedule L, Line 19 - Loans from Shareholders

| Description | Beginning of Year | End of Year |
|---|---|---|
| | $ 163,096 | $ 49,562 |
| Total | $ 163,096 | $ 49,562 |

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**Form 1120-S, Page 4, Schedule L, Line 20 - Mortgages, Notes, Bonds Payable in One Year or More**

| Description | Beginning of Year | End of Year |
|---|---|---|
| Mort., Note, More Than 1 Yr. | $ 387,502 | $ 636,393 |
| Total | $ 387,502 | $ 636,393 |

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| Form 1120-S | Two Year Comparison Worksheet Page 1 | 2019 & 2020 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number

[redacted]

| | | 2019 | 2020 | Differences |
|---|---|---|---|---|
| | Gross profit percentage | 75.7095 | 77.9465 | 2.2370 |
| | Net receipts | 1,607,678 | 1,832,544 | 224,866 |
| Income | Cost of goods sold | 390,513 | 404,140 | 13,627 |
| | Gross profit | 1,217,165 | 1,428,404 | 211,239 |
| | Net gain (loss) from Form 4797 | | | |
| | Other income (loss) | -40,433 | -66,085 | -25,652 |
| | **Total income (loss)** | 1,176,732 | 1,362,319 | 185,587 |
| | Compensation of officers | 114,858 | 126,959 | 12,101 |
| | Salaries and wages less employment credits | 394,340 | 483,074 | 88,734 |
| | Repairs and maintenance | 2,772 | 66,943 | 64,171 |
| | Bad debts | | | |
| | Rents | | | |
| | Taxes and licenses | 62,789 | 70,278 | 7,489 |
| | Interest | 23,076 | 27,477 | 4,401 |
| Deductions | Depreciation | 26,670 | 137,998 | 111,328 |
| | Depletion | | | |
| | Advertising | 2,528 | | -2,528 |
| | Pension, profit-sharing, etc., plans | | | |
| | Employee benefit programs | 31,159 | 4,122 | -27,037 |
| | Other deductions | 441,996 | 372,775 | -69,221 |
| | **Total deductions** | 1,100,188 | 1,289,626 | 189,438 |
| | **Ordinary business income (loss)** | 76,544 | 72,693 | -3,851 |
| | Excess net passive income or LIFO recapture tax | | | |
| | Tax from Schedule D | | | |
| | **Total tax** | 0 | 0 | 0 |
| | Estimated tax and prior year overpayment credited | | | |
| | Tax deposited with Form 7004 | | | |
| | Credit for federal tax paid on fuels | | | |
| Tax and | Refund applied for on Form 4466 | ( ) | ( ) | |
| Payments | **Total payments and credits** | | | |
| | **Tax due (overpayment)** | 0 | 0 | 0 |
| | Estimated tax penalty from Form 2220 | | | |
| | Penalties and interest | | | |
| | **Net tax due (overpayment)** | 0 | 0 | 0 |
| | **Overpayment credited to next year's estimated tax** | | | |
| | **Overpayment refunded** | | | |

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| Form 1120-S | Two Year Comparison Worksheet Page 2 | 2019 & 2020 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number [redacted]

| | | 2019 | 2020 | Differences |
|---|---|---|---|---|
| Income (Loss) | Ordinary business income (loss) | 76,544 | 72,693 | -3,851 |
| | Net rental real estate income (loss) | | | |
| | Other net rental income (loss) | | | |
| | Interest income | | | |
| | Dividends | | | |
| | Royalties | | | |
| | Net short-term capital gain (loss) | | | |
| | Net long-term capital gain (loss) | | | |
| | Net Section 1231 gain (loss) | | | |
| | Other income (loss) | | | |
| Deductions | Section 179 deduction | 42,822 | | -42,822 |
| | Charitable contributions | 500 | | -500 |
| | Investment interest expense | | | |
| | Section 59(e)(2) expenditures | | | |
| | Other deductions | | | |
| Credits | Low-income housing credit (Section 42(j)(5)) | | | |
| | Low-income housing credit (other) | | | |
| | Qualified rehabilitation expenditures (rental real estate) | | | |
| | Other rental real estate credits | | | |
| | Other rental credits | | | |
| | Biofuel producer credit | | | |
| | Other credits | | | |
| Foreign Transactions | Total foreign gross income | | | |
| | Total foreign deductions | | | |
| | Total foreign taxes | | | |
| | Reduction in taxes available for credit | | | |
| AMT Items | Post-1986 depreciation adjustment | -914 | -256 | 658 |
| | Adjusted gain or loss | | | |
| | Depletion (other than oil and gas) | | | |
| | Oil, gas, and geothermal properties-gross income | | | |
| | Oil, gas, and geothermal properties-deductions | | | |
| | Other AMT items | | | |
| Items Affecting S/H Basis | Tax-exempt interest income | | | |
| | Other tax-exempt income | | | |
| | Nondeductible expenses | 10,584 | 9,652 | -932 |
| | Distributions | | | |
| | Repayment of loans from shareholders | | 113,534 | 113,534 |
| Other Information | Investment income | | | |
| | Investment expenses | | | |
| | Dividend distributions paid from accumulated E&P | | | |
| | Income (loss) (if Schedule M-1 is required) | 33,222 | 72,693 | 39,471 |

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| Form 1120-S | Two Year Comparison Worksheet Page 3 | 2019 & 2020 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number [redacted]

| | | 2019 | 2020 | Differences |
|---|---|---|---|---|
| Schedule L | Beginning assets | 604,035 | 679,906 | 75,871 |
| | Beginning liabilities and equity | 604,035 | 679,906 | 75,871 |
| | Ending assets | 679,906 | 836,590 | 156,684 |
| | Ending liabilities and equity | 679,906 | 836,590 | 156,684 |
| Schedule M-1 | Net income (loss) per books | 22,638 | 63,041 | 40,403 |
| | Taxable income not on books | | | |
| | Book expenses not deducted | 10,584 | 9,652 | -932 |
| | Income on books not on return | | | |
| | Return deductions not on books | | | |
| | Income (loss) per return | 33,222 | 72,693 | 39,471 |
| Schedule M-2 AAA | Balance at beginning of year | 30,861 | 53,499 | 22,638 |
| | Ordinary income (loss) from page 1 | 76,544 | 72,693 | -3,851 |
| | Other additions | | | |
| | Other reductions | 53,906 | 9,652 | -44,254 |
| | Distributions | | | |
| | Balance at end of year | 53,499 | 116,540 | 63,041 |
| Schedule M-2 PTI | Balance at beginning of year | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-2 E&P | Balance at beginning of year | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-2 OAA | Balance at beginning of year | | | |
| | Other additions | | | |
| | Other reductions | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-3 | Total income (loss) items: | | | |
| | Income (loss) per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Income (loss) per tax return | | | |
| | Total expense/deduction items: | | | |
| | Expense per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Deduction per tax return | | | |
| | Other items with no differences: | | | |
| | Income (loss) per income statement | | | |
| | Income (loss) per tax return | | | |
| | Reconciliation totals: | | | |
| | Income (loss) per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Income (loss) per tax return | | | |

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# EXHIBIT 6

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# Apple Services, Inc.

Corporate Income Tax Returns

*For the Year Ended December 31, 2021*

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**Scott and Company LLC**
**P.O. Box 8388**
**Columbia, SC 29202**
**803-256-6021**

September 14, 2022

**CONFIDENTIAL**

Apple Services, Inc.
34 Will Richardson Road
Irmo, SC 29063

Dear MICHAEL:

We have prepared the following returns from information provided by you without verification or audit:

U.S. Income Tax Return for an S Corporation (Form 1120-S)
South Carolina S Corporation Income Tax Return (Form SC1120S)

We suggest that you examine these returns carefully to fully acquaint yourself with all items contained therein to ensure that there are no omissions or misstatements. Attached are instructions for signing and filing each return. Please follow those instructions carefully.

Also enclosed is any material you furnished for use in preparing the returns. If the returns are examined, requests may be made for supporting documentation. Therefore, we recommend that you retain all pertinent records for at least seven years.

In order that we may properly advise you of tax considerations, please keep us informed of any significant changes in your financial affairs or of any correspondence received from taxing authorities.

If you have any questions, or if we can be of assistance in any way, please call.

Sincerely,

Sandra Krell Cooper

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# Filing Instructions

## Apple Services, Inc.

## Form 8879-S

## U.S. S Corporation Income Tax Declaration for an IRS *e-file* Return with Electronic Filing Personal Identification Number

## Taxable Year Ended December 31, 2021

**Date Due:** September 15, 2022

**Remittance:** None is required. No amount is due or overpaid.

**Signature:** You are using the Personal Identification Number (PIN) for signing your return electronically. Form 8879-S, IRS e-file Signature Authorization for Form 1120S should be signed and dated by an authorized officer of the corporation and returned to:

Scott and Company LLC
P.O. Box 8388
Columbia, SC 29202

***Important:*** **Your return will not be filed with the IRS until the signed Form 8879-S, IRS e-file Signature Authorization for Form 1120S has been received by this office.**

**Other:** Your return is being filed electronically with the IRS and is not required to be mailed. If you mail a paper copy of Form 1120-S to the IRS it will delay processing of your return.

You will receive an email when your return has been accepted. Please be sure to add efile@efileservices.net to your Safe Senders list in order to receive this acceptance email.

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Form **8879-S**

Department of the Treasury
Internal Revenue Service

# IRS *e-file* Signature Authorization for Form 1120-S

▶ **ERO must obtain and retain completed Form 8879-S.**

▶ **Go to *www.irs.gov/Form8879S* for the latest information.**

For calendar year 2021, or tax year beginning , and ending

OMB No. 1545-0123

**2021**

Name of corporation

**Apple Services, Inc.**

Employer identification number

[redacted]

**Part I Tax Return Information** (whole dollars only)

| | | | |
|---|---|---|---|
| 1 | Gross receipts or sales less returns and allowances (Form 1120-S, line 1c) | 1 | 873,801 |
| 2 | Gross profit (Form 1120-S, line 3) | 2 | 693,383 |
| 3 | Ordinary business income (loss) (Form 1120-S, line 21) | 3 | 88,478 |
| 4 | Net rental real estate income (loss) (Form 1120-S, Schedule K, line 2) | 4 | |
| 5 | Income (loss) reconciliation (Form 1120-S, Schedule K, line 18) | 5 | 2,776,478 |

**Part II Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)**

Under penalties of perjury, I declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2021 electronic income tax return and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the corporation's electronic income tax return. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the corporation's return to the IRS and to receive from the IRS **(a)** an acknowledgement of receipt or reason for rejection of the transmission, **(b)** the reason for any delay in processing the return or refund, and **(c)** the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the corporation's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at **888-353-4537** no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the corporation's electronic income tax return and, if applicable, the corporation's consent to electronic funds withdrawal.

**Officer's PIN: check one box only**

☒ I authorize **Scott and Company LLC** (ERO firm name) to enter my PIN [redacted] (Don't enter all zeros) as my signature on the corporation's 2021 electronically filed income tax return.

☐ As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2021 electronically filed income tax return.

Officer's signature ▶ _____ Date ▶ 09/14/22 Title ▶ President

MICHAEL D JORDAN

**Part III Certification and Authentication**

**ERO's EFIN/PIN.** Enter your six-digit EFIN followed by your five-digit self-selected PIN. [redacted] (Don't enter all zeros)

I certify that the above numeric entry is my PIN, which is my signature on the 2021 electronically filed income tax return for the corporation indicated above. I confirm that I am submitting this return in accordance with the requirements of **Pub. 3112,** IRS *e-file* Application and Participation, and **Pub. 4163,** Modernized e-File (MeF) Information for Authorized IRS *e-file* Providers for Business Returns.

ERO's signature ▶ **Sandra Krell Cooper** Date ▶ 09/14/22

**ERO Must Retain This Form — See Instructions**
**Don't Submit This Form to the IRS Unless Requested To Do So**

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Form **1120-S**

Department of the Treasury
Internal Revenue Service

# U.S. Income Tax Return for an S Corporation

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.
▶ Go to *www.irs.gov/Form1120S* for instructions and the latest information.

OMB No. 1545-0123

**2021**

For calendar year 2021 or tax year beginning , ending

| | | | |
|---|---|---|---|
| A S election effective date: 04/01/03 | TYPE OR PRINT | Name: Apple Services, Inc. | D Employer identification number: [redacted] |
| B Business activity code number (see instructions): [redacted] | | Number, street, and room or suite no. If a P.O. box, see instructions: 34 Will Richardson Road | E Date incorporated: 04/01/2003 |
| C Check if Sch. M-3 attached ☐ | | City or town, state or province, country, and ZIP or foreign postal code: Irmo SC 29063 | F Total assets (see instructions): $ 1,321,047 |

G Is the corporation electing to be an S corporation beginning with this tax year? See instructions. ☐ Yes ☒ No

H Check if: (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change (4) ☐ Amended return (5) ☐ S election termination

I Enter the number of shareholders who were shareholders during any part of the tax year ▶ 1

J Check if corporation: (1) ☐ Aggregated activities for section 465 at-risk purposes (2) ☐ Grouped activities for section 469 passive activity purposes

**Caution:** Include **only** trade or business income and expenses on lines 1a through 21. See the instructions for more information.

| | | | | | |
|---|---|---|---|---|---|
| **Income** | 1a | Gross receipts or sales | 1a | 873,801 | |
| | b | Returns and allowances | 1b | | |
| | c | Balance. Subtract line 1b from line 1a | | | 1c 873,801 |
| | 2 | Cost of goods sold (attach Form 1125-A) | | | 2 180,418 |
| | 3 | Gross profit. Subtract line 2 from line 1c | | | 3 693,383 |
| | 4 | Net gain (loss) from Form 4797, line 17 (attach Form 4797) | | | 4 215,043 |
| | 5 | Other income (loss) (see instructions—attach statement) See Stmt 1 | | | 5 -14,631 |
| | 6 | **Total income (loss).** Add lines 3 through 5 ▶ | | | 6 893,795 |
| **Deductions (see instructions for limitations)** | 7 | Compensation of officers (see instructions–attach Form 1125-E) | | | 7 98,862 |
| | 8 | Salaries and wages (less employment credits) | | | 8 233,284 |
| | 9 | Repairs and maintenance | | | 9 40,128 |
| | 10 | Bad debts | | | 10 |
| | 11 | Rents | | | 11 |
| | 12 | Taxes and licenses | | | 12 45,212 |
| | 13 | Interest (see instructions) | | | 13 4,108 |
| | 14 | Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562) | | | 14 110,747 |
| | 15 | Depletion **(Do not deduct oil and gas depletion.)** | | | 15 |
| | 16 | Advertising | | | 16 |
| | 17 | Pension, profit-sharing, etc., plans | | | 17 |
| | 18 | Employee benefit programs | | | 18 9,836 |
| | 19 | Other deductions (attach statement) See Stmt 2 | | | 19 263,140 |
| | 20 | **Total deductions.** Add lines 7 through 19 ▶ | | | 20 805,317 |
| | 21 | **Ordinary business income (loss).** Subtract line 20 from line 6 | | | 21 88,478 |
| **Tax and Payments** | 22a | Excess net passive income or LIFO recapture tax (see instructions) | 22a | | |
| | b | Tax from Schedule D (Form 1120-S) | 22b | | |
| | c | Add lines 22a and 22b (see instructions for additional taxes) | | | 22c |
| | 23a | 2021 estimated tax payments and 2020 overpayment credited to 2021 | 23a | | |
| | b | Tax deposited with Form 7004 | 23b | | |
| | c | Credit for federal tax paid on fuels (attach Form 4136) | 23c | | |
| | d | Add lines 23a through 23c | | | 23d |
| | 24 | Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ ☐ | | | 24 |
| | 25 | **Amount owed.** If line 23d is smaller than the total of lines 22c and 24, enter amount owed | | | 25 |
| | 26 | **Overpayment.** If line 23d is larger than the total of lines 22c and 24, enter amount overpaid | | | 26 |
| | 27 | Enter amount from line 26: **Credited to 2022 estimated tax** ▶ **Refunded** ▶ | | | 27 |

**Sign Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge

▶ Signature of officer MICHAEL D JORDAN Date ▶ President Title

May the IRS discuss this return with the preparer shown below? See instructions. ☒ Yes ☐ No

**Paid Preparer Use Only**

| | | | |
|---|---|---|---|
| Print/Type preparer's name: Sandra Krell Cooper | Preparer's signature: Sandra Krell Cooper | Date: 09/14/22 | Check ☐ if self-employed; PTIN: [redacted] |
| Firm's name ▶ Scott and Company LLC | | | Firm's EIN ▶ [redacted] |
| Firm's address ▶ P.O. Box 8388 Columbia, SC 29202 | | | Phone no. 803-256-6021 |

**For Paperwork Reduction Act Notice, see separate instructions.** Form **1120-S** (2021)

DAA

## Schedule B Other Information (see instructions)

| | | Yes | No |
|---|---|---|---|
| 1 | Check accounting method: a [X] Cash b [ ] Accrual c [ ] Other (specify) ▶ | | |
| 2 | See the instructions and enter the: a Business activity ▶ SERVICE b Product or service ▶ PLUMBING | | |
| 3 | At any time during the tax year, was any shareholder of the corporation a disregarded entity, a trust, an estate, or a nominee or similar person? If "Yes," attach Schedule B-1, Information on Certain Shareholders of an S Corporation | | X |
| 4 | At the end of the tax year, did the corporation: | | |
| a | Own directly 20% or more, or own, directly or indirectly, 50% or more of the total stock issued and outstanding of any foreign or domestic corporation? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below | | X |

| (i) Name of Corporation | (ii) Employer Identification Number (if any) | (iii) Country of Incorporation | (iv) Percentage of Stock Owned | (v) If Percentage in (iv) Is 100%, Enter the Date (if applicable) a Qualified Subchapter S Subsidiary Election Was Made |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| | | | | |
|---|---|---|---|---|
| b | Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below | | X |

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Maximum Percentage Owned in Profit, Loss, or Capital |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| | | | |
|---|---|---|---|
| 5a | At the end of the tax year, did the corporation have any outstanding shares of restricted stock? If "Yes," complete lines (i) and (ii) below. | | X |
| | (i) Total shares of restricted stock ▶ | | |
| | (ii) Total shares of non-restricted stock ▶ | | |
| b | At the end of the tax year, did the corporation have any outstanding stock options, warrants, or similar instruments? If "Yes," complete lines (i) and (ii) below. | | X |
| | (i) Total shares of stock outstanding at the end of the tax year ▶ | | |
| | (ii) Total shares of stock outstanding if all instruments were executed ▶ | | |
| 6 | Has this corporation filed, or is it required to file, **Form 8918,** Material Advisor Disclosure Statement, to provide information on any reportable transaction? | | X |
| 7 | Check this box if the corporation issued publicly offered debt instruments with original issue discount ▶ [ ] If checked, the corporation may have to file **Form 8281,** Information Return for Publicly Offered Original Issue Discount Instruments. | | |
| 8 | If the corporation **(a)** was a C corporation before it elected to be an S corporation **or** the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation, **and (b)** has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years. See instructions ▶ $ | | |
| 9 | Did the corporation have an election under section 163(j) for any real property trade or business or any farming business in effect during the tax year? See instructions | | X |
| 10 | Does the corporation satisfy one or more of the following? See instructions | | X |
| a | The corporation owns a pass-through entity with current, or prior year carryover, excess business interest expense. | | |
| b | The corporation's aggregate average annual gross receipts (determined under section 448(c)) for the 3 tax years preceding the current tax year are more than $26 million and the corporation has business interest expense. | | |
| c | The corporation is a tax shelter and the corporation has business interest expense. If "Yes," complete and attach Form 8990. | | |
| 11 | Does the corporation satisfy **both** of the following conditions? | | X |
| a | The corporation's total receipts (see instructions) for the tax year were less than $250,000. | | |
| b | The corporation's total assets at the end of the tax year were less than $250,000. If "Yes," the corporation is not required to complete Schedules L and M-1. | | |



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**Schedule B Other Information** (see instructions) *(continued)*

| | | Yes | No |
|---|---|---|---|
| 12 | During the tax year, did the corporation have any non-shareholder debt that was canceled, was forgiven, or had the terms modified so as to reduce the principal amount of the debt? | | X |
| | If "Yes," enter the amount of principal reduction ▶ $ | | |
| 13 | During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions | | X |
| 14a | Did the corporation make any payments in 2021 that would require it to file Form(s) 1099? | | X |
| b | If "Yes," did the corporation file or will it file required Forms 1099? | | |
| 15 | Is the corporation attaching Form 8996 to certify as a Qualified Opportunity Fund? | | X |
| | If "Yes," enter the amount from Form 8996, line 15 ▶ $ | | |

**Schedule K Shareholders' Pro Rata Share Items**

| | | | | Total amount |
|---|---|---|---|---|
| Income (Loss) | 1 | Ordinary business income (loss) (page 1, line 21) | 1 | 88,478 |
| | 2 | Net rental real estate income (loss) (attach Form 8825) | 2 | |
| | 3a | Other gross rental income (loss) | 3a | |
| | b | Expenses from other rental activities (attach statement) | 3b | |
| | c | Other net rental income (loss). Subtract line 3b from line 3a | 3c | |
| | 4 | Interest income | 4 | |
| | 5 | Dividends: a Ordinary dividends | 5a | |
| | | b Qualified dividends | 5b | |
| | 6 | Royalties | 6 | |
| | 7 | Net short-term capital gain (loss) (attach Schedule D (Form 1120-S)) | 7 | |
| | 8a | Net long-term capital gain (loss) (attach Schedule D (Form 1120-S)) | 8a | |
| | b | Collectibles (28%) gain (loss) | 8b | |
| | c | Unrecaptured section 1250 gain (attach statement) | 8c | |
| | 9 | Net section 1231 gain (loss) (attach Form 4797) | 9 | 2,688,000 |
| | 10 | Other income (loss) (see instructions) Type ▶ | 10 | |
| Deductions | 11 | Section 179 deduction (attach Form 4562) | 11 | |
| | 12a | Charitable contributions | 12a | |
| | b | Investment interest expense | 12b | |
| | c | Section 59(e)(2) expenditures Type ▶ | 12c | |
| | d | Other deductions (see instructions) Type ▶ | 12d | |
| Credits | 13a | Low-income housing credit (section 42(j)(5)) | 13a | |
| | b | Low-income housing credit (other) | 13b | |
| | c | Qualified rehabilitation expenditures (rental real estate) (attach Form 3468, if applicable) | 13c | |
| | d | Other rental real estate credits (see instructions) Type ▶ | 13d | |
| | e | Other rental credits (see instructions) Type ▶ | 13e | |
| | f | Biofuel producer credit (attach Form 6478) | 13f | |
| | g | Other credits (see instructions) Type ▶ | 13g | |
| International Transactions | 14 | Attach Schedule K-2 (Form 1120-S), Shareholders' Pro Rata Share Items—International, and check this box to indicate you are reporting items of international tax relevance ▶ ☐ | | |
| Alternative Minimum Tax (AMT) Items | 15a | Post-1986 depreciation adjustment | 15a | -129 |
| | b | Adjusted gain or loss | 15b | |
| | c | Depletion (other than oil and gas) | 15c | |
| | d | Oil, gas, and geothermal properties – gross income | 15d | |
| | e | Oil, gas, and geothermal properties – deductions | 15e | |
| | f | Other AMT items (attach statement) | 15f | |
| Items Affecting Shareholder Basis | 16a | Tax-exempt interest income | 16a | |
| | b | Other tax-exempt income | 16b | |
| | c | Nondeductible expenses | 16c | 5,491 |
| | d | Distributions (attach statement if required) (see instructions) | 16d | 2,688,000 |
| | e | Repayment of loans from shareholders | 16e | |
| | f | Foreign taxes paid or accrued | 16f | |



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| Schedule K Shareholders' Pro Rata Share Items *(continued)* | | | Total amount |
|---|---|---|---|
| Other Information | 17a Investment income | 17a | |
| | b Investment expenses | 17b | |
| | c Dividend distributions paid from accumulated earnings and profits | 17c | |
| | d Other items and amounts (attach statement) See Statement 3 | | |
| Reconciliation | 18 **Income (loss) reconciliation.** Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and 16f | 18 | 2,776,478 |

| Schedule L Balance Sheets per Books | | Beginning of tax year | | End of tax year | |
|---|---|---|---|---|---|
| | Assets | (a) | (b) | (c) | (d) |
| 1 | Cash | | 229,335 | | 13,416 |
| 2a | Trade notes and accounts receivable | | | | |
| b | Less allowance for bad debts | ( ) | | ( ) | |
| 3 | Inventories | | | | |
| 4 | U.S. government obligations | | | | |
| 5 | Tax-exempt securities (see instructions) | | | | |
| 6 | Other current assets (attach statement) | | | | |
| 7 | Loans to shareholders | | | | |
| 8 | Mortgage and real estate loans | | | | |
| 9 | Other investments (attach statement) Stmt 4 | | 0 | | 749,000 |
| 10a | Buildings and other depreciable assets | 1,116,762 | | 415,290 | |
| b | Less accumulated depreciation | ( 942,408 ) | 174,354 | ( 289,560 ) | 125,730 |
| 11a | Depletable assets | | | | |
| b | Less accumulated depletion | ( ) | | ( ) | |
| 12 | Land (net of any amortization) | | 238,177 | | 238,177 |
| 13a | Intangible assets (amortizable only) | | | | |
| b | Less accumulated amortization | ( ) | | ( ) | |
| 14 | Other assets (attach statement) Stmt 5 | | 194,724 | | 194,724 |
| 15 | Total assets | | 836,590 | | 1,321,047 |
| | **Liabilities and Shareholders' Equity** | | | | |
| 16 | Accounts payable | | | | |
| 17 | Mortgages, notes, bonds payable in less than 1 year | | 2,095 | | 0 |
| 18 | Other current liabilities (attach statement) Stmt 6 | | 0 | | 749,000 |
| 19 | Loans from shareholders | | 49,562 | | 219,186 |
| 20 | Mortgages, notes, bonds payable in 1 year or more | | 636,393 | | 121,334 |
| 21 | Other liabilities (attach statement) Stmt 7 | | 31,000 | | 31,000 |
| 22 | Capital stock | | 1,000 | | 1,000 |
| 23 | Additional paid-in capital | | | | |
| 24 | Retained earnings | | 116,540 | | 199,527 |
| 25 | Adjustments to shareholders' equity (attach statement) | | | | |
| 26 | Less cost of treasury stock | | ( ) | | ( ) |
| 27 | Total liabilities and shareholders' equity | | 836,590 | | 1,321,047 |



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## Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

**Note:** The corporation may be required to file Schedule M-3. See instructions.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Net income (loss) per books | 3,519,987 | 5 | Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize): | |
| 2 | Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize) | | | a Tax-exempt interest $ Stmt 9 749,000 | 749,000 |
| 3 | Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 16f (itemize): | | 6 | Deductions included on Schedule K, lines 1 through 12 and 16f, not charged against book income this year (itemize): | |
| | a Depreciation $ | | | a Depreciation $ | |
| | b Travel and entertainment $ Stmt 8 5,491 | 5,491 | | | |
| 4 | Add lines 1 through 3 | 3,525,478 | 7 | Add lines 5 and 6 | 749,000 |
| | | | 8 | Income (loss) (Schedule K, line 18). Subtract line 7 from line 4 | 2,776,478 |

## Schedule M-2 Analysis of Accumulated Adjustments Account, Shareholders' Undistributed Taxable Income Previously Taxed, Accumulated Earnings and Profits, and Other Adjustments Account (see instructions)

| | | (a) Accumulated adjustments account | (b) Shareholders' undistributed taxable income previously taxed | (c) Accumulated earnings and profits | (d) Other adjustments account |
|---|---|---|---|---|---|
| 1 | Balance at beginning of tax year | 116,540 | | | |
| 2 | Ordinary income from page 1, line 21 | 88,478 | | | |
| 3 | Other additions Stmt 10 | 2,688,000 | | | |
| 4 | Loss from page 1, line 21 | ( ) | | | |
| 5 | Other reductions Stmt 11 | ( 5,491) | | | ( ) |
| 6 | Combine lines 1 through 5 | 2,887,527 | | | |
| 7 | Distributions | 2,688,000 | | | |
| 8 | Balance at end of tax year. Subtract line 7 from line 6 | 199,527 | | | |



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Form **4797**

Department of the Treasury
Internal Revenue Service

# Sales of Business Property
## (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return.

▶ Go to *www.irs.gov/Form4797* for instructions and the latest information.

OMB No. 1545-0184

**2021**

Attachment Sequence No. **27**

Name(s) shown on return

**Apple Services, Inc.**

Identifying number [redacted]

| | | | |
|---|---|---|---|
| 1a | Enter the gross proceeds from sales or exchanges reported to you for 2021 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20. See instructions | 1a | |
| b | Enter the total amount of gain that you are including on lines 2, 10, and 24 due to the partial dispositions of MACRS assets | 1b | |
| c | Enter the total amount of loss that you are including on lines 2 and 10 due to the partial dispositions of MACRS assets | 1c | |

## Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)

| 2 (a) Description of property | (b) Date acquired (mo., day, yr.) | (c) Date sold (mo., day, yr.) | (d) Gross sales price | (e) Depreciation allowed or allowable since acquisition | (f) Cost or other basis, plus improvements and expense of sale | (g) Gain or (loss) Subtract (f) from the sum of (d) and (e) |
|---|---|---|---|---|---|---|
| Assets | Junked Various | 05/01/21 | | 176,939 | 176,939 | |
| | | | | | | |

| | | | |
|---|---|---|---|
| 3 | Gain, if any, from Form 4684, line 39 | 3 | |
| 4 | Section 1231 gain from installment sales from Form 6252, line 26 or 37 | 4 | 2,688,000 |
| 5 | Section 1231 gain or (loss) from like-kind exchanges from Form 8824 | 5 | |
| 6 | Gain, if any, from line 32, from other than casualty or theft | 6 | |
| 7 | Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows | 7 | 2,688,000 |
| | **Partnerships and S corporations.** Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120-S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below. | | |
| | **Individuals, partners, S corporation shareholders, and all others.** If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you didn't have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below. | | |
| 8 | Nonrecaptured net section 1231 losses from prior years. See instructions | 8 | |
| 9 | Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return. See instructions | 9 | |

## Part II Ordinary Gains and Losses (see instructions)

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| | | | | | | |

| | | | |
|---|---|---|---|
| 11 | Loss, if any, from line 7 | 11 | ( ) |
| 12 | Gain, if any, from line 7 or amount from line 8, if applicable | 12 | |
| 13 | Gain, if any, from line 31 | 13 | 215,043 |
| 14 | Net gain or (loss) from Form 4684, lines 31 and 38a | 14 | |
| 15 | Ordinary gain from installment sales from Form 6252, line 25 or 36 | 15 | |
| 16 | Ordinary gain or (loss) from like-kind exchanges from Form 8824 | 16 | |
| 17 | Combine lines 10 through 16 | 17 | 215,043 |
| 18 | For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below. | | |
| a | If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the loss from income-producing property on Schedule A (Form 1040), line 16. (Do not include any loss on property used as an employee.) Identify as from "Form 4797, line 18a." See instructions | 18a | |
| b | Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Schedule 1 (Form 1040), Part I, line 4 | 18b | |

**For Paperwork Reduction Act Notice, see separate Instructions.** Form **4797** (2021)

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Form 4797 (2021) Apple Services, Inc. [redacted] 

**Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255 (see instructions)**

| 19 (a) Description of section 1245, 1250, 1252, 1254, or 1255 property: | (b) Date acquired (mo., day, yr.) | (c) Date sold (mo., day, yr.) |
|---|---|---|
| A Assets Sold | Various | 05/10/21 |
| B Goodwill | 04/01/03 | 05/10/21 |
| C | | |
| D | | |

| These columns relate to the properties on lines 19A through 19D. ▶ | | Property A | Property B | Property C | Property D |
|---|---|---|---|---|---|
| 20 Gross sales price (**Note:** *See line 1a before completing.*) | 20 | 250,000 | 3,437,000 | | |
| 21 Cost or other basis plus expense of sale | 21 | 334,439 | | | |
| 22 Depreciation (or depletion) allowed or allowable | 22 | 299,482 | | | |
| 23 Adjusted basis. Subtract line 22 from line 21 | 23 | 34,957 | 0 | | |
| 24 Total gain. Subtract line 23 from line 20 | 24 | 215,043 | 3,437,000 | | |
| 25 **If section 1245 property:** | | | | | |
| a Depreciation allowed or allowable from line 22 | 25a | 299,482 | | | |
| b Enter the **smaller** of line 24 or 25a | 25b | 215,043 | | | |
| 26 **If section 1250 property:** If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291. | | | | | |
| a Additional depreciation after 1975. See instructions | 26a | | | | |
| b Applicable percentage multiplied by the **smaller** of line 24 or line 26a. See instructions | 26b | | | | |
| c Subtract line 26a from line 24. If residential rental property **or** line 24 isn't more than line 26a, skip lines 26d and 26e | 26c | | | | |
| d Additional depreciation after 1969 and before 1976 | 26d | | | | |
| e Enter the **smaller** of line 26c or 26d | 26e | | | | |
| f Section 291 amount (corporations only) | 26f | | | | |
| g Add lines 26b, 26e, and 26f | 26g | | | | |
| 27 **If section 1252 property:** Skip this section if you didn't dispose of farmland or if this form is being completed for a partnership. | | | | | |
| a Soil, water, and land clearing expenses | 27a | | | | |
| b Line 27a multiplied by applicable percentage. See instructions | 27b | | | | |
| c Enter the **smaller** of line 24 or 27b | 27c | | | | |
| 28 **If section 1254 property:** | | | | | |
| a Intangible drilling and development costs, expenditures for development of mines and other natural deposits, mining exploration costs, and depletion. See instructions | 28a | | | | |
| b Enter the **smaller** of line 24 or 28a | 28b | | | | |
| 29 **If section 1255 property:** | | | | | |
| a Applicable percentage of payments excluded from income under section 126. See instructions | 29a | | | | |
| b Enter the **smaller** of line 24 or 29a. See instructions | 29b | | | | |

**Summary of Part III Gains.** Complete property columns A through D through line 29b before going to line 30.

| | | |
|---|---|---|
| 30 Total gains for all properties. Add property columns A through D, line 24 | 30 | 3,652,043 |
| 31 Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13 | 31 | 215,043 |
| 32 Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6 * | 32 | 0 |

**Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)**

| | | (a) Section 179 | (b) Section 280F(b)(2) |
|---|---|---|---|
| 33 Section 179 expense deduction or depreciation allowable in prior years | 33 | | |
| 34 Recomputed depreciation. See instructions | 34 | | |
| 35 Recapture amount. Subtract line 34 from line 33. See the instructions for where to report | 35 | | |

*Excludes installment sale gain

Form 4797 (2021)

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Form **1125-A**
(Rev. November 2018)
Department of the Treasury
Internal Revenue Service

# Cost of Goods Sold

▶ Attach to Form 1120, 1120-C, 1120-F, 1120S, or 1065.
▶ Go to *www.irs.gov/Form1125A* for the latest information.

OMB No 1545-0123

Name
**Apple Services, Inc.**

Employer identification number
[redacted]

| | | | |
|---|---|---|---|
| 1 | Inventory at beginning of year | 1 | |
| 2 | Purchases | 2 | 180,418 |
| 3 | Cost of labor | 3 | |
| 4 | Additional section 263A costs (attach schedule) | 4 | |
| 5 | Other costs (attach schedule) | 5 | |
| 6 | **Total.** Add lines 1 through 5 | 6 | 180,418 |
| 7 | Inventory at end of year | 7 | |
| 8 | **Cost of goods sold.** Subtract line 7 from line 6. Enter here and on Form 1120, page 1, line 2 or the appropriate line of your tax return. See instructions | 8 | 180,418 |

9a Check all methods used for valuing closing inventory:
- *(i)* [X] Cost
- *(ii)* [ ] Lower of cost or market
- *(iii)* [ ] Other (Specify method used and attach explanation.) ▶

b Check if there was a writedown of subnormal goods ▶ [ ]

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ▶ [ ]

d If the LIFO inventory method was used for this tax year, enter amount of closing inventory computed under LIFO — 9d

e If property is produced or acquired for resale, do the rules of section 263A apply to the entity? See instructions — [ ] Yes [X] No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation — [ ] Yes [X] No

**For Paperwork Reduction Act Notice, see instructions.**

Form **1125-A** (Rev. 11-2018)

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Form **6252**

Department of the Treasury
Internal Revenue Service

# Installment Sale Income

▶ Attach to your tax return.
▶ Use a separate form for each sale or other disposition of property on the installment method.
▶ Go to *www.irs.gov/Form6252* for the latest information.

OMB No. 1545-0228

**2021**

Attachment Sequence No. **67**

Name(s) shown on return

Identifying number

Apple Services, Inc. [redacted]

1 Description of property ▶ 3 Goodwill

2a Date acquired (mm/dd/yyyy) ▶ 04/01/03 b Date sold (mm/dd/yyyy) ▶ 05/10/21

3 Was the property sold to a related party (see instructions) after May 14, 1980? If "No," skip line 4 ☐ Yes ☒ No

4 Was the property you sold to a related party a marketable security? If "Yes," complete Part III. If "No," complete Part III for the year of sale and the 2 years after the year of sale ☐ Yes ☐ No

## Part I Gross Profit and Contract Price. Complete this part for all years of the installment agreement.

| | | | | |
|---|---|---|---|---|
| 5 | Selling price including mortgages and other debts. **Don't** include interest, whether stated or unstated | | 5 | 3,437,000 |
| 6 | Mortgages, debts, and other liabilities the buyer assumed or took the property subject to (see instructions.) | 6 | | |
| 7 | Subtract line 6 from line 5 | 7 | 3,437,000 | |
| 8 | Cost or other basis of property sold | 8 | | |
| 9 | Depreciation allowed or allowable | 9 | | |
| 10 | Adjusted basis. Subtract line 9 from line 8 | 10 | | |
| 11 | Commissions and other expenses of sale | 11 | | |
| 12 | Income recapture from Form 4797, Part III (see instructions) | 12 | | |
| 13 | Add lines 10, 11, and 12 | | 13 | |
| 14 | Subtract line 13 from line 5. If zero or less, **don't** complete the rest of this form. See instructions | | 14 | 3,437,000 |
| 15 | If the property described on line 1 above was your main home, enter the amount of your excluded gain. See instructions. Otherwise, enter -0- | | 15 | 0 |
| 16 | **Gross profit.** Subtract line 15 from line 14 | | 16 | 3,437,000 |
| 17 | Subtract line 13 from line 6. If zero or less, enter -0- | | 17 | |
| 18 | **Contract price.** Add line 7 and line 17 | | 18 | 3,437,000 |

## Part II Installment Sale Income. Complete this part for all years of the installment agreement.

| | | | | |
|---|---|---|---|---|
| 19 | Gross profit percentage (expressed as a decimal amount). Divide line 16 by line 18. (For years after the year of sale, see instructions.) | | 19 | 1.000000 |
| 20 | If this is the year of sale, enter the amount from line 17. Otherwise, enter -0- | | 20 | 0 |
| 21 | Payments received during year (see instructions). **Don't** include interest, whether stated or unstated | | 21 | 2,688,000 |
| 22 | Add lines 20 and 21 | | 22 | 2,688,000 |
| 23 | Payments received in prior years (see instructions). **Don't** include interest, whether stated or unstated | 23 | | |
| 24 | **Installment sale income.** Multiply line 22 by line 19 | | 24 | 2,688,000 |
| 25 | Enter the part of line 24 that is ordinary income under the recapture rules. See instructions | | 25 | |
| 26 | Subtract line 25 from line 24. Enter here and on Schedule D or Form 4797. See instructions | | 26 | 2,688,000 |

## Part III Related Party Installment Sale Income. Don't complete if you received the final payment this tax year.

27 Name, address, and taxpayer identifying number of related party ▶

28 Did the related party resell or dispose of the property ("second disposition") during this tax year? ☐ Yes ☐ No

29 **If the answer to question 28 is "Yes," complete lines 30 through 37 below unless one of the following conditions is met. Check the box that applies.**

a ☐ The second disposition was more than 2 years after the first disposition (other than dispositions of marketable securities). If this box is checked, enter the date of disposition (mm/dd/yyyy) ▶

b ☐ The first disposition was a sale or exchange of stock to the issuing corporation.

c ☐ The second disposition was an involuntary conversion and the threat of conversion occurred after the first disposition.

d ☐ The second disposition occurred after the death of the original seller or buyer.

e ☐ It can be established to the satisfaction of the IRS that tax avoidance wasn't a principal purpose for either of the dispositions. If this box is checked, attach an explanation. See instructions.

| | | | |
|---|---|---|---|
| 30 | Selling price of property sold by related party (see instructions) | 30 | |
| 31 | Enter contract price from line 18 for year of first sale | 31 | |
| 32 | Enter the **smaller** of line 30 or line 31 | 32 | |
| 33 | Total payments received by the end of your 2021 tax year (see instructions) | 33 | |
| 34 | Subtract line 33 from line 32. If zero or less, enter -0- | 34 | |
| 35 | Multiply line 34 by the gross profit percentage on line 19 for year of first sale | 35 | |
| 36 | Enter the part of line 35 that is ordinary income under the recapture rules. See instructions | 36 | |
| 37 | Subtract line 36 from line 35. Enter here and on Schedule D or Form 4797. See instructions | 37 | |

**For Paperwork Reduction Act Notice, see page 4.** Form **6252** (2021)

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Form **1125-E**
(Rev. October 2016)
Department of the Treasury
Internal Revenue Service

# Compensation of Officers

▶ **Attach to Form 1120, 1120-C, 1120-F, 1120-REIT, 1120-RIC, or 1120S.**

▶ **Information about Form 1125-E and its separate instructions is at *www.irs.gov/form1125e.***

OMB No 1545-0123

Name
**Apple Services, Inc.**

Employer identification number
[redacted]

**Note:** Complete Form 1125-E only if total receipts are $500,000 or more. See instructions for definition of total receipts.

| (a) Name of officer | (b) Social security number (see instructions) | (c) Percent of time devoted to business | Percent of stock owned | | (f) Amount of compensation |
|---|---|---|---|---|---|
| | | | (d) Common | (e) Preferred | |
| 1 Michael Jordan | [redacted] | 70.000 % | 100.000 % | % | 66,062 |
| TONYA JORDAN | [redacted] | 10.000 % | % | % | 32,800 |
| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |
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| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |
| | | % | % | % | |

| | | | |
|---|---|---|---|
| 2 | Total compensation of officers | 2 | 98,862 |
| 3 | Compensation of officers claimed on Form 1125-A or elsewhere on return | 3 | |
| 4 | Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return | 4 | 98,862 |

**For Paperwork Reduction Act Notice, see separate instructions.**

Form **1125-E** (Rev. 10-2016)

DAA

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Form **4562**

Department of the Treasury
Internal Revenue Service (99)

# Depreciation and Amortization
**(Including Information on Listed Property)**

▶ Attach to your tax return.

▶ Go to *www.irs.gov/Form4562* for instructions and the latest information.

OMB No. 1545-0172

**2021**

Attachment Sequence No **179**

Name(s) shown on return

**Apple Services, Inc.**

Identifying number [redacted]

Business or activity to which this form relates

**Regular Depreciation**

## Part I Election To Expense Certain Property Under Section 179

**Note:** If you have any listed property, complete Part V before you complete Part I.

| | | | |
|---|---|---|---|
| 1 | Maximum amount (see instructions) | 1 | 1,050,000 |
| 2 | Total cost of section 179 property placed in service (see instructions) | 2 | |
| 3 | Threshold cost of section 179 property before reduction in limitation (see instructions) | 3 | 2,620,000 |
| 4 | Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0- | 4 | |
| 5 | Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions | 5 | |

| 6 | (a) Description of property | (b) Cost (business use only) | (c) Elected cost |
|---|---|---|---|
| | | | |
| | | | |

| | | | | |
|---|---|---|---|---|
| 7 | Listed property. Enter the amount from line 29 | 7 | | |
| 8 | Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7 | | 8 | |
| 9 | Tentative deduction. Enter the **smaller** of line 5 or line 8 | | 9 | |
| 10 | Carryover of disallowed deduction from line 13 of your 2020 Form 4562 | | 10 | |
| 11 | Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions | | 11 | |
| 12 | Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11 | | 12 | |
| 13 | Carryover of disallowed deduction to 2022. Add lines 9 and 10, less line 12 ▶ | 13 | | |

**Note:** Don't use Part II or Part III below for listed property. Instead, use Part V.

## Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)

| | | | |
|---|---|---|---|
| 14 | Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions | 14 | 97,080 |
| 15 | Property subject to section 168(f)(1) election | 15 | |
| 16 | Other depreciation (including ACRS) | 16 | |

## Part III MACRS Depreciation (Don't include listed property. See instructions.)

### Section A

| | | | |
|---|---|---|---|
| 17 | MACRS deductions for assets placed in service in tax years beginning before 2021 | 17 | 13,667 |
| 18 | If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ▶ ☐ | | |

### Section B—Assets Placed in Service During 2021 Tax Year Using the General Depreciation System

| | (a) Classification of property | (b) Month and year placed in service | (c) Basis for depreciation (business/investment use only—see instructions) | (d) Recovery period | (e) Convention | (f) Method | (g) Depreciation deduction |
|---|---|---|---|---|---|---|---|
| 19a | 3-year property | | | | | | |
| b | 5-year property | | | | | | |
| c | 7-year property | | | | | | |
| d | 10-year property | | | | | | |
| e | 15-year property | | | | | | |
| f | 20-year property | | | | | | |
| g | 25-year property | | | 25 yrs. | | S/L | |
| h | Residential rental property | | | 27.5 yrs. | MM | S/L | |
| | | | | 27.5 yrs. | MM | S/L | |
| i | Nonresidential real property | | | 39 yrs. | MM | S/L | |
| | | | | | MM | S/L | |

### Section C—Assets Placed in Service During 2021 Tax Year Using the Alternative Depreciation System

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 20a | Class life | | | | | S/L | |
| b | 12-year | | | 12 yrs. | | S/L | |
| c | 30-year | | | 30 yrs. | MM | S/L | |
| d | 40-year | | | 40 yrs. | MM | S/L | |

## Part IV Summary (See instructions.)

| | | | |
|---|---|---|---|
| 21 | Listed property. Enter amount from line 28 | 21 | |
| 22 | **Total.** Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions | 22 | 110,747 |
| 23 | For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs | 23 | |

**For Paperwork Reduction Act Notice, see separate instructions.**

DAA

There are no amounts for Page 2

Form **4562** (2021)

**Part V Listed Property** (Include automobiles, certain other vehicles, certain aircraft, and property used for entertainment, recreation, or amusement.)

**Note:** For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

**Section A—Depreciation and Other Information (Caution:** See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? [X] Yes [ ] No — 24b If "Yes," is the evidence written? [X] Yes [ ] No

| (a) Type of property (list vehicles first) | (b) Date placed in service | (c) Business/ investment use percentage | (d) Cost or other basis | (e) Basis for depreciation (business/investment use only) | (f) Recovery period | (g) Method/ Convention | (h) Depreciation deduction | (i) Elected section 179 cost |
|---|---|---|---|---|---|---|---|---|
| 25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use. See instructions | | | | | | 25 | | |
| 26 Property used more than 50% in a qualified business use: | | | | | | | | |
| See Statement 12 | | % | 67,086 | 32,891 | | | | |
| | | % | | | | | | |
| 27 Property used 50% or less in a qualified business use: | | | | | | | | |
| | | % | | | | S/L- | | |
| | | % | | | | S/L- | | |
| 28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1 | | | | | | 28 | | |
| 29 Add amounts in column (i), line 26. Enter here and on line 7, page 1 | | | | | | | 29 | |

**Section B—Information on Use of Vehicles**

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

| | (a) Vehicle 1 | | (b) Vehicle 2 | | (c) Vehicle 3 | | (d) Vehicle 4 | | (e) Vehicle 5 | | (f) Vehicle 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30 Total business/investment miles driven during the year (**don't** include commuting miles) | | | | | | | | | | | | |
| 31 Total commuting miles driven during the year | | | | | | | | | | | | |
| 32 Total other personal (noncommuting) miles driven | | | | | | | | | | | | |
| 33 Total miles driven during the year. Add lines 30 through 32 | | | | | | | | | | | | |
| | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No |
| 34 Was the vehicle available for personal use during off-duty hours? | | | | | | | | | | | | |
| 35 Was the vehicle used primarily by a more than 5% owner or related person? | | | | | | | | | | | | |
| 36 Is another vehicle available for personal use? | | | | | | | | | | | | |

**Section C—Questions for Employers Who Provide Vehicles for Use by Their Employees**

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who **aren't** more than 5% owners or related persons. See instructions.

| | Yes | No |
|---|---|---|
| 37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees? | | |
| 38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners | | |
| 39 Do you treat all use of vehicles by employees as personal use? | | |
| 40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received? | | |
| 41 Do you meet the requirements concerning qualified automobile demonstration use? See instructions | | |

**Note:** If your answer to 37, 38, 39, 40, or 41 is "Yes," don't complete Section B for the covered vehicles.

**Part VI Amortization**

| (a) Description of costs | (b) Date amortization begins | (c) Amortizable amount | (d) Code section | (e) Amortization period or percentage | (f) Amortization for this year |
|---|---|---|---|---|---|
| 42 Amortization of costs that begins during your 2021 tax year (see instructions): | | | | | |
| | | | | | |
| 43 Amortization of costs that began before your 2021 tax year | | | | 43 | |
| 44 **Total.** Add amounts in column (f). See the instructions for where to report | | | | 44 | |



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# Section 179 Disposal Worksheet

Form **1120-S** | For calendar year 2021 or tax year beginning , ending | **2021**

Name: **Apple Services, Inc.** | Employer Identification Number: [redacted]

| | Asset Description | Date Acquired | Date Sold | Casualty Occurrence Description |
|---|---|---|---|---|
| A | JET VAC SEWER | 01/04/05 | 05/01/21 | |
| B | LAPTOP | 04/01/05 | 05/01/21 | |
| C | TRAILER | 05/08/06 | 05/10/21 | |
| D | 1997 FORD F150 | 07/01/06 | 05/01/21 | |
| E | WORK TRUCK | 02/23/07 | 05/01/21 | |
| F | JET VAC SEWER | 05/21/07 | 05/01/21 | |
| G | 04 F-150 TRUCK | 05/22/07 | 05/01/21 | |
| H | USED WORK TRUCK | 06/05/07 | 05/01/21 | |
| I | NATIONAL TRUCK | 06/06/07 | 05/01/21 | |

| **Sale Information:** | Property A | Property B | Property C | Property D | Property E | Property F | Property G | Property H | Property I |
|---|---|---|---|---|---|---|---|---|---|
| Gross sales price | | | | | | | | | |
| Cost or basis | 1,219 | 997 | 2,200 | 4,500 | 15,500 | 5,811 | 17,523 | 2,020 | 2,000 |
| Commissions/other expenses | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | 1,219 | 997 | 2,200 | 4,500 | 15,500 | 5,811 | 17,523 | 2,020 | 2,000 |
| AMT gain/loss adjustment | | | | | | | | | |
| Sale to related party | | | | | | | | | |
| Casualty gain on Form 4797, Part III | | | | | | | | | |
| Section 1250 property | No | No | No | No | No | No | No | No | No |
| Partial disposition of MACRS property | No | No | No | No | No | No | No | No | No |
| **Installment Sale Information:** | | | | | | | | | |
| Property code | | | | | | | | | |
| Mortgage and other debts | | | | | | | | | |
| Current year payments received | | | | | | | | | |
| Prior year payments received | | | | | | | | | |
| **Installment Sale Related Party Info:** | | | | | | | | | |
| **Casualty / Theft Information:** | | | | | | | | | |
| Total net reimbursement | | | | | | | | | |
| Cost or basis | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | | | | | | | | | |
| FMV before loss | | | | | | | | | |
| FMV after loss | | | | | | | | | |
| AMT gain/loss adjustment | | | | | | | | | |
| Property type | | | | | | | | | |
| Gain (loss) | | | | | | | | | |
| Net gain (loss) on disposal of 179 assets | | | | | | | | | |





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# Section 179 Disposal Worksheet

Form **1120-S** | For calendar year 2021 or tax year beginning , ending | **2021**

Name: **Apple Services, Inc.** | Employer Identification Number: [redacted]

| | Asset Description | Date Acquired | Date Sold | Casualty Occurrence Description |
|---|---|---|---|---|
| A | SMALL PUMP | 06/18/07 | 05/01/21 | |
| B | TANKS FOR PUMP TRUCK | 11/15/07 | 05/01/21 | |
| C | 08 CHECY BOX TRUCK | 12/07/07 | 05/01/21 | |
| D | 08 CHEVY FLAT BED TRUCK | 12/28/07 | 05/10/21 | |
| E | DISPATCH COMPUTER SOFTWARE | 05/01/10 | 05/10/21 | |
| F | 2006 VAN | 01/05/12 | 05/10/21 | |
| G | RIMS | 11/18/12 | 05/01/21 | |
| H | 2016 Dodge | 10/21/16 | 05/10/21 | |
| I | Dura Cast Prod | 07/11/16 | 05/10/21 | |

| **Sale Information:** | Property A | Property B | Property C | Property D | Property E | Property F | Property G | Property H | Property I |
|---|---|---|---|---|---|---|---|---|---|
| Gross sales price | | | | | | | | | |
| Cost or basis | 26,300 | 1,700 | 26,400 | 26,439 | 1,570 | 6,705 | 1,500 | 38,454 | 5,987 |
| Commissions/other expenses | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | 26,300 | 1,700 | 26,400 | 26,439 | 1,570 | 6,705 | 1,500 | 38,454 | 5,987 |
| AMT gain/loss adjustment | | | | | | | | | |
| Sale to related party | — | — | — | — | — | — | — | — | — |
| Casualty gain on Form 4797, Part III | — | — | — | — | — | — | — | — | — |
| Section 1250 property | No | No | No | No | No | No | No | No | No |
| Partial disposition of MACRS property | No | No | No | No | No | No | No | No | No |
| **Installment Sale Information:** | | | | | | | | | |
| Property code | | | | | | | | | |
| Mortgage and other debts | | | | | | | | | |
| Current year payments received | | | | | | | | | |
| Prior year payments received | | | | | | | | | |
| **Installment Sale Related Party Info:** | | | | | | | | | |
| **Casualty / Theft Information:** | | | | | | | | | |
| Total net reimbursement | | | | | | | | | |
| Cost or basis | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | | | | | | | | | |
| FMV before loss | | | | | | | | | |
| FMV after loss | | | | | | | | | |
| AMT gain/loss adjustment | | | | | | | | | |
| Property type | | | | | | | | | |
| Gain (loss) | | | | | | | | | |
| Net gain (loss) on disposal of 179 assets | | | | | | | | | |





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Form **1120-S**

# Section 179 Disposal Worksheet

For calendar year 2021 or tax year beginning , ending

**2021**

Name
**Apple Services, Inc.**

Employer Identification Number [redacted]

| | Asset Description | Date Acquired | Date Sold | Casualty Occurrence Description |
|---|---|---|---|---|
| A | Truck Upgrades | 07/01/16 | 05/01/21 | |
| B | 2008 Mack Truck | 08/24/18 | 05/10/21 | |
| C | 2019 Ford 250 4065 | 05/14/19 | 05/10/21 | |
| D | JETTER | 01/06/05 | 05/10/21 | |
| E | | | | |
| F | | | | |
| G | | | | |
| H | | | | |
| I | | | | |

| **Sale Information:** | Property A | Property B | Property C | Property D | Property E | Property F | Property G | Property H | Property I |
|---|---|---|---|---|---|---|---|---|---|
| Gross sales price | | | | | | | | | |
| Cost or basis | 5,476 | 50,310 | 42,822 | 1,741 | | | | | |
| Commissions/other expenses | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | 5,476 | 50,310 | 42,822 | 1,741 | | | | | |
| AMT gain/loss adjustment | | | | | | | | | |
| Sale to related party | — | — | — | — | — | — | — | — | — |
| Casualty gain on Form 4797, Part III | — | — | — | — | — | — | — | — | — |
| Section 1250 property | No | No | No | No | — | — | — | — | — |
| Partial disposition of MACRS property | No | No | No | No | — | — | — | — | — |
| **Installment Sale Information:** | | | | | | | | | |
| Property code | | | | | | | | | |
| Mortgage and other debts | | | | | | | | | |
| Current year payments received | | | | | | | | | |
| Prior year payments received | | | | | | | | | |
| **Installment Sale Related Party Info:** | | | | | | | | | |
| **Casualty / Theft Information:** | | | | | | | | | |
| Total net reimbursement | | | | | | | | | |
| Cost or basis | | | | | | | | | |
| Accumulated depr excluding Sec 179 | | | | | | | | | |
| Section 179 | | | | | | | | | |
| FMV before loss | | | | | | | | | |
| FMV after loss | | | | | | | | | |
| AMT gain/loss adjustment | | | | | | | | | |
| Property type | | | | | | | | | |
| Gain (loss) | | | | | | | | | |
| Net gain (loss) on disposal of 179 assets | | | | | | | | | |





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# Section 199A Information Worksheet

Form **1120-S** | For calendar year 2021 or tax year beginning , ending | **2021**

Name

**Apple Services, Inc.**

Employer Identification Number

[redacted]

| | Activity Description | Pass-Through Entity EIN | PTP | Aggregated | SSTB |
|---|---|---|---|---|---|
| **Column A** | Page 1 Activity | | ☐ | ☐ | ☐ |
| **Column B** | | | ☐ | ☐ | ☐ |
| **Column C** | | | ☐ | ☐ | ☐ |
| **Column D** | | | ☐ | ☐ | ☐ |
| **Column E** | | | ☐ | ☐ | ☐ |

| **QBI or Qualified PTP items:** | **Column A** | **Column B** | **Column C** | **Column D** | **Column E** |
|---|---|---|---|---|---|
| Ordinary business income (loss) | 88,478 | | | | |
| Net rental real estate income (loss) | | | | | |
| Other net rental income (loss) | | | | | |
| Royalty income (loss) | | | | | |
| Section 1231 gain (loss) | 2,688,000 | | | | |
| Other income (loss) | | | | | |
| Section 179 deduction | | | | | |
| Other deductions | | | | | |
| **W-2 wages** | 332,146 | | | | |
| **Qualified property** | 398,927 | | | | |

**Other Information:**

QBI allocable to cooperative pmts received

W-2 wages allocable to qualified payments

Section 199A(g) deduction

**Section 199A REIT dividends**

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[redacted]

# Federal Statements

## Statement 1 - Form 1120-S, Page 1, Line 5 - Other Income (Loss)

| Description | Amount |
|---|---|
| Core, LLC | $ -23,320 |
| Misc Income | 8,689 |
| Total | $ -14,631 |

## Statement 2 - Form 1120-S, Page 1, Line 19 - Other Deductions

| Description | Amount |
|---|---|
| Bank/Credit Card Fees | $ 2,738 |
| Disposal Fees | 37,742 |
| Dues | 198 |
| Equipment Rental | 10,041 |
| Insurance | 31,895 |
| Office Expense | 1,361 |
| Postage | 331 |
| Printing & Reproduction | 2,325 |
| Professional Development | 225 |
| Professional Fees | 25,908 |
| Recruiting | 476 |
| Small Equipemnt <2500 | 654 |
| Subcontractor Expense | |
| Supplies | 46,785 |
| Telephone | 8,635 |
| Travel | 5,098 |
| Uniforms | 1,144 |
| Utilities | 26,373 |
| Vehicle Expense-Fuel | 47,411 |
| Other Misc Exp | 10,361 |
| 100% of Meals | 3,439 |
| Total | $ 263,140 |

## Statement 3 - Form 1120-S, Page 4, Schedule K, Line 17d - Other Items and Amounts

| Description | Amount |
|---|---|
| Disposal of Section 179 Property - See Attached Wrk | $ |
| Section 199A Information - See Attached Wrk | |

## Statement 4 - Form 1120-S, Page 4, Schedule L , Line 9 - Other Investments

| Description | Beginning of Year | End of Year |
|---|---|---|
| Notes Receivable | $ 0 | $ 749,000 |
| Total | $ 0 | $ 749,000 |

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## Statement 5 - Form 1120-S, Page 4, Schedule L, Line 14 - Other Assets

| Description | Beginning of Year | End of Year |
|---|---|---|
| LOAN TO GREENWAY | $ 194,724 | $ 194,724 |
| Total | $ 194,724 | $ 194,724 |

## Statement 6 - Form 1120-S, Page 4, Schedule L, Line 18 - Other Current Liabilities

| Description | Beginning of Year | End of Year |
|---|---|---|
| Deferred Gain | $ 0 | $ 749,000 |
| Total | $ 0 | $ 749,000 |

## Statement 7 - Form 1120-S, Page 4, Schedule L, Line 21 - Other Liabilities

| Description | Beginning of Year | End of Year |
|---|---|---|
| OTHER LIABILITY<br>NBSC - LOAN 2 FOR GATES | $ 31,000 | $ 31,000 |
| Total | $ 31,000 | $ 31,000 |

## Statement 8 - Form 1120-S, Page 5, Schedule M-1, Line 3 - Expenses on Books Not on Return

| Description | Amount |
|---|---|
| Officer Life Ins Premiums | $ 5,491 |
| Total | $ 5,491 |

## Statement 9 - Form 1120-S, Page 5, Schedule M-1, Line 5 - Income on Books Not on Return

| Description | Amount |
|---|---|
| Form 4797 Book/Tax Diff | $ 749,000 |
| Total | $ 749,000 |

## Statement 10 - Form 1120-S, Page 5, Schedule M-2, Line 3(a) - Other Additions

| Description | Amount |
|---|---|
| Net Section 1231 Gain | $ 2,688,000 |
| Total | $ 2,688,000 |

## Statement 11 - Form 1120-S, Page 5, Schedule M-2, Line 5(a) - Other Reductions

| Description | Amount |
|---|---|
| Officer Life Ins Premiums | $ 5,491 |
| Total | $ 5,491 |

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**Regular Depreciation**

**Statement 12 - Form 4562, Part V, Line 26 - Property Used More Than 50% in Qualified Business**

| Property Type | Date in Service | Busn Use % | Cost or Basis | Basis For Depr | Per | Meth | Deduct | Sec 179 |
|---|---|---|---|---|---|---|---|---|
| B&E TRUCKS | 2/19/04 | 100.00 | $ 15,890 | $ 7,945 | 5.0 | 200DBHY | $ | $ |
| 1997 NISSAN TRUCK | 6/09/05 | 100.00 | 2,200 | 2,200 | 5.0 | 200DBHY | | |
| MAZDA CO SALES VEHICLE | 12/26/07 | 100.00 | 16,363 | 16,363 | 5.0 | 200DBMQ | | |
| VEHICLES | 6/01/03 | 100.00 | 2,500 | 1,250 | 5.0 | 200DBHY | | |
| TAHOE | 3/15/12 | 100.00 | 30,133 | 5,133 | 5.0 | 200DBHY | | |
| Total | | | $ 67,086 | $ 32,891 | | | $ 0 | $ 0 |



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# Federal Asset Report
## Form 1120-S, Page 1

| Asset | Description | Date In Service | Cost | Bus % | Sec 179 | Bonus | Basis for Depr | Per | Conv Meth | Prior | Current |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **7-year GDS Property:** | | | | | | | | | | | |
| 68 | Trailer | 8/04/21 | 7,035 | | | X | 0 | 7 | MQ200DB | 0 | 7,035 |
| 69 | Skid Steer | 11/01/21 | 90,045 | | | X | 0 | 7 | MQ200DB | 0 | 90,045 |
| | | | 97,080 | | | | 0 | | | 0 | 97,080 |
| **Prior MACRS:** | | | | | | | | | | | |
| 1 | EQUIPMENT<br>Mass Sale: 5/01/21 | 6/01/03 | 25,000 | | | X | 12,500 | 7 | HY 200DB | 25,000 | 0 |
| 2 | OFFICE EQUIPMENT<br>Mass Sale: 5/10/21 | 6/01/03 | 4,695 | | | X | 2,347 | 5 | HY 200DB | 4,695 | 0 |
| 5 | UTILITY TRUCK<br>Mass Sale: 5/01/21 | 5/01/04 | 3,000 | | | X | 1,500 | 5 | HY 200DB | 3,000 | 0 |
| 6 | COMPUTER<br>Mass Sale: 5/10/21 | 5/19/04 | 990 | | | X | 495 | 5 | HY 200DB | 990 | 0 |
| 7 | GPS SYSTEM<br>Mass Sale: 5/01/21 | 6/10/04 | 510 | | | X | 255 | 5 | HY 200DB | 510 | 0 |
| 8 | LAPTOP<br>Mass Sale: 5/01/21 | 6/28/04 | 1,200 | | | X | 600 | 5 | HY 200DB | 1,200 | 0 |
| 9 | JET VAC SEWER<br>Mass Sale: 5/01/21 | 9/21/04 | 25,505 | | | X | 12,752 | 7 | HY 200DB | 25,505 | 0 |
| 10 | GPS SYSTEM<br>Mass Sale: 5/01/21 | 9/23/04 | 1,570 | | | X | 785 | 5 | HY 200DB | 1,570 | 0 |
| 11 | 2 COMPUTERS<br>Mass Sale: 5/01/21 | 10/11/04 | 1,792 | | | X | 896 | 5 | HY 200DB | 1,792 | 0 |
| 13 | JET VAC SEWER<br>Sold/Scrapped: 5/01/21 | 1/04/05 | 1,219 | | X | | 0 | 7 | HY 200DB | 1,219 | 0 |
| 14 | JETTER<br>Sold/Scrapped: 5/10/21 | 1/06/05 | 1,741 | | X | | 0 | 7 | HY 200DB | 1,741 | 0 |
| 16 | LAPTOP<br>Sold/Scrapped: 5/01/21 | 4/01/05 | 997 | | X | | 0 | 5 | HY 200DB | 997 | 0 |
| 18 | PUMP TRUCK<br>Mass Sale: 5/01/21 | 8/01/05 | 69,000 | | | | 69,000 | 5 | HY 200DB | 69,000 | 0 |
| 20 | TRAILER<br>Sold/Scrapped: 5/10/21 | 5/08/06 | 2,200 | | X | | 0 | 7 | HY 200DB | 2,200 | 0 |
| 21 | 1997 FORD F150<br>Sold/Scrapped: 5/01/21 | 7/01/06 | 4,500 | | X | | 0 | 5 | HY 200DB | 4,500 | 0 |
| 22 | WORK TRUCK<br>Sold/Scrapped: 5/01/21 | 2/23/07 | 15,500 | | X | | 0 | 5 | MQ200DB | 15,500 | 0 |
| 23 | JET VAC SEWER<br>Sold/Scrapped: 5/01/21 | 5/21/07 | 5,811 | | X | | 0 | 7 | MQ200DB | 5,811 | 0 |
| 24 | 04 F-150 TRUCK<br>Sold/Scrapped: 5/01/21 | 5/22/07 | 17,523 | | X | | 0 | 5 | MQ200DB | 17,523 | 0 |
| 25 | USED WORK TRUCK<br>Sold/Scrapped: 5/01/21 | 6/05/07 | 2,020 | | X | | 0 | 5 | MQ200DB | 2,020 | 0 |
| 26 | NATIONAL TRUCK<br>Sold/Scrapped: 5/01/21 | 6/06/07 | 2,000 | | X | | 0 | 5 | MQ200DB | 2,000 | 0 |
| 27 | SMALL PUMP<br>Sold/Scrapped: 5/01/21 | 6/18/07 | 26,300 | | X | | 0 | 7 | MQ200DB | 26,300 | 0 |
| 28 | TANKS FOR PUMP TRUCK<br>Sold/Scrapped: 5/01/21 | 11/15/07 | 1,700 | | X | | 0 | 7 | MQ200DB | 1,700 | 0 |
| 29 | 08 CHECY BOX TRUCK<br>Sold/Scrapped: 5/01/21 | 12/07/07 | 26,400 | | X | | 0 | 5 | MQ200DB | 26,400 | 0 |
| 31 | 08 CHEVY FLAT BED TRUCK<br>Sold/Scrapped: 5/10/21 | 12/28/07 | 26,439 | | X | | 0 | 5 | MQ200DB | 26,439 | 0 |
| 33 | 2006 VAN<br>Sold/Scrapped: 5/10/21 | 1/05/12 | 6,705 | | X | | 0 | 5 | HY 200DB | 6,705 | 0 |
| 35 | 2006 FREIGHTLINER<br>Mass Sale: 5/10/21 | 9/18/12 | 63,000 | | | | 63,000 | 5 | HY 200DB | 63,000 | 0 |
| 36 | RIMS<br>Sold/Scrapped: 5/01/21 | 11/18/12 | 1,500 | | X | | 0 | 5 | HY 200DB | 1,500 | 0 |
| 37 | MINI EXCAVATOR TRAILER<br>Mass Sale: 5/10/21 | 4/20/13 | 2,242 | | | X | 1,121 | 5 | HY 200DB | 2,242 | 0 |
| 38 | 2011 TEREX TC<br>Mass Sale: 5/01/21 | 4/24/13 | 25,772 | | | X | 12,886 | 3 | HY 200DB | 25,772 | 0 |
| 39 | STORAGE CONTAINER<br>Mass Sale: 5/01/21 | 5/16/13 | 2,050 | | | X | 1,025 | 7 | HY 200DB | 2,050 | 0 |
| 40 | JET VAC SEWER<br>Mass Sale: 5/01/21 | 11/04/13 | 1,450 | | | X | 725 | 7 | HY 200DB | 1,450 | 0 |
| 41 | 2005 FREIGHTLINER | 2/26/14 | 25,500 | | | | 25,500 | 5 | HY 200DB | 25,500 | 0 |

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# Federal Asset Report
## Form 1120-S, Page 1

| Asset | Description | Date In Service | Cost | Bus % | Sec 179 | Bonus | Basis for Depr | Per | Conv | Meth | Prior | Current |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 42 | PUMP FOR NEW TRUCK | 2/18/14 | 3,749 | | | | 3,749 | 7 | HY | 200DB | 3,582 | 167 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 43 | (2) 2000 GALLON TANKS | 10/18/14 | 2,000 | | | | 2,000 | 7 | HY | 200DB | 1,911 | 89 |
| | Mass Sale: 5/01/21 | | | | | | | | | | | |
| 44 | EQUIPMENT TRAILER | 10/20/14 | 2,000 | | | | 2,000 | 7 | HY | 200DB | 1,911 | 89 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 46 | BUILDING | 1/01/11 | 158,177 | | | | 158,177 | 39 | MM | S/L | 28,391 | 4,056 |
| 50 | 2016 Dodge | 10/21/16 | 38,690 | | | X | 19,345 | 5 | MQ | 200DB | 36,838 | 793 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 51 | 2016 Dodge | 10/21/16 | 38,454 | | X | X | 0 | 5 | MQ | 200DB | 38,454 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| 53 | Dura Cast Prod | 7/11/16 | 5,987 | | X | X | 0 | 5 | MQ | 200DB | 5,987 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| 54 | Truck Upgrades | 7/01/16 | 5,476 | | X | | 0 | 5 | MQ | 200DB | 5,476 | 0 |
| | Sold/Scrapped: 5/01/21 | | | | | | | | | | | |
| 55 | 2017 GMC Yukon | 11/17/17 | 58,537 | | X | X | 0 | 5 | HY | 200DB | 58,537 | 0 |
| 57 | 2008 Mack Truck | 8/24/18 | 50,310 | | X | | 0 | 5 | HY | 200DB | 50,310 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| 58 | 2017 Ford 250 | 3/01/18 | 55,000 | | X | | 0 | 5 | HY | 200DB | 55,000 | 0 |
| 59 | 2019 Ford 250 4065 | 5/14/19 | 42,822 | | X | | 0 | 5 | HY | 200DB | 42,822 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| 60 | 2019 Ford 250 2401 | 5/14/19 | 44,190 | | | | 44,190 | 5 | HY | 200DB | 22,979 | 4,242 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 61 | 2019 Ford 250 1047 | 5/14/19 | 44,075 | | | | 44,075 | 5 | HY | 200DB | 22,919 | 4,231 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 62 | Bobcat | 5/29/20 | 37,665 | | | X | 0 | 5 | HY | 200DB | 37,665 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 63 | Truck #12 | 2/12/20 | 4,997 | | | X | 0 | 5 | HY | 200DB | 4,997 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 64 | GMC 6600 Cab/Chass | 6/09/20 | 4,049 | | | X | 0 | 5 | HY | 200DB | 4,049 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 65 | 2015 Kenworth | 6/26/20 | 34,608 | | | X | 0 | 5 | HY | 200DB | 34,608 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 66 | Vacuum Pump - KW | 7/13/20 | 5,995 | | | X | 0 | 5 | HY | 200DB | 5,995 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 67 | Various Upgrades | 7/01/20 | 15,494 | | | X | 0 | 5 | HY | 200DB | 15,494 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| | | | 1,048,106 | | | | 478,923 | | | | 873,756 | 13,667 |
| **Other Depreciation:** | | | | | | | | | | | | |
| 32 | DISPATCH COMPUTER SOFTWARE | 5/01/10 | 1,570 | | X | X | 0 | 3 | MO | Amort | 1,570 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| | **Total Other Depreciation** | | 1,570 | | | | 0 | | | | 1,570 | 0 |
| | **Total ACRS and Other Depreciation** | | 1,570 | | | | 0 | | | | 1,570 | 0 |
| **Listed Property:** | | | | | | | | | | | | |
| 4 | B&E TRUCKS | 2/19/04 | 15,890 | | | X | 7,945 | 5 | HY | 200DB | 15,890 | 0 |
| | Mass Sale: 5/01/21 | | | | | | | | | | | |
| 17 | 1997 NISSAN TRUCK | 6/09/05 | 2,200 | | | | 2,200 | 5 | HY | 200DB | 2,200 | 0 |
| | Mass Sale: 5/01/21 | | | | | | | | | | | |
| 30 | MAZDA CO SALES VEHICLE | 12/26/07 | 16,363 | | | | 16,363 | 5 | MQ | 200DB | 16,363 | 0 |
| 3 | VEHICLES | 6/01/03 | 2,500 | | | X | 1,250 | 5 | HY | 200DB | 2,496 | 0 |
| | Mass Sale: 5/10/21 | | | | | | | | | | | |
| 34 | TAHOE | 3/15/12 | 30,133 | | X | | 5,133 | 5 | HY | 200DB | 30,133 | 0 |
| | | | 67,086 | | | | 32,891 | | | | 67,082 | 0 |
| **Amortization:** | | | | | | | | | | | | |
| 70 | Goodwill | 4/01/03 | 0 | | | | 0 | 15 | MO | Amort | 0 | 0 |
| | Sold/Scrapped: 5/10/21 | | | | | | | | | | | |
| | | | 0 | | | | 0 | | | | 0 | 0 |

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[redacted]

# Federal Asset Report
## Form 1120-S, Page 1

| Asset | Description | Date In Service | Cost | Bus % | Sec 179 | Bonus | Basis for Depr | Per | Conv | Meth | Prior | Current |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **Grand Totals** | | 1,213,842 | | | | 511,814 | | | | 942,408 | 110,747 |
| | **Less: Dispositions and Transfers** | | 798,552 | | | | 332,141 | | | | 753,984 | 9,611 |
| | **Less: Start-up/Org Expense** | | 0 | | | | 0 | | | | 0 | 0 |
| | **Net Grand Totals** | | 415,290 | | | | 179,673 | | | | 188,424 | 101,136 |

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| Form 1120-S | Retained Earnings Reconciliation Worksheet | 2021 |
|---|---|---|
| | For calendar year 2021 or tax year beginning , ending | |

Name

Apple Services, Inc.

Employer Identification Number

[redacted]

## Schedule L - Retained Earnings

| | |
|---|---|
| Retained Earnings - Unappropriated (Accumulated E&P) | 0 |
| Accumulated Adjustments Account | 199,527 |
| Undistributed Previously Taxed Income | 0 |
| Other Adjustments Account | 0 |
| Retained Earnings Timing Differences | 0 |
| Schedule L, Line 24 - Retained Earnings | 199,527 |

## Schedule M-2 - Retained Earnings

| | Accumulated Adjustments Account | Undistributed Previously Taxed Income | Accumulated Earnings and Profits | Other Adjustments Account | Retained Earnings Timing Differences | Total Retained Earnings |
|---|---|---|---|---|---|---|
| Beginning of Year | 116,540 | 0 | 0 | 0 | 0 | 116,540 |
| Ordinary Income (Loss) | 88,478 | | | | | 88,478 |
| Other Additions | 2,688,000 | | | | | 2,688,000 |
| Other Reductions | 5,491 | | | | | 5,491 |
| Distributions | 2,688,000 | | | | | 2,688,000 |
| End of Year | 199,527 | 0 | 0 | 0 | 0 | 199,527 |

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## Form 1120-S, Retained Earnings Reconciliation Worksheet, AAA - Other Additions

| Description | Amount |
|---|---|
| Net Section 1231 Gain | $ 2,688,000 |
| Total | $ 2,688,000 |

## Form 1120-S, Retained Earnings Reconciliation Worksheet, AAA - Other Reductions

| Description | Amount |
|---|---|
| Officer Life Ins Premiums | $ 5,491 |
| Total | $ 5,491 |

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# Federal Statements

## Form 1120-S, Page 1, Line 1a - Gross Receipts or Sales

| Description | Amount |
|---|---|
| Sales | $ 767,287 |
| Service | 106,514 |
| Total | $ 873,801 |

## Form 1120-S, Page 1, Line 12 - Taxes and Licenses

| Description | Amount |
|---|---|
| LICENSES & PERMITS | $ 3,447 |
| PAYROLL TAXES | 36,557 |
| PROPERTY TAXES | 2,207 |
| OTHER TAXES | 3,001 |
| Total | $ 45,212 |

## Form 1120-S, Page 1, Line 18 - Employee Benefit Programs

| Description | Amount |
|---|---|
| Employee Benefit Program | $ 9,836 |
| Total | $ 9,836 |

## Form 1120-S, Page 3, Schedule K, Line 16c - Nondeductible Expenses

| Description | Amount |
|---|---|
| Officer Life Premiums | $ 5,491 |
| Total | $ 5,491 |

## Form 1120-S, Page 4, Schedule L, Line 17 - Mortgages, Notes, Bonds Payable in Less Than One Year

| Description | Beginning of Year | End of Year |
|---|---|---|
| Mort., Note, Less Than 1 Yr. | $ 2,095 | $ 0 |
| Total | $ 2,095 | $ 0 |

## Form 1120-S, Page 4, Schedule L, Line 19 - Loans from Shareholders

| Description | Beginning of Year | End of Year |
|---|---|---|
| | $ 49,562 | $ 219,186 |
| Total | $ 49,562 | $ 219,186 |

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**Form 1120-S, Page 4, Schedule L, Line 20 - Mortgages, Notes, Bonds Payable in One Year or More**

| Description | Beginning of Year | End of Year |
|---|---|---|
| Mort., Note, More Than 1 Yr. | $ 636,393 | $ 121,334 |
| Total | $ 636,393 | $ 121,334 |

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**Goodwill**

**Form 6252 - Installment Sale History**

| Year | Contract Balance End of Year | Principal Received | Reported Income | Total Income | Unreported Income |
|---|---|---|---|---|---|
| 2021 | $ 749,000 | $ 2,688,000 | $ 2,688,000 | $ 3,437,000 | $ 749,000 |
| Total | | $ 2,688,000 | $ 2,688,000 | | |

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| Form 1120-S | Two Year Comparison Worksheet Page 1 | 2020 & 2021 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number [redacted]

| | | 2020 | 2021 | Differences |
|---|---|---|---|---|
| Income | Gross profit percentage | 77.9465 | 79.3525 | 1.4060 |
| | Net receipts | 1,832,544 | 873,801 | -958,743 |
| | Cost of goods sold | 404,140 | 180,418 | -223,722 |
| | Gross profit | 1,428,404 | 693,383 | -735,021 |
| | Net gain (loss) from Form 4797 | | 215,043 | 215,043 |
| | Other income (loss) | -66,085 | -14,631 | 51,454 |
| | **Total income (loss)** | 1,362,319 | 893,795 | -468,524 |
| Deductions | Compensation of officers | 126,959 | 98,862 | -28,097 |
| | Salaries and wages less employment credits | 483,074 | 233,284 | -249,790 |
| | Repairs and maintenance | 66,943 | 40,128 | -26,815 |
| | Bad debts | | | |
| | Rents | | | |
| | Taxes and licenses | 70,278 | 45,212 | -25,066 |
| | Interest | 27,477 | 4,108 | -23,369 |
| | Depreciation | 137,998 | 110,747 | -27,251 |
| | Depletion | | | |
| | Advertising | | | |
| | Pension, profit-sharing, etc., plans | | | |
| | Employee benefit programs | 4,122 | 9,836 | 5,714 |
| | Other deductions | 372,775 | 263,140 | -109,635 |
| | **Total deductions** | 1,289,626 | 805,317 | -484,309 |
| | **Ordinary business income (loss)** | 72,693 | 88,478 | 15,785 |
| Tax and Payments | Excess net passive income or LIFO recapture tax | | | |
| | Tax from Schedule D | | | |
| | **Total tax** | 0 | 0 | 0 |
| | Estimated tax and prior year overpayment credited | | | |
| | Tax deposited with Form 7004 | | | |
| | Credit for federal tax paid on fuels | | | |
| | Refund applied for on Form 4466 | ( ) | ( ) | ( ) |
| | **Total payments and credits** | | | |
| | **Tax due (overpayment)** | 0 | 0 | 0 |
| | Estimated tax penalty from Form 2220 | | | |
| | Penalties and interest | | | |
| | **Net tax due (overpayment)** | 0 | 0 | 0 |
| | **Overpayment credited to next year's estimated tax** | | | |
| | **Overpayment refunded** | | | |

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| Form 1120-S | Two Year Comparison Worksheet Page 2 | 2020 & 2021 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number [redacted]

| | | 2020 | 2021 | Differences |
|---|---|---|---|---|
| Income (Loss) | Ordinary business income (loss) | 72,693 | 88,478 | 15,785 |
| | Net rental real estate income (loss) | | | |
| | Other net rental income (loss) | | | |
| | Interest income | | | |
| | Dividends | | | |
| | Royalties | | | |
| | Net short-term capital gain (loss) | | | |
| | Net long-term capital gain (loss) | | | |
| | Net Section 1231 gain (loss) | | 2,688,000 | 2,688,000 |
| | Other income (loss) | | | |
| Deductions | Section 179 deduction | | | |
| | Charitable contributions | | | |
| | Investment interest expense | | | |
| | Section 59(e)(2) expenditures | | | |
| | Other deductions | | | |
| Credits | Low-income housing credit (Section 42(j)(5)) | | | |
| | Low-income housing credit (other) | | | |
| | Qualified rehabilitation expenditures (rental real estate) | | | |
| | Other rental real estate credits | | | |
| | Other rental credits | | | |
| | Biofuel producer credit | | | |
| | Other credits | | | |
| AMT Items | Post-1986 depreciation adjustment | -256 | -129 | 127 |
| | Adjusted gain or loss | | | |
| | Depletion (other than oil and gas) | | | |
| | Oil, gas, and geothermal properties-gross income | | | |
| | Oil, gas, and geothermal properties-deductions | | | |
| | Other AMT items | | | |
| Items Affecting S/H Basis | Tax-exempt interest income | | | |
| | Other tax-exempt income | | | |
| | Nondeductible expenses | 9,652 | 5,491 | -4,161 |
| | Distributions | | 2,688,000 | 2,688,000 |
| | Repayment of loans from shareholders | 113,534 | | -113,534 |
| | Foreign taxes paid or accrued | | | |
| Other Information | Investment income | | | |
| | Investment expenses | | | |
| | Dividend distributions paid from accumulated E&P | | | |
| | Income (loss) (if Schedule M-1 is required) | 72,693 | 2,776,478 | 2,703,785 |

| Form 1120-S | Two Year Comparison Worksheet Page 3 | 2020 & 2021 |
|---|---|---|

Name

Apple Services, Inc.

Employer Identification Number [redacted]

| | | 2020 | 2021 | Differences |
|---|---|---|---|---|
| Schedule L | Beginning assets | 679,906 | 836,590 | 156,684 |
| | Beginning liabilities and equity | 679,906 | 836,590 | 156,684 |
| | Ending assets | 836,590 | 1,321,047 | 484,457 |
| | Ending liabilities and equity | 836,590 | 1,321,047 | 484,457 |
| Schedule M-1 | Net income (loss) per books | 63,041 | 3,519,987 | 3,456,946 |
| | Taxable income not on books | | | |
| | Book expenses not deducted | 9,652 | 5,491 | -4,161 |
| | Income on books not on return | | 749,000 | 749,000 |
| | Return deductions not on books | | | |
| | Income (loss) per return | 72,693 | 2,776,478 | 2,703,785 |
| Schedule M-2 AAA | Balance at beginning of year | 53,499 | 116,540 | 63,041 |
| | Ordinary income (loss) from page 1 | 72,693 | 88,478 | 15,785 |
| | Other additions | | 2,688,000 | 2,688,000 |
| | Other reductions | 9,652 | 5,491 | -4,161 |
| | Distributions | | 2,688,000 | 2,688,000 |
| | Balance at end of year | 116,540 | 199,527 | 82,987 |
| Schedule M-2 PTI | Balance at beginning of year | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-2 E&P | Balance at beginning of year | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-2 OAA | Balance at beginning of year | | | |
| | Other additions | | | |
| | Other reductions | | | |
| | Distributions | | | |
| | Balance at end of year | | | |
| Schedule M-3 | Total income (loss) items: | | | |
| | Income (loss) per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Income (loss) per tax return | | | |
| | Total expense/deduction items: | | | |
| | Expense per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Deduction per tax return | | | |
| | Other items with no differences: | | | |
| | Income (loss) per income statement | | | |
| | Income (loss) per tax return | | | |
| | Reconciliation totals: | | | |
| | Income (loss) per income statement | | | |
| | Temporary difference | | | |
| | Permanent difference | | | |
| | Income (loss) per tax return | | | |

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# EXHIBIT B

(Affidavit of Ashley Hawn)

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | Civil Action No. 2023-CP-40-02958 |

**AFFIDAVIT OF ASHLEY HAWN**

Personally appeared before me, Ashley Hawn, who being duly sworn, deposes and states as follows:

1. I am currently employed by Michael D. Jordan.

2. I am duly authorized to make this Affidavit. I am over the age of 18 and competent to testify as to the matters contained in this affidavit.

3. The statements contained in this Affidavit are based upon my own personal knowledge.

4. On or about May 9, 2022, I attended a meeting at the offices of Nexsen Pruet, LLC located at 1230 Main Street in Columbia SC for the purpose of discussing several issues that arose between Michael Jordan, Apple Services, and LSL related to the APA, including the overdue working capital adjustment.

5. Stephen Porter, Michael Jordan, and I attended the meeting on behalf Apple Services. From my recollection, Darra Coleman (an attorney for LSL), Tim Freeman (a manager

for LSL), Jacob Taylor (LSL's accountant), and an IT specialist from Nexsen Pruett attended the meeting on behalf of LSL.

6. During the course of the meeting, Jacob Taylor presented financial information regarding Apple Services performance under the APA to everyone in the meeting. While pointing at a computer screen, displaying LSL's ESC accounting software and showing $2.7 million dollars in total sales, Jacob Taylor stated "Mike [Jordan] likes this number as he exceeded his earn out requirement," or words to that effect.

7. Jacob Taylor also stated that Apple Services was "$79,000 to the good" on the working capital adjustment. I, as well as others in the meeting, took this to mean that LSL owed Michael Jordan a working capital adjustment payment of $79,000.00 based on the terms of the APA.

Ashley Hawn

SWORN to and subscribed before me
on this 30 day of October, 2023.

(Seal)

Print Name: Jason Rogers
Notary Public for the State of South Carolina
My commission expires: August 14, 2030



HSB #8911975 v2



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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF RICHLAND | ) | FOR THE FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC, | ) | Civil Action No. 2022-CP-40-02958 |
| Plaintiffs, | ) | **CONSENT MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL** |
| v. | ) | |
| Liquid Services and Logistics, LLC, and Tim Freeman, | ) | |
| Defendants. | ) | |

NOW COMES Liquid Services and Logistics, LLC and Tim Freeman, Defendants in the above captioned matter, by and through counsel, and respectfully request that the law firm of Robinson Gray Stepp & Laffite, LLC and two of its lawyers, namely, Beth B. Richardson, Esquire and Cordes B. Kennedy, Esquire, be substituted as their counsel, pursuant to Rule 11(b) of the South Carolina Rules of Civil Procedure. Simultaneously, the firm of Maynard Nexsen, PC and two of its lawyers, namely, Angus H. Macaulay, Esquire and Carlee Ann Taber, Esquire, who are currently listed as counsel of record for Defendants in the above captioned matter, wish to withdraw and be relieved of any further obligations or responsibilities to represent the above-named Defendants in connection with the above captioned case.

WHEREFORE, Defendants respectfully pray that the Court grant this motion and approve the Substitution of Counsel and Withdrawal of Counsel as set forth herein.

*(signature page to follow)*

WE SO MOVE: ROBINSON GRAY STEPP & LAFFITTE, LLC

BY: s/ Beth B. Richardson

Beth B. Richardson (SC Bar No. 69552)
brichardson@robinsongray.com
Cordes B. Kennedy (SC Bar No. 102287)
ckennedy@robinsongray.com
2151 Pickens Street, Suite 500 (29201)
Post Office Box 11449
Columbia, SC 29211
Tel: 803-929-1400

***Substituting for Defendants Liquid Services and Logistics, LLC and Tim Freeman***

Columbia, South Carolina
March 25, 2025

WE CONSENT: MAYNARD NEXSEN, PC

BY: s/ Angus H. Macauley

Angus H. Macauley (SC Bar No. 15044)
amacaulay@maynardnexsen.com
Carlee Ann Taber (SC Bar No. 104758)
ctaber@maynardnexsen.com
PO Drawer 2426
Columbia, SC 29202
Tel: 803-771-8900

***Withdrawing for Defendants Liquid Services and Logistics, LLC and Tim Freeman***

Columbia, South Carolina
March 25, 2025

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | C/A NO: 2022-CP-40-02958 |

**PLAINTIFFS' SUPPLEMENTAL MEMORANDUM IN SUPPORT OF AMENDED MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rules 54(b) and 56 of the South Carolina Rules of Civil Procedure, Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc.; and Plumbinator 1051, LLC (collectively, "Plaintiffs") submit this supplemental memorandum in support of their Amended Motion for Summary Judgment filed on December 1, 2023, to incorporate additional discovery information and other admissions received since the amended motion was filed.

As explained below, this Court should enter an order granting partial summary judgment on Plaintiffs' claim for breach of contract against Defendant Liquid Services and Logistics, LLC ("LSL") because there is no genuine issue of material fact as to whether LSL breached the APA (defined below) by failing to make certain payments to Jordan. In turn, the Court should also direct final judgment against LSL as to the breach-of-contract claim as requested herein.

**RELEVANT FACTS**

Plaintiffs' breach-of-contract claim stems from the Asset Purchase and Sale Agreement dated May 10, 2021, and executed between (1) Jordan and Apple Services, Inc.; and (2) LSL (the

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"APA"). Under the APA, LSL agreed to purchase certain assets of Apple Services, Inc., including its goodwill, furniture, fixtures, and equipment. (*See* Jordan Amend. Aff. ¶ 4; Compl. ¶ 8; Ans. of LSL ¶ 8.) As part of the purchase, LSL was required to make certain payments to Jordan under the APA, including an earn-out payment and a payment for the post-closing adjustment of working capital. Those payments are subject to certain conditions discussed below.

Importantly, LSL does not dispute the plain language of the APA nor does it dispute Plaintiffs' recitation of the APA's language provided below. (*See generally* LSL's Responses to Plaintiffs' First Requests for Admissions, attached as **Exhibit A**.)

**A. The Earn-Out Payment**.

Under the APA, LSL was required to pay a portion of the purchase price to Jordan at closing, which occurred on May 10, 2021. The remaining balance was to be paid as an earn out. (*See* APA §3.1 and §3.3.) Specifically, the APA required LSL to pay Jordan an earn out of $882,000.00 (the "Earn-Out Payment") "so long as LTM Revenue for the Earn-Out Period exceeds the Revenue Threshold." (*Id.* § 3.3(a).)

The APA defines "LTM Revenue" as "the last twelve months' revenue of the [purchased] Business up to the Closing Date ***and*** for the Earn-Out Period." (*Id.* at p. A-4.) (emphasis added). The "Earn-Out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." (*Id.* at p. A-2.) And the "Revenue Threshold" means $1,000,000.00. (*Id*. at p. A-6.) Thus, if the twelve month trailing gross revenue of the purchased Business, exceeded $1,000,000.00 as of the Closing Date, *i.e.* May 10, 2021, ***and*** at the end of the Earn-Out Period, *i.e*. August 10, 2021, then LSL was obligated to pay Jordan the Earn-Out Payment. In its responses to Plaintiffs' First Requests for Admission, LSL admitted that the Business exceeded the Revenue Threshold of $1,000,000.00 as of May 10, 2021, and August 10,

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2021. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 6.) LSL also admitted that Jordan earned the Earn-Out Payment. (*See id.* No. 8.)

Under the APA, if the Earn-Out Payment is due, LSL was obligated to make the payment "no later than twelve months after the Closing Date," or May 10, 2022. (*Id.* § 3.3(d).) LSL's obligation to make the Earn-Out Payment is an "independent obligation," subject to limited rights of set-off. (*Id.* 3.3(c).) Those rights of set-off, include (1) the post-closing adjustment of working capital and (2) any "Adverse Consequences" to LSL, as set forth in section 7.1, of the APA. (*Id.* § 3.3(e).) The APA defines "Adverse Consequences" as claims and resulting damages arising from (a) "misrepresentation or breach of warranty"; (b) "nonfulfillment of any covenant"; (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA; and (d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." (*See* APA §§ 3.3(e); 7.1, and p. A-1.)

**B. The Post-Closing Adjustment of Working Capital.**

The APA also requires that LSL pay Jordan a Post-Closing Adjustment of Working Capital. (*See* APA § 3.2.) Not later than one-hundred days after the May 10, 2021 Closing date, or August 19, 2021, LSL was required to provide Jordan a Closing Working Capital Statement, calculating the Working Capital as of the date of Closing ("Working Capital Statement"). (*Id.* § 3.2(a)(i).)

If the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment") within thirty days of that determination, which was September 20, 2021. (*Id.* § 3.2(a)(ii).) If the Working Capital was less than $84,000, Jordan was required to pay the difference to LSL. (*Id.*) Despite presenting evidence that establishes that

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the Working Capital exceeded $84,000.00, LSL did not pay Jordan the amounts owed by the deadline.

As early as October 7, 2021, Jacob Taylor ("Taylor"), LSL's accountant, sent Jordan a ***preliminary*** Working Capital Statement that showed that the Working Capital exceeded $84,000.00 by $1,044.00. (LSL_000109-000111.) Then, on May 9, 2022, Jordan, Ashley Hawn, and Stephen Porter, an attorney for Plaintiffs, attended a meeting with LSL employees to discuss several issues related to the APA, including the overdue Post-Closing Adjustment. (*See* Jordan Amend. Aff. ¶ 19; Hawn Aff. ¶ 4.) Darra Coleman, an attorney for LSL; Tim Freeman ("Freeman"), LSL's manager; Taylor; and an IT specialist attended the meeting on behalf of LSL. (*See* Jordan Amend. Aff. ¶ 20; Hawn Aff. ¶ 5.) At that meeting, Taylor presented financial information regarding Apple Services' performance to all the meeting participants. (*See* Jordan Amend. Aff. ¶ 21; Hawn Aff. ¶ 6.) While pointing at the computer screen displaying $2.7 million dollars in total sales, Taylor stated that Apple Services was "$79,000 to the good" on the working capital adjustment, meaning LSL owed Jordan a Post-Closing Adjustment equal to $79,000.00. (*See* Jordan Amend. Aff. ¶ 22; Hawn Aff. ¶ 7.)

## ARGUMENT

### I. Summary Judgment

This Court should grant summary judgment as to Plaintiffs' breach-of-contract claim because there is no genuine issue of material fact that LSL breached the APA by (1) failing to provide Jordan with the Earn-Out Calculation Statement and failing to pay Jordan the Earn-Out Payment; and (2) by failing to provide Jordan the Working Capital Statement and failing to pay Jordan the Post-Closing Adjustment.

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### A. Earn-Out Calculation Statement and Earn-Out Payment

LSL has admitted the relevant facts applicable to this issue. For example, LSL admitted that it failed to prepare the Earn-Out Calculation Statement in accordance with the APA and that Jordan earned the Earn-Out Payment. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 8, 9.) In addition, LSL admitted that the APA required LSL to pay the Earn-Out Payment no later than May 10, 2022. (*Id.* No. 7.) These admissions alone clearly establish that Jordan is entitled to a judgment against LSL in the amount $882,000 for non-payment of the Earn-Out Payment, plus prejudgment interest[1] at 8.75% per annum, from May 10, 2022, until the judgment is entered. As of April 15, 2025, prejudgment interest totals $226,239.04, for a total amount of $1,108,239.04.

LSL argues in its discovery responses (1) that the parties mutually adjusted the due-date for the Earn-Out Payment based on a May 17, 2022 email, and (2) that LSL did provide an Earn-Out Payment Calculation Statement which included a deduction for the Post-Closing Adjustment that Jordan disputed. Both arguments are meritless.

First, the email dated May 17, 2022, which is attached as **Exhibit B**, does not adjust the due-date for the Earn-Out Payment. (LSL_000005.) In fact, rather than extending the due-date, Jordan's counsel Stephen Porter asked LSL's counsel for a timeline on when the Earn-Out Payment was to be expected, with the obvious understanding that it was due on May 10, 2022, and was one-week late. (*Id.*) Nothing in the May 17, 2022 email or the record establishes an adjusted due date for the Earn-Out Payment.

[1] Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." *Butler Contracting, Inc. v. Ct. St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing *Smith–Hunter Constr. Co. v. Hopson*, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

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Second, LSL admitted in its discovery responses that it failed to prepare the Earn-Out Calculation Statement in accordance with the APA and that Jordan earned the Earn-Out Payment. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 8, 9.) LSL has failed to pay Jordan in accordance with the APA.

Finally, the Earn-Out Payment is subject only to the right of set off for the Post-Closing Adjustment and Adverse Consequences as defined in the APA. Arguments related to the Post-Closing Adjustment will be addressed below. There is ***no*** evidence in the record demonstrating that LSL is entitled to a set-off for any Adverse Consequences.

**B. Working Capital Statement and Post-Closing Adjustment**

LSL has failed to pay Jordan the Post-Closing Adjustment, and the only evidence in the record establishes that the Working Capital exceeded $84,000.00.

First, LSL suggests in its discovery responses that the Post-Closing Adjustment did not become due on September 20, 2021, because "no final determination of the amount" was completed due to Jordan's bad faith in cooperating with LSL. Although Jordan worked tirelessly to provide LSL with all of the information it requested, those facts are simply irrelevant because the APA does not require Jordan to cooperate with LSL in order to produce the Working Capital Statement. The plain language of the documents puts the onus completely on LSL to prepare those statements. In fact, LSL was well-aware of its obligations and duties under the APA. Walker Harbison, an executive officer of LSL, emailed Jacob Taylor on several occasions to remind him of the deadlines under the APA and specifically directed Taylor to prepare those calculations. (*See* LSL_000135, 000139, attached as **Exhibit C**.)

The only evidence in the record establishes that the Working Capital exceeded $84,000.00. LSL sent Jordan a ***preliminary*** Working Capital Statement on October 7, 2021. (*See* LSL_000109-

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000111, attached as **Exhibit D**.) That Working Capital Statement showed that the Working Capital exceeded $84,000.00 by $1,044.00, meaning that LSL owed Jordan a payment of $1,044.00 and the Earn-Out Payment did not need to be adjusted. Then in May of 2022, right before the Earn-Out Payment was due, representatives of LSL informed Jordan that he was "$79,000 to the good" on the working capital adjustment, meaning LSL owed Jordan a Post-Closing Working Capital Adjustment equal to $79,000.00, refuting any basis for a set-off.

The evidence clearly establishes that Jordan is entitled to a judgment against LSL in the amount of $79,000.00 for non-payment of the Post-Closing plus prejudgment interest at 12% per annum as authorized by the APA, from September 20, 2021, until the judgment is rendered, which as of March 25, 2025, is a total interest of $33,842.60, for a total amount of $112,842.60.

## II. Entry of Judgment

Pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, "[w]hen more than one claim for relief is presented in an action, . . . the court may direct the entry of a final judgment as to one or more but fewer than all of the claims [] only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." Plaintiffs moved for summary judgment only as to their breach of contract claim, which is for a liquidated amount of damages and is entirely separate from the tort claims Plaintiffs asserted against LSL. *See Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 467, 570 S.E.2d 197, 200 (Ct. App. 2002) (claims are considered separate when "there is [not] a substantial factual overlap between the claim adjudged and the remaining claims.").

Under the APA, both the Earn-Out Payment and the Post-Closing Adjustment were due on May 10, 2022, and September 20, 2021, respectively. Accordingly, if the Court rules in Plaintiffs'

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favor, there is no just reason to delay the entry of a judgment for these amounts until the entire case has concluded.

## III. Attorney's Fees and Costs

Attorney's fees and costs are generally "not recoverable unless authorized by contract or statute." *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). Here, the APA provides for attorney's fees and costs as follows:

> Legal Fees. In the event any Party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another Party, the prevailing Party, as determined by the court or arbitrator, as the case may be, in such suit or arbitration proceeding is entitled to recover its reasonable attorneys' fees and expenses.

(*See* APA § 8.10.) Plaintiffs commenced this suit to enforce the provisions of the APA, including LSL's obligation to pay the Earn-Out Payment and Post-Closing Adjustment. Accordingly, Plaintiffs are entitled to recover their reasonable attorneys' fees and costs should the Court grant summary judgment in their favor. In the event that the Court does so, Plaintiffs will submit a motion for an award of fees supported by appropriate affidavits.

## CONCLUSION

Based on the foregoing, this Court should grant summary judgment in favor of Plaintiffs on their breach of contract claims for the following:

1. Declaring LSL in breach of the APA for failing to Jordan the Earn-Out Calculation Statement and failing to pay Jordan the Earn-Out Payment;

2. Declaring LSL in breach of the APA for failing to provide Jordan the Working Capital Statement and failing to pay Jordan the Post-Closing Adjustment;

3. Ordering judgment in the amount of $882,000.00 for non-payment of the Earn-Out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment

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was due, until the date the judgment is entered (through April 15, 2025, the combined total is $1,108,239.04);

4. Ordering judgment in the amount of $79,000.00 for non-payment of the Post-Closing Adjustment from September 20, 2021, until the date the judgment is entered (through March 25, 2025, the combined total is $112,842.60); and

5. Attorneys' fees and costs in an appropriate amount, to be determined after entry of judgment and the submission of a motion and supporting affidavits.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

s/ *James Y. Becker*
James Y. Becker (SC Bar No. 64991)
Alexandra C. Williams (SC Bar No. 105761)
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April 16, 2025

Columbia, South Carolina

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| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF RICHLAND | IN THE COURT OF COMMON PLEAS<br>FIFTH JUDICIAL CIRCUIT<br><br>Case No. 2022-CP-40-02958 |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>vs.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | **DEFENDANT LIQUID SERVICES AND LOGISTICS, LLC'S RESPONSES TO PLAINTIFFS' REQUESTS FOR ADMISSION** |

**TO: JAMES BECKER, ESQUIRE AND STEPHEN D. PORTER, ESQUIRE, ATTORNEYS FOR PLAINTIFFS MICHAEL D. JORDAN, APPLE SERVICES, INC., AND PLUMBINATOR 1051, LLC:**

Defendant Liquid Services and Logistics, LLC ("Defendant" or "LSL"), pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, hereby responds to Plaintiffs' First Set of Requests for Admission as follows:

**SPECIFIC RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

1. Pursuant to the APA, LSL was required to pay Plaintiff Michael D. Jordan ("Jordan") an Earn-out Payment of $882,000.00 if the "LTM Revenue of the Business for the Earn-out Period exceeds the Revenue Threshold." (APA§ 3.3(a)).

**RESPONSE**: ***Admitted.***

2. The APA defines LTM Revenue as "the last twelve months' revenue of the Business up to the Closing Date and for the Earn-out Period." (APA at p. A-4).

**RESPONSE**: ***Admitted.***



EXHIBIT A

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3. The APA defines the "Earn-out Period" as "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." (APA p. A-2).

**RESPONSE**: ***Admitted.***

4. The Closing Date of the APA is May 10, 2021 and the three-month anniversary of the Closing Date is August 10, 2021.

**RESPONSE**: ***Admitted.***

5. Pursuant to the APA, the "Revenue Threshold" means $1,000,000.00. (APA p. A-6).

**RESPONSE**: ***Admitted.***

6. The Business exceeded the Revenue Threshold as of May 10, 2021 and August 10, 2021.

**RESPONSE**: ***Admitted.***

7. Pursuant to the APA, if the Earn-out Payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022. (APA§ 3.3(d)).

**RESPONSE**: ***Admitted.***

8. The Earn-out payment was earned and due to be paid to Jordan by LSL on May 10, 2022.

**RESPONSE**: ***Admitted that the Earn-out payment was earned, but denied that the Earn-out payment was due to be paid to Jordan by LSL on May 10, 2022, based on correspondence between the parties acknowledging an adjusted timeline for***

***payment of the Earn-out, pursuant to the May 17, 2022 email from Stephen Porter to Darra Coleman.***

9. LSL failed to prepare and deliver to Jordan, on or before thirty (30) days after the last day of the Earn-out Period, a written statement (the "Earn-out Calculation Statement") setting forth in reasonable detail its determination of LTM Revenue for the Earn-out Period and whether the Earn-out Payment shall be made (the "Earn-out Calculation"), as required by the APA. (APA § 3.3(b)(i)).

**RESPONSE**: ***Admitted that the Earn-out Calculation Statement was not prepared in accordance with the APA, but denied on the grounds that LSL delivered to Jordan its calculation of the Earn-out payment including LSL's deduction of the Working Capital payment owed to it pursuant to the APA §3.3(e), which amount Jordan repeatedly rejected while continuously refusing to cooperate with LSL to reach an agreed-upon amount.***

10. As of November 27, 2023, LSL still has not prepared and delivered an Earn-out Calculation Statement to Jordan.

**RESPONSE**: ***Denied on the grounds that LSL prepared and delivered to Jordan its calculation of the Earn-out payment including LSL's deduction of the Working Capital payment owed to it pursuant to the APA §3.3(e), which amount Jordan has repeatedly rejected while continuously refusing to cooperate with LSL to reach an agreed-upon amount.***

11. Pursuant to the APA, not later than 100 days after the May 10, 2021 Closing Date, or August 19, 2021, LSL was required to provide Jordan a Closing Working Capital



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Statement, calculating the Working Capital of the Business as of the date of Closing. (APA§ 3.2(a)(i)).

**RESPONSE**: ***Admitted.***

12. Pursuant to the APA, if the calculation of the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment") within 30 days of that determination, which was September 20, 2021. (APA § 3.2(a)(ii)).

**RESPONSE**: ***Admitted to the extent that the APA required a payment to either LSL or Jordan depending on whether the Working Capital calculation was less than or greater than $84,000.00, but denied that any Working Capital payment was due on September 20, 2021, based on the APA §3.2(a)(ii) that states the "Post-Closing Adjustment shall be paid to the applicable Party no later than thirty (30) days after final determination of the amount of the Post-Closing Adjustment," and such final determination has not been made to date due to Jordan's bad-faith refusal to provide necessary financial documentation for its preparation.***

13. The Working Capital of the Business exceeded $84,000 as of May 10, 2021.

**RESPONSE**: ***Objection on the grounds that LSL cannot truthfully admit or deny this Request, as it has made a good faith effort to calculate the Working Capital of the Business using the information known and readily obtainable to it, and has made reasonable inquiry to Jordan to provide the necessary financial documentation to finalize the calculation of the Working Capital payment based on Jordan's objections, yet Jordan has repeatedly refused to provide this information.***

14. LSL has not provided a Closing Working Capital Statement to Jordan.

**RESPONSE**: ***Denied on the grounds that LSL has provided Jordan with several Closing Working Capital Statements indicating LSL's position regarding the Working Capital payment, but Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement.***

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***Attorneys for Defendants Liquid Services and Logistics, LLC, and Tim Freeman***

December 28, 2023
Columbia, South Carolina

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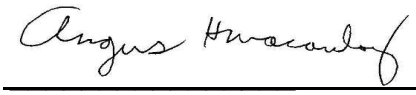
## CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANT LIQUID SERVICES AND LOGISTICS, LLC'S RESPONSES TO PLAINTIFFS' REQUESTS FOR ADMISSION** was electronically transmitted for service upon Plaintiffs' counsel of record via e-mail this 28th day of December 2023, addressed as follows:

James Y. Becker, Esquire
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***Attorneys for Defendants Liquid Services and Logistics, LLC, and Tim Freeman***

Columbia, South Carolina

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**From:** Stephen Porter <sporter@rogerslewis.com>
**Sent:** Tuesday, May 17, 2022 10:53 AM
**To:** James Coleman, Darra <DColeman@nexsenpruet.com>
**Subject:** Mike Jordan

{EXTERNAL EMAIL}

Darra,

I hope you are doing well this week. It appears that the working capital adjustment will take some time to calculate based upon our conversations last week. However, can you provide me with a timeline for payment of the earn-out? I do not know that any of the financial information we discussed last week will impact that analysis. Thanks.

**Stephen D. Porter, Esq.**
sporter@rogerslewis.com 803-256-1268 Phone 803-252-3653 Fax

1901 Main St., Suite 1200, Columbia, South Carolina 29201
PO Box 11803 (29211)

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EXHIBIT B



CONFIDENTIAL LSL-Defendant's Doc. Production-000005

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**From:** Walker Harbison[wharbison@alituspartners.com]
**Sent:** Tue 8/3/2021 3:39:05 PM (UTC)
**To:** Jacob Taylor[jtaylor@liquidwastemgmt.com]
**Cc:** Kevin Casto[kevin.casto@liquidwastemgmt.com]
**Subject:** Apple Working Capital Adjustment
**Attachment:** 2420734-v20-LIQUID_WASTE_APPLE_-_Asset_Purchase_Agreement (Executed and Compiled).pdf
**Attachment:** Apple NWC Schedule (5.9.21).xlsx

Jacob,

Just a reminder that we need to pull together a closing working capital calculation and deliver to Mike within 100 days post close. I want to get to him early since he will be watching the days carefully and don't want to get stuck with interest to the extent it comes into play. See page 98 of the purchase agreement for the form in which we should deliver (also attached the excel; this was pulled from the BDO QofE). I would like to review before sending over.

The working capital target was $84k, so to the extent the NWC delivered at clse was greater than $84k, we will write Mike a check for the difference. If the NWC at close was less than $84k, Mike will write us a check.

Best,
Walker

Walker Harbison
Alitus Partners, LLC
7701 Forsyth Boulevard, Suite 1000 | St. Louis, MO 63105
Cell: (314) 518-5296 | Office: (314) 862-3200
wharbison@alituspartners.com | www.alituspartners.com

EXHIBIT C



CONFIDENTIAL LSL-Defendant's Doc. Production-000135

ELECTRONICALLY FILED - 2025 Apr 16 12:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4002958

**From:** Walker Harbison[wharbison@alituspartners.com]
**Sent:** Mon 6/21/2021 11:48:38 PM (UTC)
**To:** Jacob Taylor[jtaylor@liquidwastemgmt.com]
**Cc:** Kevin Casto[kevin.casto@liquidwastemgmt.com]
**Subject:** RE: Apple Insurance Addition
**Attachment:** 2420734-v20-LIQUID_WASTE_APPLE_-_Asset_Purchase_Agreement (Executed and Compiled).pdf

Thanks, Jacob.

I want to put a couple of other items on your radar as well. We can work through these after we get some of these other tactical issues behind us.

- Working Capital and Post-Close Adjustment (section 3.3): See the purchase agreement attached for the outline of the adjustment. PDF page 98 shows how we will calculate the actual NWC delivered at close. In short, if Mike delivered more than $84k of NWC at close, we will write him a check for the difference; if he delivered less than $84k at close, he will write us a check for the difference. We can work through this together.
    - *Timing: NWC Calculation is due to Mike 100 days post-close (August 18)*
- Earnout Calculation (section 3.3): We will need to prepare an LTM revenue schedule for the period 3 months post-close. If the LTM revenue is >= $1,000,000, the earnout will be considered earned. To be clear, if earned, **the earnout will not be paid until 12 months post-close**, but it probably needs to be recorded on our balance sheet once earned.
    - *Timing: Earnout calculation is due to Mike 30 days after the end of the Earnout Calculation Period, which is 3 months post-close (September 7)*

Other Purchase Agreement Notes

- Take a look at section 6.8(c) of the APA. I don't know how we handled the first week's wages, vacation accruals, etc. but we can make sure to make any necessary adjustments along with the NWC true-up or along with another cash true up with Mike.
- Mike is responsible for renewing his mechanical contractors license that is set to expire on October 31, 2021. Further, he is to make sure we can continue to operate under the license through October 31, 2023. The Company will cover the costs related to renewing the license. I know this one is a ways out but didn't want you to be surprised if Mike asked for $ to cover the renewal. (section 6.9).
- One of the company vehicles was involved in accident prior to close (April 26). Mike is responsible for getting that vehicle back into good condition (section 6.10).

This is mostly for informational purposes at this point.

Best,
Walker

**From:** Jacob Taylor <jtaylor@liquidwastemgmt.com>
**Sent:** Monday, June 21, 2021 4:07 PM
**To:** Walker Harbison <wharbison@alituspartners.com>


CONFIDENTIAL LSL-Defendant's Doc. Production-000139

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**From:** Brandi Milsap[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0762EA61CD5A4E19945FFCDEAB6C5A2E-BMILSAP]

**Sent:** Thur 10/7/2021 2:05:13 PM (UTC)

**To:** Jacob Taylor[jtaylor@liquidwastemgmt.com]

**Subject:** Working Cap Adj Mike Jordan

**Attachment:** Working Cap Adj.xlsx

EXHIBIT D



CONFIDENTIAL 

| Date | Vendor | Total Paid | Paid for LSL | DUE TO LSL |
|---|---|---|---|---|
| 7/22/2021 | Dominion Energy | $ 563.59 | $ 381.98 | $ 181.61 |

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**Apple + Greenway NWC Calculation**

| US$ in thousands | Dec-19 | Jan-20 | Feb-20 | Mar-20 | Apr-20 | May-20 | Jun-20 | Jul-20 | Aug-20 | Sep-20 | Oct-20 | Nov-20 | Dec-20 | Trailing Avg. 12m | At Close May 21 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Cash | 62 | 74 | 87 | 87 | 98 | 158 | 331 | 332 | 269 | 268 | 294 | 275 | 219 | 208 | 185 | |
| Accounts Receivable | 1,247 | 1,278 | 1,259 | 1,256 | 1,219 | 1,211 | 1,218 | 1,220 | 1,194 | 1,200 | 1,216 | 1,203 | 1,212 | 1,224 | 140 | |
| Other Current Assets | 21 | 11 | 13 | 13 | 127 | 82 | 36 | 15 | 23 | 24 | 2 | 15 | 14 | 31 | 16 | What is this? |
| **Current Assets** | **1,329** | **1,362** | **1,359** | **1,356** | **1,444** | **1,450** | **1,585** | **1,567** | **1,486** | **1,492** | **1,512** | **1,493** | **1,445** | **1,463** | **340** | |
| Accounts Payable | 86 | 107 | 107 | 110 | 90 | 99 | 103 | 75 | 79 | 81 | 105 | 83 | 85 | 94 | 26 | |
| Credit Cards | 7 | 6 | 5 | 5 | 4 | 3 | 3 | 2 | 1 | 1 | (0) | (1) | (1) | 2 | -6 | |
| Other Current Liabilities | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 44 | |
| **Current Liabilities** | **123** | **144** | **143** | **145** | **125** | **133** | **137** | **108** | **110** | **113** | **136** | **113** | **114** | **127** | **64** | |
| **Reported Net Working Capital** | **1,206** | **1,218** | **1,215** | **1,211** | **1,320** | **1,317** | **1,448** | **1,458** | **1,376** | **1,379** | **1,376** | **1,379** | **1,331** | **1,336** | **276** | |
| **Definitional Adjustments:** | | | | | | | | | | | | | | | | |
| Cash | (62) | (74) | (87) | (87) | (98) | (158) | (331) | (332) | (269) | (268) | (294) | (275) | (219) | (208) | (185) | |
| **Definitional Net Working Capital** | **1,144** | **1,144** | **1,128** | **1,124** | **1,222** | **1,159** | **1,117** | **1,126** | **1,106** | **1,112** | **1,082** | **1,104** | **1,111** | **1,128** | **91** | |
| **Adjustments:** | | | | | | | | | | | | | | | | |
| Accrual to Cash Adjustment | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) | 2 | 2 | (1) | - | |
| PPP Loan Asset | - | - | - | - | (114) | (68) | (21) | (2) | (2) | (11) | (2) | (2) | (1) | (18) | - | |
| Intercompany Balances | (538) | (541) | (543) | (546) | (543) | (538) | (538) | (532) | (532) | (531) | (526) | (523) | (514) | (534) | - | |
| Related Party Receivables | (473) | (485) | (493) | (501) | (501) | (505) | (515) | (513) | (517) | (526) | (528) | (528) | (528) | (512) | - | |
| Contributed Capital | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | - | |
| Bad Debt | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | (11) | - | |
| Payments made by Mike on Behalf of the Company | | | | | | | | | | | | | | | | |
| Payments made on Mike's behalf | | | | | | | | | | | | | | | (0) | |
| Cash received by Mike for post closing jobs | | | | | | | | | | | | | | | (6) | |
| **Total Adjustments** | **(991)** | **(1,007)** | **(1,018)** | **(1,027)** | **(1,139)** | **(1,092)** | **(1,055)** | **(1,027)** | **(1,032)** | **(1,048)** | **(1,037)** | **(1,031)** | **(1,021)** | **(1,044)** | **(6)** | |
| **Adjusted Net Working Capital** | **153** | **138** | **111** | **97** | **83** | **67** | **62** | **100** | **75** | **64** | **45** | **73** | **90** | **84** | **85** | 1.111 |

ROA 313

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|---|---|
| STATE OF SOUTH CAROLINA ) | IN THE COURT OF COMMON PLEAS |
| ) | |
| COUNTY OF RICHLAND ) | Civil Action No. 2022-CP-40-02958 |
| ) | |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC, ) | |
| ) | **DEFENDANT LIQUID SERVICES AND LOGISTICS, LLC'S MOTION TO ALTER OR AMEND THE COURT'S ENTRY OF PARTIAL SUMMARY JUDGMENT** |
| Plaintiffs, ) | |
| ) | |
| v. ) | |
| ) | |
| Liquid Services and Logistics, LLC, and Tim Freeman, ) | |
| ) | |
| Defendants. ) | |
| ) | |

Defendant Liquid Services and Logistics, LLC ("LSL"), hereby moves, pursuant to Rule 59(e), SCRCP, to alter or amend the Court's Order dated May 7, 2025, granting partial summary judgment in favor of Plaintiffs on their breach of contract claim for non-payment of the Earn-Out amount totaling $882,000, plus pre-judgment interest totaling $229,199.18.[1] The Court should rescind judgment in favor of Plaintiffs for the following reasons: (1) the Court erred in finding that the Earn-Out payment is a "sum certain" because the APA's plain language grants Defendant LSL the right to set off the Earn-out payment with the Post Closing Adjustment of Working Capital, and because the Court agrees that genuine issues of material fact exist regarding the amount of the Post Closing Adjustment of Working Capital, it must follow that genuine issues of fact exist in calculating the Earn-out payment; (2) the issue of damages is for the jury, not the Court; (3) the

[1] The Court heard Plaintiffs' Motion on April 17, 2025. However, just one day before the hearing, Plaintiffs filed a Supplemental Memorandum of Law, which introduced new evidence, not presented to support Plaintiffs' previously filed Motion and Amended Motion for Partial Summary Judgment (including, but not limited to, emails and LSL's responses to Plaintiff's Requests to Admit). The Court relied on this new evidence to support its finding that no genuine issue of material fact exists as to Plaintiff's Motion for Partial Summary Judgment on the Earn-out and prejudgment interest issues. Defendants requested leave from the Court to respond to Plaintiffs' Memorandum by filing a memorandum in opposition thereto, but leave was denied.

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Court erred in awarding Plaintiffs prejudgment interest on the Earn-out payment because the APA expressly provides that interest is not owed on said payments, and because the Earn-out payment is not capable of being reduced to certainty absent finalizing the Post Closing Adjustment of Working Capital; and (4) the Court's Order contains numerous errors of fact and law that demand reversal.

## RELEVANT FACTS

This case arises of out of an alleged breach of the Asset Purchase and Sale Agreement ("APA") entered between Defendant LSL (the buyer) and Plaintiffs Michael Jordan and Apple Services, Inc. (the seller) on or about May 10, 2021.[2] Per the APA, Defendant LSL agreed to buy, and Plaintiffs agreed to sell, certain assets of Apple Services, Inc., including its goodwill, furniture, fixtures, and equipment. (Compl. ¶ 8). At closing, Defendant LSL paid to Plaintiffs a total of $2,930,000, as required by the APA. (Compl. ¶¶ 8, 9; APA § 3.1). That payment is not in dispute.

Instead, the issue before the Court is two other payments that *may* have been due as consideration under the APA if certain conditions were met: (1) a Post Closing Adjustment of Working Capital, and (2) an Earn-out payment. *See* APA §§ 3.2, 3.3.

Importantly, the APA required that the Post Closing Adjustment of Working Capital be calculated and paid *first*, on or before September 17, 2021, [3] to either the buyer or the seller

[2] A copy of the APA is attached as Exhibit A to the Plaintiffs' Complaint. Plaintiff Plumbinator 1051, LLC, was not a party to the APA.

[3] Specifically, the APA required that LSL prepare a Post Closing Working Capital Statement of Apple Services' business within 100 days of closing, or August 18, 2021, and to provide such to Plaintiffs for review and approval. *Id*. § 3.2(a)(1). From this, the Post Closing Adjustment of Working Capital would be calculated and payment thereon due within thirty (30) days after its "final determination," or September 17, 2021. *Id*. at § 3.2(a)(ii). These deadlines were not hard and fast though. The APA contained a dispute resolution clause in the event the parties disagreed on the amount of the Post Closing Adjustment of Working Capital that required the parties to submit the issue to an Independent Accountant, *id*. at § 3.2(b)(iii), who would decide within thirty

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depending on the outcome of an accounting of the working capital. The Earn-out payment, if any, was to be paid almost eight months *later*, on or about May 10, 2022. *Id*. at § 3.3(d).[4] Critically, the APA's Earn-out payment clause states that payment is owed "at the time provided in Section 3.3(d)," the timing of payment clause, and "*subject to*" Defendant LSL's contractual "right to withhold and set off" the Earn-out payment by any Post Closing Adjustment of Working Capital:

> Earn-out Payment. As additional consideration for the Acquired Assets, ***at the time provided in Section 3.3(d)***, Buyer shall pay to Seller with respect to the Earn-out Period an amount, if any (the "*Earn-out Payment*"), equal Eight Hundred Eighty-two Thousand and 00/100 Dollars ($882,000.00) so long as LTM Revenue for the Earn-out Period exceeds the Revenue Threshold….

*Id*. at § 3.3(a) (emphasis added).

> Timing of Payment of Earn-out Payments. ***Subject to Section 3.3(e)***, if Buyer is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than twelve (12) months after the Closing Date….

*Id*. at § 3.3(d) (emphasis added).

> Right of Set-off. Buyer ***shall have the right to withhold and set off*** against any amount otherwise due to be paid pursuant to this Section 3.3 ***by the amount of any (i) Post-Closing Adjustment*** owed to it pursuant to Section 3.2….

*Id*. at § 3.3(e) (emphasis added). Therefore, to calculate the Earn-out payment, the APA's plain language requires and that the Post Closing Adjustment of Working Capital be agreed upon such that LSL (the Buyer) could exercise its contractual right to set off against the Earn-out amount.

## I. The Post Closing Adjustment of Working Capital.

The Post Closing Adjustment of Working Capital considers the working capital of the business for Apple Services as of the date of closing. The APA required that LSL prepare a

(30) days the amount owed. *Id*. at § 3.2(b)(v). In such an event, payment was due within five (5) days of the Independent Accountant's finding. *Id*.

[4] The APA also provided a dispute resolution mechanism for Earn-out payments, just as it did for disputes over Post Closing Adjustments, requiring that disputes be submitted to an Independent Accountant. *See* § 3.3(b)(ii).

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Closing Working Capital Statement of Apple Services' business within 100 days of closing, *id*. § 3.2(a)(1), which it did,[5] and from this the Post Closing Adjustment of Working Capital is calculated. To summarize, under the APA, if the Working Capital exceeded $84,000 as of the date of closing, LSL must pay Plaintiffs the difference (the "Post Closing Adjustment"), and if the Working Capital was less than $84,000, Plaintiffs must pay LSL the difference. *Id*. at § 3.2(a)(ii).[6]

Although the APA states that LSL shall prepare and deliver the Working Capital Statement, the APA *also* required Plaintiffs to cooperate with LSL by exchanging information needed for LSL to make the calculations.[7] *See id*. § 3.1(a), Purchase Price ("The Parties shall timely and properly prepare, execute, file, and deliver all such documents forms and other information ***as may reasonably be requested*** to prepare such final allocation.") (emphasis added); *id*. at § 6.1, Further Assurances ("The Parties will execute and deliver such further documents and do such further acts and things ***as may be required*** to carry out the intent and purpose of this Agreement.") (emphasis added). Even the Complaint alleges that Plaintiff Jordan's financial records were necessary to perform both the Post Closing Adjustment and Earn-out payment. Compl. ¶ 17 ("[Plaintiff]

[5] The record shows that "LSL has provided Jordan with several Closing Working Capital Statements indicating LSL's position regarding the Working Capital payment, but Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement." *See* Plaintiffs' Suppl. Memo. at Exh. A, Req. to Admit No. 14, p. 5.

[6] For example, if the Working Capital equaled $85,000, then LSL would owe Plaintiffs a Post Closing Adjustment of $1,000. Conversely, if the Working Capital equaled $83,000, then Plaintiffs would owe LSL a Post Closing Adjustment of $1,000. The Court's Order correctly held that there is a genuine issue of material fact as to the calculation of the Post Closing Adjustment of Working Capital. *See* Order at pp. 5, 7.

[7] Afterall, LSL is buying Plaintiff Jordan's business, so Plaintiff Jordan would be the most knowledgeable regarding the company's financial records prior to closing.

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Jordan's accounting records, data, and emails are ***essential to calculating funds paid for work prior to closing as well as calculations required by the Agreement***.") (emphasis added).[8]

Per the APA, the Post Closing Adjustment was due "no later than thirty (30) days after final determination of the amount" owed, *id* § 3.2(a)(ii); however, the issue here is that Plaintiff Jordan rejected the Post Closing Adjustment that was proposed by LSL and then refused to provide LSL with the necessary financial documentation needed to finalize the Post Closing Adjustment, which is confirmed in the record presented to the Court by Plaintiffs' Supplemental Memorandum filed the day before the hearing. *See* Plaintiffs' Suppl. Memo. at Exh. A, filed April 16, 2025. The evidence in the record shows that LSL did — in fact — provide several Closing Working Capital Statements to Plaintiff Jordan, who rejected them and then refused to provide the necessary financial documentation per the APA. *Id.* at LSL's Resp. to Plaintiffs' Req. to Admit No. 14. As a result, LSL was precluded from reaching a "final determination" on the Post Closing Adjustment because of Plaintiff Jordan's bad-faith and lack of cooperation. *Id*. at LSL' Resp. to Req. to Admit No. 12. The record further shows that LSL had "made reasonable inquiry to Jordan to provide the necessary financial documentation to finalize the calculation of the Working Capital payment based on Jordan's objections, yet Jordan has repeatedly refused to provide this information." *Id*. at LSL's Resp. to Req. to Admit. No. 13.

## II. <u>The Earn-out Payment.</u>

Per the APA, LSL owed Plaintiffs an Earn-out payment of $882,000 "so long as LTM Revenue for the Earn-Out Period exceeds the Revenue Threshold." APA § 3.3(a). In addition,

[8] Moreover, the South Carolina Supreme Court has "repeatedly" held that an implied covenant of good faith and fair dealing exists in every contract. *Hall v. UBS Fin. Servs.*, 435 S.C. 75, 94, 866 S.E.2d 337, 346 (2021) ("[W]e have repeatedly held the law implies into every contract a promise between the parties to act in good faith in executing the contract.").

the Earn-out payment is "subject to" LSL's contractual "right to withhold and set off" the Post Closing Adjustment. *Id*. at 3.3(d), (e).

Separately, the APA expressly states that "no interest is payable with respect to the Earn-out payment." *Id*. § 3.3(f)(iii). Although the APA allows interest for non-payment of the Post-Closing Adjustment, *id.* at § 3.2(a)(ii), the parties chose not to allow interest on the amount owed for the Earn-out payment. *Id*. at § 3.3(f)(iii).

## LEGAL STANDARD

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "[I]t is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court 'alter or amend the judgment,' but also as a vehicle to seek 'reconsideration' of issues and arguments." *Elam v. S.C. DOT*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). "Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented." *Id*. "There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity." *Id*. at 22, 602 S.E.2d at 779. "The wisdom of giving district courts the opportunity promptly to correct their own alleged errors is all the justification needed for the practice of freely allowing a motion for reconsideration." *Id*.

Further, "[u]nder Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the ***absence*** of a genuine issue of material fact." *Baughman v. AT&T*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (emphasis added). "In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in



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the light most favorable to the nonmoving party." *Id.* "All ambiguities, conclusions, and inferences arising from the evidence ***must*** be construed most strongly against the movant." *Young v. S.C. Dep't of Corr.*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999) (emphasis added). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." *Id.* "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." *Ray v. City of Rock Hill*, 434 S.C. 39, 45, 862 S.E.2d 259, 263 (2021).

## ARGUMENT

### I. The Court erred by entering judgment in favor of Plaintiff for the Earn-out payment in the amount of $882,000 because that figure is not a sum certain, and there are several genuine issues of fact that preclude summary judgment at this time.

First, it is well-established that damages are for the jury, not the Court, particularly when there is a genuine issue as to the amount owed. *See, e.g.*, *Vinson v. Hartley*, 324 S.C. 389, 408, 477 S.E.2d 715, 725 (Ct. App. 1996) ("South Carolina law requires the jury to be the sole judge of issues of fact, including the issue of damages."). Here, the Court erred in awarding judgement on the Earn-out payment because it voided LSL's contractual right to withhold and set off the Post Closing Adjustment. *See* APA § 3.3(e). Further, because there are genuine issues of fact precluding an award of the Post Closing Adjustment, it must follow that there are genuine issues of fact regarding the Earn-out payment. The Earn-out payment cannot possibly be a "sum certain" if the Post Closing Adjustment has not been established. The plain language of the APA provides that the Post Closing Adjustment is a precondition to calculating and paying the Earn-out amount, if any. *See* APA § 3.3(d), (e). The Court puts the cart before the horse by awarding the Earn-out payment without first allowing for the Post Closing Adjustment to be determined, and then the Earn-out payment set off. In addition, by entering judgment on the Earn-out payment without first

reducing the principal amount by the Post Closing Adjustment, the Court may be forcing Defendant LSL to pay more in principal *and* interest than it would if the Earn-out payment had been calculated properly.

The Court correctly held that genuine issues of material preclude judgment on the Post Closing Adjustment. *See* Order at p. 7. However, the Court erred in finding that judgment was appropriate on the Earn-out payment, including prejudgment interest. In so holding, the Court's reasoning contains multiple errors of law and fact.

First, the Court began its analysis with a misunderstanding of the dispute resolution clauses in the APA. Specifically, the Court incorrectly concluded that "Plaintiffs' only remedy" for non-payment of the Earn-out is through this litigation, stating that: "The APA does not provide its own dispute resolution mechanism for the Earn-Out Payment, as it does for the Post Closing Adjustment of Working Capital, so Plaintiff's only remedy is through this action." *Id*. This is a mistake of fact because the APA provides a dispute resolution mechanism for the Post Closing Adjustment *and* the Earn-out payment, *see* APA §§ 3.1(b)(iii); 3.3(b)(ii), and both require that the parties submit any disputed payments to an Independent Accountant for a final and binding determination of the amounts owed.

Next, the Court concludes that the Earn-out payment is "unquestionably a sum certain" because Defendant LSL's obligation to pay the Earn-out payment is "independent" of its other obligations under the APA, and the Earn-out payment was "earned" by Plaintiffs. Order at p. 7. There are several material problems with the Court's analysis. First, the issue is the *amount owed* given LSL's right to set off the Earn-out by the Post Closing Adjustment. *See* APA §§ 3.3(d), (e). For clarity, the two pertinent sections from the APA are cited below:



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> Timing of Payment of Earn-out Payments. ***Subject to Section 3.3(e)***, if Buyer is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than twelve (12) months after the Closing Date….

APA § 3.3(d) (emphasis added).

> Right of Set-off. Buyer shall have the right to withhold and set off against any amount otherwise due to be paid pursuant to this Section 3.3 by the amount of any (i) Post-Closing Adjustment owed to it pursuant to Section 3.2….

*Id*. at § 3.3(e). The Court failed to apply, much less consider, LSL's contractual right to set off, nor did it analyze the payment provision stating that the Earn-out is "subject to" the right to set off. *Id*. Logically, for the Earn-out payment to be "subject to" the Post Closing Adjustment, the Post Closing Adjustment must exist at the time the Earn-out is owed.[9] Similarly, if the Post Closing Adjustment is not finalized, then the Earn-out payment cannot be "unquestionably a sum certain," as the Court held, because the Earn-out payment has not been reduced by the Post Closing Adjustment per the set off clause.

Further, the record that Plaintiffs presented to the Court shows that Defendant LSL delivered to Plaintiff Jordan its calculation of the Earn-out payment, including LSL's deduction of the Working Capital payment owed to it per the APA, but Plaintiff Jordan repeatedly rejected the amount while continuously refusing to cooperate with LSL to reach an agreed-upon amount. *See* Plaintiffs' Suppl. Memo, at Exh. A, Req. to Admit Nos. 9–14. When damages like this are in dispute, summary judgment should not be granted. *See Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 362, 563 S.E.2d 331, 333 (2002) ("Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts.").

[9] Even the APA contemplated the parties paying the Post Closing Adjustment eight months *prior* to payment on the Earn-out amount. *Id*. at §§ 3.2(a)(i); 3.3(e).

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Moreover, to the extent the Court claims that the Earn-out payment is an "independent obligation," *id*, this cannot be the basis for entering judgment against LSL, particularly when the Earn-out payment clause states that it is "***subject to***" the Post Closing Adjustment. Arguably every term in a contract is "independent" of the other, at least to some extent, but that does not mean the Court may isolate a single provision and disregard others that give context to the full agreement. South Carolina courts "are bound to interpret the agreement by looking at the entire agreement from beginning to end," and "when construing a contract, all of its provisions should be considered, and one may not, by pointing out a single sentence or clause, create an ambiguity." *Herrington v. SSC Seneca Operating Co., LLC*, 435 S.C. 243, 248, 866 S.E.2d 579, 581 (Ct. App. 2021) (*Yarborough v. Phoenix Mut. Life Ins. Co.*, 266 S.C. 584, 592, 225 S.E.2d 344, 348 (1976)). The APA plainly states that the Earn-out payment is "subject to" the Post Closing Adjustment, meaning that the two payments are *not* independent of the other, and it is a logical fallacy to hold otherwise.

The Court also contends that the APA "plainly envisions that the Earn-out payment does not have to wait…on calculation and payment of the Post Closing Adjustment of Working Capital." Order at p. 8. However, the Court fails to explain the meaning and purpose of the "subject to" language in Section 3.3(d), cited above, if it does not mean that the Post Closing Adjustment is a required condition existing prior to payment of the Earn-out.[10] The Order is void of any discussion on the "subject to" language and how it can coincide with the Court's current interpretation of the APA. In so holding, the Court runs afoul of South Carolina's cardinal rules

[10] The Court also misquotes these two pertinent sections, citing to Section 3.3(e), the "Right to Set-Off" provision, for the proposition that the Earn-out payment is due no more than twelve (12) months after the closing date, which is found in Section 3.3(d), titled "Timing of Payment of Earn-out payments." (Order at p. 8).

for contract interpretation[11] because it voids LSL's contractual right to set off, renders superfluous the "subject to" language in the Earn-out payment clause, and creates ambiguities in the APA.

There is no reasonable interpretation of the APA that would require LSL to pay the Earn-out payment prior to knowing the Post Closing Adjustment. At a micro-level, looking at just Sections 3.3(d) and (e), the payment clause states that it is "subject to Section 3.3(e)," the Right of Set-off clause, which provides that LSL has a "right to withhold and set off" the Earn-out payment by the Post Closing Adjustment. Reading these clauses together, the only reasonable interpretation is that LSL's right to set off exists because the Post Closing Adjustment is known *prior* to payment of the Earn-out. Thus, the Post Closing Adjustment must be calculated before the Earn-out amount can be determined and due.[12]

The result is the same when considering the APA in full, as the Court must per South Carolina's rules for contract interpretation. The APA provides that the Post Closing Adjustment was always to be calculated and paid first, with the Earn-Out payment, if any, to be paid later. *See* APA §§ 3.2(a)(i), (ii); 3.3(d). Specifically, the Working Capital Statement was to be submitted

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[11] "The cardinal rule of contract interpretation is to ascertain and give legal effect to the parties' intentions as determined by the contract language." *BMW of N. Am., LLC v. Complete Auto Recon Servs.*, 399 S.C. 444, 451, 731 S.E.2d 902, 906 (Ct. App. 2012). "[A]n interpretation that gives meaning to all parts of the contract is preferable to one which renders provisions in the contract meaningless or superfluous." *Stevens Aviation, Inc. v. DynCorp Int'l LLC*, 407 S.C. 407, 417, 756 S.E.2d 148, 153 (2014). "We assume the parties intended a meaningful agreement, not a nonsensical or absurd one, so we read agreements in a way that will give effect to the whole instrument and to each of its various parts and provisions, if it is reasonable to do so." *Herrington*, 435 S.C. at 248, 866 S.E.2d at 581.

[12] If the Earn-out payment could be owed prior to finalizing the Post Closing Adjustment, then the APA would presumably allow LSL the right to offset the Post Closing Adjustment with the amount owed for the Earn-out, but the APA does not allow such a setoff. Instead, the APA *only* contemplates setting off the Earn-out payment with the Post Closing Adjustment; it does *not* contemplate setting off the Post Closing Adjustment with the Earn-out payment. This, in addition to the fact that the APA contemplates payment of the Post Closing Adjustment eight (8) months prior to the Earn-out payment, leads to the conclusion that the parties contemplated the Post Closing Adjustment being finalized prior to the Earn-out.



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within 100 days of the closing date, making the deadline on or about August 18, 2021, *id*. at § 3.2(a)(i), and the Post Closing Adjustment was to be paid within thirty days after, on or about September 20, 2021. *Id*. at § 3.2(a)(ii). The Earn-out payment, if any, was not due until on or about May 10, 2022, almost eight (8) months after the Post Closing Adjustment was to be calculated and paid. *Id*. at 3.3(d). The Court's current interpretation of the APA envisions a situation where the Earn-out payment is due *before* the Post Closing Adjustment, which is contrary to the payment deadlines in the APA, and contrary to the language in Section 3.3(d) stating that the Earn-out payment is "subject to" the Post Closing Adjustment. As such, the Court's interpretation creates ambiguities in multiple sections of the APA and thus is in error. *See Herrington v. SSC,* 435 S.C. at 249, 866 S.E.2d at 582 ("[W]e cannot adopt a construction that pits the agreement against itself and results in a dispute resolution scheme that is essentially void of any practical effect."). For these reasons, the only reasonable interpretation is that Earn-out payment is contingent (or "subject to") the set-off provision that allows LSL to reduce the amount owed by the Post Closing Adjustment of Working Capital. And because the Post Closing Adjustment cannot be determined as this time, as the Court concedes in its Order, then it must follow that the Earn-out payment cannot be a sum certain. Therefore, judgment on the Earn-out payment is improper considering the dispute over the amount owed.

Finally, the Court held that the APA does not allow LSL to indefinitely withhold the Earn-out payment to Plaintiffs when LSL has failed to provide the calculations for the Post Closing Adjustment, an obligation that the Court contends is "largely, if not exclusively within LSL's power to complete." (Order at p. 8). The Court's holding relies on clear errors of fact and law because the APA requires cooperation from the "Parties" — plural — to complete the financial

calculations under the APA.[13] Plaintiffs' own allegations confirm that Jordan's financial records are needed to calculate both the Post Closing Adjustment and Earn-out payment.[14] And the record presented to the Court by Plaintiffs contains evidence that Defendant LSL was unable to finalize the payments because Plaintiff Jordan repeatedly rejected the calculations offered and refused to provide financial documentation. *See* Plaintiffs' Suppl. Memo at Exh. A, Req. to Admit Nos. 12, 13, and 15.

Then, to side-step these genuine issues of material fact, Plaintiffs argued that no such showing of cooperation was required on Jordan's part.[15] But, as discussed above, the APA's plain language, the implied covenant of good faith and fair dealing found in every contract, and the allegations set forth in Plaintiffs' Complaint and LSL's Responses to Plaintiffs' Requests to Admit bely this point. And, inexplicably, the Court's Order then condemns LSL for failing to prove a factual burden belonging to Plaintiffs as a matter of law.[16] That is, for purposes of summary judgment, it is up to Plaintiffs to show that Jordan provided all the financial document or other information necessary to complete the Post-Closing Adjustment and that he cooperated with LSL's preparation of any Post Closing Adjustment calculation. Tellingly, no depositions have even been

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[13] *See* APA § 3.1(a), Purchase Price ("The Parties shall timely and properly prepare, execute, file, and deliver all such documents forms and other information as may reasonably be requested to prepare such final allocation."); *id*. at § 6.1, Further Assurances ("The Parties will execute and deliver such further documents and do such further acts and things as *may be required* to carry out the intent and purpose of this Agreement.") (emphasis added).

[14] *See* Compl. ¶ 17 ("[Plaintiff] Jordan's *accounting records, data, and emails are essential to calculating funds paid for work prior to closing as well as calculations required by the Agreement*.") (emphasis added).

[15] *See* Plaintiffs' Suppl. Memo. at p. 6 ("Although Jordan worked tirelessly to provide LSL with all of the information it requested, those facts are simply irrelevant because the APA does not require Jordan to cooperate with LSL in order to produce the Working Capital Statement.").

[16] Order at p. 6 ("LSL has not identified what financial documentation or information Jordan has failed to provide or how that information is necessary for completing the Post Closing Adjustment. LSL has also not demonstrated that Jordan is obligated under the APA to provide any information to LSL so that it can prepare the Post Closing Adjustment.").



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taken on this particular issue in the litigation. The Court should pause to consider why Plaintiffs are seeking summary judgment on such scant and shaky record. Nonetheless, as a matter of law, the Court cannot construe facts or take inferences therefrom in the light most favorable to Plaintiffs, the moving party, but must instead construe all facts and inferences therefrom in the light most favorable to LSL, the nonmoving party. Rule 56, SCRCP.

## II. The Court erred in awarding prejudgment interest totaling $229,199.18 on the Earn-out payment because the APA precludes interest on the Earn-out, and the Earn-out payment is not a liquidated sum at common law.

First, the APA's Earn-out clause plainly states that: "The Parties hereto understand and agree that … (iii) no interest is payable with respect to the Earn-out payment." (APA § 3.3(f)). Based on this provision alone, Plaintiffs are not entitled to recoup prejudgment interest.

Second, even if this clause were absent from the APA, prejudgment interest is still not allowed because the Earn-out payment has not been calculated with certainty since the Post Closing Adjustment was not finalized. *See Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 259 (2006) ("Prejudgment interest is allowed on a claim of liquidated damages; i.e., the sum is certain or capable of being reduced to certainty based on a mathematical calculation previously agreed to by the parties.").

Further, equitable principles favor denying prejudgment interest because the principal Earn-out amount has not been reduced by the Post Closing Adjustment, meaning that LSL will have to pay *more* principal and interest than it may otherwise owe to Plaintiffs. This is why prejudgment interest is not allowed on amounts that cannot be calculated with certainty, because in this case, it would effectively require LSL to give Plaintiffs an interest free loan that it must later attempt to collect through future proceedings (and at additional cost).



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The Court makes one more glaring error that underscores the very reason why summary judgment is not proper. Per the Order, "[i]f future proceedings in this case, or in the 'Examination and Review' process for 'Resolution of Disputes' regarding the Post Closing Adjustment provided in Section 3.2(b) of the APA, determine that either party owes additional money to the other, then judgment may be granted to that party, and any appropriate set-offs may be applied at that time." Order at p. 8. There are three problems with this reasoning. First, if "future proceedings" are needed to resolve whether "either party owes additional money to the other," then the Court should not be entering summary judgment. *Middleborough Horizontal Prop. Regime Council of Co-Owners v. Montedison S.p.A.*, 320 S.C. 470, 479, 465 S.E.2d 765, 771 (Ct. App. 1995) ("Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law."). Second, the uncertain judgment unfairly prejudices LSL at this stage of the litigation, allowing Plaintiffs to initiate ancillary collections proceedings against LSL which may result in rulings against LSL that are hard to unwind and not as simple as merely applying monetary set-offs at a later time. Third, the Court cites to a dispute resolution mechanism applicable to the Post Closing Adjustment, which is wholly inapplicable to the Earn-out payment that is the subject of the Court's current judgment. The dispute resolution clause for the Post Closing Adjustment does not allow LSL to retroactively recoup excess principal and interest payments paid in the form of an Earn-out, nor does it allow LSL to offset Post Closing Adjustments by any excessive Earn-out payments. As such, the dispute resolution cited by the Court is not applicable to these issues.[17]

[17] Even the Earn-out payment's dispute resolution clause is inapplicable because it does not contemplate a situation where LSL overpays principal and interest and then attempts to recollect the overpayment from Plaintiffs via an Independent Auditor. *See* APA §§ 3.2(b); 3.3(b)(ii). Both the Post Closing Adjustment and Earn-out dispute resolution clauses contemplate a situation where

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## III. The Court also erred in relying on hearsay Affidavits and emails from interested parties/counsel and overlooked the fact that very limited discovery has taken place in this case to date.

First, the Court cannot rely on inadmissible evidence and hearsay in ruling on summary judgment. *See Hall v. Fedor*, 349 S.C. 169, 175, 561 S.E.2d 654, 657 (Ct. App. 2002) ("Our appellate courts have interpreted Rule 56(e) to mean materials used to support or refute a motion for summary judgment ***must be those which would be admissible in evidence***.") (emphasis added).

Here, Plaintiffs' Motion was originally based on three Affidavits completed by: (1) Plaintiff Jordan; (2) Ashley Hawn, counsel for Plaintiffs; and (3) Stephen Porter, counsel for Plaintiffs.[18] Importantly, each Affidavit claims to recount a meeting that took place on May 9, 2022, with representatives of LSL, including an accountant (Jacob Taylor), an attorney (Darra Coleman), Tim Freeman, and an unidentified IT Specialist. *See* Plaintiffs' Amd. Motion filed Dec. 1, 2023, at Exh. A. The Affidavits are classic hearsay because they are out-of-court statements offered to prove the truth of the matter asserted. *See* Rule 801(c), SCRE. The affiants purport to summarize statements made by Mr. Taylor (and others) as it pertains to the Post Closing Adjustment, and the Court cites to them for that purpose. *See* Order at pp. 5–6. The Affidavits are hearsay and cannot be used to support summary judgment. Neither of these individuals have been deposed, nor have Plaintiffs authenticated or established in the record what role, if any, the declarants had on behalf of LSL. Instead of deposing these key witnesses for the record, Plaintiffs "create" testimony for the would-be declarants via Affidavits.[19]

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the Parties disagree on the amount owed *prior* to payment (not after), and the clauses outline the procedure for resolving the disputed amounts *prior* to payment (not after).

[18] Prior to the hearing, Plaintiffs withdrew the Affidavit of Mr. Porter. *See* Plaintiffs' Amd. Motion filed December 1, 2023, at p. 2, n. 1. Still, the Court's Order considered all Affidavits. *See* Order at p. 5 (stating: "Jordan presented affidavit testimony from three witnesses….").

[19] Very little discovery has been completed in this case, despite its age. And it should be a red flag to the Court that not one person identified in Plaintiffs' Supplemental Memorandum has

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The Court also cites to other inadmissible evidence, including an email sent from Plaintiffs' counsel, Mr. Porter, to LSL's former counsel, Darra Coleman, on or about May 17, 2022, for purposes of establishing the payment terms of the Earn-out.[20] This email is hearsay, does not meet basic authentication requirements, and thus cannot be relied on to support summary judgment. (Neither Mr. Porter nor Ms. Coleman have been deposed, and Plaintiffs have not submitted an Affidavit authenticating the email). The Court's Order relies on the following from Mr. Porter's email: "It appears the working capital adjustment will take some time to calculate based on our meeting last week. However, can you provide me with a timeline for payment of the earn-out? I do not know that any of the financial information we discussed last week will impact that analysis." Order at p. 7. Ms. Coleman did not respond to this email. Based solely on Mr. Porter's unilateral email, the Court concludes that: "Clearly, this email communication does not express an agreement to extend the due date for any required payment." Order at p. 7.

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been deposed either. For years the parties have focused most of their efforts in litigating a companion case, which involves a separate eviction matter (*Plumbinator 1047, LLC et al. v. Liquid Services et al.*, Civil Action No. 2023-CP-40-01360). A plain review of the docket in this case (-02958) compared to the eviction matter (-01360) shows that this matter has remained relatively dormant until the eviction matter was resolved in January 2025, after which Plaintiff's current Motion for Summary Judgment, originally filed in December of 2023, was revisited and finally scheduled for a hearing. (**Exhibit A**, APA Docket; **Exhibit B**, Eviction Docket). At the same time as Plaintiffs were pursuing the Amended Motion in January 2025, Plaintiffs prepared and circulated a settlement agreement. From then until just a few days before the Court's hearing in this matter, LSL focused on getting approval from Academy Bank for the settlement. As counsel for LSL tried to explain to the Court at the hearing, LSL, under the terms its current loan agreement, must obtain the consent of Academy Bank to the payments provided for in the draft settlement agreement. The loan officer working with LSL at Academy Bank retired and was replaced by a completely new loan officer in the New Year too. In reworking the terms of its loan with LSL, Academy Bank was willing to and did approve the payments by LSL to Jordan in of the settlement agreement Jordan circulated with a few clarifications which ended up being unacceptable to Jordan. The point of this background is to provide the Court further explanation for why LSL has not pressed forward with discovery on these issues itself. LSL cannot say the same for Plaintiffs though in the pursuit of this Motion.

[20] This email was introduced into the record for the first time in Plaintiffs' Supplemental Memorandum filed the day before the hearing.

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Without question, Mr. Porter's email is hearsay because it purports to prove what the repayment terms were, even though neither Mr. Porter (the sender) nor Ms. Coleman (the recipient) have been deposed. In fact, none of the parties have been deposed in this case. As such, the Court should not allow Plaintiffs to use a unilateral email from their current counsel, acting as a fact witness, to prove the highly contested issue of the Earn-out's repayment terms. Nor should the Court accept Plaintiffs' counsel's email to prove a "meeting of the minds" with Ms. Coleman, particularly when neither she nor any other party in this case have been deposed.[21]

To complicate matters, the Court spends one-half page discussing Plaintiffs' counsel's email only to end its discussion by stating: "The email also appears to be a Rule 408 SCRCP communication between counsel to facilitate resolution of the dispute that has led to this litigation and is likely not evidence in this case." Order at p. 7. If the email is in fact inadmissible evidence at trial, then it cannot be used to support a Motion for Summary Judgment, and to rely on such evidence is a clear error of law. *Hall*, 349 S.C. at 175, 561 S.E.2d at 657 ("Our appellate courts have interpreted Rule 56(e) to mean materials used to support…a motion for summary judgment *must be those which would be admissible in evidence*.") (emphasis added).

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[21] Also, the Rules do not allow a party's counsel of record to serve as a fact witness on disputed issues such as these, particularly when so little discovery has been completed. *See* Rule 3.7, RPC, Rule 407, SCACR ("A lawyer ***shall not*** act as advocate at a trial in which the lawyer is likely to be a necessary witness unless: (1) the testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered in the case; or (3) disqualification of the lawyer would work substantial hardship on the client."). Clearly, neither of these exceptions apply here; the Earn-out's repayment terms is a highly contested issue. Mr. Porter is not a "necessary witness" in light of the other witnesses available and lack of discovery completed to date, and the Court should require disputed issues of fact to be developed through other sources, not Plaintiffs' current counsel acting as a fact witness at the summary judgment stage. *Cf. Fine Hous., Inc. v. Sloan*, 431 S.C. 499, 508, 848 S.E.2d 581, 585 (Ct. App. 2020) ("An attorney is likely to be a necessary witness when the attorney's testimony is relevant to disputed, material questions of fact and *there is no other evidence available to prove those facts*.") (emphasis added).

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Other than these inadmissible Affidavits and emails, moreover, LSL cannot discern from the Court's Order any other admissible evidence upon which the Court bases its determination that there is no genuine issue of material fact that the Earn-out payment was a sum certain due and owing at this time under the plain terms of the APA.

## CONCLUSION

For the reasons stated herein, the Court should rescind its Order entering partial summary judgment in favor of Plaintiffs on the Earn-out payment. Numerous genuine issues of material fact remain effecting the calculation of and timing of the payment due on the Earn-out. And no pre-judgment interest may be awarded as a matter of law under the APA. As discussed above, clear, material errors of fact and law underscore the Court's order right now, and the parties should be allowed to proceed with completing basic discovery, like deposing the named parties and key witnesses.

ROBINSON GRAY STEPP & LAFFITTE, LLC

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Columbia, South Carolina
May 19, 2025

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Case No. 2022-CP-40-02958

# EXHIBIT A

to

**Liquid Services and Logistics, LLC's Motion to Alter or Amend the Court's Entry of Partial Summary Judgment**

*Index of APA Case Docket*
*(Civil Action No. 2022-CP-40-02958)*

**Exhibit A**

# Richland County
# Fifth Judicial Circuit
# Public Index




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Switch View

## Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

| | | | | | |
|---|---|---|---|---|---|
| **Case Number:** | **2022CP4002958** | **Court Agency:** | **Richland County Common Pleas** | **Filed Date:** | **06/08/2022** |
| **Case Type:** | **Common Pleas** | **Case Sub Type:** | **Breach of Cont 140** | **File Type:** | **Jury** |
| **Status:** | **Pending/Business Court** | **Assigned Judge:** | **Seals, William H. Jr.** | | |
| **Disposition:** | | **Disposition Date:** | | **Disposition Judge:** | |
| **Original Source Doc:** | | **Original Case #:** | | | |
| **Judgment Number:** | | **Court Roster:** | | | |

**Case Parties** Judgments Tax Map Information Associated Cases **Actions** **Financials**

| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
|---|---|---|---|---|---|---|
| Jordan, Michael D | NEF(04-16-2025 12:17:34 PM) Memo/Memo in Support | Filing | | 04/16/2025-12:19 | | |
| Jordan, Michael D | Memo/Memo in Support of Amended Partial MSJ | Filing | | 04/16/2025-12:17 | | |
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| Liquid Services And Logistics | Motion/Substitute Counsel by Consent | Motion | | 03/25/2025-09:45 | | |

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| Outten, Samuel W. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Porter, Stephen D | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Taber, Carlee Ann | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Glunt, Alexandra Cassidy | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Becker, James Y. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Macaulay, Angus H. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
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| Jordan, Michael D | Order/Scheduling Order/Trial not before July 15, 2024 | Order | | 12/07/2023-09:28 | | |
| Jordan, Michael D | NEF(12-04-2023 12:39:03 PM) Motion/Other | Filing | | 12/04/2023-12:44 | | |
| Jordan, Michael D | Motion/Protective Order | Motion | | 12/04/2023-12:39 | | |

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| Jordan, Michael D | NEF(12-01-2023 02:53:14 PM) Motion/Summary Judgment | Filing | | 12/01/2023-15:03 | | |
| Jordan, Michael D | Amended Motion/Partial Summary Judgment | Motion | | 12/01/2023-14:53 | | |
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| Liquid Services And Logistics Llc | Motion/Withdraw | Motion | | 11/29/2023-15:30 | | |
| Jordan, Michael D | NEF(11-08-2023 11:22:58 AM) Notice/Other | Filing | | 11/08/2023-11:56 | | |
| Jordan, Michael D | Notice/Of Withdrawal of Exhibit C to Motion for Partial Summ | Filing | | 11/08/2023-11:22 | | |
| Jordan, Michael D | NEF(11-02-2023 08:08:13 AM) ADR/Proof of ADR | Filing | | 11/02/2023-08:08 | | |
| Jordan, Michael D | ADR/Proof of ADR/Impasse | Action | | 11/02/2023-08:08 | 11/02/2023-08:08 | |
| Jordan, Michael D | NEF(10-31-2023 09:46:40 AM) Letter/Letter | Filing | | 10/31/2023-09:58 | | |
| Jordan, Michael D | Letter/Adding Omitted Exhibits to Motion for Partial Summary | Filing | | 10/31/2023-09:46 | | |
| Jordan, Michael D | NEF(10-30-2023 04:59:44 PM) Motion/Summary Judgment | Filing | | 10/31/2023-08:23 | | |
| Jordan, Michael D | Partial Motion/Summary Judgment | Motion | | 10/30/2023-16:59 | | |
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| Jordan, Michael D | Decline to Sign:Order/Withdraw | Filing | | 08/17/2023-12:00 | | |
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| Jordan, Michael D | Motion/Withdraw | Motion | | 07/26/2023-13:58 | | |
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| Plumbinator 1051 Llc | Scheduling Order | Order | | 07/18/2023-12:18 | | |
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| Jordan, Michael D | Order/Withdraw | Order | | 07/14/2023-10:11 | | |
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| Jordan, Michael D | Consent Order to Amend Complaint | Order | | 07/14/2023-08:42 | | |
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| Jordan, Michael D | Motion/Withdraw | Motion | | 07/12/2023-15:02 | | |

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| Jordan, Michael D | Order/Consent Order on Motion for a Temporary Restraining | Order | | 12/20/2022-14:03 | | |
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| Liquid Services And Logistics Llc | Answer/Answer of Liquid Services And Logistics Llc And Tim F | Filing | | 10/28/2022-15:57 | | |
| Outten, Samuel W. | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Lewis, William Logan | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Macaulay, Angus H. | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Coleman, Darra James | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Porter, Stephen D | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
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| Jordan, Michael D | Decline to Sign:Order/Consent Order/Consent signatures are m | Filing | | 08/12/2022-15:35 | | |
| Liquid Services And Logistics Llc | NEF(08-10-2022 02:16:03 PM) Proposed Order/Consent Order | Filing | | 08/10/2022-15:11 | | |

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|---|---|---|---|---|---|---|
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 08/10/2022-14:16 | | |
| Jordan, Michael D | NEF(08-08-2022 04:05:55 PM) Proposed Order/Consent Order | Filing | | 08/09/2022-10:23 | | |
| Jordan, Michael D | Order/Order Cover Sheet $25.00 | Filing | | 08/08/2022-16:05 | | |
| Jordan, Michael D | NEF(06-14-2022 01:43:06 PM) Service/Acceptance Of Servic... | Filing | | 06/14/2022-14:11 | | |
| Jordan, Michael D | Service/Acceptance Of Service on Liquid Services And Logisti | Filing | | 06/14/2022-13:43 | | |
| Jordan, Michael D | Service/Acceptance Of Service on Tim Freeman | Filing | | 06/14/2022-13:43 | | |
| Jordan, Michael D | NEF(06-13-2022 12:39:26 PM) Notice/Notice of Appearance | Filing | | 06/13/2022-12:39 | | |
| Jordan, Michael D | Notice/Notice of Appearance | Filing | | 06/13/2022-12:39 | | |
| Liquid Services And Logistics Llc | NEF(06-10-2022 03:24:54 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-15:28 | | |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 06/10/2022-15:24 | | |
| Freeman, Tim | NEF(06-10-2022 02:36:13 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-14:42 | | |
| Freeman, Tim | Notice/Notice of Appearance | Filing | | 06/10/2022-14:36 | | |
| Liquid Services And Logistics Llc | NEF(06-10-2022 01:59:15 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-13:59 | | |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 06/10/2022-13:59 | | |
| Jordan, Michael D | NEF(06-08-2022 04:55:40 PM) Motion/Temporary Injunction | Filing | | 06/09/2022-08:17 | | |
| Jordan, Michael D | Motion/Temporary Injunction | Motion | | 06/08/2022-16:55 | | |
| Jordan, Michael D | Summons & Complaint | Filing | | 06/08/2022-14:35 | | |

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Case No. 2022-CP-40-02958

# EXHIBIT B

to

**Liquid Services and Logistics, LLC's Motion to Alter or Amend the Court's Entry of Partial Summary Judgment**

*Index of Eviction Case Docket*
*(Civil Action No. 2023-CP-40-01360)*

**Exhibit B**

# Richland County
# Fifth Judicial Circuit
# Public Index




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Switch View

## Plumbinator 1047 Llc , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

| | | | | | |
|---|---|---|---|---|---|
| **Case Number:** | 2023CP4001360 | **Court Agency:** | Richland County Common Pleas | **Filed Date:** | 03/14/2023 |
| **Case Type:** | Common Pleas | **Case Sub Type:** | Breach of Cont 140 | **File Type:** | Jury |
| **Status:** | Dismissed | **Assigned Judge:** | Clerk Of Court C P, G S, And Family Court | | |
| **Disposition:** | Dismissed per Rule 40J | **Disposition Date:** | 01/03/2024 | **Disposition Judge:** | Coble, Daniel |
| **Original Source Doc:** | | **Original Case #:** | | | |
| **Judgment Number:** | | **Court Roster:** | | | |

**Case Parties** Judgments Tax Map Information Associated Cases **Actions** **Financials**

| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
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| Plumbinator 1047 Llc | NEF(01-03-2025 08:21:15 AM) Order/Dismissal Rule 40J | Filing | | 01/03/2025-08:21 | | |
| Plumbinator 1047 Llc | Order/Dismissal Rule 40J | Order | | 01/03/2025-08:21 | | |
| Plumbinator 1047 Llc | NEF(01-02-2025 02:13:15 PM) Order/Other | Filing | | 01/02/2025-14:13 | 01/03/2024-14:13 | |
| Plumbinator 1047 Llc | Order on Expedited Motions | Order | | 01/02/2025-14:13 | 01/03/2024-14:13 | |
| Plumbinator 1047 Llc | NEF(01-02-2025 09:08:08 AM) Proposed Order/Consent Order | Filing | | 01/02/2025-09:59 | 01/03/2024-09:59 | |
| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 01/02/2025-09:08 | 01/03/2024-09:08 | |
| Porter, Stephen D | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Macaulay, Angus H. | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Glunt, Alexandra Cassidy | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Becker, James Y. | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Taber, Carlee Ann | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Caskey, Mary M | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Traynham, Michael Smoak | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Plumbinator 1047 Llc | NEF(12-20-2024 02:25:23 PM) Motion/Alter and/or Amend | Filing | | 12/20/2024-14:57 | 01/03/2024-14:57 | |
| Plumbinator 1047 Llc | Motion To Amend Complaint | Motion | | 12/20/2024-14:25 | 01/03/2024-14:25 | |
| Liquid Services And Logistics Llc | NEF(12-18-2024 03:31:37 PM) Motion/Protection from Disco... | Filing | | 12/18/2024-15:44 | 01/03/2024-15:44 | |

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|---|---|---|---|---|---|---|
| Liquid Services And Logistics Llc | Motion/Protection from Discovery & Objections to Requests | Motion | | 12/18/2024-15:31 | 01/03/2024-15:31 | |
| Plumbinator 1047 Llc | NEF(12-18-2024 02:19:26 PM) Motion/Temporary Injunction | Filing | | 12/18/2024-14:32 | 01/03/2024-14:32 | |
| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 12/18/2024-14:19 | 01/02/2025-14:19 | |
| Plumbinator 1047 Llc | NEF(12-12-2024 11:26:40 AM) Order/Electronic Form 4 | Filing | | 12/12/2024-11:26 | 01/03/2024-11:26 | |
| Plumbinator 1047 Llc | Electronic Form 4 Order Judge Coble is recused from this cas | Order | | 12/12/2024-11:26 | 01/03/2024-11:26 | |
| Plumbinator 1047 Llc | NEF(12-08-2024 01:14:33 PM) Order/Electronic Form 4 | Filing | | 12/08/2024-13:14 | 01/03/2024-13:14 | |
| Plumbinator 1047 Llc | Electronic Form 4 Order This case is set for a Date Certain | Order | | 12/08/2024-13:14 | 01/03/2024-13:14 | |
| Liquid Services And Logistics Llc | NEF(12-03-2024 09:54:57 AM) Memo/Memo in Opposition | Filing | | 12/03/2024-10:11 | 01/03/2024-10:11 | |
| Liquid Services And Logistics Llc | Memo/Memo in Opposition To Motion For Continuance From Decem | Filing | | 12/03/2024-09:54 | 01/03/2024-09:54 | |
| Plumbinator 1047 Llc | NEF(11-27-2024 11:33:46 AM) Motion/Continuance | Filing | | 11/27/2024-15:12 | 01/03/2024-15:12 | |
| Plumbinator 1047 Llc | Motion/Continuance | Motion | | 11/27/2024-11:33 | 01/03/2024-11:33 | |
| Porter, Stephen D | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Macaulay, Angus H. | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Traynham, Michael Smoak | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Taber, Carlee Ann | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Caskey, Mary M | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Glunt, Alexandra Cassidy | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Becker, James Y. | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Liquid Services And Logistics Llc | NEF(11-04-2024 05:36:11 PM) Proposed Order/Summary Judgm... | Filing | | 11/05/2024-11:17 | 01/03/2024-11:17 | |
| Plumbinator 1047 Llc | NEF(11-04-2024 04:52:42 PM) Order/Order Cover Sheet $25.... | Filing | | 11/05/2024-11:16 | 01/03/2024-11:16 | |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 11/04/2024-17:36 | 01/03/2024-17:36 | |
| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 11/04/2024-16:52 | 01/03/2024-16:52 | |
| Liquid Services And Logistics Llc | NEF(10-23-2024 05:08:14 PM) Affidavit/Affidavit of | Filing | | 10/24/2024-08:20 | 01/03/2024-08:20 | |
| Liquid Services And Logistics Llc | Affidavit/Affidavit of Lance Luther | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Liquid Services And Logistics Llc | Affidavit/Supplemental Affidavit of Tim Freeman | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Liquid Services And Logistics Llc | Affidavit/Supplemental Affidavit of Taylor Harbison | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Plumbinator 1047 Llc | NEF(10-17-2024 08:46:30 AM) Order/Electronic Form 4 | Filing | | 10/17/2024-08:46 | 01/03/2024-08:46 | |
| Plumbinator 1047 Llc | Form 4 This matter came before the Court on Plaintiff's Moti | Order | | 10/17/2024-08:46 | 01/03/2024-08:46 | |

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| Plumbinator 1047 Llc | NEF(10-15-2024 08:49:29 AM) Memo/Memo in Support | Filing | | 10/15/2024-09:29 | 01/03/2024-09:29 | |
| Plumbinator 1047 Llc | Memo/Memo in Support of Summary Judgement | Filing | | 10/15/2024-08:49 | 01/03/2024-08:49 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 05:02:32 PM) Transcript/Transcript of Tes... | Filing | | 10/14/2024-16:04 | 01/03/2024-16:04 | |
| Plumbinator 1047 Llc | NEF(10-14-2024 10:12:26 AM) Affidavit/Affidavit of | Filing | | 10/14/2024-13:00 | 01/03/2024-13:00 | |
| Plumbinator 1047 Llc | NEF(10-14-2024 10:52:50 AM) Affidavit/Affidavit of | Filing | | 10/14/2024-12:38 | 01/03/2024-12:38 | |
| Plumbinator 1047 Llc | Amended Affidavit of Michael D Jordan | Filing | | 10/14/2024-10:52 | 01/03/2024-10:52 | |
| Plumbinator 1047 Llc | Supplemental Affidavit of Michael D Jordan | Filing | | 10/14/2024-10:12 | 01/03/2024-10:12 | |
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| Liquid Services And Logistics Llc | Memo/Memo in Opposition to Motion | Filing | | 10/11/2024-17:16 | 01/03/2024-17:16 | |
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| Liquid Services And Logistics Llc | Affidavit/Affidavit of Tim Freeman | Filing | | 10/11/2024-16:37 | 01/03/2024-16:37 | |
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| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Caskey, Mary M | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |

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| Taber, Carlee Ann | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
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| Taber, Carlee Ann | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Macaulay, Angus H. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Macaulay, Angus H. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
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| Liquid Services And Logistics Llc | Motion/Continuance | Motion | | 08/02/2024-11:44 | 01/03/2024-11:44 | |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Glunt, Alexandra Cassidy | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
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| Taber, Carlee Ann | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
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| Taber, Carlee Ann | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Caskey, Mary M | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Caskey, Mary M | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
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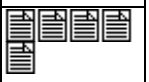
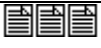
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| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
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| Plumbinator 1047 Llc | NEF(06-25-2024 03:01:04 PM) Motion/Temporary Injunction | Filing | | 06/25/2024-15:03 | 01/03/2024-15:03 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 02:56:20 PM) Notice/Other | Filing | | 06/25/2024-15:03 | 01/03/2024-15:03 | |
| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 06/25/2024-15:01 | 10/17/2024-15:01 | |
| Plumbinator 1047 Llc | Notice/Of Filing | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Affidavit/Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
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| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 02:12:04 PM) Motion/Summary Judgment | Filing | | 06/25/2024-14:16 | 01/03/2024-14:16 | |
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| Liquid Services And Logistics Llc | Motion/Continuance | Motion | | 01/17/2024-09:21 | 01/03/2024-09:21 | |
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| Porter, Stephen D | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Taber, Carlee Ann | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
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| Taber, Carlee Ann | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |

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| Caskey, Mary M | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
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| Glunt, Alexandra Cassidy | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Macaulay, Angus H. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Macaulay, Angus H. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
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| Plumbinator 1047 Llc | NEF(12-12-2023 02:31:13 PM) Order/Electronic Form 4 | Filing | | 12/12/2023-14:31 | 01/03/2024-14:31 | |
| Plumbinator 1047 Llc | Form 4 This matter has been continued beyond this term of co | Order | | 12/12/2023-14:31 | 01/03/2024-14:31 | |
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| Plumbinator 1047 Llc | NEF(12-06-2023 05:00:52 PM) Memo/Memo in Opposition | Filing | | 12/07/2023-08:15 | 01/03/2024-08:15 | |
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| Plumbinator 1047 Llc | Affidavit/Affidavit of Michael Jordan | Filing | | 12/06/2023-17:36 | 01/03/2024-17:36 | |
| Plumbinator 1047 Llc | Memo/Memo in Opposition to Motion to Quash | Filing | | 12/06/2023-17:00 | 01/03/2024-17:00 | |
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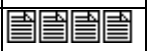
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| Porter, Stephen D | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
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| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
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| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
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| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
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| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 11/10/2023-13:26 | 01/03/2024-13:26 | |
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| Plumbinator 1047 Llc | ADR/Proof of ADR/Impasse | Action | | 11/02/2023-08:09 | 11/02/2023-08:09 | |
| Plumbinator 1047 Llc | ADR/Alternative Dispute Resolution (Workflow) | Action | | 10/10/2023-12:43 | 11/02/2023-12:43 | |
| Plumbinator 1047 Llc | NEF(09-11-2023 04:34:38 PM) Order/Withdraw | Filing | | 09/11/2023-16:34 | 01/03/2024-16:34 | |
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| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 08/21/2023-12:55 | 01/03/2024-12:55 | |
| Plumbinator 1047 Llc | Decline to Sign:Order/Withdraw | Filing | | 08/17/2023-12:03 | 01/03/2024-12:03 | |
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| Plumbinator 1047 Llc | NEF(07-26-2023 02:03:01 PM) Motion/Withdraw | Filing | | 07/26/2023-16:37 | 01/03/2024-16:37 | |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/26/2023-14:03 | 09/11/2023-14:03 | |
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| Plumbinator 1047 Llc | Order/Withdraw | Order | | 07/13/2023-14:22 | 01/03/2024-14:22 | |
| Plumbinator 1047 Llc | NEF(07-12-2023 11:20:02 AM) Motion/Withdraw | Filing | | 07/12/2023-14:34 | 01/03/2024-14:34 | |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/12/2023-11:20 | 07/13/2023-11:20 | |
| Apple Services Inc | NEF(06-29-2023 02:12:09 PM) Amended/Amended Summons And ... | Filing | | 06/29/2023-14:28 | 01/03/2024-14:28 | |
| Apple Services Inc | Amended/Amended Summons And Complaint | Filing | | 06/29/2023-14:12 | 01/03/2024-14:12 | |
| Apple Services Inc | Add Party to Case | Filing | | 06/29/2023-14:12 | 01/03/2024-14:12 | |
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| Plumbinator 1047 Llc | Order on Motion of the Plaintiff for Temporary Relief | Order | | 05/03/2023-16:38 | 01/03/2024-16:38 | |
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| Liquid Services And Logistics Llc | Answer/Answer of Liquid Services And Logistics Llc | Filing | | 05/03/2023-16:18 | 01/03/2024-16:18 | |
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| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 04/25/2023-10:21 | 05/03/2023-10:21 | |

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| **Plumbinator 1047 Llc** | **Notice/Notice of Appearance** | **Filing** | | **04/25/2023-10:21** | **01/03/2024-10:21** | |
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| **Liquid Services And Logistics Llc** | **Notice/Notice of Appearance** | **Filing** | | **04/13/2023-10:31** | **05/03/2023-10:31** | |
| **Plumbinator 1047 Llc** | **Summons & Complaint** | **Filing** | | **03/14/2023-12:43** | **01/03/2024-12:43** |  |

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| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | C/A NO: 2022-CP-40-02958 |

**PLAINTIFFS' RESPONSE TO DEFENDANT LIQUID SERVICES AND LOGISTICS, LLC'S MOTION TO ALTER OR AMEND ORDER GRANTING PARTIAL SUMMARY JUDGMENT**

Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc.; and Plumbinator 1051, LLC (collectively, "Plaintiffs") submit this memorandum in opposition to Defendant Liquid Services and Logistics, LLC's ("LSL") motion to alter or amend the Court's order filed on May 7, 2025, granting partial summary judgment in favor of Plaintiffs ("Motion"). As explained and demonstrated below, all of LSL's allegations of error lack merit, and the motion should be denied.

## ARGUMENT

### I. The Court did not err by entering Judgment in favor of Plaintiff for the Earn-out Payment.

LSL incorrectly argues that the Court misunderstood and misstated the contractual dispute resolution mechanism applicable to the Earn-out Payment in section 3.3(b)(ii) of the APA. This section refers *only* to the "Earn-out *Calculation*," i.e., whether "LTM Revenue for the Earn-out Period exceeds the Revenue Threshold" of $1,000,000.00. (APA § 3.3(b)(i).) In this case, LSL has admitted in its discovery responses that it does, and that the Earn-out *Payment* was earned. (Plaintiffs' Suppl. Memo filed April 16, 2025, at Exh A, Req. to Admit Nos. 6 and 8.) This

admission came after years of litigation, and yet, still today, LSL resists making this payment, even though the APA provides that "such payment shall be made no later than twelve (12) months after the Closing Date in cash by wire transfer of immediately available funds . . . ." (APA § 3.3(d).)

LSL further argues that the Earn-out Payment is *not* a sum certain because *payment* of it is conditioned on and *subject to* a prior calculation of the Post Closing Adjustment.

> Logically, for the Earn-out payment to be "subject to" the Post Closing Adjustment, the Post Closing Adjustment must exist at the time the Earn-out is owed. Similarly, if the Post Closing Adjustment is not finalized, then the Earn-out payment cannot be "unquestionably a sum certain," as the Court held, because the Earn-out payment has not been reduced by the Post Closing Adjustment per the set off clause.

(LSL Motion, p. 9.)

This is a logical fallacy, because it is equally possible that the calculation of the Post Closing Adjustment could result in *an amount owed to Jordan*. In such a case, LSL's right of set-off would not exist, and could not possibly stand as a reason to delay payment of the Earn-out beyond the 12-month limit clearly stated in the APA. In fact, the only Working Capital Calculation produced by LSL in discovery, shows net working capital of $85,000.00, which would result in a Post Closing Adjustment payment to Jordan of $1,000.00. (Plaintiffs' Suppl. Memo filed April 16, 2025, at pp. 6-7.) And the *amount* of the Earn-out Payment is unquestionably a sum certain, because it is clearly stated in the APA as $882,000.00. (APA § 3.3(a).) For these reasons, LSL's proposed interpretation of the "subject to" language in section 3.3(d) of the APA is illogical and unreasonable.

To further justify its years long delay in paying the Earn-out Payment, LSL repeatedly points to its own responses to Plaintiffs' requests for admission, which were placed in evidence by the Plaintiffs, stating that "*LSL has provided Jordan with several Closing Working Capital Statements* indicating LSL's position regarding the Working Capital payment, but Jordan has refused to accept LSL's Closing Working Capital Statements." (LSL Motion, p. 9 citing Plaintiffs'



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Suppl. Memo, at Exh A, Req. to Admit Nos. 9-14 (emphasis added).) Jordan has a contractual right under the APA to object to LSL's proposed Working Capital Calculation, and he suffers no penalty for doing so. (APA § 3.2(b)(ii) ("On or prior to the last day of the Review Period, Seller [Jordan] may object to the [Buyer's/LSL] Closing Working Capital Statement . . . .")) LSL's remedy in such case is to invoke the dispute resolution procedure provided in Section 3.2(b)(iii) of the APA and allow the Independent Accountant to "resolve the Disputed Amounts only and make any adjustments to the Post-Closing Adjustment, as the case may be, and the Closing Working Capital Statement." (APA § 3.2(b)(iii).) Per the contract, the Post Closing Adjustment of Working Capital was due to be calculated and paid, on or about September 17, 2021. (LSL Motion, p. 2, 11-12.) In the many months and years since this deadline, LSL has utterly failed to invoke the contractual procedure for resolving this issue, and for this reason, if no other, it should not be allowed to continue using this issue as a reason to further delay payment of the Earn-out Payment.

In complete contradiction of its own discovery responses, LSL also argues that Plaintiffs "financial records are needed to calculate both the Post Closing Adjustment and Earn-out Payment" and that Plaintiffs have refused to provide the necessary information as required by multiple provisions of the APA. (LSL Motion, pp. 4 -5, 9, 12-13.) This assertion is completely belied by LSL's responses to the Plaintiffs' requests for admission referenced above in which LSL claims that it has *already* provided Jordan with "*<u>several</u> Closing Working Capital Statements*" that he has rejected. (Plaintiffs' Suppl. Memo filed April 16, 2025, at Exh A, Req. to Admit No. 14.) In the very same discovery responses, LSL admitted that the Earn-out Calculation demonstrated that LTM revenue exceeded $1,000,000.00, and that the Earn-out Payment was earned. (*Id*., Req. to Admit Nos 6 and 8.)



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Finally, LSL further alleges error by the Court in finding that "LSL has not identified what financial documentation or information Jordan has failed to provide or how that information is necessary for completing the Post Closing Adjustment." (LSL Motion, p. 13.) LSL's own discovery responses indicate that it has been able to produce "several Closing Working Capital Statements" so it clearly has enough information to make the necessary calculations. And other than its vague and repeated assertions that Jordan has not provided necessary information, LSL did not present by affidavit or otherwise specify any particular information which Jordan failed to provide and which prevented LSL from preparing the Closing Working Capital Statements. Rule 56(e) provides:

> When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

SCRCP 56(e). For this reason, the Court's order does not "side-step . . . genuine issues of material fact."

## II. The Court did not err by awarding prejudgment interest on the Earn-out Payment.

In its Motion, LSL argues for the first time that the APA's Earn-out section prohibits an award of prejudgment interest because it states "no interest is payable with respect to the Earn-out Payment." (APA § 3.3(f).) This argument has not been made previously, and a party cannot raise new arguments in a Rule 59(e) motion. The Rule 59(e) motion is intended for reconsideration of issues and arguments that were previously presented but not ruled on, and does not permit the introduction of new theories or arguments that could have been raised prior to the judgment. *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990).

In any event, LSL's proposed interpretation of the contract language is not reasonable in light of the business purpose of an earn-out payment. According to Google AI:

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> An earn-out payment in an asset purchase agreement is a contingent payment made to the seller, typically after the closing of the deal, based on the target company's performance. It is used to bridge valuation gaps between buyers and sellers, aligning their interests and addressing uncertainty about post-closing performance. Essentially, it allows the seller to benefit from future growth and the buyer to hedge against overpaying if the business doesn't perform as expected.

Google AI response May 29, 2025.[1]

When viewed in light of this business purpose of an Earn-out Payment, it is reasonable that the parties to the APA would agree that this sum certain would not accrue interest, but only *prior to* the date that it is due to be paid pursuant to the contract and not *after* the due date. The interpretation suggested by LSL is not reasonable because it would allow LSL to indefinitely withhold payment of the Earn-out for specious reasons without consequence or penalty, as it has clearly done in this case.

Finally, the right to prejudgment interest is a statutory right, and there is no indication in the APA or elsewhere, that the parties intended to waive this statutory right and remedy. *Keane v. Lowcountry Pediatrics, P.A.*, 372 S.C. 136, 143, 641 S.E.2d 53, 57 (Ct. App. 2007) ("The determination of the appropriateness of an award of [prejudgment] interest . . . is a question of law because the right to relief is entirely statutory.") As the Order and this memorandum explain, the situation here meets the statutory requirements for an award of prejudgment interest, and the prejudgment interest awarded by the Court does not accrue until after the date the payment was due. For this reason, it does not contravene the contractual prohibition against interest on the Earn-out Payment.

[1] In response to query: "What is the reason for an earn-out payment in an asset purchase agreement?" See also the following sources: https://www.kroll.com/en/insights/publications/expert-services/earn-outs-m-and-a-key-deal-tool-source-post-closing-disputes; https://www.thehartford.com/business-insurance/strategy/sell-a-business/earn-out-contingency-payment; https://www.bdo.co.uk/en-gb/microsites/deal-advisory-insights/insights/earnouts-everything-you-need-to-know; https://morganandwestfield.com/knowledge/earnouts/.

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## III. The Court did not otherwise err in granting judgment.

LSL argues that the Court erred by relying on inadmissible evidence and hearsay in the affidavits of Plaintiff Jordan, Ashley Hawn, and Stephen Porter, which were submitted with Plaintiffs' original motion for partial summary judgment. LSL Motion, p. 16. Even assuming, without conceding, that these affidavits are inadmissible, the Court's order does not rely on them in any respect as a basis for granting summary judgment. None of these affidavits are cited in the order other than to state that Plaintiffs submitted them in support of their motion for partial summary judgment. The findings of fact in the Order are grounded solely upon the plain language of the APA and LSL's responses to the Plaintiffs' Requests for Admission.

LSL further argues that the Court erroneously relied on an email from Darra Coleman dated May 17, 2022, for purposes of establishing the Earn-out. (LSL Motion, p. 17.) This is also inaccurate. LSL, not Plaintiffs, relied on this email to attempt to side-step its obligations under the APA and to argue that the Earn-out Payment was not yet due, despite being earned, a fact clearly admitted in LSL's responses to Plaintiffs' Request to Admit No. 8.[2] Plaintiffs, and in turn, the Court, addressed this email only to establish that LSL does not have any viable evidence to support the assertion that the Earn-out Payment was not yet due, because the email clearly does not represent an agreement between the parties to an "adjusted timeline for payment of the Earn-out." Assuming, as LSL suggests, but without conceding, that this email is "hearsay, does not meet basic authentication requirements, and thus cannot be relied on to support summary judgment,"

[2] Request to Admit No 8: "The Earn-out Payment was earned and due to be paid to Jordan by LSL on May 10, 2022.

"**RESPONSE**: Admitted that the Earn-out payment was earned, but denied that the Earn-out payment was due to be paid to Jordan by LSL on May 10, 2022, based on correspondence between the parties acknowledging an adjusted timeline for payment of the Earn-out, pursuant to the May 17, 2022, email from Stephen Porter to Darra Coleman." (Plaintiffs' Suppl. Memo filed 4/16/2025, at Exh A, Req. to Admit No. 8.)

(LSL Motion, p. 17), then Plaintiffs have submitted no evidence in support of their theory that the parties agreed to an "adjusted timeline for payment of the Earn-out" and have abandoned that argument in opposition to Plaintiffs' motion for partial summary judgment.

## CONCLUSION

For all of the reasons set forth above, this Court should deny LSL's Motion to alter or amend the Court's order of partial summary judgment filed May 7, 2025.

Respectfully submitted,

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June 2, 2025

Columbia, South Carolina



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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF RICHLAND | ) | Civil Action No. 2022-CP-40-02958 |
| | ) | |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC, | ) | |
| | ) | |
| Plaintiffs, | ) | **DEFENDANT LIQUID SERVICES AND LOGISTICS, LLC'S REPLY TO PLAINTIFFS' MEMORANDUM IN OPPOSITION** |
| | ) | |
| v. | ) | |
| | ) | |
| Liquid Services and Logistics, LLC, and Tim Freeman, | ) | |
| | ) | |
| Defendants. | ) | |
| | ) | |

Defendant Liquid Services and Logistics, LLC ("LSL"), hereby submits this Reply to Plaintiffs Michael D. Jordan and Apple Services, Inc.'s Memorandum in Opposition to Defendant LSL's Motion to Reconsider.

## REPLY ARGUMENT

### I. The Court must view all evidence in light most favorable to LSL, the nonmoving party, and the evidence raises numerous issues of fact that preclude summary judgment.

Plaintiffs Michael D. Jordan and Apple Services, Inc. ("Plaintiffs" or "Jordan") now concede that LSL's Answers to Plaintiffs' Requests to Admit are the only evidence (other than the APA) in the record to support judgment against LSL on the Earn-Out payment, plus interest, totaling $1,111,199.18. Plaintiffs' Memo in Opp at p. 6, stating: ("The findings of fact in the Order are grounded solely upon the plain language of the APA and LSL's responses to the Plaintiffs' Requests for Admission."). As a result, summary judgment must be denied because LSL's Answers raise numerous issues of fact that can only be determined by a jury and/or demand further discovery, particularly in this case where so little discovery has been completed to date. *See Baughman v. AT&T,* 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) ("[S]ummary judgment *must*

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*not be granted* until the opposing party has had a full and fair opportunity to complete discovery.") (emphasis added). When evaluating these facts, the Court is required to review the evidence in a light most favorable to LSL, the nonmoving party. *Id*. at 115, 410 S.E.2d at 545 ("[T]he evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party."). And our Supreme Court has repeatedly instructed that summary judgment is a "***drastic remedy***," *id*. (emphasis added), "***an extreme remedy***," *Holloman v. McAllister*, 289 S.C. 183, 186, 345 S.E.2d 728, 729 (1986) (emphasis added), and one that must be "***cautiously invoked*** so that no person will be improperly deprived of a trial of the disputed factual issues." *John Doe v. Batson*, 345 S.C. 316, 321, 548 S.E.2d 854, 857 (2001) (emphasis added).

Despite this strict standard, the Court here entered judgment against LSL for $1,111,199.18 based on an incomplete mathematical calculation of the Earn-out payment, which is dependent on calculating the Post Closing Adjustment of Working Capital. Although the Court correctly determined that genuine issues of material fact remain in calculating the Post Closing Adjustment of working capital adjustment, the Court still held that the Earn-out payment was a sum certain and entered judgment thereon. This was in error. In addition, Plaintiffs cannot be surprised or prejudiced that genuine issues of fact remain for trial when Plaintiffs have not taken any meaningful depositions on the very topic upon which they seeks summary judgment.

The APA has always required that the parties *jointly* agree to both the Post Closing Adjustment and Earn-out payment calculations, and if an agreement could not be reached, then the parties could jointly submit the issue to an Independent Accountant through a dispute resolution mechanism. *See* APA §§ 3.1(b)(iii); 3.3(b)(ii). But here, LSL's discovery responses denied that the Earn-out payment was due because the parties had failed to jointly agree to the Post-Closing Adjustment as required by the APA. *See* Plaintiffs' Suppl. Memo. at Exh. A, Req. to Admit Nos.

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8–10; *see also* APA §§ 3.1(b)(iii); 3.3(b)(ii). Here, the only evidence viewed in a light most favorable to LSL shows that LSL repeatedly provided Jordan with several proposed Working Capital Statements, used to calculate the Post-Closing Adjustment, and that Jordan refused to accept all of them.[1] Plaintiffs have never denied this fact, not once. And because the Earn-out payment is "subject to" LSL's contractual right to set-off any Post-Closing Adjustment owed, *id.* § 3.3(a), (d), (e), LSL has been precluded from finalizing the Earn-out payment. All of this is set forth in the record before the Court. Considering the evidence in a light most favorable to LSL, these facts alone preclude summary judgment. *See Young v. S.C. Dep't of Corr.*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999) ("Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied."); *Ray v. City of Rock Hill*, 434 S.C. 39, 45, 862 S.E.2d 259, 263 (2021) ("Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.").

Now, Plaintiffs argue that Jordan had "a contractual right under the APA to object to LSL's proposed Working Capital Calculation, and he suffers no penalty for doing so." Plaintiff Memo. in Opp., filed June 2, 2025, at p. 3. In so arguing, Plaintiffs contend that Jordan's objection to the Working Capital Statement entitles him to full payment of the Earn-out, even if it means depriving LSL of its contractual right to set-off the Earn-out with the Post Closing Adjustment. But Plaintiffs' objections do not obviate LSL's contractual right to set-off, which is intended to prevent LSL from paying more than it should. Thus, while the APA may not "penalize" Jordan for

[1] *See* Plaintiffs' Suppl. Memo. at Exh. A, Req. to Admit No. 14 ("LSL has provided Jordan with several Closing Working Capital Statements indicating LSL's position regarding the Working Capital payment, but Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement.").

objecting in good faith to the proposed Working Capital Statement, neither does it penalize LSL by stripping LSL of its contractual rights in the event Jordan objects. The Earn-out payment is contingent on setting off the Post Closing Adjustment, and LSL's right to set-off prevents overpayment on the Earn-out. Thus, to finalize the Earn-out payment, the parties *must first finalize the Post Closing Adjustment as required by the APA*, and the evidence in the record viewed in the light most favorable to LSL suggests that Jordan acted unreasonably in finalizing the Post Closing Adjustment.

The APA requires cooperation from both parties; LSL does not have authority to unilaterally approve the amounts owed under the Post Closing Adjustment or Earn-out payments. If Jordan objects to the Working Capital Statement, then the parties must jointly "negotiate in good faith to resolve such objections." APA § 3.2(b)(ii). The evidenced viewed in a light most favorable to LSL shows that LSL experienced significant difficulty negotiating with Plaintiff Jordan to finalize payments, and shockingly, Plaintiffs' response is that Jordan did not have to cooperate in the calculations. *See* Plaintiffs' Memo in Supp. of MSJ, filed April 16, 2025, at p. 6 ("[T]he APA does not require Jordan to cooperate with LSL in order to produce the Working Capital Statement."). Plaintiffs' argument is far removed from the plain language of the APA, the

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allegations in the Complaint, and the implied covenant of good faith and fair dealing applicable to all parties in a contract.[2]

Plaintiffs now blame LSL for not unilaterally invoking the dispute arbitration provision for calculating the Post Closing Adjustment, arguing that LSL should not be allowed to continue using the fact that Jordan refused to cooperate "as a reason to further delay payment of the Earn-out payment." *See* Plaintiff Memo. in Opp., filed June 2, 2025, at p. 3. Plaintiffs' argument unequivocally misrepresents the APA's plain dispute arbitration provision. *See* APA § 3.2(b)(iii). Plaintiffs state that the dispute resolution mechanism is "LSL's remedy," (*see* Plaintiffs' Memo in Opp at p. 3), which is a gross mischaracterization because *both parties* are required to invoke the dispute resolution procedure. APA § 3.2(b)(iii). LSL has no unilateral authority here. The clause states that both parties are required to participate, both parties must agree on an Independent Account, and both parties must accept the accountant's findings. *Id*. Similarly, both parties "shall negotiate in good faith to resolve any objections" with the Working Capital Statement. *See* § 3.2(b)(ii). This is not LSL's remedy; it is the *parties'* remedy.

When viewed in a light most favorable to LSL, the evidence shows that Jordan has not acted in good faith and has repeatedly rejected LSL's calculations, thus preventing the parties from

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[2] *See, e.g.*, APA § 3.1(a), Purchase Price ("***The Parties*** shall timely and properly prepare, execute, file, and deliver all such documents forms and other information ***as may reasonably be requested*** to prepare such final allocation.") (emphasis added); *id*. at § 3.2(b)(ii), Objection (requiring that "Buyer and Seller negotiate in good faith to resolve such objections" related to the Working Capital Statement); *id*. at § 6.1, Further Assurances ("***The Parties*** will execute and deliver such further documents and do such further acts and things ***as may be required to carry out the intent and purpose of this Agreement***.") (emphasis added); Compl. ¶ 17 ("[Plaintiff] Jordan's accounting records, data, and emails are ***essential to calculating funds paid for work prior to closing as well as calculations required by the Agreement***.") (emphasis added); *Hall v. UBS Fin. Servs.*, 435 S.C. 75, 94, 866 S.E.2d 337, 346 (2021) ("[W]e have repeatedly held the law implies into every contract a promise between the parties to act in good faith in executing the contract.").

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finalizing the Post Closing Adjustment and, in turn, the Earn-out payment.[3] Herein lies the problem and why additional discovery is needed to finalize the damages issue. The Court must view this evidence in a light most favorable to LSL, and for that reason, judgment is not proper at this time. Moreover, denial of summary judgment at this stage of the litigation should come as no surprise to Plaintiffs because not one deposition has been taken to develop the issues here before the Court.

## II. The phrase "subject to" as used in the Earn-out payment clause would have no purpose if not to grant LSL the contractual right to set-off the Post Closing Adjustment from the Earn-out payment.

The APA plainly states that Defendant LSL has "the right to withhold and setoff" the Post Closing Adjustment from the Earn-out payment, (APA § 3.3(e)), and it also states that the timing of payment for the Earn-out is "subject to" this right to setoff, (*id*. § 3.3(e)):

> Earn-out Payment. As additional consideration for the Acquired Assets, ***at the time provided in Section 3.3(d)***, Buyer shall pay to Seller with respect to the Earn-out Period an amount, if any (the "*Earn-out Payment*"), equal Eight Hundred Eighty-two Thousand and 00/100 Dollars ($882,000.00) so long as LTM Revenue for the Earn-out Period exceeds the Revenue Threshold….

*Id*. § 3.3(a) (emphasis added).

> Timing of Payment of Earn-out Payments. ***Subject to Section 3.3(e)***, if Buyer is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than twelve (12) months after the Closing Date….

*Id*. § 3.3(d) (emphasis added).

> Right of Set-off. Buyer ***shall have the right to withhold and set off*** against any amount otherwise due to be paid pursuant to this Section 3.3 ***by the amount of any (i) Post-Closing Adjustment*** owed to it pursuant to Section 3.2….

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[3] *See* Plaintiffs' Suppl. Memo. filed April 16, 2025, at Exh. A, Req. to Admit No. 9 ("[LSL] delivered to Jordan its calculation of the Earn-out payment including LSL's deduction of the Working Capital payment owed to it pursuant to the APA § 3.3(e), which amount Jordan repeatedly rejected while continuously refusing to cooperate with LSL to reach an agreed-upon amount.").

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*Id*. § 3.3(e) (emphasis added). For LSL to exercise its right to set-off the Earn-out payment with the Post Closing Adjustment, the Post Closing Adjustment must be known and agreed to by the parties. This is the only reasonable interpretation, because it would be impossible for LSL to exercise its right to set-off if the Post Closing Adjustment was not known at the time of the Earn-out payment.

This Court is required to interpret language in a contract using its plain and ordinary meaning,[4] and according to Webster's Dictionary, the phrase "subject to" is defined as: "affected by or possibly affected by (something)," or "dependent on something else to happen to be true."[5] Applied here, the phrase "subject to" as found in § 3.3(d), titled Timing of Payment of Earn-out Payments, can only mean that the Earn-out payment is "affected by" or "dependent on" the Post Closing Adjustment, which must be known at the time of the Earn-out payment for this language to have any effect. Any other interpretation belies commonsense and would render the language superfluous. *See Stevens Aviation, Inc. v. DynCorp Int'l LLC*, 407 S.C. 407, 417, 756 S.E.2d 148, 153 (2014) ("[A]n interpretation that gives meaning to all parts of the contract is preferable to one which renders provisions in the contract meaningless or superfluous."). This logical interpretation makes even more sense considering that the APA required the Post Closing Adjustment to be calculated and paid first, with the Earn-Out payment to be paid later. *See* APA §§ 3.2(a)(i), (ii); 3.3(d).

Plaintiffs argue that LSL's commonsense interpretation is a "logical fallacy, because it is equally possible that the calculation of the Post Closing Adjustment could result in an amount

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[4] *See, e.g.*, *Bardsley v. Gov't Emples. Ins. Co.*, 405 S.C. 68, 76, 747 S.E.2d 436, 440 (2013) ("It is a well-settled principle of contract interpretation that absent a contractual definition to the contrary, contract language is given its ordinary and plain meaning.").

[5] *Subject to*, Webster's Dictionary, https://www.merriam-webster.com/dictionary/subject%20to (last visited June 4, 2025).

owed to Jordan." Plaintiffs' Memo in Opp. filed June 2, 2025, at p. 2 (emphasis removed). Plaintiffs' argument only proves LSL's point, because even if it were possible that LSL owed Jordan a Post Closing Adjustment payment, ***the parties must still know that figure for LSL to exercise its right to set-off***. As a result, until the Post Closing Adjustment is known, the Earn-out payment cannot be a sum certain.

## III. The Court erred in awarding prejudgment interest on the Earn-out payment because such interest is precluded by the APA, and prejudgment interest is not available because the Earn-out amount has not been reduced to a sum certain.

The APA's Earn-out clause plainly states that: "The Parties hereto understand and agree that … (iii) *no interest is payable with respect to the Earn-out payment*." APA § 3.3(f)(iii) (emphasis added). The APA — including this clause — has been a part of the Court's record since the start of the case. The APA was filed as an exhibit to the Complaint and is thus incorporated into the pleadings per Rule 10(c), SCRCP, and it was also filed by Plaintiffs as an exhibit to their Motion for Summary Judgment and is part of the record there as well.

Now, Plaintiffs ask the Court to set aside the plain language of the very contract it seeks to enforce because LSL did not specifically cite to this clause during oral argument.[6] However, Plaintiffs should be prohibited at any time from seeking relief that is prohibited by the contract itself. The APA has been a part of the Court's record since Plaintiffs filed their Complaint, and Plaintiffs even included it again as an exhibit to their Motion for Summary Judgment. *See* Plaintiffs' Motion, filed Oct. 30, 2023, at Exh. 1. Thus, the APA is clearly in the Court's record,

[6] Just one day before the hearing, Plaintiffs filed a Supplemental Memorandum that introduced new evidence that had not been presented to support Plaintiffs' previously filed Motion and Amended Motion for Partial Summary Judgment. Defendant LSL requested leave from the Court to submit a responsive Memorandum of its own, but the Court entered judgment against LSL on the day of the hearing and without giving LSL the opportunity to respond to Plaintiffs' Memorandum filed the day before.



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and as such the Court may properly consider all parts of the APA — including this clause prohibiting interest on Earn-out payments — in reconsidering its decision, and reversing judgment here. *See Wise v. Wise*, 394 S.C. 591, 601, 716 S.E.2d 117, 122 (Ct. App. 2011) ("A court can take judicial notice of its own records, files, and proceedings for all proper purposes including facts established in its records."); *see also Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir.1989) ("We note that the most frequent use of judicial notice is in noticing the content of court records.").

Moreover, LSL is not raising a new issue for the first time; the issue of whether prejudgment interest was owed on the Earn-out payment was already before the Court on Plaintiffs' Motion.[7] Our Supreme Court allows a party to seek reconsideration of an issue when that party "believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Elam v. S.C. DOT*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Here, LSL contends that the Court failed to fully consider the Earn-out payment provisions that are part of the Court's record, attached as an exhibit to the Complaint and Plaintiffs' Motion for Summary Judgment. "The wisdom of giving [] courts the opportunity promptly to correct their own alleged errors is all the justification needed for the practice of freely allowing a motion for reconsideration." *Id*. (internal citations omitted).

[7] Plaintiffs' citation to *Hickman v. Hickman* is not applicable to this case because, in *Hickman*, the parties raised entirely new issues on a Motion to Reconsider. 301 S.C. 455, 392 S.E.2d 481 (1990). There, the family court issued a ruling requiring Mr. Hickman to pay his son's college expenses and dividing martial property. Later, however, Mrs. Hickman filed a Motion to Reconsider to have the court apportion Mr. Hickman's civil service retirement fund, an issue not previously raised to the court. The family court denied Mrs. Hickman's motion, holding that her renewed interest in Mr. Hickman's retirement accounts surfaced "for the first time" on her Motion to Reconsider and was improper, and the Court of Appeals affirmed. Here, however, the prejudgment interest issue was already before the Court, and LSL argued that it was improper in response to the argument raised by Plaintiffs at the hearing.

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Next, Plaintiffs cite a definition from Google AI in support of their argument that LSL's interpretation of the contract is unreasonable given the business purpose of the Earn-out payment. Plaintiffs' Memo. in Opp., filed June 2, 2025, at pp. 4–5. Specifically, Plaintiffs offer Google AI's definition as evidence of the parties' expectations regarding the Earn-out and interest payments. This Court cannot consider Google AI when interpreting the APA because such would violate South Carolina's cardinal rules for contract interpretation, which require this Court to interpret the APA based on its plain language, using the four corners of the instrument, and without extrinsic evidence that was not incorporated into the APA and that could impart an intent unexpressed when the APA was made. *See Gilstrap v. Culpepper*, 283 S.C. 83, 86, 320 S.E.2d 445, 447 (1984) ("The intention of the instrument is to be determined first from the language…. Extrinsic evidence giving the contract a different meaning from that indicated by its plain terms is inadmissible."); *Blakeley v. Rabon*, 266 S.C. 68, 72, 221 S.E.2d 767, 769 (1976) ("Words cannot be read into a contract which impart intent wholly unexpressed when the contract was executed."); *Silver v. Aabstract Pools & Spas, Inc.*, 376 S.C. 585, 591, 658 S.E.2d 539, 542 (Ct. App. 2008) ("In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument…."). Extrinsic evidence from the likes of Google AI cannot be used to define the intent of the parties or their expectations. Here, the plain, unambiguous language of the APA speaks for itself.

Next, Plaintiffs contend that they have a statutory right to prejudgment interest on the Earn-out payment, citing S.C. Code Ann. § 34-31-20(A). Yet, this claim flies directly in the face of established South Carolina law allowing parties to voluntarily limit their damages by contract. *See, e.g.*, *Maybank v. BB&T Corp.*, 416 S.C. 541, 573, 787 S.E.2d 498, 515 (2016) ("When a

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contract is entered into freely and voluntarily, contractual limitations are normally enforced. This Court has generally upheld limitations of liability and exculpatory clauses, finding they are commercially reasonable."). And in the APA, the parties agreed that "no interest is payable with respect to the Earn-out Payment." APA § 3.3(f)(iii).

The APA precludes interest on the Earn-out payment. *See* APA § 3.3(f)(iii). Even still, prejudgment interest is not proper at this time under Plaintiffs' statutory/common law argument because such interest is only allowed for claims of "liquidated damages; i.e., the sum is certain or capable of being reduced to certainty based on a mathematical calculation previously agreed to by the parties." *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 259 (2006). Here, however, the Earn-out payment is not a sum certain at this time. The mathematical calculation *agreed to by the parties in the APA* requires that the Earn-out payment be reduced by any Post Closing Adjustment owed to LSL. *See* APA §§ 3.3(a), (d), (e). Therefore, to calculate prejudgment interest on the Earn-out, the Court must first know the Post Closing Adjustment, and then it must reduce the Earn-out payment by the Post Closing Adjustment, where applicable. This is the procedure set forth in the APA, and only then will the Earn-out payment be a sum certain.

But as the Court correctly recognized in its Order, genuine issues of material fact preclude judgment on the Post Closing Adjustment, which in turn means that the Earn-out payment cannot be reduced to certainty at this time. Even in *Butler*, the case relied on by Plaintiffs, the Supreme Court affirmed an award of prejudgment interest **only after** the trial court had calculated the liquidated amount owed (the sum certain to be paid). 369 S.C. at 134–35, 631 S.E.2d at 259 ("[T]he trial court should have awarded prejudgment interest to Subcontractor *after determining the amount Contractor owed Subcontractor*.") (emphasis added). In this case, if the Court awards prejudgment interest on the Earn-out payment without first completing the mathematical equation

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agreed to by the parties in the APA, which requires reducing the Earn-out with any Post Closing Adjustment, then the Court is awarding damages on an *unliquidated* sum (a sum that is not reduced to certainty), meaning that LSL could be paying significantly more in principal and interest than it may otherwise owe to Plaintiffs. This is not proper.

## CONCLUSION

For these reasons, the Court should rescind its Order entering partial summary judgment for Plaintiffs on the Earn-out payment and interest thereon. Several genuine issues of material fact remain affecting the calculation and timing of the payment due on the Earn-out. And no pre-judgment interest may be awarded as a matter of law under the APA. As discussed above, clear, material errors of fact and law preclude judgment at this time, and the parties should be allowed to proceed with basic discovery on this issue, like deposing the named parties and key witnesses.

ROBINSON GRAY STEPP & LAFFITTE, LLC

BY: s/ Beth B. Richardson

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Columbia, South Carolina
June 6, 2025

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

---

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

William H. Seals Jr., Circuit Court Judge

---

Appellate Case No.: 2025-_____

Lower Court Case No.: 2022-CP-40-02958

---

Michael D. Jordan, Apple Services, Inc. and Plumbinator 1051, LLC .....Plaintiffs,

Of whom Michael D. Jordan and Apple Services, Inc. are ……Respondents.

v.

Liquid Services and Logistics, LLC and Tim Freeman..... Defendants,

Of whom Liquid Services and Logistics, LLC is .....Appellant.

---

**NOTICE OF APPEAL**

---

Pursuant to Rule 203 of the South Carolina Appellate Court Rules, Appellant Liquid Services and Logistics, LLC, appeals the Honorable William H. Seals Jr.'s Amended Order and Judgment dated June 12, 2025. A copy of this Order is attached as Exhibit A. Further, a copy of this Notice of Appeal is simultaneously being filed in the Court of Common Pleas for the County of Richland, and Appellant has timely served this Notice of Appeal within thirty days of receipt of the Amended Order.

Respectfully submitted,

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Lower Court Case No.: 2022-CP-40-02958
Appellate Case No.: 2024-_____

# EXHIBIT A

to

# Notice of Appeal

*June 12, 2025*
*Amended Order*

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND | FIFTH JUDICIAL CIRCUIT |
| Michael D. Jordan, Apple Services, Inc., and Plumbinator 1051, LLC,<br><br>Plaintiffs,<br><br>v.<br><br>Liquid Services and Logistics, LLC, and Tim Freeman,<br><br>Defendants. | C/A NO: 2022-CP-40-02958 |

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**AMENDED**
**ORDER GRANTING, IN PART, AND DENYING, IN PART, PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**[1]

THIS MATTER is before the Court on the Motion for Partial Summary Judgment ("Motion")[2] of Plaintiffs Michael D. Jordan ("Jordan"), Apple Services, Inc.; and Plumbinator 1051, LLC (collectively, "Plaintiffs") on their first cause of action for breach-of-contract against Defendant Liquid Services and Logistics, LLC ("LSL"). Plaintiffs' also seek an award of prejudgment interest on the amount due under the contract. The Plaintiffs' Complaint was filed on June 8, 2022.

A hearing on this Motion was held on April 17, 2025. As explained below, this Court grants Plaintiffs' Motion, in part, because there is no genuine issue of material fact as to whether

[1] The order is amended in response to the Motion to Alter or Amend filed by Defendant Liquid Services and Logistics, LLC. The motion is denied as indicated in the Court's form 4 order with the exception of the corrections made here.

[2] Plaintiffs filed the Motion for Partial Summary Judgment on October 30, 2023, Supplemental Exhibits in support of the Motion on October 31, 2023, an Amended Motion on December 1, 2023, and a Supplemental Memorandum in support of the Motion with discovery responses and other evidence on April 16, 2025. The Defendants did not submit any memoranda, affidavits, or other evidence in opposition to the Motion.

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LSL breached the contract between the parties by failing to make a required payment to Jordan within a year of the contract closing date.

## THE CONTRACT

Plaintiffs' breach-of-contract claim arises from the Asset Purchase and Sale Agreement dated May 10, 2021 between the sellers, Jordan and Apple Services, Inc., and the Buyer, LSL (the "APA").[3] Under the APA, LSL agreed to purchase certain assets of Apple Services, Inc., including its goodwill, furniture, fixtures, and equipment. As part of the purchase, LSL was required to make certain payments to Jordan under the APA, including a payment for the post-closing adjustment of working capital and an earn-out payment. Those payments are subject to certain conditions discussed below.

### A. The Post-Closing Adjustment of Working Capital.

The APA requires LSL to provide Jordan a Closing Working Capital Statement, calculating the Working Capital of the Business as of the date of Closing ("Working Capital Statement"). (*See* APA § 3.2(a)(i).) If the Working Capital exceeded $84,000.00, LSL was required to pay Jordan the amount of the difference (the "Post-Closing Adjustment"). (*Id.* § 3.2(a)(ii).) If the Working Capital was less than $84,000.00, Jordan was required to pay the difference to LSL. (*Id.*) Section 3.2(b) contains its own "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment by an "Independent Accountant." Section 3.2(a)(ii) of the APA further states the "Post-Closing Adjustment shall be paid to the applicable Party no later than thirty

[3] A copy of the APA was attached as Exhibit A to the Plaintiffs' Complaint filed on June 8, 2022. In its Answer, LSL does not contest that Exhibit A to the Complaint is a true and accurate copy of the final, fully-executed APA. See Compl. ¶ 8; Ans. of LSL ¶ 8. Plumbinator 1051, LLC was not a party to the APA.

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(30) days *after final determination of the amount* of the Post-Closing Adjustment." (emphasis added.)

**B. The Earn-Out Payment**.

Under the APA, LSL was required to and did pay a portion of the purchase price to Jordan at closing, which occurred on May 10, 2021. The remaining balance was to be paid as an earn out. (*See* APA §3.1, §3.3.) Specifically, the APA required LSL to pay Jordan an earn out of $882,000.00 (the "Earn-Out Payment") "so long as LTM Revenue for the Earn-Out Period exceeds the Revenue Threshold." (*Id.* § 3.3(a).)

The APA defines "LTM Revenue" as "the last twelve months' revenue of the [purchased] Business up to the Closing Date ***and*** for the Earn-Out Period." (*Id.* at p. A-4.) (emphasis added). The "Earn-Out Period" means "the period beginning on the Closing Date and ending on the three-month anniversary of the Closing Date." (*Id.* at p. A-2.) And the "Revenue Threshold" means $1,000,000.00. (*Id*. at p. A-6.) Thus, if the twelve month trailing gross revenue of the purchased Business exceeded $1,000,000.00 as of the Closing Date, *i.e.* May 10, 2021, ***and*** at the end of the Earn-Out Period, *i.e*. August 10, 2021, then LSL was obligated to pay Jordan the Earn-Out Payment.

Subsection 3.3(e) provides a "Right of Set-Off," whereby LSL "shall have the right to withhold and set off against" the Earn-out Payment "the amount of any (i) Post-Closing Adjustment owed to it pursuant to Section 3.2;" and (ii) the amount of any "Adverse Consequences" to which LSL may be entitled under the APA.

"Adverse Consequences" are defined in the APA as claims and resulting damages arising from (a) "misrepresentation or breach of warranty;" (b) "nonfulfillment of any covenant"; (c) any "liability or obligation of [Jordan] to any Party not being assumed by [LSL]" under the APA; and

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(d) "any liability or obligation arising out of the Business prior to the Closing, including, without limitation, the Vehicle Accident." (*See* APA §§ 3.3(e), 7.1, and p. A-1.)

Section 3.3(c) of the APA provides that LSL's "obligation to pay the Earn-out Payment" to [Jordan] "is an *independent* obligation of" LSL. And Section 3.3(d) of the APA states: "Subject to Section 3.3(e) [concerning the "Right to Set Off"], *if [LSL] is required to make the Earn-out Payment pursuant to Section 3.3(a), such payment shall be made no later than (12) months after the Closing Date*." (Emphasis added.)

## LEGAL STANDARD

### A. Summary Judgment

This Court must grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; *Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Stated another way, "summary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ." *Rothrock v. Copeland*, 305 S.C. 402, 405, 409 S.E.2d 366, 368 (1991).

Although the "evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party," *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991), "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *Kitchen Planners, LLC v. Friedman*, No. 2020-001669, 2023 WL 5420401 (S.C. Aug. 23, 2023).

Pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, "[w]hen more than one claim for relief is presented in an action, . . . the court may direct the entry of a final judgment

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as to one or more but fewer than all of the claims [] only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." *See Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 467, 570 S.E.2d 197, 200 (Ct. App. 2002) (claims are considered separate when "there is [not] a substantial factual overlap between the claim adjudged and the remaining claims.")

**B. Prejudgment Interest**

Prejudgment interest is permitted on "obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty." *Butler Contracting, Inc. v. Ct. St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258 (2006) (citing *Smith–Hunter Constr. Co. v. Hopson*, 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005)). Prejudgment interest is set by statute at an annual rate of 8.75%. S.C. Code Ann. § 34-31-20(A).

## ANALYSIS

In its responses to Plaintiffs' First Requests for Admission, LSL admitted (1) that the purchased Business exceeded the Revenue Threshold of $1,000,000.00 as of May 10, 2021, and August 10, 2021, (2) that if the Earn-out Payment is due, LSL is obligated to make such payment "no later than twelve months after the Closing Date," or May 10, 2022, and (3) that Jordan earned the Earn-Out Payment. (*See* LSL's Responses to Plaintiffs First Requests for Admissions No. 6-8). There is no dispute that LSL has not paid the Earn-Out Payment to Jordan.

As to the Post Closing Adjustment of Working Capital, there appears to be a genuine issue of disputed fact.[4] Jordan presented affidavit testimony from three witnesses at a May 9, 2022

[4] It also appears that neither party has invoked the dispute resolution mechanism provided in the APA for final determination of the Post Closing Adjustment of Working Capital.

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meeting between Jordan and representatives of LSL, including, its accounting manager, Jacob Taylor. Jordan's affidavit stated that Taylor said the Working Capital on the closing date exceeded the $84,000.00 threshold by $79,000.00. The other two witnesses' affidavits did not specify any particular amount, but did confirm Taylor's statement that the Working Capital calculation would be "to the good," i.e., in Jordan's favor.

LSL, however, claims that it has made a "good faith effort" to make the calculation, "using the information known and readily obtainable to it," and that it has provided "several Closing Working Capital Statements to Jordan" but "Jordan has refused to accept LSL's Closing Working Capital Statements or provide the required financial documentation to finalize the Statement." (*See*, LSL Responses to Plaintiff's request to admit 13-14.) LSL further argues that because the Post Closing Adjustment is a set-off to the Earn-Out Payment, the Earn-Out Payment is not yet *due*, even though LSL admits it has been *earned*. (*See generally, id*. 9-14.)

Pursuant to the APA, LSL is obligated to provide a Working Capital Statement, not later than August 19, 2021. Jordan has a contractual right under the APA § 3.2(b)(ii) to object to LSL's proposed Working Capital Calculation, and LSL was clearly able to produce "several" Working Capital Statements with the information it had. And now, almost four years later, LSL has not specifically identified what financial documentation or information Jordan has failed to provide or how that information is necessary for completing the Post Closing Adjustment. Further, LSL has failed to provide any evidence of Adverse Consequences which may provide a set-off to the Earn-Out, even though this Motion has been pending since October 30, 2023. Moreover, the discovery evidence produced by LSL to Plaintiffs included only a single-page "draft," undated spreadsheet showing "Adjusted Net Working Capital" of $85,000.00 at closing. (LSL-Defendant's Doc.

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Production-000111). If correct, this would mean a Post Closing Adjustment payment of $1,000.00 is due and owing *to Jordan from LSL*, and would result in no set-off to the Earn-out Payment.

Finally, LSL argues that the parties mutually adjusted the due-date for the Earn-Out Payment based on a May 17, 2022 email from Jordan's counsel Stephen Porter to counsel for LSL, stating "[i]t appears the working capital adjustment will take some time to calculate based on our meeting last week. However, can you provide me with a timeline for payment of the earn-out? I do not know that any of the financial information we discussed last week will impact that analysis." Clearly, this email communication does not express an agreement to extend the due date for any required payment. At most, it acknowledges some difficulty for LSL in preparing the Working Capital Statement, but nothing expressing consent to delayed payment. And in the very next sentence, Jordan's counsel asked LSL's counsel for a timeline on when the Earn-Out Payment would be paid, with the obvious understanding that it was due on May 10, 2022, and was already one-week late. Nothing in the May 17, 2022 email or other evidence in the record establishes an adjusted due date for the Earn-Out Payment. The email also appears to be a Rule 408 SCRCP communication between counsel to facilitate resolution of the dispute that has led to this litigation, and is likely not evidence in this case.

Out of an abundance of caution, the Court concludes that there remain genuine issues of material fact regarding the Post Closing Adjustment of Working Capital which prevent a grant of summary judgment on this issue. But any genuine issue of fact concerning the Working Capital Statement or any right of set-off does not prevent this Court from granting judgment in favor of Plaintiffs for LSL's failure to pay the Earn-Out Payment.

The Earn-out Payment is unquestionably a sum certain that is demandable pursuant to the APA, and LSL's obligation to pay the Earn-out Payment is "independent" of its other obligations

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in the APA. The undisputed facts and admissions of LSL clearly establish that LTM Revenue for the Earn-Out Period exceeded the Revenue Threshold and that Jordan earned the Earn-out Payment. The plain language of Section 3.3(e) of the APA provides "such payment *shall be made no later than (12) months after the Closing Date*." (Emphasis added.) In contrast, Section 3.2(a)(ii) of the APA provides that the Post Closing Adjustment of Working Capital "shall be paid to the applicable Party no later than thirty (30) days *after final determination of the amount*." (emphasis added.) The contract plainly envisions that the Earn-out Payment does not have to wait more than 12 months after the Closing Date on calculation and payment of the Post Closing Adjustment of Working Capital. And no reasonable interpretation of the APA would allow LSL to indefinitely withhold a required payment to Jordan based upon a condition, in this instance calculating and proving a possible set-off to the Earn-out Payment, that is largely within LSL's power to complete. If future proceedings in this case, or in the "Examination and Review" process for "Resolution of Disputes" regarding the Post Closing Adjustment provided in Section 3.2(b) of the APA, determine that either party owes additional money to the other, then judgment may be granted to that party, and any appropriate set-offs may be applied at that time.

Plaintiffs are thus entitled to a judgment against LSL in the amount of $882,000.00 for non-payment of the Earn-Out Payment, plus prejudgment interest at 8.75% per annum, from May 10, 2022, until the judgment is entered. This order is also without prejudice to any future motion for an award of attorney's fees pursuant to the APA.

Plaintiffs moved for partial summary judgment only as to their breach-of-contract claim against LSL. There is little, if any, and certainly no substantial, factual overlap between the breach-of-contract claim and the remaining tort and other claims Plaintiffs asserted against LSL and the individual defendant in the Complaint. For this reason, there is no just reason to delay the entry

of a final judgment for the Earn-out Payment and prejudgment interest until the entire case has concluded.

## CONCLUSION

Based on the foregoing, this Court grants entry of partial summary judgment in favor of Plaintiffs on the breach of contract claim against Defendants Liquid Services and Logistics, LLC for non-payment of the Earn-Out Payment in the amount of $882,000.00, plus prejudgment interest at 8.75% per annum, from May 10, 2022, the date the payment was due, until the date the judgment is entered, and thereafter at the judgment rate until paid in full. Through April 28, 2025, the prejudgment interest owed is $229,199.18, and the combined total owed is $1,111,199.18.

The Court further directs entry of final judgment pursuant to SCRCP 54(b).

**AND IT IS SO ORDERED.**

*[JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW]*

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Richland Common Pleas

**Case Caption:** Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

**Case Number:** 2022CP4002958

**Type:** Order/Amend

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
THE COURT OF COMMON PLEAS
C.A. NO. 2022-CP-40-02958

MICHAEL D. JORDAN, APPLE SERVICES LLC, AND PLUBINATOR 1051 LLC,

PLAINTIFFS,

vs.

LIQUID SERVICES AND LOGISTICS LLC, AND TIM FREEMAN,

DEFENDANTS.

H E A R I N G
BEFORE THE HONORABLE WILLIAM H. SEALS, JR

DATE: APRIL 17, 2025
TIME: N/A
LOCATION: SOUTH CAROLINA CIRCUIT COURT 5

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EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P R O C E E D I N G S

MR. BECKER: Your Honor, I'm James Becker with Stephen Porter. We represent the Plaintiffs, which include Michael Jordan, his former plumbing company, Apple Services Inc, and another associated company called Plumbinator 1051 LLC. We're here today on the Plaintiff's motion for partial summary judgment on the breach of contract claim in this complaint.

The motion was originally filed on October 30th, of '23, supported by three affidavits of Mr. Jordan, Ashley Hahn (phonetic), and Mr. Porter, who's on the call today. He was a witness to a pivotal meeting that occurred in the life of this case, and so we have testimony in the record from those three people. As I mentioned, we filed an amended motion on December 1st, of '23, and then we filed a supplemental motion -- memorandum in support of the motion on yesterday -- on April 16th.

That supplemental memorandum primarily submits answers to requests to admit that, since the original filing of the motion and amended motion have been received from the Defendant, Liquid Services and Logistics. Your Honor, the contract at issue in this case is an asset purchase agreement between the Plaintiffs and the Defendant. It was for the sale of Mr. Jordan's plumbing business.

The asset purchase agreement was executed by the parties

on May 10th, 2021, and there are two portions of that contract which are applicable in this motion before the Court today. The first -- first component and earn-out payment of $882,000 that was partial consideration for the purchase of the business assets that was due on the condition that the trailing 12-month revenue of the business exceeded $1,000,000, both on the date of the closing of the transaction and three months later.

If, in fact, that long-term revenue, or trailing 12-month revenue threshold was met, that $882,000 was due to be paid on the one-year anniversary of (indiscernible). The second component is a working capital adjustment. The business was sold on the presumption that there would be $84,000 in working capital of the business on the day of closing. That determination was to be made at the three-month anniversary -- excuse me, three months after the -- as of the date of closing, and paid 100 days after the closing.

If the working capital exceeded $84,000 then LSL is obligated under the AT -- APA -- Liquid Services and Logistics is obligated under the APA to pay Mr. Jordan the difference between $84,000 and whatever the working capital was on the date of closing. If it's less than $84,000 Mr. Jordan is obligated to pay that to Liquid Services and Logistics.

The -- both of these amounts, due under the contract, are subject to pre-judgment interest. The 80 -- $882,000 earn out payment is subject to pre-judgment interest under the -- the South Carolina statute providing for legal -- the legal rate of interest of 8.75 percent. It is a sum which is both demandable pursuant to the contract and liquidated in the amount. It's a flat amount of $882,000 it's demandable to be paid pursuant to the contract, so it qualifies for earning pre-judgment interest under our statute.

The working capital payment, working capital adjustment payment, is also subject to pre-judgment interest. It is pursuant to the asset purchase agreement. Interest on the working capital adjustment accrues at 12 percent per annum until paid. The -- in this case, Your Honor, Liquid Services and Logistics has admitted that the earn out payment is due. It is admitted that the trailing 12-month revenue threshold has been met. It has not made the payment. And so, there seems to be no dispute whatsoever that that is due with pre-judgment interest.

On the working capital adjustment, we put in evidence, Your Honor, of a meeting between principles of Liquid Services and Logistics and Mr. Jordan, his chief administrative assistant, and Mr. Porter, at which the accountants for Liquid Services and Logistics admitted at that meeting, the day before the earn out payment was due to

be paid, that, in fact, the working capital due to Mr. Jordan was $79,000. There is no evidence in the record to dispute that as of this date, some -- over, what is that, almost 18 months after the -- the motion for summary -- summary judgment was originally filed.

So, we would contend that we have evidence supported by three affidavits, witness testimony of the -- of the Plaintiff witnesses, excuse me, the Defendant's principal officers, I would contend that's an admission of a party opponent. It's in the record. It's undisputed. So, our position is, Your Honor, that you should enter judgment on an earn out payment of $882,000, a working capital adjustment of $79,000 with pre-judgment interest up to the date of entry of the judgment, and finally, for attorneys' fees.

The asset purchase agreement provides that in the event litigation is required for payment of the sums due under the contract that the prevailing party is entitled to attorneys' fees. We would -- Mr. Porter and I have both been working on affidavits of attorneys' fees that we can submit to the Court. Assuming you grant judgment as we request, we would submit affidavits of attorneys' fees to support an award of attorneys' fees to be added to the amount of the judgment.

Finally, we seek that you, pursuant to rule 54B, issue final judgment on the breach of contract claim for the amounts that we've requested.

THE COURT: All right.

MR. BECKER: Your Honor, I'll be happy to answer any questions you may have. Otherwise, I'll, you know, stand by while we hear from Ms. Richardson.

THE COURT: All right. Ms. Richardson, I'm ready when you are.

MS. RICHARDSON: Yes. Good morning, Judge Seals. My name is Beth Richardson, and I'm accompanied here with Cordes Kennedy today, along with also Keith Harbison, who has an ownership interest in Liquid Services and Logistics LLC, one of the Defendants named in this contract and the party to the asset purchase agreement that's at issue here today. Cordes is actually going to take over the argument today on behalf of our client, so at this time I'm going to turn it over to him.

THE COURT: All right. Mr. Kennedy.

MR. KENNEDY: Thank you, Beth. Good morning, Your Honor. Can you hear me?

THE COURT: Yes, sir.

MR. KENNEDY: Very good. Let me know if at any time there's a disruption. We all know how the IT stuff can -- can -- that can happen. But thank you for scheduling this for us. I believe you're probably in the middle of trial, so I'll be quick with my notes here. But, Your Honor, may it please the Court, summary judgment should be denied here for

a very simple reason.

The damages that have been discussed are at issue, and our appellate Courts are very clear. And I'm going to quote this for the record, South Carolina -- South Carolina law requires the jury to be the sole judge of issues of fact, including the issue of damages. That's the *Vinson versus Hartley* matter.

Your Honor, Liquid Services did not admit that payments were due. The request to admit make that clear. If you go to the request to admit that were cited by Mr. Becker as it pertains to the earn out payment, we stated that we denied that it was due on grounds that, essentially, to summarize the response, there was a lack of cooperation between the two parties and helping to understand what the post-closing workout adjustment number would be, and that number impacts what the earn out payment would be per the terms of the contract.

So, there are two damages. I do agree with Mr. Becker's analysis here. There are the two payments that we're talking about. The earn out payment and the post-closing working adjustment payment. But the post-closing adjustment, that payment comes first per the terms of the contract. And the earn out payment, which is to occur roughly, doing this from memory, eight -- eight months to a year later, that payment is subject to provisions that say that it can be set off by

the amount owed, potentially under the post-closing working capital adjustment.

To elaborate a little bit further, if Plaintiff, Michael Jordan owes money, because the post-closing workout adjustment came in below $84,000 this can be set off from the earn out amount. And so, we can't -- we can't make a final determination as to what the earn out payment is, until we first figure out what the post-closing working capital adjustment is. And to do it otherwise would be pulling the car before the horse, Your Honor.

So, the question really is, well, okay. Can you calculate the post-closing working capital adjustment? And I think the evidence is pretty clear, just looking at the face of Plaintiff's brief submitted just yesterday, that there is a question of fact as to what that number is. If you go to page seven of their brief, Your Honor, they mentioned that a preliminary statement showing what the working capital would be, showed that LSL would owe Jordan a payment of just over $1,000. That's the first estimate.

Then they discuss a meeting that took place on May 10th, of 2022, where, supposedly, Jacob Taylor, an accountant, said something to the effect of 79,000 to the good. Which they interpret that to mean that LSL owed 79,000 for the post-closing workout capital adjustment. So, here right off -- right off the bat and right off the face of the

pleading -- or the motion, excuse me, there is a difference of valuation here.

And not to mention that, Your Honor, but in Plaintiff's original motion, an affidavit was submitted by Mr. Porter, who's here with us, and that affidavit has been withdrawn since, but I did want to bring it to the Court's attention, because the very last paragraph of that affidavit, it states that -- it states that, excuse me, let me tell you what it does not state.

It does not state that comments made during that May 10th meeting were -- that the post-closing working capital adjustment was 79,000 to the good. The affidavit submitted by Mr. Porter then says, and I quote, "Some amount to the good". So, here's a third instance of where we have a difference of what that valuation may be.

And I think maybe the most telling, Your Honor, is that if you look at Exhibit B, to the most recent supplemental memorandum submitted by Plaintiff just yesterday. Here is again an email from Mr. Porter, and it's dated May 17th, 2022. Your Honor, that's a week after the meeting on May 10th, where the quote of 79,000 to the good was made. Okay? So, this email is dated a week after that, and in this email, Mr. Porter says it appears that the working capital adjustment will take some time to calculate based upon our conversations last week.

So, here's your fourth instance of well, maybe it's not 79,000 after all, because Mr. Porter's email is dated a week after that meeting, and here he is saying that it's going to take time to calculate. If the parties were on the same page and had a meeting of the minds, why would we be saying a week after that May 10th meeting, that we still need time to calculate the post-closing working capital adjustment.

The damages are at issue, Your Honor. The amount of the damages. Whether or not LSL has to pay the Plaintiff or Plaintiff has to pay LSL under the working capital adjustment provision, and again, that damages criteria comes first per the asset purchase agreement. And you must finalize what that number is before you can have an understanding of what the earn out payment would be because of the set off clause that is also in the asset purchase agreement.

So, we can't figure out the earn out amount before figuring out the post-closing working capital adjustment, and we haven't been able to do that yet because there has not been mutual cooperation amongst the parties. Your Honor, Beth Richardson and I are new to this case within the past few weeks, and we appreciate the Court entertaining to allowing us to wrap our minds around this.

But what I can tell so far, and this is the reason why I sent you these two dockets this morning. There are two companion cases here, both really arising for purposes of our

conversation. They are out of the same or similar events. There is the eviction cat -- excuse me, there's the eviction case that ends in 01360 and there is this case that ends in 02958. There has been very little to no discovery completed in this case that we're here before you about today. There has been, what I understand, to be written -- some written discovery has been exchanged, but to my knowledge and, Mr. Becker, Mr. Porter, y'all correct me if I'm wrong, I'm not aware of any deposition taking place.

MR. PORTER: There have actually been a number of depositions.

MR. KENNEDY: There have been depositions in this case? Okay. Well, we're getting our minds around that, and I haven't -- I don't have those transcripts, Your Honor. But if -- if there were depositions in this case that created a genuine issue material fact, I would expect to see those cited in the briefs and not an affidavit from the Plaintiffs himself saying what he heard.

We contend, Your Honor, that -- that probably is a hearsay affidavit. It's an out-of-court statement made that Plaintiff is advancing here in the interest of his claim, why not go take that deposition of that individual and cite to that deposition? I think that would be the more appropriate source, the more compelling source here.

But no matter, no matter, Your Honor, the issue that

gets us past summary judgment today is that the damages figure is in question. And we know that because I just highlighted the four different instances where we're trying to figure out what that number is. The post-closing working capital adjustment must be determined before you can analyze what the earn out payment would be. And again, LSL has not admitted, in the request to admit, that those payments are due. And the reason why is because we have struggled to calculate what the post-closing working capital adjustment would be.

To give you some context, it's really an aside for purpose of what the Court needs to hear in this motion, but these parties have not -- my understanding, work well together. I don't think this has anything to do with the attorneys involved. I just think this is a business dispute that's gotten personal and emotional, and there have been some roadblocks along the way, is my understanding.

Again, I'm new to the case, trying to figure it out, but we needed cooperation from the Plaintiff in order to figure out what the post-closing working capital adjustment is and we haven't gotten that. So, there is the reason for the delay. All the activity that seems to be taking place in these two cases have been focused on the eviction matter, and if you just look at the docket, you can see how much is going on there and what has taken place here.

I mean, heaven forbid, as Mr. Becker said, his motion was filed in October of '23. This case has sat stagnant while everybody has focused, seemingly, on the eviction matter. And when the eviction matter was 40 (indiscernible) and dismissed just in January of this year, here we are now turning back to this case. And, what we would request, Your Honor, is that, because of the very clear damages dispute on the face of the motion and the exhibits that Plaintiff has set forth, we just want a scheduling order in order to fully and fairly evaluate what these damages would be.

We don't want to prolong this. We understand this is -- these -- the two litigations have been going on for a while. We don't want to hold up anything, but we do think we're entitled to at least figure out what's owed. And the Court can't, with any reasonable certainty, look at the Plaintiff's pleadings that mentioned four different possible hypothetical outcomes and say, oh yeah, that's what's owed. And that's the genuine issue of material fact.

Our case law, and I know you're very familiar with the summary judgment standard, Your Honor, but I feel like I need to go into it. Under Rule 56, a party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact. Your Honor, I think their briefs create a genuine issue. It doesn't show an absence of one, it creates one.

In determining whether summary judgment is appropriate, obviously, as you know, the evidence and its reasonable inferences must be viewed in the light most favorable to LSL, the non-moving party. Disputes over facts that might affect the outcome will properly preclude the entry of summary judgment. Even if there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. That's *Young versus South Carolina Department of Corrections* Court appeals decision. In that same case, it says all ambiguities, conclusions of inferences arising from the evidence must be construed -- must be construed most strongly against the movant. That would be Plaintiff here.

There is an issue of fact about what (indiscernible) this calculation is, and we have not admitted to it being due. And you can look at our request to admit responses, because it sets it up forth. We have not admitted to it being due because we haven't been able to get cooperation from the other side in order to calculate what the first number would be, that post-closing working capital adjustment. Which then impacts the earn out payment to be paid much later.

Summary judgment requires there to be plain, palpable, indisputable facts such that reasonable minds cannot differ. I like to think I have a reasonable mind, Your Honor, but I'm

looking at the briefs filed, and I can't figure out what's what. You got an email saying that more time is needed to calculate the post-closing working adjustment figure, even though that's a week after this meeting where it was supposedly solidified, that's an issue.

We got a mix -- a difference of opinion between the affidavits that were submitted. Granted, Mr. Porter's affidavit was submitted with the original motion, and it has been withdraw -- withdrawn. But if the Court wishes to look at -- consider that, I would emphasize that he does not mention in that affidavit 79,000 to the good. He sends some number -- some amount, excuse me, to the good. Again, some amount might as well be a big question mark for us right now, and a question mark gets us past summary judgment. Even if there is no dispute as to the evidentiary facts, if there is a disagreement concerning the conclusions to be drawn, summary judgment is not proper. That's *Lanham versus Blue Cross, Blue Shield*. That's a Supreme Court decision.

Your Honor, there is a -- there's a long history here, and I'll end on this -- I want to address the pre-judgment interest argument, if I may. But I do want to -- I do want to emphasize this, Your Honor, we have been trying to get this case resolved even before Beth and I's involvement. It's my understanding that there has been numerous, numerous, numerous settlement discussions between these parties, and

for one reason or another, they just haven't been able to -- to get -- to come to a meeting of the minds there.

But the thing that's important to understand, Your Honor, is that if a judgment were entered against LSL today, that judgment -- that judgment would be subordinate to a loan to the bank. LSL, as far as we understand it, Your Honor, they're not in -- they're not in great financial condition. They're currently in forbearance, and they're trying to work out a very large loan with Academy Bank. The money just isn't there to pay a judgment of this size.

And we've had these conversations, and what my clients have done is they've spent several hours working out a payment plan, essentially, with the bank, such that the bank can get paid, and then Plaintiff here can get paid, and everybody's happy, and, you know, we can sail off into the sunset. We've gotten approval from the bank to proceed with a settlement structure, it has been advanced to Plaintiff and declined for reasons that I can't say I fully understand, but doesn't seem to be a decision based on the financial interest of Plaintiff, but it might be some of that emotional and just -- and just the tension that's built up over this just business dispute that happens between people.

Nobody -- not bad persons here. They're just business persons. And this thing's been dragging on for a while, and people are sour, and part of it wonders if that may be the

reason. But nonetheless, if a judgment is entered here, I can't -- it'll be -- it'll be hard to say that Plaintiff ever collects on it being that it would be subordinate to the bank and given LSL's financial conditions. So, we're trying our best to figure out a way to make this work, and I just want you to have that context, because of -- to understand what a judgment can mean.

But as a matter of law, Your Honor, I go back to my initial points. There are disputes of fact as to the damages and our case law is very, very clear. That issues of damages are for the jury, and I can't figure out what's what here, as far as damages based on the briefs and the exhibits that have been submitted. And we just ask that the Court would deny the motion and allow us specified time to get some discovery done so that we can figure out what that number is. And then it'll be for a jury at that point.

Regarding the pre-judgment interest, and then I'll end. I apologize for taking too much time. But regarding the pre-judgment interest, Your Honor, that -- that number -- Plaintiff is entitled to a pre-judgment interest at this time, because what our case law says is that pre-judgment interest is allowed on a claim of liquidated damages.

Liquidated damages is a sum that is, and here's the keyword, certain, or capable of being reduced to certainty based on mathematical calculation previously agreed to by the

parties. The fact that we're sitting here still wondering what the post-closing working capital adjustment number is establishes that this isn't a figure that's necessarily developed with certainty. It's not a unilateral thing that we can just figure out on our own. We need cooperation because after all, the business that we bought was the Plaintiff's business.

And so we need their assistance and help in order to figure out what the proper numbers would be. And, for one reason or another, the parties have not been able to get on the same page in figuring that out. And, because this is not a liquidated sum, ie. certain, or capable of being reduced to certainty, because here we are still asking what it is, pre-judgement interest isn't proper at this time. And, you know, it also would, kind of, from an equitable stand point, seem to not make sense to charge LSL with a lengthy, tenured, pre-judgement interest when all the parties have been focused on that eviction case and not this one.

Again, I just refer to the docket and show all the activity that's been taking place there, and what little activity is taking place here. We just need some more discovery, Your Honor, and because the damages are at issue, I think this is a pretty clear one that needs to be denied at this time. And we are working together, and I'm hoping that the parties can look forward and not to any prior conduct in

the past, but I hope we can look forward and reach a resolution that will actually be meaningful to the Plaintiff and not end up being a subordinate judgment to the bank. If you would like us to prepare a written motion and response -- a written memo response, Your Honor, to the memo filed yesterday by the Plaintiff, we'd be happy to submit that to the Court. I'll just (indiscernible) you on how you would like us to proceed there. Thank you.

THE COURT: Any reply ---

MR. BECKER: --- respond.

MR. PORTER: Sorry.

MR. BECKER: Sorry?

THE COURT: Any reply to that?

MR. BECKER: Yes, sir ---

MR. PORTER: Yes, I'll let Mr. Becker, go first, and then I had some things to say.

MR. BECKER: Your Honor, you see this pattern of seeking further discovery and delay is here before you again. It's been the same tactic every time that we've appeared before you in this case, and it's continuing today. Let me go through the points that Mr. Kennedy made. He said that there was a -- there -- the damages are at issue because of a lack of cooperation by Mr. Jordan with coming up with the working capital calculation.

There is not one single sentence in the asset purchase

agreement which obligates Mr. Jordan or Apple Services, Inc, or any other party on the Plaintiff side of this lawsuit to cooperate with them in producing the statement of working capital, here. It is solely within their control. They have sole control over all the accounting records, and it is their affirmative duty under the asset purchase agreement to produce that statement of working capital by a certain date and to call for, to either make the payment that is owed, or to ask Mr. Jordan to make the payment that he owes Liquid Services and Logistics.

We are now -- the closing was on May 10th, of 2021. They had 100 days after that to provide the working capital calculation and to demand or make payment. They have not done that, and there is no obligation whatsoever in the asset purchase agreement that Mr. Jordan is to cooperate in that process. He has no ability to cooperate because he does not have control over the accounting records, which will produce the number in question.

Also, to suggest that we have failed, we have created a (indiscernible) material fact, we produced the evidence from the meeting that occurred one day before the earn out payment was due, in which the company's opponent said on working capital, Jordan -- on earn out, that Jordan had exceeded the threshold and on working capital, that he was 79,000 to the good.

They have had 18 months now, Your Honor, almost 18 months with that issue right in front of them to conduct discovery, to question Jacob Taylor, who made the statement, to bring an affidavit from Jacob Taylor, to produce a working capital adjustment that they -- they can stand behind. They haven't done that. They wait always, until the last hour, the 11th hour, and say, "Oh, Your Honor, we need more discovery". Well, they've had years to conduct discovery, in this case, Your Honor, years to do it.

And the purpose of coming forward with a motion for summary judgment like this is to put them to the task of coming forward with their own evidence to show a genuine issue of material fact. They have not done this. They point to the preliminary statement of -- of working capital that's referenced in the affidavits. It is the exact same form statement of working capital, Your Honor, that is attached to the asset purchase agreement.

It's not anything other than showing a preliminary statement that existed as of the date of closing and showing the model for how the working capital statement would be calculated. It does not create any issue of material fact, it's the same one that was attached to the asset purchase agreement. And I can get you that. I'll find the -- the schedule number, Your Honor, and send it to you by email to demonstrate that to you. So, this creates no issue of fact.

We put forward evidence that the amount owed on working capital should be $79,000 there's no dispute as to what the earn out payment number is. The only dispute, and there's no dispute on this, were -- were the conditions satisfied for the earn out payment to be due and payable? There is no dispute about that, because they have admitted, in their requests for admit -- to admit, in their responses to that, that the threshold revenue -- threshold was met.

The money is due. We have demanded that it be paid, they have refused to pay it. There's no simpler situation here, Your Honor, where -- for determining there's no genuine issue of material fact. The agreement is plain. There's no dispute that the amount has not been paid. There's no dispute that it's owed. There are other items of set off for the earn out payment. They're called adverse consequences. They're set forth in the asset purchase agreement.

There's no evidence that any of -- that there's some set off due for any of those either. The only thing they claim there's a set off due for is working capital. Yet it's solely within their power to produce a working capital earn outs statement. And if, Your Honor, we'd be satisfied to go ahead and take summary judgment on the earn out payment, about which there can be no question, and let the working capital adjustment -- I don't think that we should be required to do this, because I think the time has come and

gone for them to demonstrate a real, genuine issue of material fact regarding working capital payment. But they haven't.

But -- but if, so as not to delay things further, I would suggest to you that we'd be willing if, if you feel, Your Honor, that there is some genuine issue of material fact there, let's just drop that from the equation, and we'll go straight with the earn out payment pre-judgment interest and attorneys' fees for which we'll submit affidavits.

I don't think there is any genuine issue of material fact, under these circumstances, there should not be. And the Court, in my view, should go ahead and grant summary judgment there. But here again, it's the same old play book, Your Honor, and we're seeing it again today. We think we've waited long enough for our judgment.

The issues the discussion about settlement discussions are really irrelevant, potentially inappropriate. That's not for the Court to decide. Is whether the parties have engaged in settlement communications or discussions or not. Our client, frankly, is tired of engaging in settlement discussions with the Defendants, and we're ready to move on. And this hearing here today, on this motion for summary judgment provides the first opportunity to do that.

THE COURT: All right. Mr. Porter?

MR. PORTER: Certainly. I'll be very brief. I just

wanted to address two topics. Number one, the affidavit that Cordes brought up. LSL's, previous counsel asked me to withdraw that affidavit to clarify any issue as to whether I'm a lawyer or a witness in this case, which I did. So, you either like it or you don't, but you don't get it both ways. I mean, they asked me to withdraw it, so I did.

That was a meeting that I was a part of. I was in and out, taking other telephone calls, dealing with other matters. You know, my recollection from the meeting is different than those that sat in the meeting the entire time, but it's withdrawn, it shouldn't be considered.

Second thing I want to address is the email that was sent following that meeting. That's an email between Counsel, you know, that was geared towards settlement resolution. It's not evidence. Your Honor, like Mr. Becker said, there's been 18 months that LSL could have raised evidence to create an issue of fact that hasn't been done in this case.

MR. BECKER: Your Honor, I'll make -- just, if I can, one comment about that -- that email he just referred to. It was to Dara Coleman (phonetic), who was the first counsel for the Defendants in this case. We're now on the third set of counsel. He says, "Dara, I hope you're doing well. It appears the working capital adjustment will take some time to calculate based upon our conversation last week. However,

can you provide me with a time line for payment of the earn out?" That's pretty clearly indicating that there was no question as to the earn out payment. That's $882,000 promised to our client that we're -- we're waiting now three years, three years for payment, almost four. I mean, that was May of 2022 -- well, three, excuse me, three years. It's almost May of 2025.

MR. KENNEDY: Your Honor, may I briefly respond?

THE COURT: Briefly.

MR. KENNEDY: Thank you. I want to share -- if I can do this successfully. Well -- I want to try and share my screen with you, Your Honor. Please let me know if you can see this. Can you see that?

THE COURT: I can.

MR. KENNEDY: Your Honor, this is Exhibit B to Plaintiff's supplemental memorandum filed yesterday. They put this into evidence. I didn't. Ms. Richardson didn't. They put this into the evidence to support their memo. First thing, look at look at the date, May 17th, 2022. The meeting where we supposedly all agreed that the post-closing working capital adjustment was $79,000, that took place a week before this email was sent. How can we justify now saying to the Court that the number is $79,000 based on that meeting, when we have this email sent a week later saying it appears that the working capital adjustment will take some time to

calculate based upon our conversations last week.

The issue that gets us past summary judgment here is simple, is that the damages are not certain. And I haven't heard a response that has overcome this. The damages are not certain. It's an issue or fact. That's the genuine issue is, what are the damages? Because the damages involved in the post-closing working capital adjustment affect the earn out payment, and thus they can't -- they're married to each other, Your Honor. They have to be considered in that -- in that light.

So, the issue that gets us past summary judgment is that the damages are not certain, and we just ask for more time to figure that out. We don't want to delay any further, Your Honor. I understand there's a history there, but it seems to me that most of these lawyers' time has been spent in the eviction case, and this one's been sitting stagnant for a while, until just recently. We would like an opportunity to do some limited discovering and get caught up ourselves, and that's all, Your Honor. Thank you.

THE COURT: Any reply to that?

MR. PORTER: Very -- very briefly. Very briefly, Your Honor. I'd simply reiterate that that was an email between Counsel following a meeting. It is not evidence. It will never be evidence in this case. Furthermore, there are no alternative numbers that have been presented. In other

words, it's one thing to say the number is not certain.

Tell us what the number is if you think it's different. That's not, you know, that -- that's what --it's -- that's what is at issue here. You know, we have produced evidence of numbers that we believe are owed. The Defendant has not produced any counter suggestion for a different number. They've simply come today and said, "Well, we're not sure what it is". We're a long way down the railroad tracks to be still saying, "Well, I don't know what the number is".

THE COURT: All right. Mr. Becker, I'll give you the last word.

MR. BECKER: Thank you. Your Honor, what is certain in this case is that $882,000 is due and owing and has not been paid. The fact of any set off, anything else, none of that changes that $882,000 is due. We can -- we can have a trial later on what the working capital adjustment is. And -- and if money is owned from Mr. Jordan to LSL, then they can have a judgment for that, and our judgments will set off at that time.

But there's no reason to delay judgment on the $882,000 which is a liquidated sum. It is a certain sum. A sum certain, according to the contract. It's due, it's payable. It has not been paid. That is what is absolutely certain here. So, if they're worried about set off, they can send us their calculation of the working capital whenever they can

put it together. And if we can't work it out, and we owe them money, or they owe us money, we can deal with it at that time, and there can be a set off at that time. Meanwhile, our client is entitled to payment in full of what he's owed for a judgment for that amount.

THE COURT: All right. Let me take it under advisement, I'll let you know something quickly.

MR. BECKER: Thank you, Your Honor.

MR. KENNEDY: Thank you.

THE COURT: Have a good day.

MR. KENNEDY: Thank you.

MS. RICHARDSON: You too.

(THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

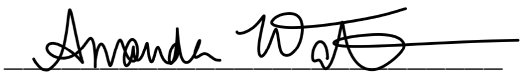
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I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



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| **To:** | Seals, William Law Clerk (Luke Rankin, Jr.) |
| **Cc:** | James Becker; Stephen Porter (Stephen@porterquinnlaw.com); Beth B. Richardson |
| **Subject:** | copies of public index (Jordan et al. v. Liquid Services et al.) (Civil Action No. 2022-CP-40-02958) (Our File No. 8645-1500) |
| **Date:** | Thursday, April 17, 2025 9:17:23 AM |
| **Attachments:** | image001.png<br>image002.gif<br>image003.jpg<br>image004.jpg<br>image005.jpg<br>image006.jpg<br>Index (APA case -02958)(39738424.1).pdf<br>Index (Eviction case -01360)(39738425.1).pdf |

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Good morning, Luke,

For the hearing today at 10am on Plaintiff's Motion for Summary Judgment, Defendant Liquid Services may refer to the Public Index for this case (-02958) and the companion Eviction case (-01360). In that event, we wanted the Court to have a copy of each Index for its review and ease of reference.

Thank you,

Cordes

Robinson Gray

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# Richland County
# Fifth Judicial Circuit
# Public Index





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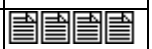
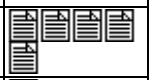
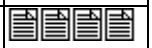
## Michael D Jordan , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

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|---|---|---|---|---|---|
| **Case Number:** | **2022CP4002958** | **Court Agency:** | **Richland County Common Pleas** | **Filed Date:** | **06/08/2022** |
| **Case Type:** | **Common Pleas** | **Case Sub Type:** | **Breach of Cont 140** | **File Type:** | **Jury** |
| **Status:** | **Pending/Business Court** | **Assigned Judge:** | **Seals, William H. Jr.** | | |
| **Disposition:** | | **Disposition Date:** | | **Disposition Judge:** | |
| **Original Source Doc:** | | **Original Case #:** | | | |
| **Judgment Number:** | | **Court Roster:** | | | |

**Case Parties** Judgments Tax Map Information Associated Cases **Actions** **Financials**

| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
|---|---|---|---|---|---|---|
| Jordan, Michael D | NEF(04-16-2025 12:17:34 PM) Memo/Memo in Support | Filing | | 04/16/2025-12:19 | | |
| Jordan, Michael D | Memo/Memo in Support of Amended Partial MSJ | Filing | | 04/16/2025-12:17 | | |
| Liquid Services And Logistics Llc | NEF(03-28-2025 03:19:41 PM) Order/Continuance | Filing | | 03/31/2025-09:30 | | |
| Liquid Services And Logistics Llc | Order/Continuance | Order | | 03/28/2025-15:19 | | |
| Liquid Services And Logistics Llc | NEF(03-28-2025 03:19:19 PM) Order/Substitution of Partie... | Filing | | 03/28/2025-15:19 | | |
| Liquid Services And Logistics Llc | Order/Substitution of Parties | Order | | 03/28/2025-15:19 | | |
| Liquid Services And Logistics Llc | NEF(03-28-2025 12:02:24 PM) Order/Order Cover Sheet $25.... | Filing | | 03/28/2025-12:40 | | |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 03/28/2025-12:02 | | |
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| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 03/25/2025-09:45 | | |
| Liquid Services And Logistics | Motion/Substitute Counsel by Consent | Motion | | 03/25/2025-09:45 | | |

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| Llc | | | | | | |
| Jordan, Michael D | NEF(05-31-2024 09:44:35 AM) Order/Case Assignment to Bus... | Filing | | 05/31/2024-09:44 | | |
| Jordan, Michael D | Order/Case Assignment to Business Court Approved | Order | | 05/31/2024-09:44 | | |
| Outten, Samuel W. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Porter, Stephen D | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Taber, Carlee Ann | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Glunt, Alexandra Cassidy | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Becker, James Y. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
| Macaulay, Angus H. | 6/10/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 05/17/2024-15:58 | | |
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| Liquid Services And Logistics Llc | Order/Scheduling Order/Trial not before June 2, 2024 | Order | | 03/13/2024-08:44 | | |
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| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 02/08/2024-16:05 | | |
| Liquid Services And Logistics Llc | NEF(01-12-2024 09:21:11 AM) Order/Scheduling Order | Filing | | 01/12/2024-09:21 | | |
| Liquid Services And Logistics Llc | Order/Scheduling Order | Order | | 01/12/2024-09:21 | | |
| Liquid Services And Logistics Llc | NEF(01-09-2024 11:24:12 AM) Proposed Order/Scheduling Or... | Filing | | 01/09/2024-11:27 | | |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 01/09/2024-11:24 | | |
| Liquid Services And Logistics Llc | NEF(12-13-2023 04:31:22 PM) Order/Withdraw | Filing | | 12/13/2023-16:31 | | |
| Liquid Services And Logistics Llc | Order/Withdraw | Order | | 12/13/2023-16:31 | | |
| Liquid Services And Logistics Llc | NEF(12-13-2023 02:24:24 PM) Proposed Order/Withdraw | Filing | | 12/13/2023-14:27 | | |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 12/13/2023-14:24 | | |
| Liquid Services And Logistics Llc | NEF(12-08-2023 03:27:26 PM) Order/Scheduling Order | Filing | | 12/08/2023-15:27 | | |
| Liquid Services And Logistics Llc | Order/Scheduling Order/Trial not before March 31, 2024 | Order | | 12/08/2023-15:27 | | |
| Jordan, Michael D | NEF(12-07-2023 09:28:48 AM) Order/Scheduling Order | Filing | | 12/07/2023-09:28 | | |
| Jordan, Michael D | Order/Scheduling Order/Trial not before July 15, 2024 | Order | | 12/07/2023-09:28 | | |
| Jordan, Michael D | NEF(12-04-2023 12:39:03 PM) Motion/Other | Filing | | 12/04/2023-12:44 | | |
| Jordan, Michael D | Motion/Protective Order | Motion | | 12/04/2023-12:39 | | |

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| Jordan, Michael D | NEF(12-01-2023 02:53:14 PM) Motion/Summary Judgment | Filing | | 12/01/2023-15:03 | |  |
| Jordan, Michael D | Amended Motion/Partial Summary Judgment | Motion | | 12/01/2023-14:53 | |  |
| Liquid Services And Logistics Llc | NEF(11-29-2023 03:30:08 PM) Motion/Withdraw | Filing | | 11/29/2023-15:46 | |  |
| Liquid Services And Logistics Llc | Motion/Withdraw | Motion | | 11/29/2023-15:30 | |  |
| Jordan, Michael D | NEF(11-08-2023 11:22:58 AM) Notice/Other | Filing | | 11/08/2023-11:56 | |  |
| Jordan, Michael D | Notice/Of Withdrawal of Exhibit C to Motion for Partial Summ | Filing | | 11/08/2023-11:22 | |  |
| Jordan, Michael D | NEF(11-02-2023 08:08:13 AM) ADR/Proof of ADR | Filing | | 11/02/2023-08:08 | |  |
| Jordan, Michael D | ADR/Proof of ADR/Impasse | Action | | 11/02/2023-08:08 | 11/02/2023-08:08 |  |
| Jordan, Michael D | NEF(10-31-2023 09:46:40 AM) Letter/Letter | Filing | | 10/31/2023-09:58 | |  |
| Jordan, Michael D | Letter/Adding Omitted Exhibits to Motion for Partial Summary | Filing | | 10/31/2023-09:46 | |  |
| Jordan, Michael D | NEF(10-30-2023 04:59:44 PM) Motion/Summary Judgment | Filing | | 10/31/2023-08:23 | |  |
| Jordan, Michael D | Partial Motion/Summary Judgment | Motion | | 10/30/2023-16:59 | |  |
| Liquid Services And Logistics Llc | NEF(10-27-2023 10:42:49 AM) Proposed Order/Scheduling Or... | Filing | | 10/27/2023-11:30 | |  |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 10/27/2023-10:42 | | |
| Jordan, Michael D | Decline to Sign:Order/Withdraw | Filing | | 08/17/2023-12:00 | | |
| Plumbinator 1051 Llc | NEF(07-31-2023 03:49:56 PM) Notice/Notice of Appearance | Filing | | 07/31/2023-15:50 | |  |
| Plumbinator 1051 Llc | Notice/Notice of Appearance | Filing | | 07/31/2023-15:49 | | |
| Jordan, Michael D | NEF(07-31-2023 01:32:06 PM) Notice/Notice of Appearance | Filing | | 07/31/2023-13:32 | |  |
| Jordan, Michael D | Notice/Notice of Appearance | Filing | | 07/31/2023-13:32 | | |
| Jordan, Michael D | NEF(07-26-2023 01:58:28 PM) Motion/Withdraw | Filing | | 07/26/2023-16:36 | |  |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/26/2023-13:58 | |  |
| Plumbinator 1051 Llc | NEF(07-18-2023 12:18:58 PM) Order/Scheduling Order | Filing | | 07/18/2023-12:19 | |  |
| Plumbinator 1051 Llc | Scheduling Order | Order | | 07/18/2023-12:18 | |  |
| Jordan, Michael D | NEF(07-14-2023 10:11:36 AM) Order/Withdraw | Filing | | 07/14/2023-10:11 | |  |
| Jordan, Michael D | Order/Withdraw | Order | | 07/14/2023-10:11 | |  |
| Jordan, Michael D | NEF(07-14-2023 08:42:52 AM) Order/Consent Order | Filing | | 07/14/2023-08:43 | |  |
| Jordan, Michael D | Consent Order to Amend Complaint | Order | | 07/14/2023-08:42 | |  |
| Jordan, Michael D | NEF(07-13-2023 09:32:50 AM) Proposed Order/Consent Order | Filing | | 07/13/2023-09:58 | |  |
| Jordan, Michael D | Order/Order Cover Sheet $25.00 | Filing | | 07/13/2023-09:32 | | |
| Jordan, Michael D | NEF(07-12-2023 03:02:57 PM) Motion/Withdraw | Filing | | 07/13/2023-09:17 | |  |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/12/2023-15:02 | |  |

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| Liquid Services And Logistics Llc | NEF(06-28-2023 10:34:04 AM) Notice/Notice of Appearance | Filing | | 06/28/2023-10:34 | |  |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 06/28/2023-10:34 | | |
| Jordan, Michael D | NEF(06-23-2023 01:17:26 PM) Amended/Amended Summons And ... | Filing | | 06/23/2023-13:28 | |  |
| Jordan, Michael D | FILED IN ERROR | Filing | | 06/23/2023-13:17 | | |
| Jordan, Michael D | NEF(03-31-2023 12:09:20 PM) Order/Case Assignment to Bus... | Filing | | 03/31/2023-12:13 | |  |
| Jordan, Michael D | Order/Case Assignment to Business Court Approved | Order | | 03/31/2023-12:09 | |  |
| Jordan, Michael D | NEF(03-30-2023 12:09:18 PM) Motion/Case Assignment to Bu... | Filing | | 03/30/2023-13:07 | |  |
| Jordan, Michael D | Motion/Case Assignment to Business Court | Motion | | 03/30/2023-12:09 | 03/31/2023-12:09 |  |
| Jordan, Michael D | ADR/Alternative Dispute Resolution (Workflow) | Action | | 01/04/2023-14:35 | 11/02/2023-14:35 | |
| Liquid Services And Logistics Llc | NEF(12-20-2022 02:15:07 PM) Order/Consent Order | Filing | | 12/20/2022-14:15 | |  |
| Liquid Services And Logistics Llc | Second Consent Order for Extension of Time | Order | | 12/20/2022-14:15 | |  |
| Jordan, Michael D | NEF(12-20-2022 02:03:58 PM) Order/Consent Order | Filing | | 12/20/2022-14:04 | |  |
| Jordan, Michael D | Order/Consent Order on Motion for a Temporary Restraining | Order | | 12/20/2022-14:03 | |  |
| Liquid Services And Logistics Llc | NEF(10-28-2022 03:57:37 PM) Answer/Answer | Filing | | 10/28/2022-16:05 | |  |
| Liquid Services And Logistics Llc | Answer/Answer of Liquid Services And Logistics Llc And Tim F | Filing | | 10/28/2022-15:57 | |  |
| Outten, Samuel W. | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Lewis, William Logan | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Macaulay, Angus H. | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Coleman, Darra James | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Porter, Stephen D | 11/9/2022_MOTION_Roster/Notice of Motions Roster Publication | Action | | 10/26/2022-10:39 | | |
| Liquid Services And Logistics Llc | NEF(10-10-2022 11:42:31 AM) Proposed Order/Consent Order | Filing | | 10/10/2022-11:52 | |  |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 10/10/2022-11:42 | | |
| Jordan, Michael D | NEF(08-26-2022 05:12:51 PM) Proposed Order/Consent Order | Filing | | 08/29/2022-13:48 | |  |
| Jordan, Michael D | Order/Order Cover Sheet $25.00 | Filing | | 08/26/2022-17:12 | | |
| Liquid Services And Logistics Llc | NEF(08-18-2022 11:11:19 AM) Order/Consent Order | Filing | | 08/18/2022-11:11 | |  |
| Liquid Services And Logistics Llc | Consent Order for Extension of Time | Order | | 08/18/2022-11:11 | |  |
| Jordan, Michael D | Decline to Sign:Order/Consent Order/Consent signatures are m | Filing | | 08/12/2022-15:35 | | |
| Liquid Services And Logistics Llc | NEF(08-10-2022 02:16:03 PM) Proposed Order/Consent Order | Filing | | 08/10/2022-15:11 | |  |

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|---|---|---|---|---|---|---|
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 08/10/2022-14:16 | | |
| Jordan, Michael D | NEF(08-08-2022 04:05:55 PM) Proposed Order/Consent Order | Filing | | 08/09/2022-10:23 | | |
| Jordan, Michael D | Order/Order Cover Sheet $25.00 | Filing | | 08/08/2022-16:05 | | |
| Jordan, Michael D | NEF(06-14-2022 01:43:06 PM) Service/Acceptance Of Servic... | Filing | | 06/14/2022-14:11 | | |
| Jordan, Michael D | Service/Acceptance Of Service on Liquid Services And Logisti | Filing | | 06/14/2022-13:43 | | |
| Jordan, Michael D | Service/Acceptance Of Service on Tim Freeman | Filing | | 06/14/2022-13:43 | | |
| Jordan, Michael D | NEF(06-13-2022 12:39:26 PM) Notice/Notice of Appearance | Filing | | 06/13/2022-12:39 | | |
| Jordan, Michael D | Notice/Notice of Appearance | Filing | | 06/13/2022-12:39 | | |
| Liquid Services And Logistics Llc | NEF(06-10-2022 03:24:54 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-15:28 | | |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 06/10/2022-15:24 | | |
| Freeman, Tim | NEF(06-10-2022 02:36:13 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-14:42 | | |
| Freeman, Tim | Notice/Notice of Appearance | Filing | | 06/10/2022-14:36 | | |
| Liquid Services And Logistics Llc | NEF(06-10-2022 01:59:15 PM) Notice/Notice of Appearance | Filing | | 06/10/2022-13:59 | | |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 06/10/2022-13:59 | | |
| Jordan, Michael D | NEF(06-08-2022 04:55:40 PM) Motion/Temporary Injunction | Filing | | 06/09/2022-08:17 | | |
| Jordan, Michael D | Motion/Temporary Injunction | Motion | | 06/08/2022-16:55 | | |
| Jordan, Michael D | Summons & Complaint | Filing | | 06/08/2022-14:35 | | |

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# Richland County
# Fifth Judicial Circuit
# Public Index






Switch View

## Plumbinator 1047 Llc , plaintiff, et al vs Liquid Services And Logistics Llc , defendant, et al

| | | | | | |
|---|---|---|---|---|---|
| **Case Number:** | 2023CP4001360 | **Court Agency:** | Richland County Common Pleas | **Filed Date:** | 03/14/2023 |
| **Case Type:** | Common Pleas | **Case Sub Type:** | Breach of Cont 140 | **File Type:** | Jury |
| **Status:** | Dismissed | **Assigned Judge:** | Clerk Of Court C P, G S, And Family Court | | |
| **Disposition:** | Dismissed per Rule 40J | **Disposition Date:** | 01/03/2024 | **Disposition Judge:** | Coble, Daniel |
| **Original Source Doc:** | | **Original Case #:** | | | |
| **Judgment Number:** | | **Court Roster:** | | | |

Case Parties | Judgments | Tax Map Information | Associated Cases | Actions | Financials

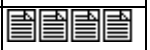
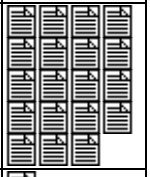
| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
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| Plumbinator 1047 Llc | NEF(01-03-2025 08:21:15 AM) Order/Dismissal Rule 40J | Filing | | 01/03/2025-08:21 | | |
| Plumbinator 1047 Llc | Order/Dismissal Rule 40J | Order | | 01/03/2025-08:21 | | |
| Plumbinator 1047 Llc | NEF(01-02-2025 02:13:15 PM) Order/Other | Filing | | 01/02/2025-14:13 | 01/03/2024-14:13 | |
| Plumbinator 1047 Llc | Order on Expedited Motions | Order | | 01/02/2025-14:13 | 01/03/2024-14:13 | |
| Plumbinator 1047 Llc | NEF(01-02-2025 09:08:08 AM) Proposed Order/Consent Order | Filing | | 01/02/2025-09:59 | 01/03/2024-09:59 | |
| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 01/02/2025-09:08 | 01/03/2024-09:08 | |
| Porter, Stephen D | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Macaulay, Angus H. | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Glunt, Alexandra Cassidy | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Becker, James Y. | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Taber, Carlee Ann | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Caskey, Mary M | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Traynham, Michael Smoak | 1/27/2025_J1_Roster/Notice of Case Roster Publication Sent | Action | | 12/27/2024-11:21 | 01/03/2024-11:21 | |
| Plumbinator 1047 Llc | NEF(12-20-2024 02:25:23 PM) Motion/Alter and/or Amend | Filing | | 12/20/2024-14:57 | 01/03/2024-14:57 | |
| Plumbinator 1047 Llc | Motion To Amend Complaint | Motion | | 12/20/2024-14:25 | 01/03/2024-14:25 | |
| Liquid Services And Logistics Llc | NEF(12-18-2024 03:31:37 PM) Motion/Protection from Disco... | Filing | | 12/18/2024-15:44 | 01/03/2024-15:44 | |

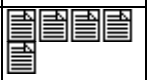
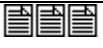
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|---|---|---|---|---|---|---|
| Liquid Services And Logistics Llc | Motion/Protection from Discovery & Objections to Requests | Motion | | 12/18/2024-15:31 | 01/03/2024-15:31 | |
| Plumbinator 1047 Llc | NEF(12-18-2024 02:19:26 PM) Motion/Temporary Injunction | Filing | | 12/18/2024-14:32 | 01/03/2024-14:32 | |
| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 12/18/2024-14:19 | 01/02/2025-14:19 | |
| Plumbinator 1047 Llc | NEF(12-12-2024 11:26:40 AM) Order/Electronic Form 4 | Filing | | 12/12/2024-11:26 | 01/03/2024-11:26 | |
| Plumbinator 1047 Llc | Electronic Form 4 Order Judge Coble is recused from this cas | Order | | 12/12/2024-11:26 | 01/03/2024-11:26 | |
| Plumbinator 1047 Llc | NEF(12-08-2024 01:14:33 PM) Order/Electronic Form 4 | Filing | | 12/08/2024-13:14 | 01/03/2024-13:14 | |
| Plumbinator 1047 Llc | Electronic Form 4 Order This case is set for a Date Certain | Order | | 12/08/2024-13:14 | 01/03/2024-13:14 | |
| Liquid Services And Logistics Llc | NEF(12-03-2024 09:54:57 AM) Memo/Memo in Opposition | Filing | | 12/03/2024-10:11 | 01/03/2024-10:11 | |
| Liquid Services And Logistics Llc | Memo/Memo in Opposition To Motion For Continuance From Decem | Filing | | 12/03/2024-09:54 | 01/03/2024-09:54 | |
| Plumbinator 1047 Llc | NEF(11-27-2024 11:33:46 AM) Motion/Continuance | Filing | | 11/27/2024-15:12 | 01/03/2024-15:12 | |
| Plumbinator 1047 Llc | Motion/Continuance | Motion | | 11/27/2024-11:33 | 01/03/2024-11:33 | |
| Porter, Stephen D | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Macaulay, Angus H. | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Traynham, Michael Smoak | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Taber, Carlee Ann | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Caskey, Mary M | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Glunt, Alexandra Cassidy | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Becker, James Y. | 12/9/2024_J1_Roster/Notice of Case Roster Publication Sent | Action | | 11/15/2024-10:00 | 01/03/2024-10:00 | |
| Liquid Services And Logistics Llc | NEF(11-04-2024 05:36:11 PM) Proposed Order/Summary Judgm... | Filing | | 11/05/2024-11:17 | 01/03/2024-11:17 | |
| Plumbinator 1047 Llc | NEF(11-04-2024 04:52:42 PM) Order/Order Cover Sheet $25.... | Filing | | 11/05/2024-11:16 | 01/03/2024-11:16 | |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 11/04/2024-17:36 | 01/03/2024-17:36 | |
| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 11/04/2024-16:52 | 01/03/2024-16:52 | |
| Liquid Services And Logistics Llc | NEF(10-23-2024 05:08:14 PM) Affidavit/Affidavit of | Filing | | 10/24/2024-08:20 | 01/03/2024-08:20 | |
| Liquid Services And Logistics Llc | Affidavit/Affidavit of Lance Luther | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Liquid Services And Logistics Llc | Affidavit/Supplemental Affidavit of Tim Freeman | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Liquid Services And Logistics Llc | Affidavit/Supplemental Affidavit of Taylor Harbison | Filing | | 10/23/2024-17:08 | 01/03/2024-17:08 | |
| Plumbinator 1047 Llc | NEF(10-17-2024 08:46:30 AM) Order/Electronic Form 4 | Filing | | 10/17/2024-08:46 | 01/03/2024-08:46 | |
| Plumbinator 1047 Llc | Form 4 This matter came before the Court on Plaintiff's Moti | Order | | 10/17/2024-08:46 | 01/03/2024-08:46 | |

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|---|---|---|---|---|---|---|
| Plumbinator 1047 Llc | NEF(10-15-2024 08:49:29 AM) Memo/Memo in Support | Filing | | 10/15/2024-09:29 | 01/03/2024-09:29 | |
| Plumbinator 1047 Llc | Memo/Memo in Support of Summary Judgement | Filing | | 10/15/2024-08:49 | 01/03/2024-08:49 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 05:02:32 PM) Transcript/Transcript of Tes... | Filing | | 10/14/2024-16:04 | 01/03/2024-16:04 | |
| Plumbinator 1047 Llc | NEF(10-14-2024 10:12:26 AM) Affidavit/Affidavit of | Filing | | 10/14/2024-13:00 | 01/03/2024-13:00 | |
| Plumbinator 1047 Llc | NEF(10-14-2024 10:52:50 AM) Affidavit/Affidavit of | Filing | | 10/14/2024-12:38 | 01/03/2024-12:38 | |
| Plumbinator 1047 Llc | Amended Affidavit of Michael D Jordan | Filing | | 10/14/2024-10:52 | 01/03/2024-10:52 | |
| Plumbinator 1047 Llc | Supplemental Affidavit of Michael D Jordan | Filing | | 10/14/2024-10:12 | 01/03/2024-10:12 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 05:28:37 PM) Memo/Memo in Opposition | Filing | | 10/14/2024-08:35 | 01/03/2024-08:35 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 05:16:39 PM) Memo/Memo in Opposition | Filing | | 10/14/2024-08:31 | 01/03/2024-08:31 | |
| Liquid Services And Logistics Llc | Memo/Memo in Opposition for Summary Judgement | Filing | | 10/11/2024-17:28 | 01/03/2024-17:28 | |
| Liquid Services And Logistics Llc | Memo/Memo in Opposition to Motion | Filing | | 10/11/2024-17:16 | 01/03/2024-17:16 | |
| Liquid Services And Logistics Llc | Transcript/Transcript of Testimony | Filing | | 10/11/2024-17:02 | 01/03/2024-17:02 | |
| Liquid Services And Logistics Llc | Transcript/Transcript of Testimony | Filing | | 10/11/2024-17:02 | 01/03/2024-17:02 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 04:37:49 PM) Affidavit/Affidavit of | Filing | | 10/11/2024-16:45 | 01/03/2024-16:45 | |
| Liquid Services And Logistics Llc | Affidavit/Affidavit of Taylor Harbison | Filing | | 10/11/2024-16:37 | 01/03/2024-16:37 | |
| Liquid Services And Logistics Llc | Affidavit/Affidavit of Tim Freeman | Filing | | 10/11/2024-16:37 | 01/03/2024-16:37 | |
| Liquid Services And Logistics Llc | NEF(10-11-2024 11:48:39 AM) Notice/Notice of Appearance | Filing | | 10/11/2024-11:48 | 01/03/2024-11:48 | |
| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 10/11/2024-11:48 | 01/03/2024-11:48 | |
| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Glunt, Alexandra Cassidy | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Becker, James Y. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Caskey, Mary M | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |

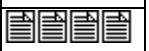
| | | | | | | |
|---|---|---|---|---|---|---|
| Caskey, Mary M | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Caskey, Mary M | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Taber, Carlee Ann | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Taber, Carlee Ann | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Taber, Carlee Ann | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Porter, Stephen D | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Macaulay, Angus H. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Macaulay, Angus H. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Macaulay, Angus H. | 10/16/2024_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 09/23/2024-15:28 | 01/03/2024-15:28 | |
| Liquid Services And Logistics Llc | NEF(08-05-2024 07:32:22 PM) Order/Continuance | Filing | | 08/05/2024-19:32 | 01/03/2024-19:32 |  |
| Liquid Services And Logistics Llc | Order/Continuance | Order | | 08/05/2024-19:32 | 01/03/2024-19:32 |  |
| Liquid Services And Logistics Llc | NEF(08-02-2024 11:44:40 AM) Motion/Continuance | Filing | | 08/02/2024-12:01 | 01/03/2024-12:01 |  |
| Liquid Services And Logistics Llc | Motion/Continuance | Motion | | 08/02/2024-11:44 | 01/03/2024-11:44 |  |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Porter, Stephen D | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Macaulay, Angus H. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Glunt, Alexandra Cassidy | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Glunt, Alexandra Cassidy | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Glunt, Alexandra Cassidy | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Taber, Carlee Ann | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Taber, Carlee Ann | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Taber, Carlee Ann | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Caskey, Mary M | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Caskey, Mary M | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Caskey, Mary M | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |

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|---|---|---|---|---|---|---|
| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Becker, James Y. | 8/7/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/22/2024-16:18 | 01/03/2024-16:18 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 03:06:12 PM) Motion/Vacate | Filing | | 06/25/2024-15:12 | 01/03/2024-15:12 | |
| Plumbinator 1047 Llc | Motion/Vacate | Motion | | 06/25/2024-15:06 | 10/17/2024-15:06 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 03:01:04 PM) Motion/Temporary Injunction | Filing | | 06/25/2024-15:03 | 01/03/2024-15:03 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 02:56:20 PM) Notice/Other | Filing | | 06/25/2024-15:03 | 01/03/2024-15:03 | |
| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 06/25/2024-15:01 | 10/17/2024-15:01 | |
| Plumbinator 1047 Llc | Notice/Of Filing | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Affidavit/Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | Filing/Exhibit 5 to Affidavit of Michael D Jordan | Filing | | 06/25/2024-14:56 | 01/03/2024-14:56 | |
| Plumbinator 1047 Llc | NEF(06-25-2024 02:12:04 PM) Motion/Summary Judgment | Filing | | 06/25/2024-14:16 | 01/03/2024-14:16 | |
| Plumbinator 1047 Llc | Motion/Summary Judgment | Motion | | 06/25/2024-14:12 | 10/17/2024-14:12 | |
| Plumbinator 1047 Llc | NEF(02-26-2024 08:51:09 AM) Reply/Reply to Counterclaim | Filing | | 02/26/2024-08:57 | 01/03/2024-08:57 | |
| Plumbinator 1047 Llc | Reply/Reply to Counterclaim | Filing | | 02/26/2024-08:51 | 01/03/2024-08:51 | |
| Liquid Services And Logistics Llc | NEF(01-22-2024 04:18:17 PM) Notice/Other | Filing | | 01/23/2024-10:50 | 01/03/2024-10:50 | |
| Liquid Services And Logistics Llc | WITHDRAWAL OF DEFENDANT'S MOTIONS, WITHOUT PREJUDICE | Filing | | 01/22/2024-16:18 | 01/03/2024-16:18 | |
| Liquid Services And Logistics Llc | NEF(01-17-2024 09:21:12 AM) Proposed Order/Continuance | Filing | | 01/17/2024-09:43 | 01/03/2024-09:43 | |
| Liquid Services And Logistics Llc | Motion/Continuance | Motion | | 01/17/2024-09:21 | 01/03/2024-09:21 | |
| Porter, Stephen D | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Porter, Stephen D | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Porter, Stephen D | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Becker, James Y. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Taber, Carlee Ann | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Taber, Carlee Ann | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Taber, Carlee Ann | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |

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|---|---|---|---|---|---|---|
| Caskey, Mary M | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Caskey, Mary M | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Caskey, Mary M | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Glunt, Alexandra Cassidy | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Glunt, Alexandra Cassidy | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Glunt, Alexandra Cassidy | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Macaulay, Angus H. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Macaulay, Angus H. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Macaulay, Angus H. | 1/23/2024_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/08/2024-14:22 | 01/03/2024-14:22 | |
| Liquid Services And Logistics Llc | NEF(12-26-2023 03:49:50 PM) Answer/Amended Answer And Co... | Filing | | 12/27/2023-10:53 | 01/03/2024-10:53 |  |
| Liquid Services And Logistics Llc | Answer/Amended Answer And Counterclaim | Filing | | 12/26/2023-15:49 | 01/03/2024-15:49 |  |
| Plumbinator 1047 Llc | NEF(12-20-2023 09:13:39 AM) Order/Consent Order | Filing | | 12/20/2023-09:13 | 01/03/2024-09:13 |  |
| Plumbinator 1047 Llc | CONSENT ORDER TO AMEND PLEADINGS | Order | | 12/20/2023-09:13 | 01/03/2024-09:13 |  |
| Plumbinator 1047 Llc | NEF(12-15-2023 02:08:56 PM) Order/Other | Filing | | 12/15/2023-14:09 | 01/03/2024-14:09 |  |
| Plumbinator 1047 Llc | Consent Order to Amend Pleadings | Order | | 12/15/2023-14:08 | 01/03/2024-14:08 |  |
| Plumbinator 1047 Llc | NEF(12-12-2023 02:31:13 PM) Order/Electronic Form 4 | Filing | | 12/12/2023-14:31 | 01/03/2024-14:31 |  |
| Plumbinator 1047 Llc | Form 4 This matter has been continued beyond this term of co | Order | | 12/12/2023-14:31 | 01/03/2024-14:31 |  |
| Liquid Services And Logistics Llc | NEF(12-12-2023 11:43:35 AM) Order/Order Cover Sheet $25.... | Filing | | 12/12/2023-14:29 | 01/03/2024-14:29 |  |
| Liquid Services And Logistics Llc | Order/Order Cover Sheet $25.00 | Filing | | 12/12/2023-11:43 | 01/03/2024-11:43 | |
| Liquid Services And Logistics Llc | NEF(12-11-2023 11:59:43 AM) Letter/Letter | Filing | | 12/11/2023-12:10 | 01/03/2024-12:10 |  |
| Liquid Services And Logistics Llc | Letter/Submitting Corrected Exhibit B to Moton for TRO | Filing | | 12/11/2023-11:59 | 01/03/2024-11:59 |  |
| Plumbinator 1047 Llc | NEF(12-06-2023 05:36:22 PM) Notice/Other | Filing | | 12/07/2023-08:19 | 01/03/2024-08:19 |  |
| Plumbinator 1047 Llc | NEF(12-06-2023 05:00:52 PM) Memo/Memo in Opposition | Filing | | 12/07/2023-08:15 | 01/03/2024-08:15 |  |
| Plumbinator 1047 Llc | Notice/Of Filing | Filing | | 12/06/2023-17:36 | 01/03/2024-17:36 |  |
| Plumbinator 1047 Llc | Affidavit/Affidavit of Michael Jordan | Filing | | 12/06/2023-17:36 | 01/03/2024-17:36 |  |
| Plumbinator 1047 Llc | Memo/Memo in Opposition to Motion to Quash | Filing | | 12/06/2023-17:00 | 01/03/2024-17:00 |  |
| Plumbinator 1047 Llc | NEF(12-01-2023 12:36:47 PM) Notice/Notice of Appearance | Filing | | 12/01/2023-12:37 | 01/03/2024-12:37 |  |

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|---|---|---|---|---|---|---|
| Plumbinator 1047 Llc | Notice/Notice of Appearance | Filing | | 12/01/2023-12:36 | 01/03/2024-12:36 | |
| Porter, Stephen D | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Porter, Stephen D | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Porter, Stephen D | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Porter, Stephen D | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Macaulay, Angus H. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Macaulay, Angus H. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Macaulay, Angus H. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Macaulay, Angus H. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Becker, James Y. | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Glunt, Alexandra Cassidy | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Taber, Carlee Ann | 12/12/2023_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/28/2023-16:32 | 01/03/2024-16:32 | |
| Liquid Services And Logistics Llc | NEF(11-27-2023 06:04:47 PM) Motion/Temporary Injunction | Filing | | 11/28/2023-08:35 | 01/03/2024-08:35 |  |
| Liquid Services And Logistics Llc | Motion/Temporary Injunction | Motion | | 11/27/2023-18:04 | 01/22/2024-18:04 |  |
| Liquid Services And Logistics Llc | NEF(11-21-2023 11:46:15 AM) Motion/Alter and/or Amend | Filing | | 11/21/2023-11:54 | 01/03/2024-11:54 |  |
| Liquid Services And Logistics Llc | Motion/Alter and/or Amend Answer | Motion | | 11/21/2023-11:46 | 01/22/2024-11:46 |  |
| Liquid Services And Logistics Llc | NEF(11-10-2023 02:33:46 PM) Motion/Compel | Filing | | 11/13/2023-08:31 | 01/03/2024-08:31 |  |
| Liquid Services And Logistics Llc | Motion/Compel | Motion | | 11/10/2023-14:33 | 01/22/2024-14:33 |  |
| Liquid Services And Logistics Llc | NEF(11-10-2023 01:26:29 PM) Notice/Notice of Appearance | Filing | | 11/10/2023-13:26 | 01/03/2024-13:26 |  |

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| Liquid Services And Logistics Llc | Notice/Notice of Appearance | Filing | | 11/10/2023-13:26 | 01/03/2024-13:26 | |
| Plumbinator 1047 Llc | NEF(11-02-2023 08:09:12 AM) ADR/Proof of ADR | Filing | | 11/02/2023-08:09 | 01/03/2024-08:09 |  |
| Plumbinator 1047 Llc | ADR/Proof of ADR/Impasse | Action | | 11/02/2023-08:09 | 11/02/2023-08:09 |  |
| Plumbinator 1047 Llc | ADR/Alternative Dispute Resolution (Workflow) | Action | | 10/10/2023-12:43 | 11/02/2023-12:43 | |
| Plumbinator 1047 Llc | NEF(09-11-2023 04:34:38 PM) Order/Withdraw | Filing | | 09/11/2023-16:34 | 01/03/2024-16:34 |  |
| Plumbinator 1047 Llc | Order/Withdraw | Order | | 09/11/2023-16:34 | 01/03/2024-16:34 |  |
| Plumbinator 1047 Llc | NEF(08-21-2023 12:55:08 PM) Proposed Order/Withdraw | Filing | | 08/21/2023-12:58 | 01/03/2024-12:58 |  |
| Plumbinator 1047 Llc | Order/Order Cover Sheet $25.00 | Filing | | 08/21/2023-12:55 | 01/03/2024-12:55 | |
| Plumbinator 1047 Llc | Decline to Sign:Order/Withdraw | Filing | | 08/17/2023-12:03 | 01/03/2024-12:03 | |
| Plumbinator 1047 Llc | NEF(07-31-2023 04:25:55 PM) Notice/Notice of Appearance | Filing | | 07/31/2023-16:26 | 01/03/2024-16:26 |  |
| Plumbinator 1047 Llc | Notice/Notice of Appearance | Filing | | 07/31/2023-16:25 | 01/03/2024-16:25 | |
| Plumbinator 1047 Llc | NEF(07-26-2023 02:03:01 PM) Motion/Withdraw | Filing | | 07/26/2023-16:37 | 01/03/2024-16:37 |  |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/26/2023-14:03 | 09/11/2023-14:03 |  |
| Plumbinator 1047 Llc | NEF(07-13-2023 02:22:38 PM) Order/Withdraw | Filing | | 07/13/2023-14:22 | 01/03/2024-14:22 |  |
| Plumbinator 1047 Llc | Order/Withdraw | Order | | 07/13/2023-14:22 | 01/03/2024-14:22 |  |
| Plumbinator 1047 Llc | NEF(07-12-2023 11:20:02 AM) Motion/Withdraw | Filing | | 07/12/2023-14:34 | 01/03/2024-14:34 |  |
| Jordan, Michael D | Motion/Withdraw | Motion | | 07/12/2023-11:20 | 07/13/2023-11:20 |  |
| Apple Services Inc | NEF(06-29-2023 02:12:09 PM) Amended/Amended Summons And ... | Filing | | 06/29/2023-14:28 | 01/03/2024-14:28 |  |
| Apple Services Inc | Amended/Amended Summons And Complaint | Filing | | 06/29/2023-14:12 | 01/03/2024-14:12 |  |
| Apple Services Inc | Add Party to Case | Filing | | 06/29/2023-14:12 | 01/03/2024-14:12 | |
| Plumbinator 1047 Llc | NEF(06-23-2023 10:24:49 AM) Order/Amend | Filing | | 06/23/2023-10:25 | 01/03/2024-10:25 |  |
| Plumbinator 1047 Llc | Order/Amend Complaint | Order | | 06/23/2023-10:24 | 01/03/2024-10:24 |  |
| Plumbinator 1047 Llc | NEF(06-14-2023 01:09:52 PM) Motion/Alter and/or Amend | Filing | | 06/14/2023-15:14 | 01/03/2024-15:14 |  |
| Plumbinator 1047 Llc | Motion/Alter and/or Amend | Motion | | 06/14/2023-13:09 | 06/23/2023-13:09 |  |
| Plumbinator 1047 Llc | NEF(05-15-2023 05:02:25 PM) Motion/Quash | Filing | | 05/16/2023-08:27 | 01/03/2024-08:27 |  |
| Plumbinator 1047 Llc | Motion/Quash | Motion | | 05/15/2023-17:02 | 12/08/2023-17:02 |  |
| Plumbinator 1047 Llc | NEF(05-03-2023 04:38:23 PM) Order/Consent Order | Filing | | 05/03/2023-16:38 | 01/03/2024-16:38 |  |
| Plumbinator 1047 Llc | Order on Motion of the Plaintiff for Temporary Relief | Order | | 05/03/2023-16:38 | 01/03/2024-16:38 |  |
| Liquid Services And Logistics Llc | NEF(05-03-2023 04:18:54 PM) Answer/Answer | Filing | | 05/03/2023-16:26 | 01/03/2024-16:26 |  |
| Liquid Services And Logistics Llc | Answer/Answer of Liquid Services And Logistics Llc | Filing | | 05/03/2023-16:18 | 01/03/2024-16:18 |  |
| Plumbinator 1047 Llc | NEF(04-25-2023 10:21:18 AM) Motion/Temporary Injunction | Filing | | 04/25/2023-10:57 | 01/03/2024-10:57 |  |
| Plumbinator 1047 Llc | Motion/Temporary Injunction | Motion | | 04/25/2023-10:21 | 05/03/2023-10:21 |  |

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| **Plumbinator 1047 Llc** | **Notice/Notice of Appearance** | **Filing** | | **04/25/2023-10:21** | **01/03/2024-10:21** | |
| **Liquid Services And Logistics Llc** | **NEF(04-13-2023 10:31:28 AM) Notice/Notice of Appearance** | **Filing** | | **04/13/2023-10:31** | **01/03/2024-10:31** |  |
| **Liquid Services And Logistics Llc** | **Notice/Notice of Appearance** | **Filing** | | **04/13/2023-10:31** | **05/03/2023-10:31** | |
| **Plumbinator 1047 Llc** | **Summons & Complaint** | **Filing** | | **03/14/2023-12:43** | **01/03/2024-12:43** |  |

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