

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

TRACTOR SUPPLY COMPANY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Dated as of August 1, 2017

Herkimer County Industrial Development Agency
420 E. German Street
Herkimer, New York 13350

and

Tractor Supply Company
5401 Virginia Way
Brentwood, Tennessee 37027

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of the 1st day of August, 2017 is by and between **HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 420 E. German Street, Herkimer, New York 13350 (the “Agency”) and **TRACTOR SUPPLY COMPANY**, a Delaware corporation, or its assignee, with offices at 5401 Virginia Way, Brentwood, Tennessee 37027 (the “Company”).

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the “Enabling Act”), and Chapter 410 of the Laws of 1970 of the State of New York, as amended, constituting Section 898 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company has executed and delivered a Leaseback Agreement, dated of even date herewith, with the Agency to acquire a leasehold interest in certain real property located in the Town of Frankfort, New York, more particularly described in Exhibit “A” attached to hereto (the “Land”), and to construct on, under and over the Land an approximately 930,500 square foot warehouse and distribution center, with potential expansion at the Company’s option up to 1,230,000 square feet, and related facilities and improvements, including without limitation, offices, a water tank, electric transformers and parking for vehicles and truck trailers (collectively, the “Improvements”) and to acquire and install machinery, equipment and other personal property (the “Equipment”) in, on, around, over and under the Improvements and the Land (the Land, the Improvements and the Equipment being collectively referred to as the “Facility”); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Facility pursuant to the terms and conditions contained in the Leaseback Agreement dated of even date herewith; and

WHEREAS, the Agency has agreed to accept a leasehold interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, because the Agency has a leasehold interest in the Facility and the Facility is used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, the Facility shall be exempt from real property taxes,

general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (“Exempt Taxes”) commencing as of the assessment roll of the Town of Frankfort based on the first taxable status date subsequent to the date hereof, provided, however, that the Company acknowledges and agrees that such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, notwithstanding the exemption from taxation, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact be obligated to make payments in lieu of such taxes as provided in this Agreement; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provision for such payments-in-lieu-of-taxes by the Company to the Town of Frankfort, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Herkimer County, the Frankfort School District (hereinafter each a “Taxing Authority” and collectively the “Taxing Authorities”) in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority all special assessments and ad valorem levies lawfully assessed against the Facility and coming due and payable during the term of the Lease Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.
2. The Company shall not be required to pay payments in lieu of taxes with regard to Phase 1 of the Facility (i.e. 930,500 square foot portion of the Project Facility) until after the first tax status date that occurs three years after a certificate of occupancy has been issued for Phase 1. The payments in lieu of taxes on Phase 1 shall be equal to the taxes that would have been levied on the Facility if it were not leased by the Agency (i) reduced by 75 percent in years 4 through and including 6 following the issuance of a certificate of occupancy for Phase 1 of the Facility; and (ii) reduced by 50 percent in years 7 through and including 10 following the issuance of a certificate of occupancy for Phase 1 of the Facility. For convenience, a schedule of the due dates for PILOT payments hereunder premised on a certificate of occupancy in October 2018 is set forth in Schedule A, attached hereto. If the actual date of the certificate of occupancy warrants an initial taxable status date earlier or later than March 1, 2022 (which date is the

first taxable status date occurring three years after the date of the certificate of occupancy), then the attached schedule should be adjusted accordingly.

3. If the Company elects to build all or any portion of the approximately 300,000 square foot expansion to Phase 1 (such expansion being referred to as "Phase 2"), Phase 2 shall be exempt from all Exempt Taxes and shall not require any payments in lieu of Exempt Taxes until after the first taxable status date following a certificate of occupancy is issued for Phase 2, at which time payments in lieu of taxes on Phase 2 shall be equal to the taxes that would have been levied on Phase 2 if the Facility were not leased by the Agency, reduced by 50 percent and continuing for 10 years thereafter.
4. The Company shall pay to each Taxing Authority with regard to Phase 1 of the Facility:
 - (a) in lieu of general real property taxes for the Facility, the Company shall pay the following percentages of the real property taxes which would be due if the Facility were not exempt from taxation on the tax rolls of the Taxing Jurisdictions:

Year Following Issuance of C/O	%
1	0
2	0
3	0
4	25
5	25
6	25
7	50
8	50
9	50
10	50
11 (and each successive year of the term of the lease pursuant to the Lease Agreement, subject to adjustment for Phase 2)	100

- (b) Upon receipt of a bill from the Agency, Company shall make payments in lieu of taxes through the Agency based upon calculations of payments due furnished in writing by the Agency to the Company. Payments shall be made to coincide with each individual Taxing Jurisdiction's schedule due dates for payment of taxes. The Agency shall accept payment from the Subtenant (if any).

- (c) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Company shall pay the late payment penalty and interest set forth in Section 874 of the Act; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.
5. The Company will make PILOT Payments to each Taxing Authority hereunder during the Exemption Term by making the required payment to such Taxing Authority no later than the last day during which real property taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility.
 6. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.
 7. Notwithstanding anything in this Agreement to the contrary, the parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Leaseback Agreement, the Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Facility.
 8. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any Exempt Taxes, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any year during the Exemption Term, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.
 9. This Agreement shall be binding upon the successors and assigns of the parties.
 10. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or

service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.

11. All amounts payable by the Company hereunder will be paid to the respective Taxing Authorities and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.
12. Notwithstanding anything in this Agreement to the contrary, in the event that the Agency fails or refuses to timely perform any of Seller's Undertakings (as defined in that certain Agreement of Purchase, Sale and Development dated May 16, 2017 by and between the Agency and the Company), Company shall have the right, but not the obligation, to undertake any or all of Seller's Undertakings and the documented costs and expenses so paid or reasonably incurred by Company and mutually agreed upon by the Agency and Company shall be a credit, dollar for dollar, against the amounts payable by the Company pursuant to this PILOT Agreement, but in no event earlier than year 4 of this PILOT Agreement.
13.
 - (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.
 - (b) This agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

- (c) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, or by any nationally recognized overnight delivery service that will provide the sender with documentary evidence of such delivery, addressed as follows:

To the Agency: Herkimer County Industrial Development Agency
420 East German Street
Herkimer, New York 13350
Attn: Stephen R. Smith, Executive Director

With a Copy To: Felt Evans, LLP
4-6 North Park Row
Clinton, New York 13323
Attn: Anthony G. Hallak, Esq.

To the Company: Tractor Supply Company
5401 Virginia Way
Brentwood, Tennessee 37027
Attn: Clay Teter, Senior Vice President—Real Estate and
Construction

With a Copy To: Tractor Supply Company
Office of the General Counsel
5401 Virginia Way
Brentwood, Tennessee 37027

Provided, that the Agency or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

- (e) This Agreement shall be governed by and constructed in accordance with the laws of the State of New York.

[Signature page follows]

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

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
Vincent J. Bono, Chairman

TRACTOR SUPPLY COMPANY

By: _____
**Clay Teter, Senior Vice President - Real Estate
and Construction**

STATE OF NEW YORK)
COUNTY OF Herkimer) ss.:

On this 1^{rst} day of August, 2017, before me, a notary public in and for said State, did personally appear **Vincent J. Bono**, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Anthony G. Hallak
Notary Public

ANTHONY G. HALLAK
Notary Public, State of New York
No.: 4234403
Qualified in Oneida County
Commission Expires May 23, 2018

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

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: Vincent J. Bono
Its: Chairman

TRACTOR SUPPLY COMPANY



By: Gregory A. Sandfort
Its: Chief Executive Officer

**Reviewed and Approved by
TSC Legal Department**

By S. Weir Date 7/28/17

STATE OF TENNESSEE)
COUNTY OF) ss.:

On this 28th day of July, 2017, before me, a notary public in and for said State, did personally appear Gregory A. Sandfort, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Debra James
Notary Public



EXHIBIT A

LEGAL DESCRIPTION

All of that tract or parcel of land situate in the Town of Frankfort, County of Herkimer and State of New York being more particularly described as follows:

Beginning at an iron rod found at the intersection of the southerly line of Higby Road and the westerly line of Ring Road running thence along the westerly line of Ring Road the following nineteen courses; S00°50'58"E 257.91', a curve to the left having a radius of 780.00' and a chord of S06°25'01"E 151.35' an arc length of 151.59', S75°19'26"W 10.02', S14°40'34"E 10.00', N75°19'26"E 9.81', a curve to the left having a radius of 780.00' and a chord of S13°15'32"E 14.68' an arc length of 14.68', a curve to the left having a radius of 295.00' and a chord of S18°53'54"E 52.45' an arc length of 52.52', a curve to the left having a radius of 640.00' and a chord of S32°15'51"E 184.01' an arc length of 184.65', S49°01'21"W 10.02', S40°58'39"E 10.00', N49°01'21"E 10.02', a curve to the left having a radius of 640.00' and a chord of S46°00'09"E 102.15' an arc length of 102.26', S50°26'03"E 330.39', a curve to the right having a radius of 240.00' and a chord of S30°52'17"E 161.87' an arc length of 165.11', S80°01'50"W 9.95', S09°58'10"E 10.00', N80°01'50"E 9.95', on a curve to the right having a radius of 240.00' and a chord of S11°48'22"W 168.41' an arc length of 172.07', and S32°15'29"W 30.70', thence through the lands of Herkimer County IDA and crossing Ring Road on a cul-de sac having a radius of 60.00' and a chord of S58°50'41"E 59.87' an arc length of 314.31' to the southwest corner of the lands of Cobblecote Associates, LLC thence along the southerly line of Cobblecote Associates, LLC S57°48'52"E 670.45' to an iron rod found and along the easterly line of the lands of Cobblecote Associates, LLC N32°11'08"E 353.53' to an iron rod set in the westerly line of New York State Route 5, thence along the westerly line of New York State Route 5 the following six courses; S20°08'55"E 277.92', S01°37'03"E 48.39', N31°47'14"E 45.00', S20°05'39"E 816.84' to a granite monument, S29°24'28"E 80.44' and S27°57'36"E 154.92' to an iron rod found, thence along the northwesterly line of the lands of Cross Properties, Inc. the following eight courses following generally along a stream, S61°31'53"W 145.87', S19°57'39"W 162.15' to an iron rod found, S32°27'39"W 161.00', S57°38'40"W 66.78' to an iron rod found, S57°38'40"W 65.30', S77°38'40"W 128.70', S45°38'40"W 132.00' and S38°52'07"W 363.73' to an iron pipe found in the northerly line of the lands of Mario Restive, thence along the northerly line of the lands of Restive N59°27'03"W 406.93', thence along the southeasterly line of the lands of Mark Nicastro N31°05'56"E 400.37', thence along the northeasterly line of the lands of Nicastro N58°08'16"W 1377.84', thence along the northwesterly line of the lands of Nicastro S31°39'20"W 765.20', thence along the northeasterly line of the lands of Nicastro N58°42'55"W 829.00' thence through the lands of Herkimer County IDA the following three courses; N31°41'35"E 665.89', N27°09'53"W 1482.83' and N31°02'25"E 521.38' to the southerly line of Higby Road thence along the southerly line of Higby Road the following three courses; N87°06'54"E 491.83' to an iron rod set and S89°16'16"E 303.01' crossing the end of Ring Road to an iron rod found and N89°16'50"E 702.68' to the point of beginning, containing 141.857 acres.

SCHEDULE A

PILOT Year	Town Assessment Roll Year	Town/County Tax Year (Calendar)	Town/County Payment Due Date	School Tax Year (Fiscal)	School Payment Date
1	2022	2023	31-Jan-23	2022-23	30-Sep-22
2	2023	2024	31-Jan-24	2023-24	30-Sep-23
3	2024	2025	31-Jan-25	2024-25	30-Sep-24
4	2025	2026	31-Jan-26	2025-26	30-Sep-25
5	2026	2027	31-Jan-27	2026-27	30-Sep-26
6	2027	2028	31-Jan-28	2027-28	30-Sep-27
7	2028	2029	31-Jan-29	2028-29	30-Sep-28
8	2029	2030	31-Jan-30	2029-30	30-Sep-29
9	2030	2031	31-Jan-31	2030-31	30-Sep-30
10	2031	2032	31-Jan-32	2031-32	30-Sep-31