DECLARATION OF AND AGREEMENT REGARDING RESTRICTIVE COVENANTS

This Declaration Of And Agreement Regarding Restrictive Covenants (hereinafter the "Agreement") is made effective April 17, 2014 (the "Effective Date") between DMK Development – Gillette, LLC, a Michigan limited liability company, having a mailing address of 3597 Henry Street, Suite 102, Muskegon, Michigan 49441 (hereinafter "DMK") and Jenean K. Persian, as Trustee of the Jon Frederick and Jenean Kay Persian Revocable Trust dated July 28, 2008, with a mailing address of P.O. Box 1327, Gillette, Wyoming 82717 (hereinafter "Persian"). DMK and Persian may each be referred to as a "Party or collectively as the "Parties".

RECITALS

- DMK owns the parcel of real estate consisting of approximately 3.44 acres A. located in the City of Gillette, Campbell County, Wyoming, legally described on the attached Exhibit A (hereinafter the "DMK Parcel") and depicted on the survey attached as Exhibit B (the "Survey"). Persian owns the parcel of real estate consisting of approximately 4.59 acres located in the City of Gillette, Campbell County, Wyoming, legally described on the attached Exhibit C (the "Persian Parcel") and depicted on the survey attached as Exhibit B. It is expected that the right-of-way presently owned by the City of Gillette, Wyoming having a width of sixty (60') feet and located between the DMK Parcel, the Persian Parcel, and Wyoming State Hwy. 59 (the "Right-of-Way") as depicted on the survey attached as Exhibit B will be abandoned by the City of Gillette, Wyoming/State of Wyoming and will become a part of the DMK Parcel as depicted on the attached Exhibit B and a portion of which shall become a part of the Persian Parcel as depicted on the attached Exhibit B. Following the abandonment of the Right-of-Way and the conveyance of the Right-of-Way to the Parties by the City of Gillette, Wyoming/State of Wyoming, the legal descriptions for the DMK Parcel and the Persian Parcel shall be deemed by the Parties to have been automatically amended as set forth in Exhibit A-I and depicted on the survey attached as Exhibit B-1, showing the additional real property and improvements that have been abandoned and therefore conveyed to DMK to become a part of the DMK Parcel and conveyed to Persian to become a part of the Persian Parcel. The defined term "Survey" will include both Exhibits B and B-1 depending upon the date of the abandonment of the Right-of-Way occurs.
- B. DMK intends to construct a retail store on the DMK Parcel for lease to Tractor Supply Company, a Delaware corporation and its affiliates, successors and assigns (collectively "TSC").
- C. TSC requires certain restrictions be imposed on the Persian Parcel for so long as TSC has an interest in the DMK Parcel as provided herein, and Persian has agreed to those restrictions as provided within this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and as additional consideration, the purchase by DMK of the DMK Parcel from Persian, which consideration is deemed sufficient by the Parties, the Parties agree as follows:

Limitation On Use. For so long as TSC has an interest in the DMK Parcel. whether leasehold, fee or otherwise, Persian covenants it shall not sell, lease, rent, occupy or allow to be occupied, or otherwise transfer or convey all or any portion of the Persian Parcel for the purpose of selling or offering for sale those items which support a farm/ranch/rural/do-ityourself lifestyle including: (a) tractor and equipment repair and maintenance supplies; (b) farm fencing; (c) livestock feeding systems; (d) feed and health/maintenance products for pets or livestock; (e) western wear, outdoor work wear (similar to and specifically including Carhartt products), and boots; (f) horse and rider tack and equipment; (g) bird feed and housing and related products; (h) lawn and garden equipment (including but not limited to, push/riding mowers, mow-n-vacs, garden carts, snow blowers, chippers and shredders, wheel barrows, and log splitters); (i) hardware; (j) power tools; (k) welders and welding supplies; (l) open and closed trailers; (m) 3-point boxes, and trailer hitches and connections) (n) truck accessories and trailer accessories (including truck and tool boxes, and trailer hitches and connections) (hereinafter collectively referred to as "Restricted Products"). Nothing contained in this Agreement shall prevent any occupant of all or any portion of the Persian Parcel from selling Restricted Products as an incidental part of its other and principal business so long as the total number of square feet devoted by such occupant to the display for sale of Restricted Products does not exceed five percent (5%) of the total number of square feet of space used for merchandise display by such occupant (including one-half (1/2) of aisle space adjacent to any display area).

In addition to the above limitations, Persian shall not sell, lease, rent, occupy or allow to be occupied, or otherwise transfer or convey all or any portion of the Persian Parcel for, nor shall any owner of the Persian Parcel or its tenants permit on the Persian Parcel, any of the following uses: (i) livestock slaughter or feeding; (ii) fireworks or explosives storage, distribution or manufacture; (iii) biological or hazardous waste incineration; (iv) scrap material accumulation, storage or sales; (v) the principal use being the manufacture, distribution, storage, treatment, incineration or disposal of chemicals, petroleum products, solvents, hazardous waste or any hazardous materials; (vi) a cement or asphalt plant; (vii) a crematorium; (viii) a dry cleaning plant or central laundry facility; (ix) the manufacture, storage, distribution, production, sale of or any use involving pornographic materials or items; (x) any establishment featuring nude, topless or partially-clad dancing; (ix) a night club or dance hall; or (xiii) a pawn shop (hereinafter collectively referred to as the "Prohibited Uses").

2. Remedies For Violation Of Agreement. Persian acknowledges that in the event of any breach of this Agreement, remedies at law would be inadequate. Therefore, DMK and TSC shall be entitled to (i) relief by injunction, and (ii) remedies at law or otherwise. No right or remedy herein conferred upon or reserved to DMK and TSC is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity.

- Term Of Agreement. The term of this Agreement shall commence on the 1764 day of April, 2014 and shall continue for so long as TSC has an interest in the DMK Parcel, whether leasehold, fee, or otherwise. Notwithstanding the foregoing sentence, in the event TSC does not take possession and have an interest in the DMK Parcel within thirty-six (36) months from the 1744 day of April, 2014, the restrictions on the sale of Restricted Products and the Prohibited Uses as provided in this Agreement shall automatically terminate effective April 17, 2017. However, if DMK or TSC is delayed, hindered or prevented from performing any acts necessary or required pursuant to the Easement/Maintenance Agreement between DMK and Persian having an Effective Date of April 17, 2014, which is incorporated herein by reference, the Lease between DMK and TSC having an Effective Date of April 17, 2014, which is incorporated herein by reference, or the evaluation of the DMK site by reason of Acts of God, strikes, lock-outs, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reasons beyond the control of DMK or TSC, then the thirty-six (36) month period referenced within this Section 3 shall automatically be extended for a period equivalent to the period of delay. At such time as TSC no longer has an interest (as defined herein) in the DMK Parcel, or should TSC not take possession of and have an interest in the DMK Parcel as provided within this Section 3, DMK or, as applicable, its successors and assigns, shall cause to be filed with the Clerk of Campbell County, Wyoming a Notice of the termination of this Agreement and shall provide a copy of the same to Persian and the then owner of the Persian Parcel.
- 4. Event of Default. In the event of a breach of the terms of this Agreement, the non-defaulting Party shall send a written notice of default to the defaulting Party and TSC. The notice shall describe the default and the action necessary to cure. In the event the default continues for a period of twenty (20) days after receipt by the defaulting Party of written notice of the same, with such notice to be provided pursuant to Section 6, herein, the non-defaulting Party and TSC, in addition to any other remedies available at law or in equity, shall be entitled to cure the default specified in the notice.

All reasonable expenses required to cure the default shall be paid by the defaulting Party within thirty (30) days after the receipt of written evidence confirming the payment of such expenses. Any sums remaining unpaid after the expiration of such thirty (30) day period shall accrue interest at the Default Rate (as defined herein), and shall be payable upon demand, together with reasonable attorneys' fees and costs incurred in connection with the collection of such sums. In addition to other rights and remedies hereunder or at law or in equity for a breach hereof, and without limitation of any of the foregoing, each of the Parties hereto shall be entitled to enjoin any breach or threatened breach by any other Party hereto of any covenant, agreement, term, provision, or condition hereof.

5. <u>Default Interest.</u> All sums due and owing under this Agreement which are not paid on or before the date the same is due and payable shall bear interest at the rate (the "Default Rate") of three percent (3%) per annum over the prime rate of interest published from time to time in the Money Rates Section of the Wall Street Journal or such similar publication (but in no event exceeding the maximum lawful rate of interest) from the date the same is due and payable until the date of reimbursement.

6. Notices. All notices, approvals, consents and other communications required under this Agreement shall be in writing and shall be deemed given: (i) when delivered in person; (ii) when sent by fax or email if such fax number or email address is provided below (the sender shall also send a hard copy following the fax or email; however, the notice shall be effective upon the transmission of the fax or email); (iii) one (1) day after depositing in the custody of a nationally-recognized receipted overnight delivery service with delivery fees prepaid; or (iv) five (5) days after posting in the United States Mail first-class, postage prepaid. Notices shall be sent to the Parties with a copy to TSC as follows:

To DMK:

DMK Development – Gillette, LLC 3597 Henry Street, Suite 102 Muskegon, Michigan 49441 Attn: Chris Kettler Email: ckettler2@gmail.com

AND

Tractor Supply Company
Attn: Lease Administration Department
200 Powell Place
Brentwood, Tennessee 37027
Fax: 615-440-4132

To Persian:

Jenean K. Persian, Trustee P. O. Box 1327 Gillette, Wyoming 82717 Email: gwhsales@ven.com

With copy (which will not constitute notice) to:

Parmenter O'Toole 601 Terrace St., P. O. Box 786 Muskegon, Michigan 49443-0786 Attn: Christopher L. Kelly Email: clk@parmenterlaw.com

With copy (which will not constitute notice) to:

Law Firm of J. Stan Wolfe, P.C. 222 S. Gillette Avenue, Suite 500 Gillette, Wyoming 82716

Attn: J. Stan Wolfe Email: wolfelaw@vcn.com

7. General Provisions.

- a. Severability. Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired or affected.
- b. Entire Agreement. This Agreement shall constitute the entire agreement between the Parties, and shall supersede any other agreements, written or oral, that may have been made or entered into, by and between the Parties with respect to the subject matter hereof. The Parties have previously executed the Easement/Maintenance Agreement (Access Grading and Utilities), with an Effective Date of April ___/7____, 2014. To

the extent there are any inconsistencies between this Agreement and the aforementioned Easement/Maintenance Agreement (Access Grading and Utilities) with respect to the rights and obligations of the Parties as provided herein, the terms of this Agreement shall control and govern the obligations between the Parties.

- c. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties and TSC, all of their respective affiliated companies, partnerships, joint ventures, etc., and the successors and assigns of the Parties. TSC shall also have the right, but not the obligation, to enforce this Agreement against Persian and any successor owner of the Persian Parcel in the event that Persian, or if applicable, the then owner of the Persian Parcel does not perform its obligations contained in this Agreement.
- d. Full Execution. This Agreement requires the signature of both Parties. Until fully executed, on a single copy or in counterparts, this Agreement is of no binding force or effect and if not fully executed, this Agreement is void.
- e. Non-Waiver. No waiver by any Party of any provision of this Agreement shall constitute a waiver by such Party of such provision on any other occasion or a waiver by such Party of any other provision of this Agreement. No failure to insist upon or to enforce any provision of this Agreement shall constitute or be interpreted as a waiver thereof.
- f. Duration. This Agreement shall commence on the Effective Date and shall, except as otherwise provided in Section 3, herein, continue in perpetuity and shall not be changed, amended, modified, canceled or terminated except by a written instrument executed by the owner of the DMK Parcel, the owner of the Persian Parcel and by TSC or its successors and assigns for so long as TSC or its successors and assigns have an interest in the DMK Parcel as a tenant, owner or otherwise. To be valid, any consent required of the owner of the DMK Parcel must be accompanied by the consent of TSC if TSC or its successors and assigns have an interest in the DMK Parcel.
- g. Assignment or Delegation. This Agreement may not be assigned or delegated without the express written agreement of both Parties and, for so long as TSC has an interest in the DMK Parcel, by TSC.
- Recording. This Agreement will be recorded with the Campbell County, Wyoming, Register of Deeds.
- i. Enforcement. In the event a Party or TSC is required to take action to enforce the terms of this Agreement, whether or not suit is filed, the non-prevailing Party shall reimburse the prevailing Party for all costs of such action, including reasonable attorneys' fees and costs.

j. Amendment. This Agreement may not be modified or amended without the prior written consent of the Parties and TSC, so long as TSC has an interest in the DMK Parcel.

DMK - DMK Development - Gillette, LLC,

a Michigan limited liability company

By: Kettler Real Estate Services, LLC, Manager

By:

Name: Donald M. Kettler

Title: Manager

Date: April 1/£, 2014

STATE OF MICHIGAN COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this $\frac{16}{6}$ day of April, 2014, by Donald M. Kettler, Manager of Kettler Real Estate Services, LLC, Manager of DMK Development—Gillette, LLC, a Michigan limited liability company, on behalf of the entity.

Notary's Name:

Notary Public, State of Michigan,

County of

My Commission Expires:

Acting in the County of:

NANCY L. DOBFTY
Notary Public - State of Michigan
County of Muskegon
My Commission Expires December 11, 2018
Acting in the County of MUSKEROW

SELLER - The Jon Frederick and Jenean Kay Persian Revocable Trust dated July 28, 2008

By:

Name: Jenean K. Persian

Title: Trustee

Date: April 17, 2014

STATE OF WYOMING

COUNTY OF CAMPBELL)

This instrument titled "Declaration Of And Agreement Regarding Restrictive Covenants" was sworn to, acknowledged, and signed before me by Jenean K. Persian, as Trustee of the Jon Frederick Persian and Jenean Kay Persian Revocable Trust dated the 28th day of July, 2008, known to me (or satisfactorily proven) to be the person named in the foregoing instrument, and who acknowledged that she freely and voluntarily executed the same for the purposes stated therein this _____ day of April, 2014.

WITNESS my hand and official seal.

My Commission expires: §-3.17

Notary Public A. East

Cheryl A. Ernst - Notary Public County of Campbell

State of Wyoming My Commission Expires Aug. 3, 2017

This instrument prepared by and When recorded return to:

PARMENTER O'TOOLE Attn: Christopher L. Kelly 601 Terrace Street P. O. Box 786 Muskegon, Michigan 49443-0786

14-145.3

EXHIBIT A

LEGAL DESCRIPTIONS

DMK Parcel (Prior to Abandonment of Right of Way)

A parcel located in the Resubdivision of Lot 1 of the Resubdivision of Tract E, Sunburst Subdivision No. 4, also known as Lot 1A, in portions of Sections 2 and 3, T49N, R72W of the 6th P.M., Campbell County, Wyoming, being more particularly described as follows:

Commencing at the northwest corner of said Section 2, being monumented by a 1968 brass cap stamped RLS 366; Thence S01°13'00"W, 1958.79 feet to the southwest corner of Lot 1B of said Resubdivision of Lot 1, being on the easterly right of way of Wyoming State Highway 59, monumented by an aluminum cap stamped RLS 2333; Thence along said easterly right of way, N23°09'43"W, 262.58 feet to the southwesterly corner of aforementioned Lot 1A, being monumented by an aluminum cap stamped PLS 6872 and being the point of beginning; Thence continuing along said easterly right of way, N23°09'43"W, 339.76 feet to the northwest corner of said Lot 1A, monumented by and aluminum cap stamped RLS 2333; Thence along the northerly boundary, N66°39'46"E, 71.86 feet to an angle point monumented by an iron pin with flange; Thence continuing along the northerly boundary, N89°53'07"E, 516.01 feet to the northeast corner of aforementioned Lot 1A, monumented by an aluminum cap stamped PLS 6872; Thence along the easterly boundary, \$22°57'23"E, 253.75 feet to the southeast corner of said Lot 1A, monumented by an aluminum cap stamped PLS 6872; Thence along the southerly boundary, S69°21'23"W, 244.03 feet to an angle point monumented by an aluminum cap stamped PLS 6872; Thence continuing along the southerly boundary, S84°24'46"W, 225.97 feet to the point of beginning. Said Lot 1A contains 3.44 acres more or less.

Easement and Maintenance Agreement Gillette, Wyoming March 13, 2014

EXHIBIT A-1

LEGAL DESCRIPTIONS

DMK Parcel

A parcel located in the Resubdivision of Lots 1A & 1B of the Resubdivision of Lot 1 of the Resubdivision of Tract E, Sunburst Subdivision No. 4, also known as Lot 1C, in portions of Sections 2 and 3, T49N, R72W of the 6th P.M., Campbell County, Wyoming, being more particularly described as follows:

Commencing at the northwest corner of said Section 2, being monumented by a 1968 brass cap stamped RLS 366; Thence S01°13'00"W, 1958.79 feet to a southerly corner of Lot 1D of said Resubdivision of Lots 1A & 1B, monumented by an aluminum cap stamped RLS 2333; Thence along the southerly boundary of said Lot 1D, S66°50'17"W, 60.00 feet to the southwest corner of said Lot 1D; Thence along the westerly boundary of said Lot 1D, N23°09'43"W, 262.58 feet to the southwest corner of aforementioned Lot 1C, being monumented by an aluminum cap stamped PLS 6872 and being the point of beginning; Thence along the westerly boundary of said Lot 1C, N23°09'43"W, 339.58 feet to the northwest corner of said Lot 1C, monumented by and aluminum cap stamped PLS 6872; Thence along the northerly boundary of said Lot 1C, N66°39'46"E, 60.00 feet to an aluminum cap stamped PLS 6872; Thence continuing along said northerly boundary, N66°39'46"E, 71.86 feet to an angle point monumented by an iron pin with flange; Thence continuing along the northerly boundary, N89°53'07"E, 421.95 feet to the northeast corner of aforementioned Lot 1C, monumented by an aluminum cap stamped PLS 6872; Thence along the easterly boundary of said Lot 1C, S22°57'23"E, 253.75 feet to the southeast corner of said Lot 1C, monumented by an aluminum cap stamped PLS 6872; Thence along the southerly boundary of said Lot 1C, S69°21'23"W, 244.03 feet to an angle point monumented by an aluminum cap stamped PLS 6872; Thence continuing along said southerly boundary, S84°24'46"W, 225.97 feet to an angle point monumented by an aluminum cap stamped PLS 6872; Thence continuing along said southerly boundary, S66°50'17"W, 60.00 feet to the point of beginning. Said Lot 1C contains 3.90 acres more or less. All areas are computed at ground. All measured distances are grid, for conversion to ground, multiply by 1.00026941. The basis of bearing for this legal description is the City of Gillette Horizontal Control Network.

EXHIBIT B

SURVEY

See attached document.

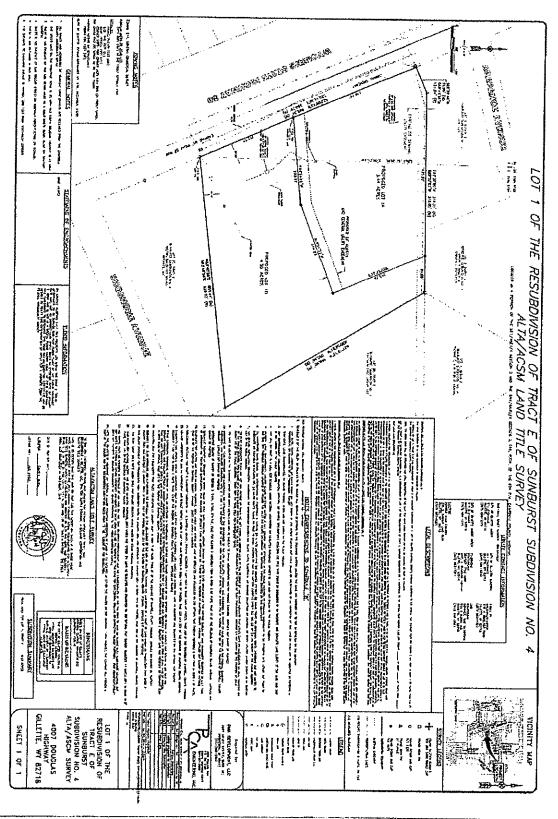


EXHIBIT B-1

SURVEY

See attached document.

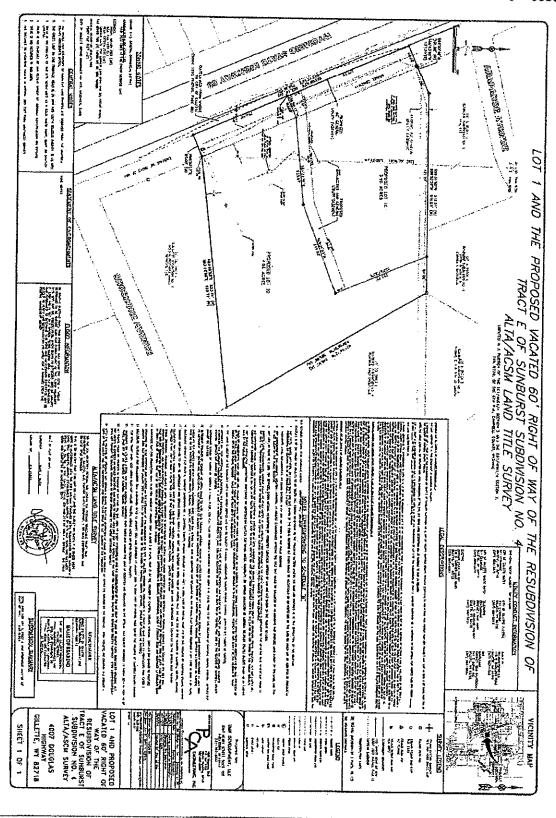


EXHIBIT C

LEGAL DESCRIPTIONS

Persian Parcel

A parcel located in the Resubdivision of Lot 1 of the Resubdivision of Tract E, Sunburst Subdivision No. 4, also known as Lot 1B, in portions of Sections 2 and 3, T49N, R72W of the 6th P.M., Campbell County, Wyoming, being more particularly described as follows: Commencing at the northwest corner of said Section 2, being monumented by a 1968 brass cap stamped RLS 366; Thence S01°13'00"W, 1958.79 feet to the southwest corner of said Lot 1B, being on the easterly right of way of Wyoming State Highway 59, monumented by an aluminum cap stamped RLS 2333 and being the point of beginning; Thence along said easterly right of way, N23°09'43"W, 262.58 feet to the southwesterly corner of Lot 1A of said Resubdivision of Lot 1, being monumented by an aluminum cap stamped PLS 6872; Thence along the northwesterly boundary, N84°24'46"E, 225.97 feet to an angle point monumented by an aluminum cap stamped PLS 6872; Thence continuing along the northwesterly boundary, N69°21'23"E, 244.03 feet to an angle point monumented by an aluminum cap stamped PLS 6872; Thence continuing along the northwesterly boundary, N22°57'23"W, 253.75 feet to the northeast corner of aforementioned Lot 1A, monumented by an aluminum cap stamped PLS 687 2; Thence along the northerly boundary, N89°53'07"E, 94.06 feet to the northeast corner of aforementioned Lot 1B, monumented by an iron pin; Thence along the easterly boundary, S30°56'21"E, 595.96 feet to the southeast corner of said Lot 1B, monumented by an aluminum cap stamped RLS 2333; Thence along the southerly boundary, S83°40'55"W, 655.44 feet to the point of beginning. Said Lot 1B contains 4.59 acres more or less. All areas are computed at ground. All measured distances are grid, for conversion to ground, multiply by 1.00026941. The basis of bearing for legal descriptions is the City of Gillette Horizontal Control Network.



995359 Recorded on 4/17/2014 at Book 2860 of PHOTOS Susan F. Saunders, Campbell County Clerk

at 4, 18,00

Fee 51.00
Pages 387 to 400
by: A. CARTWRIGHT

RECORDED ABSTRACTED INDEXED CHECKED

Easement and Maintenance Agreement Gillette, Wyoming March 13, 2014