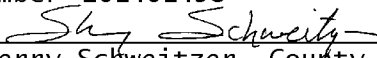


State of Nebraska }  
County of Seward } ss  
Filed for record on Jul 09, 2014 at  
04:14 PM and recorded as Instrument  
Number 201401498

  
Sherry Schweitzer, County Clerk  
Fee: \$58.00  
9 page document  
Electronically Recorded By: JB

**Prepared by and when recorded  
return to:**

Michael J. Book  
Duggan, Shadwick, Doerr & Kurlbaum LLC  
11040 Oakmont Street  
Overland Park, KS 66210

**COVENANTS AND RESTRICTIONS AGREEMENT**

THIS COVENANTS AND RESTRICTIONS AGREEMENT (the "Agreement") is made this 7 day of July, 2014 by and between **5700 Holdings, LLC, a Kansas limited liability company** (hereinafter referred to as "Grantee") whose address is **13356 Metcalf Avenue, Overland Park, Kansas 66213**, and **ED SCHULZ, LLC, a Nebraska limited liability company** (hereinafter referred to as "Grantor") whose address is **741 South 2<sup>nd</sup> Street, Seward, Nebraska 68434**.

**WITNESSETH:**

WHEREAS, Grantee is the owner of that certain tract or parcel of land lying and being in **Seward County, Nebraska**, being more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference (hereinafter referred to as the "Grantee Tract") and shown as "Lot 1" on the site plan attached hereto as Exhibit "C" ("Site Plan"); and

WHEREAS, Grantor is the owner of that certain tract or parcel of land contiguous to the Grantee Tract and lying and being in **Seward County, Nebraska**, and being more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference and shown as "Lot 2" on the Site Plan (hereinafter referred to as the "Grantor Tract"; the Grantee Tract and the Grantor Tract each being herein sometimes referred to individually as a "Tract" and collectively as the "Tracts"); and

WHEREAS, Grantee and Grantor desire to establish certain rights benefiting and burdening Tracts, as hereinafter provided.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the

**Chicago Title Company, LLC**  
*20141509C RC*

premises, the mutual benefits to be derived by the provisions of this Agreement, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, Grantee and Grantor do hereby covenant and agree as follows:

1. Benefited Parties/Binding Effect. The rights and obligations established in this Agreement shall run with the land and be for the benefit of the Tracts and shall run with the land and be binding upon the Tracts. The owners of the Tracts may delegate the right to use and maintain the rights granted herein to their respective tenants, customers, invitees, employees, agents, contractors and licensees, successors and assigns.

2. Restrictions on Grantor Tract. Grantor covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of the Grantor Tract for the purpose of conducting business as or for use as a Family Dollar Store, Bill's Dollar Store, Fred's, Dollar Tree, Ninety-Nine Cents Only, Deals, Big Lots, Walgreens, CVS, Rite Aid, Wal-Mart, Wal-Mart Supercenter, Wal-Mart Neighborhood Market, or any Wal-mart retail concept.

3. Use Restrictions on Grantee Tract and Grantor Tract. Each of Grantee and Grantor covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of its Tract to be used or operated for any of the following: (a) for any unlawful purpose or in any way which would constitute a legal nuisance to an adjoining owner or occupant; (b) as a discotheque, dance hall or night club; (c) as a massage parlor; (d) funeral parlor; (e) bingo parlor; (f) car wash; (g) any use which emits a strong, unusual, offensive or obnoxious odor, fumes, dust or vapors, or any sound which can be heard outside of any buildings on the Grantee Tract or Grantor Tract, except that any usual paging system be allowed; (h) any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation; (i) any "second hand" store or liquidation outlet; (j) any mobile home park, trailer court, labor camp, junk yard, recycling facility or stock yard; (k) any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building); (l) any dry cleaners performing on-site cleaning services; (m) any living quarters, sleeping apartments or lodging rooms; (n) any veterinary hospital or animal raising facilities (except this provision shall not prohibit pet shops and shall not prohibit the provision of veterinary services in connection with pet shops or pet supplies business); (o) any establishment selling or exhibiting paraphernalia for use with illicit drugs, and establishment selling or exhibiting materials or devices which are adjudicated to be pornographic by a court of competent jurisdiction, and any adult bookstore, adult video store or adult movie theater; (p) any bar or tavern; provided, however, a bar within a restaurant shall be permitted; (q) any pool or billiard hall, gun range or shooting gallery, or amusement or video arcade; and (r) any use which creates fire, explosives or other hazards. **None of the above shall restrict Grantor from having a temporary fireworks stand on the Grantor Tract.**

4. Manner of Performing Work. Whenever a party shall perform any construction, maintenance, repairs or replacements on its Tract or as otherwise permitted herein, such work shall be done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes and regulations of governmental authorities having jurisdiction thereof. Such work shall be carried out in such manner so as to cause the least

amount of disruption to any business operations being conducted on the surrounding land as is reasonably practicable.

5. Insurance and Indemnification. Each of Grantee and Grantor shall maintain or cause to be maintained in full force and effect commercial general liability insurance with respect to such activities with a combined single limit of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury to or personal injury or death of any person and consequential damages arising therefrom, and for property damage arising out of any one occurrence, and with minimum excess or umbrella policy limits in commercially reasonable amounts per occurrence insuring against personal injury, bodily injury and property damage, and the other party shall be an additional insured under such policy. Such insurance shall be procured from a company licensed in the State of Nebraska. Such insurance shall provide that it shall not be cancelable without thirty (30) days prior, written notice to additional insureds. Upon request, each party shall provide a certificate of such insurance coverage to the other. Grantee shall indemnify and hold Grantor harmless from and against any and all loss, cost, damage, liability or expense (including reasonable attorneys' fees actually incurred and court costs) incurred by Grantor in connection with the exercise by Grantee of the rights created herein, except to the extent caused by the negligence or willful act of Grantor, its employees, tenants, contractors, agents or licensees. Grantor shall indemnify and hold Grantee harmless from and against any and all loss, cost, damage, liability or expense (including reasonable attorneys' fees actually incurred and court costs) ever incurred by Grantee in connection with the exercise by Grantor of its rights created herein, except to the extent caused by the negligence or willful act of Grantee, its employees, tenants, contractors, agents or licensees.

6. Extent of Liability. Notwithstanding any other provision contained in this Agreement to the contrary, Grantee and Grantor hereby expressly agree that the obligations and liability of each of them shall be limited solely to such party's interest in its respective Tract, as such interest is constituted from time to time. Grantee and Grantor agree that any claim against a party hereto shall be confined to and satisfied only out of, and only to the extent of, such party's interest in its Tract, as such interest is constituted from time to time. Nothing contained in this paragraph shall limit or affect any right that any party might otherwise have to seek or to obtain injunctive relief or to specifically enforce the rights and agreements herein set forth, provided that such injunctive relief or specific performance does not involve the payment of money from a source other than such party's interest in its Tract, as such interest may be constituted from time to time.

7. Duration. The provisions of this Agreement shall run with and bind the land described herein and shall be and remain in effect perpetually to the extent permitted by law.

8. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of Nebraska. The paragraph headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers. No party hereto shall be obligated to take any action to enforce the terms of this Agreement or to exercise any right, power, privilege or remedy granted, created, conferred or established hereunder. This

Agreement may be amended, modified or terminated only in writing, executed and acknowledged by all parties to this Agreement or their respective successors or assigns, and only with the prior written consent of Dollar General Corporation, so long as it, its successors, assigns or assignees is occupying the property. Time is of the essence of this Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, Grantee and Grantor have set their hands and seals as of the day, month and year first above written.

Grantee:

**5700 Holdings, LLC,**  
A Kansas limited liability company

By: [Signature]  
Tyler S. Oliver, Manager

STATE OF KANSAS            )  
  )ss.  
COUNTY OF JOHNSON    )

On this 3<sup>rd</sup> day of July, 2014, before me appeared Tyler S. Oliver, to me personally known, who, being by me duly sworn, did say that he is the Manager of **5700 Holdings, LLC**, a Kansas limited liability company, and that said instrument was signed on behalf of said company by authority of its members, and he acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

[Signature]  
Notary Public

Print Name: Dawn L Lowry

My Commission Expires:  
3-19-18

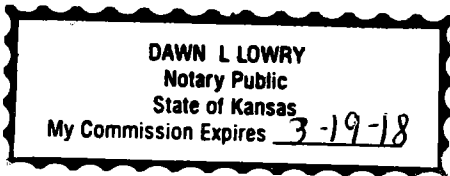




Exhibit "A"

Legal Description of Grantee Tract

Lot 1, Dollar General Addition Minor Plat, located in the Southwest Quarter of Section 21, Township 11 North, Range 3 East, of the 6th P.M., City of Seward, Seward County, Nebraska.

EXHIBIT "B"

Legal Description of Grantor Tract

Lot 1, Dollar General Addition Minor Plat, located in the Southwest Quarter of Section 21, Township 11 North, Range 3 East, of the 6th P.M., City of Seward, Seward County, Nebraska.



