

STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

PERFORMANCE AGREEMENT




This Performance Agreement (the "Agreement") is made effective February, 21 2020 (the "Effective Date"), by and among LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC., a Texas nonprofit corporation (hereinafter referred to as "LEDA"); PIONEER HI-BRED INTERNATIONAL, INC., an Iowa corporation (hereinafter referred to as "Pioneer" or "Recipient") and PDC LUBBOCK GD, LLC, an Iowa limited liability company (hereinafter referred to as "Developer"), by and through their duly authorized officers and affiliate organizations under the terms and conditions that follow.

1. **Applicable Law:** It is understood by and between the parties that the term "Act" as used herein, is intended to mean the Development Corporation Act of 1979, as amended. (Sec 501.001 et seq, Texas Local Government Code, formerly Sec 5190.6, VACS.) The parties hereto covenant and agree to comply with the terms of the Act as set forth in this Agreement.

2. **Parties:**

- A. LEDA, a Texas non-profit corporation as well as a tax exempt 501(c)(4) entity, was created by the City of Lubbock, Texas, as an Industrial Development Corporation under the Act for the purpose of creating and retaining positions and encouraging new businesses to be established in Lubbock, Texas, to stimulate business and commercial activities, as well as all other purposes allowed by the Act.
- B. Developer is willing to cause the substantial new construction of a research and development facility within certain Property located in the Lubbock Railport with a total capital investment estimate of \$5,062,000.00, excluding Target Annual Compensation and Recipient will cause approximately two (2) new Primary Jobs (as such term is defined in the Act) in the City of Lubbock, with a Target Annual Compensation of \$135,000.00 in the aggregate or a total of \$675,000.00 over five (5) years (the "Project").
- C. Developer will be the owner of the real property located in the Lubbock Railport as more particularly described in Exhibit A attached hereto and made apart hereof (the "Property") and Recipient shall operate its business at the research and development facility on the Property upon substantial completion of construction, which is planned for December 31, 2021, in connection with a Lease between Developer and Recipient dated March, 2020 (the "Lease") which, in turn, will lead to greater employment within the City of Lubbock.

3. **Purpose:** The purpose for this Agreement is to formalize the agreements among LEDA, Recipient, and Developer for the conveyance of certain real property and the payment of certain costs associated with the Project and specifically state the covenants, representations of the parties, and the incentives associated with Recipient and Developer's commitment to abide by the

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provisions of the Act and to abide by the terms of this Agreement which has been approved by the Board of Directors of LEDA as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by Recipient or Developer, as applicable, may constitute a breach of this Agreement, with the consequence of such breach being governed by Section 10 herein.

4. Definitions:

- A. The "Act" shall refer to the Development Corporation Act of 1979, as amended, as Sec. 501.001 *et seq*, Texas Local Government Code, formerly Sec. 5190.6, VACS.
- B. The "Developer" shall refer to PDC Lubbock GD, LLC, an Iowa limited liability company and its successors and assigns.
- C. "LEDA" shall refer to Lubbock Economic Development Alliance, Inc., a Texas non-profit corporation created by the City of Lubbock as an "Industrial Development Corporation" pursuant to the Act.
- D. "Recipient" shall refer to Pioneer Hi-Bred International, Inc., an Iowa corporation and its successors and assigns.
- E. "Project" shall mean the project identified in Paragraph 2(B) above.
- F. "Full-Time Employee" shall include individuals employed by Recipient in the City of Lubbock in "Primary Jobs" as defined by the Act, as well as contract or leased individuals performing "Primary Jobs" in the City of Lubbock on behalf of Recipient.
- G. "Target Job Positions" means the 2 new Full-Time Employees in Primary Jobs to be created by Recipient in connection with the Project.
- H. "Term," as used herein, shall begin on the Effective Date and end 10 years from the date of conveyance of the land, unless earlier terminated in accordance with the terms of this Agreement.
- I. "Baseline Employment Level" is defined to mean the employee census on the date preceding the Term of this Agreement, not to include the Target Primary Job as defined by the Performance Agreement between LEDA, Developer and Recipient dated April 24, 2019.
- J. "Census" is defined as a compilation listing of unique identification numbers representing each employee, base pay, and indication of full-time or part-time status. No personally identifiable employee information will be required by LEDA's accountants or LEDA. Such information is preferred to be presented in Excel format which shall be made available to LEDA's accountant performing the review.
- K. "Measurement Date" shall mean the date upon which the determination is made as to whether Recipient is in compliance with creating and/or maintaining the Target Job

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Positions. Full-Time Employees must be employed as of the Measurement Date. If an employee has been laid off but paid through the Measurement Date, his employment will not be counted. Measurement Dates shall be:

- (1) Year One: one calendar year following the issuance of the City of Lubbock Certificate of Occupancy for the Project, provided to LEDA.
- (2) Year Two: one calendar year following Year One
- (3) Year Three: one calendar year following Year Two
- (4) Year Four: one calendar year following Year Three
- (5) Year Five: one calendar year following Year Four

- L. "Layoff" is defined as an event, due to adverse or change business conditions, that results in the loss of employment and shall exclude loss of employment due to a casualty at the Project if the Developer chooses to rebuild the Project.
- M. "Payback Provision" shall mean the payment obligations as described in Section 11 herein.

5. Representations:

- A. Representations of Recipient. Recipient makes the following representations:
- i. Recipient represents that it is an Iowa corporation and is authorized to do business in Texas and has the authority to enter into this Agreement.
 - ii. Recipient represents that it has conferred with attorneys of its own choosing and is fully knowledgeable of the terms of the Act and understands the reporting requirements of the Act, (including the Payback Provisions).
 - iii. Recipient understands and agrees that any variations as to any term of this Agreement or any terms or conditions of the incentives as stated must be mutually agreed to in written supplements or addenda since no oral agreements, amendments, or representations will be binding on either party.
 - iv. Recipient represents that it has sought from LEDA economic assistance pursuing the Project.
- B. Representations of Developer. Developer makes the following representations:
- i. Developer represents that it is an Iowa limited liability company and is authorized to do business in Texas and has the authority to enter into this Agreement.
 - ii. Developer represents that it has conferred with attorneys of its own choosing and is fully knowledgeable of the terms of the Act applicable to the Property.
 - iii. Developer understands and agrees that any variations as to any term of this Agreement or any terms or conditions of the incentives as stated must be mutually agreed to in written supplements or addenda since no oral agreements, amendments, or representations will be binding on either party.
 - iv. Developer represents that it has sought from LEDA economic assistance

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pursing the Project.

6. **Representations by LEDA:**

- A. LEDA represents that it is established as an Industrial Development Corporation under the Act and further represents that the Project and the costs applied toward the Project as stated in this Agreement have been found by the Board of Directors of LEDA sitting as fact finders to be in compliance with the requirements and purposes of the Act, the provisions of LEDA's charter, as well as for the benefit of the City of Lubbock, Lubbock County, Texas, and trade area.
- B. LEDA represents that it has authority to enter into this Agreement. LEDA understands and agrees that any variation in terms of this Agreement or the incentives offered to Recipient and Developer or commitment by Recipient and Developer will only be binding if mutually agreed to in writing.
- C. LEDA represents that the grant and conveyance of the Property for no monetary consideration and the application of any incentives towards the Project are lawful and enforceable transactions under all applicable laws.
- D. LEDA represents and warrants that all utilities (water, gas, electric, sewer, fiber optics, telephone, etc.) in quantity are sufficient to support the Project, including Recipient business operations, and are or will be provided adjacent to the Property to be occupied by Recipient no later than the date that Developer commences installing the utility laterals to the facilities.
- E. LEDA represents and warrants that all of the public roads providing access to the Property from and to the main public street/road arterials are or will be completed on or before the substantial completion date of construction of the facilities for the Project.
- F. LEDA represents and warrants to Developer and Recipient that there will not be any assessments or levies against the Property and/or Recipient or Developer for any roads, utilities or other business park infrastructure that is in place or is to be developed/constructed in connection with the original development improvements for the Lubbock Railport.

7. **Conveyance of Real Property:**

- A. LEDA shall convey the Property by Special Warranty Deed (the "Warranty Deed") title to the SURFACE ESTATE subject to Permitted Exceptions as defined in the Purchase and Sale Agreement on the terms and conditions set forth in the Purchase and Sale Agreement attached hereto as **Exhibit B** ("Purchase and Sale Agreement").
- B. It is agreed that Recipient intends for the acquisition and development of the Property to be by Developer and that the Developer will construct the improvements on the Property and lease the Property and improvements to Recipient for a period of ten

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(10) years beginning on substantial completion of the Project pursuant to the Lease (the "Initial Lease Term"). Before Developer closing on the Purchase and Sale Agreement, LEDA shall be furnished with a signed acknowledgement from Developer that Recipient and Developer have entered into a binding Lease for the Initial Lease Term.

- C. The Property will be conveyed subject to the following right of reversion, to be included in the Warranty Deed:

It is expressly agreed that if Grantee fails to commence site development activities on the Property within 180 days after the Effective Date of this Special Warranty Deed or commence building the Project as defined in the Performance Agreement within one year from the Effective Date of this Special Warranty Deed, subject to any delays caused by Grantor or any force majeure event, and thereafter pursue construction of the facility in a commercially reasonable manner to substantial completion, as reflected by the issuance of a Certificate of Occupancy from the City of Lubbock, Texas, within twenty-four (24) months after the recording date of this Special Warranty Deed, then Grantor shall have the right to enter and take back possession of the Property.

The Property also will be conveyed subject to The Amended Declaration of Protective Covenants of the Lubbock Railport and The Second Amended Declaration of Protective Covenants of the Lubbock Railport recorded at the Official Public Record of Lubbock County, Texas ("Restrictions of Lubbock Railport"). Recipient, Developer, and their successors in interest, if any, in their respective capacities, shall comply with such covenants, Restrictions of Lubbock Railport in respect of their use and enjoyment of the Property.

- D. The value of the Property at the time of conveyance from LEDA to Developer is stipulated to be \$146,362 (\$60,984.00 for each full acre) of land. It is acknowledged and agreed that, except for Payback Provisions set forth in Section 11 of this Agreement, no purchase price shall be required to be paid for the Property and the Property will be conveyed to Developer for no monetary consideration.
- E. LEDA agrees to deliver to Developer, within ten (10) days of the date of this Agreement, copies of surveys, title reports and policies, of any kind or nature relating to the Property that LEDA has in its possession.
- F. Developer's obligations under this Agreement (and the acquisition of the Property) shall be expressly conditioned upon the provisions in the Purchase and Sale Agreement. In order for Developer to exercise Developer's right to terminate this Agreement pursuant to any of the following conditions, Developer must provide LEDA with written notification of Developer's intent to terminate this Agreement during the period commencing on the Effective Date of this Agreement and continuing until thirty days after the Effective Date (the "Due Diligence Period"). If Developer delivers a timely written notice to LEDA pursuant to any of the conditions outlined in this Section, Developer's obligations under this Agreement shall be terminated and this Agreement shall have no further force and effect.

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8. Capital Incentive to be Awarded and Terms of Award:

- A. LEDA agrees to pay to Recipient a \$250,000 Capital Investment Grant for the purchase and installation of equipment inside the building built on the Property by the Developer.
- B. Upon verification through copies of invoices, purchase orders and proof of payment for the personal property and equipment in the building for an amount equal to or greater than ~~2,000~~^{ML} the Capital Investment Grant is to be paid over 5 years in the following manner:
- a. \$50,000 upon receipt by LEDA of the verification of the personal property and equipment being placed in service at the Project;
 - b. \$50,000 one year following the first payment;
 - c. \$50,000 one years following the second payment;
 - d. \$50,000 one year following the third payment; and
 - e. \$50,000 one year following the fourth payment.

9. AS IS PROVISION. The Warranty Deed shall include the following "as-is" provision:



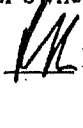
THIS CONVEYANCE IS AN ARMS-LENGTH CONVEYANCE BETWEEN THE PARTIES. THE CONVEYANCE WAS BARGAINED ON THE BASIS OF AN AS IS, WHERE IS TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY STATED IN THIS DEED AND LEDA'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE PERFORMANCE AGREEMENT BETWEEN THE PARTIES ("PERFORMANCE AGREEMENT").

EXCEPT FOR THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY STATED IN THIS DEED AND LEDA'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE PERFORMANCE AGREEMENT, THE PROPERTY IS CONVEYED TO GRANTEE IN AN AS IS, WHERE IS CONDITION, WITH ALL FAULTS. ALL WARRANTIES ARE DISCLAIMED, EXCEPT THE SPECIAL WARRANTY OF TITLE TO THE REAL PROPERTY IN THIS DEED AND LEDA'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THE PERFORMANCE AGREEMENT.

GRANTEE SPECIFICALLY ACKNOWLEDGES THAT BY ACQUIRING THE PROPERTY, GRANTEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM LEDA, ITS AGENTS, OR BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY, OTHER THAN THOSE SET FORTH IN THE PERFORMANCE AGREEMENT.

10. Conditions for Payment of Incentives: It is specifically agreed and understood by and between the parties that LEDA has agreed to make the project incentive payments available strictly upon the following terms and conditions:

- A. Once LEDA receives an acknowledgment from Developer that the new construction of a research and development facility in the Property is substantially complete and the Initial Term under the Lease has commenced, Recipient will maintain a business location (whether owned in fee title or leasehold interest) in the City of Lubbock or

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Lubbock County and must maintain its legal status under federal and state law such that it remained qualified to do business in the State of Texas until termination of the Agreement.

- B. During the Term, Recipient and Developer, at such time as each party has possession and control of the Property the operations or activities of Developer or Recipient and its employees shall be performed and conducted in a businesslike manner and shall be in keeping (in all material respects) with federal and state laws and regulations, and any ordinances of the City of Lubbock and/or governmental entities which have jurisdiction over Developer's or Recipient's operations and activities relating to the Project.
- C. Recipient and Developer certify that they do not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, either Recipient or the Developer is convicted of a violation under 8 U.S.C. §1324a(f), the party so convicted shall repay the public subsidy provided under this Agreement, with interest at the legal pre-judgment interest rate, with attorney's fees, not later than the 120th day after the date LEDA notifies the party so convicted of the violation, all in accordance with Chapter 2264 of the Texas Government Code.
- D. During the Term, LEDA's accountants may engage in a confidential review of relevant material records at the Property to confirm Recipient's compliance with this Agreement. LEDA's accountants will only have access to those records reasonably necessary to confirm such compliance, excluding any of Recipient's business confidential information or personally identifiable information of its employees. Within fifteen (15) business days after written notice from LEDA's accountants, Recipient agrees to provide LEDA's accountants access to conduct a confidential review as set forth in this subsection D.

11. **Payback Provisions, Opportunity to Cure and Events of Default:**

- A. Recipient and Developer have entered into a Lease for the Property having an Initial Lease Term of ten years commencing on the substantial completion of the research and development facilities and improvements. LEDA acknowledges that this Agreement will be effective prior to Recipient's occupancy of the Property. Recipient will not occupy the Property until commencement of the Initial Term of the Lease and this period of vacancy during which no business operations will commence and no Primary Jobs will be created by Recipient shall not be deemed to be a default under this Agreement. The period beginning on the Effective Date of this Agreement until the commencement of the Initial Term of the Lease shall be described as the "Vacant Period".
- B. Developer and Recipient acknowledge that LEDA, Developer, and Recipient are required to remain in conformance with the statutory provisions of the Act. The parties hereto agree that in the event Developer or Recipient fail to comply with the

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provisions of this Agreement, including but not limited to Paragraphs 5, 7 and 8, LEDA shall provide Developer and Recipient an opportunity to cure any default under this Agreement. The party in breach of this Agreement shall be referred to as the "breaching party" and the party in compliance with this Agreement shall be known as the "non-breaching party." If, after written notice is provided by LEDA to the breaching party (with a copy to the non-breaching party), and the breaching party fails to cure the violation for a period of sixty (60) days after written notice is provided, provided that if such violation can be cured but is not capable of being cured within said sixty (60) day period, the breaching party shall not be in default hereunder so long as the breaching party commences curative action within such sixty (60) day period, diligently and continuously pursues the curative action and fully and completely cures the violation within ninety (90) days after written notice is delivered to the breaching party (the "Cure Period"), then LEDA, in its reasonable sole discretion, may terminate this Agreement.

C. **Conditions for Grant of Land; Remedies.** The intent of the grant of the Property is to attract and keep Recipient in the Lubbock Railport. If for any reason Recipient is not able to meet the Target Job Positions set forth in Section 10(C)(1)(a) below and Recipient fails to cure a breach during the Cure Period in accordance with Section 10(B) above, then LEDA is obligated to recover for the taxpayers of Lubbock, Texas the proportionate value of the Property. LEDA's sole remedy against Recipient shall be as follows:

1. a) Recipient has provided to LEDA a schedule by which Recipient projects to create and maintain 2 Primary Jobs, with a Target Annual Compensation of \$135,000.00 in the aggregate, or a total of \$675,000.00 over 5 years. LEDA based its decision to grant the Property to Recipient partly upon such job creation. Should Recipient fail to attain the Target Job Positions on any Measurement Date, LEDA may give written notice of such default to Recipient, and if Recipient fails to cure the default during the Cure Period pursuant to Section 10(B) above, then Recipient shall pay LEDA, upon demand, the sum of \$73,181 for each job not timely created as of the Measurement Date, subject to the Limitations of Liability set forth in Section 10(C)(1)(b) below. Job creation shall be measured in Full Time Employees.

b) Limitation of Liability. Recipient's respective liability arising out of this Agreement shall not exceed \$146,362 (for clarity, this Limitation of Liability is determined by multiplying the sum of \$73,181 x 2 jobs to equal an aggregate of \$146,362 in potential payback to LEDA).
2. The Developer (including any future owner(s) of the Property) shall have the right to freely sell the Property (at any time) and/or lease the Property (after Recipient abandons or vacates the Property), provided, however, that it is understood that the Property may only be used in a manner that satisfies the use restrictions of the Restrictions of Lubbock Railport, is included in one of the North American Industry Classification System ("NAICS") sectors described in Section 501.002(12) of the Texas Local Government

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Code in effect on the date of this Agreement or as such list of sectors may be expanded from time-to-time; and described in Section 501.101 (2) of the Texas Local Government Code in effect on the date of this Agreement or as such list of sectors may be expanded from time-to-time. These use restrictions shall be restrictions contained in the deed from LEDA to Developer and shall run with the land.




3. Should Recipient fail and refuse to pay to LEDA the sum set forth herein within one (1) year from the last date of the Cure Period, LEDA shall have the right to bring suit against Recipient for the amount set forth in clause 1 of this section plus reasonable attorney fees.
4. The remedy provided in this Section 10(C) shall constitute LEDA's sole and exclusive remedy should Recipient fail to reach its Target Job Positions and otherwise fails to cure a breach under this Agreement, after exercising its opportunity to cure said breach, within the Term of this Agreement.

12. **Assignment, Merger, and Termination Due to Merger, Etc.:** Except as set forth below, this Agreement shall not be assignable, either in whole or in part. Termination as the result of assignment or merger or change in business form shall not disqualify the remaining or new entity from applying to LEDA for new incentive consideration. Notwithstanding the foregoing, but subject to the terms of the Purchase and Sale Agreement, Developer may freely sell or otherwise transfer the Property.

13. **Insurance:** During the period that Developer is constructing the improvements on the Property and ending on the date that Recipient takes occupancy of the improved Property pursuant to the Lease between Developer and Recipient, Developer covenants and agrees to include LEDA as an additional named insured to all policies of liability insurance obtained by Developer and providing coverage against liability for injury and/or property damage caused by Developer's employees, customers, clients, patrons, visitors, or guests. Commencing on the date that Recipient takes occupancy of the improved Property pursuant to the Lease between Developer and Recipient, Recipient covenants and agrees to cause insurance coverage to be provided through Recipient's self-insurance program.

14. **Hold Harmless/Indemnification:** Except to the extent arising from any negligence misrepresentation or misconduct of LEDA or its employees, customers, clients, patrons, visitors or guests, Recipient agrees to indemnify and hold LEDA harmless from all loss, cost, or expenses (including attorneys' fees) arising out of the respective violation(s) of Developer after the Effective Date of this Agreement and Recipient after commencement of the Initial Term of the Lease with Developer of any terms of this Agreement or any interpretation, application, or performance thereunder; provided, however, if the violation is caused solely by Developer, Recipient shall have no hold harmless or indemnification obligation to LEDA and if the violation is caused solely by Recipient, Developer shall have no hold harmless or indemnification to LEDA. The provisions set forth in this Section 13 shall survive the termination of this Agreement.

15. **No Joint Venture:** It is specifically agreed that there shall be no joint venture whatsoever between LEDA, Recipient, and Developer and the sole connection between the parties is the contribution of the economic assistance by LEDA under the restricted conditions as set forth herein

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and that such contributions as stated herein are for the sole purposes as set forth herein and it shall in no way be construed as a continuing basis of financial support by LEDA to Recipient or Developer. The parties hereto have entered into this Agreement in an arms-length transaction. No agency relationship or fiduciary relationship is intended to be created by this Agreement and no such relationship shall be determined to exist.

16. **Good Faith – Normal Business Operations:** The parties agree that this Agreement has been entered into in good faith and that each party shall act in good faith in complying with its provisions. The parties further agree to transact all their business under and that which relates to this Agreement in accordance with their normal business operations.

17. **Publicity:** Any use of a party's name for publicity in connection with the Project must be approved in advance by such party. It is understood that LEDA may make known its contributions to Pioneer and Developer in whatever public manner as may be required by law.

18. **Status of Information Provided to LEDA:** Any information obtained by LEDA or its agents or assigns during negotiations leading up to the execution of the Agreement or otherwise about the business, have or will be returned upon the execution of this Agreement, subject to a right to a continuing examination by LEDA in order to comply with LEDA's reporting obligations under applicable law, if any. Such information shall be considered confidential and beyond the scope of any Open Records request as proprietary information.

19. **Miscellaneous Provisions:**

A. **Notices:**

For the purposes of any notices to be given, pursuant to the terms of this Agreement, the parties shall use the following addresses, or any other address as may be changed by the parties, upon written notice to the other party, as follows:

To LEDA:

(1) **John Osborne
CEO and President
Lubbock Economic Development Alliance, Inc.
1500 Broadway, 6th Floor
Lubbock, TX 79401**

(2) **With a copy to:**

**Ann Manning
Underwood Law Firm, P.C.
1111 W. Loop 289
Lubbock, TX 79416**

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To Recipient:

(1) **Pioneer Hi-Bred International, Inc.**
7000 NW 62nd Avenue
P.O. Box 1000
Johnston, IA 50131

(2) **With a copy to:**

Todd Langel
Legal Counsel, Corteva Agriscience
7000 NW 62nd Avenue
P.O. Box 1000
Johnston, IA 50131

To Developer:

(1) **Richard Clark (PDC Partners)**
PDC Lubbock GD, LLC
317 6th Avenue, STE 1200
Des Moines, IA 50309

(2) **With a copy to:**

Nathan Barber
Belin McCormick, PC
666 Walnut Street, Ste. 2000
Des Moines, IA 50309

Notices shall be deemed to be given upon the placing in the United States Mail, Certified Mail, Return Receipt Requested, to the above-described addresses or as may be changed, pursuant to the terms and conditions hereof.

- B. Entire Agreement: This instrument constitutes the entire agreement between the parties hereto and neither this Agreement nor any of the Exhibits attached hereto, if any, can be altered, changed, or amended in any respect except by an instrument in writing duly executed by both parties.
- C. Governing Law and Performance: This Agreement shall be governed by the laws of the State of Texas and shall be deemed to be executed in, and performance called for in Lubbock, Lubbock County, Texas.
- D. No Waiver of Immunity: Notwithstanding any other provision of this Agreement, including, without limitation, the provisions of Section 9 of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which LEDA,

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its officers, employees, representative, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

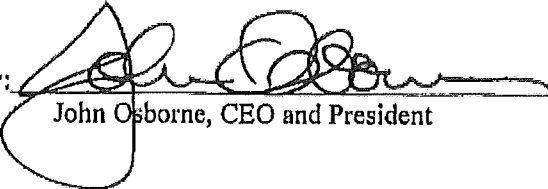
- E. Partial Invalidity: In the event that any portion of this Agreement should be found or declared to be invalid for any reason, the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties. The parties agree that it is their intent for this Agreement to be determined as being an indivisible obligation of the parties.
- F. Binding Effect: This Agreement shall be binding upon the undersigned, their successors and assigns, subject to the express terms of this Agreement concerning assignment.
- G. Force Majeure: If any default or performance of any other covenant or term of this Agreement is delayed by reason of strike, riots, shortages of labor, materials, supplies, or transportation, war, civil commotion, act of God, governmental restrictions, regulations, or interference, fire, or other casualty, or any other circumstances beyond a signatory party's control, then the duty to do or perform the term or covenant, regardless of whether the circumstance is similar to any of those enumerated above or not, is excused during the delay period.
- H. Time is of the Essence: The parties agree that time is of the essence in the execution of this Agreement.
- I. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same Agreement.

20. Satisfaction of Obligations of Developer upon Completion of Construction and Commencement of Lease: Upon the completion of construction of the facilities and related improvements by Developer and the occupancy of the improved Property by Recipient pursuant to the Lease between Developer and Recipient, Developer's obligations under this Agreement shall be fully satisfied and at an end. However, Developer understands and agrees that the Property shall continue to be subject to the terms described in the Purchase and Sale Agreement, which obligations shall be reflected in the Deed provided by LEDA to Developer and run with the land as contemplated in that Section. Upon the written request of Developer, LEDA shall provide a written confirmation that Developer's obligations under this Agreement have been met and that Developer is no longer obligated under any of the provisions of this Agreement, which written confirmation may not be unreasonably withheld by LEDA.

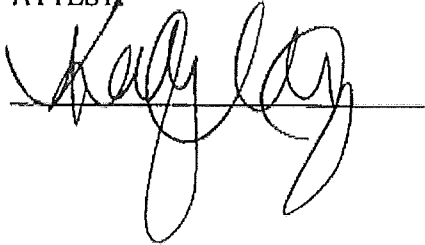
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EXECUTED in multiple counterparts, each of which is an original, on this 26 day of ~~January~~, 2020.
February

LUBBOCK ECONOMIC DEVELOPMENT
ALLIANCE, INC.


By: 
John Osborne, CEO and President

ATTEST



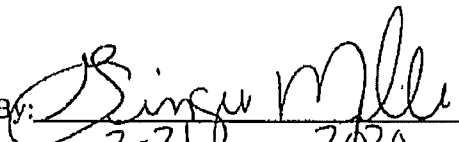
 LEDA  Recipient  Developer

PIONEER HI-BRED INTERNATIONAL, INC.


By: 
2/21, 2020

ATTEST:



By: 
2-21-0, 2020

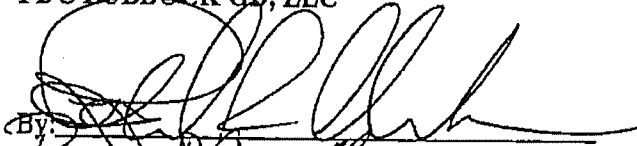
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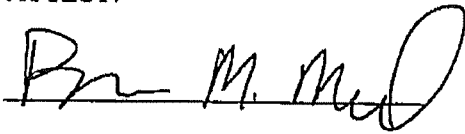
 LEDA  Recipient  Developer

DEVELOPER:

PDC LUBBOCK GD, LLC


BY: ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~
2/21/20

ATTEST:



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EXHIBIT A

Legal Description of the Property

SO LEDA CP Recipient M Developer

EXHIBIT B
Purchase and Sale Agreement

 LEDA  Recipient  Developer