

PERFORMANCE AGREEMENT
Between
WYLIE ECONOMIC DEVELOPMENT CORPORATION
And
SANDEN INTERNATIONAL (U.S.A.), INC.

This Performance Agreement (this “Agreement”) is made and entered into by and between the **Wylie Economic Development Corporation** (the “WEDC”), a Texas corporation organized and existing under the Development Corporation Act of 1979, as amended from time to time (the “Act”), and **Sanden International (U.S.A.), Inc.**, a Texas corporation (the “Company”).

RECITALS

WHEREAS, the Company is desirous of making personal property improvements in the form of added equipment to their existing building located at 601 Sanden Blvd., Wylie, Texas (the “Facility”) and maintaining at least 240 Full-Time Employees at the Facility (the “Project”). The Project will have an estimated cost of Twenty-Five Million Dollars (\$25,000,000.00); and

WHEREAS, the Company has requested that the WEDC provide economic assistance to offset the cost of completing the Project; and

WHEREAS, the completion of the Project in the City of Wylie, Texas will ultimately create “primary jobs”, as that term is defined in the Act; and

WHEREAS, the WEDC has determined that it is in the best interest of the public and the City and promotes the purposes authorized by the voters of the City of Wylie for which the WEDC was established to encourage the development and use of business properties within the City; and

WHEREAS, for the public purpose of promoting economic development and diversity, increasing employment, reducing unemployment and underemployment, expanding commerce, and stimulating business and commercial activities in the State of Texas, and the City of Wylie, the WEDC desires to offer economic assistance to Company as more particularly described in this Agreement.

NOW, THEREFORE, for and in consideration of the promises, covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the WEDC and Company agree as follows:

- I. **Economic Assistance**. Subject to the terms of this Agreement, the WEDC will provide economic assistance in an amount up to, but not to exceed, Five Hundred Thousand Dollars (\$500,000.00) (the “Economic Incentives”). The Economic Incentives will be paid according to the criteria set forth herein with the WEDC’s obligation to pay the Economic Incentives terminating on December 31, 2024.

Upon meeting the qualifications and requirements (the “Performance Requirements”), the Company shall be entitled to the following Economic Incentives:

Economic Incentive Payment Schedule:

<u>Expected Year</u>	<u>Incentive</u>	<u>Cost of Project</u>	<u>Current WEDC Incentive</u>	<u>Total WEDC Incentive</u>	<u>Eligibility Expiration</u>
2023	No. 1	\$25,000,000	Up to \$300,000	Up to \$300,000	12-31-2023
2024	No. 2	\$25,000,000	Up to \$200,000	Up to \$500,000	12-31-2024

II. Performance Requirements for Economic Incentive.

(a) Incentive No. 1: An Economic Incentive of Three Hundred Thousand Dollars (\$300,000.00) will be paid to Company upon completion of the following Performance Requirements for Incentive No. 1:

- 1) Receipt of documentation by WEDC of a Certificate of Occupancy for the Facility issued by the City of Wylie or a completion letter from the City's Chief Building Official verifying the installation of a new equipment line (a "Certificate of Occupancy"), approval of said documentation at the sole and absolute discretion of the WEDC, and that the Facility is open and operating as of December 31, 2023 (the "CO Deadline") and the issuance date of CO (will become the "CO Anniversary Date"); and
- 2) Receipt of documentation by WEDC confirming a minimum Project cost of at least Twenty-Five Million Dollars (\$25,000,000.00) as evidenced by paid invoices supporting the minimum cost, approval of said documentation at the sole and absolute discretion of the WEDC; and
- 3) Company is current on all ad valorem taxes and other property taxes due on the Facility, and provide written notice and evidence of such payment to WEDC in a form satisfactory to WEDC; and
- 4) Employment verification confirming the number of Full-Time Employees employed at the Facility, which shall not be less than 240 Full-Time Employees, approval of said documentation at the sole and absolute discretion of the WEDC; and
- 5) Eligibility expiration for the Company to qualify for this Incentive No. 1 is December 31, 2023.

(b) Incentive No. 2: An Economic Incentive of Two Hundred Thousand Dollars (\$200,000.00) will be paid to Company upon completion of the following Performance Requirements for Incentive No. 2:

- 1) Company is current on all ad valorem taxes and other property taxes due on the Facility, and provide written notice and evidence of such payment to WEDC in a form satisfactory to WEDC; and
- 2) Receipt of documentation by WEDC evidencing the ongoing operations of the Facility one (1) year from the CO Anniversary Date, approval of said documentation at the sole and absolute discretion of the WEDC; and
- 3) Employment verification confirming the number of Full-Time Employees employed at the Facility one year from the CO Anniversary Date, which shall not be less than 240 Full-Time Employees, approval of said documentation at the sole and absolute discretion of the WEDC; and
- 4) Eligibility expiration for the Company to qualify for this Incentive No. 2 is December 31, 2024.

Under no circumstances shall WEDC be required to pay to the Company any amount more than Five Hundred Thousand Dollars (\$500,000.00) under this Agreement.

III. **WEDC Payment of Incentives.** Subject to the terms of this Agreement, the WEDC shall pay the Incentives within approximately fifteen (15) days of receipt of the required documentation from the Company, subject to verification by the WEDC that the Performance Requirements have been met or exceeded by the Company. Further, Incentive No. 2 will be paid not sooner than twelve (12) months following payment of the preceding Incentive Payment.

IV. **Non-Attainment of Performance Requirements.** In the event that the Company fails to meet or exceed any of the Performance Requirement specified in Section II(a) of this Agreement, the WEDC Economic Incentive will be voided in advance of payment in addition to all future Economic Incentive payments being voided at the sole discretion of the WEDC. The Company will not be eligible to receive an Economic Incentive payment if documentation supporting Performance Requirements are not received by WEDC prior to the Eligibility Expiration Date. Company will be notified in writing in the event a Performance Requirement is not met and have thirty (30) days to cure said default.

V. **Economic Assistance Termination.** The Agreement may be terminated by mutual agreement of the parties or by either party, upon the failure of the other party to fulfill an obligation as set forth in Section II above. Regardless of the Company's level of attainment of the Performance Requirements set forth in Section II above, the WEDC's obligation to pay the Reimbursement Incentive will expire in full on January 15, 2025.

VI. **Employee Hiring, Materials and Supplies Purchase.** Although not an event of default or a condition to any advance in the Agreement, WEDC requests that the Company satisfies its

need for all construction contractors from Wylie residents and purchase all materials, supplies and services necessary to affect the Project and subsequent occupancy of the Facility from Wylie merchants and businesses.

- VII. **Community Involvement.** Although not an event of default or condition of any advance hereunder, the Company agrees to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in the City of Wylie, Texas, and to actively encourage its employees to be involved in such organizations and/or activities.
- VIII. **Verification and Compliance.** The Company will allow the WEDC to audit necessary Company's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure the Company's compliance with the affirmative covenants set forth in this Agreement; (ii) to determine the existence of an Event of Default under the terms of this Agreement; (iii) to ensure compliance with any other terms and conditions set forth herein or any related documents. Company will provide reports certifying the status of compliance, jobs retained, new investments and any other relevant information until the termination of this Agreement.
- IX. **Cessation of Economic Assistance.** Notwithstanding anything herein to the contrary, WEDC shall have no obligation to disburse WEDC Economic Incentives if the Company becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt, or is delinquent on any property tax payments or an Event of Default under the terms of this Agreement occurs.
- X. **Non-Payment of Economic Assistance.** The following will constitute an Event of Default and any advance shall not be forgiven in an Event of Default: the Company becomes insolvent, makes any materially false statements to the City and/or the WEDC, fails to pay ad valorem taxes, or files suit against the City and/or the WEDC.
- XI. **Miscellaneous.**
- a. This Agreement shall inure to the benefit of the parties hereto and shall not be assignable by Company without the prior written consent of the WEDC, which consent may be withheld by the WEDC in its sole and absolute discretion.
 - b. This Agreement shall be construed according to the laws of the State of Texas and is subject to all provisions of Vernon's Ann. Civ. St. Art. 5190.6, which are incorporated herein by reference for all purposes. In the event any provision of the Agreement is in conflict with article 5190.6, article 5190.6 shall prevail.
 - c. This Agreement contains the entire agreement of the parties regarding the within subject matter and may only be amended or revoked by the written agreement executed by all of the parties hereto.
 - d. This Agreement shall be governed by the laws of the State of Texas and is specifically performable in Collin County, Texas.

- e. Any notice required or permitted to be given under this agreement shall be deemed delivered by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other address as any part hereto might specify in writing:

WEDC: Jason Greiner
Executive Director
Wylie Economic Development Corporation
250 South Highway 78
Wylie, Texas 75098

COMPANY: Sanden International (U.S.A.), Inc.
601 South Sanden Blvd.
Wylie, TX 75098
Attention: _____

By the execution hereof, each signatory hereto represents and affirms that he is acting on behalf of the party indicated, that such party has taken all action necessary to authorize the execution and delivery of the Agreement and that the same is a binding obligation on such party.

EXECUTED to be effective as of the _____ day of _____, 2023.

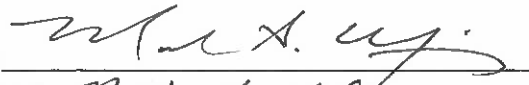
WEDC:

Wylie Economic Development Corporation

By: _____
Jason Greiner, Executive Director

COMPANY:

**SANDEN INTERNATIONAL (U.S.A.), INC.,
a Texas corporation**

By: 
Name: MARK A. UFFIG
Title: President & CEO