

**ASSIGNMENT AND ASSUMPTION OF RIGHTS AND OBLIGATIONS UNDER  
ADMINISTRATIVE AGREEMENT AND COVENANT NOT TO SUE**  
(MDNR NO. CNTS-ERD-94-003)

This Assignment and Assumption of Rights and Obligations under Administrative Agreement and Covenant Not To Sue, MDNR No. CNTS-ERD-94-003 ("Assignment"), is made and entered as of this 13<sup>th</sup> day of June, 2017, by and between HD Development of Maryland, Inc., a Maryland corporation, as the successor to Home Depot U.S.A., Inc. ("Seller"), and Southfield HD Plaza, LLC, a Michigan limited liability company ("Purchaser" or "Transferee").

Recitals

WHEREAS, Seller (an affiliate of Home Depot U.S.A., Inc., a Delaware corporation) is the owner of certain property formerly owned by Home Depot U.S.A., Inc., located in the City of Southfield, Oakland County, Michigan, referred to and defined as the "Property" in the Administrative Agreement and Covenant Not To Sue entered into on October 27, 1994, by Home Depot USA (sic), Inc., the State of Michigan through the Michigan Department of Attorney General and the Department of Natural Resources through the Michigan Department of Attorney General, MDNR No. CNTS-ERD-94-003 (hereinafter referred to as the "CNS").

WHEREAS, environmental regulatory functions formerly assigned to the Michigan Department of Natural Resources were transferred to the Michigan Department of Environmental Quality ("MDEQ") by Executive Order 1995-18, effective October 1, 1995.

WHEREAS, the Property is a "Facility", as such term is defined in the CNS.

WHEREAS, as a successor and an affiliate of Home Depot U.S.A., Inc., a Delaware corporation, Seller is bound by all of the terms and conditions of the CNS.

WHEREAS, Seller and Purchaser have entered into a certain purchase and sale agreement bearing an effective date of March 23, 2016, as amended (collectively, the "Purchase Agreement") pursuant to which Seller has agreed to sell and Purchaser has agreed to purchase certain real property consisting of approximately 1.22 acres located in the City of Southfield, Oakland County, Michigan, as more particularly described in the attached Exhibit A (hereinafter referred to as the "Split Parcel").

WHEREAS, the Split Parcel is only a portion of the Property defined in and subject to the CNS.

WHEREAS, pursuant to the Purchase Agreement, the Seller and Purchaser agreed, among other things, that upon approval of MDEQ, Seller could assign to Purchaser the CNS as it relates to the Split Parcel; provided, however, that the protections set forth in the CNS afforded to the Seller and relating to the Property shall survive the sale of the Split Parcel to Purchaser

(the "Closing") and shall continue to protect the Seller as it relates to the Property (collectively, the "Assignment").

WHEREAS, pursuant to the Purchase Agreement, Purchaser agreed to assume from Seller all liabilities and obligations as "Home Depot" under the CNS arising on or after the Closing and related to the Split Parcel (collectively, the "Assumption").

WHEREAS, Purchaser submitted that certain Affidavit of Transferee Southfield HD Plaza, LLC in Support of Assignment and Assumption of Administrative Agreement and Covenant Not To Sue dated March 20, 2017 ("Affidavit") and that certain Response Activity Plan for evaluation and due care plan for the Outlot of Home Depot located at 29810 Southfield Road, Southfield, Michigan 48076 and dated September 22, 2016 ("RAP for Due Care") to the MDEQ for approval covering the Split Parcel, only (also referred to as the "Subject Property" and the "Outlot Parcel" in the RAP for Due Care).

WHEREAS, MDEQ has approved the Purchaser's RAP for Due Care for the Split Parcel, as evidenced by the Notice of Approval of Response Activity Plan dated February 2, 2017.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller and Purchaser, Seller and Purchaser enter into this Assignment pursuant to the mutual undertakings set forth below and Seller and Purchaser hereby agree as follows:

1. The above recitals are hereby incorporated herein by reference as if fully set forth herein.
2. Effective on the date of Closing, Seller assigns and transfers to Purchaser all rights, benefits, protections, and obligations of Seller under the CNS as to the Split Parcel portion of the Property only, which accrue from and after the date of Closing.
3. Effective on the date of Closing, Purchaser accepts and assumes all the rights, benefits, protections, and obligations of Seller arising out of the CNS as to the Split Parcel portion of the Property only, which accrue from and after the date of Closing. Purchaser agrees to be bound by the terms and conditions of the CNS as to Split Parcel portion of the Property, only and agrees to pay, perform and discharge all of the covenants, conditions, obligations, responsibilities and liabilities on Purchaser's part to be performed under the CNS for the Split Parcel on and after the Closing. Seller retains all the rights, benefits and protections of Seller arising out of the CNS as to Property and Seller shall continue to be bound by all the terms and conditions of the CNS solely relating to the portion of the Property that excludes the Split Parcel.
4. Upon the date of Closing, Purchaser shall have the rights, benefits, protections and obligations of Seller in the CNS as to the Split Parcel which accrue from and after the date of Closing. Upon the date of Closing, Seller shall be released from the responsibilities imposed by the CNS as to the Split Parcel only, but shall nevertheless continue to be afforded the protections of the CNS with respect to the Facility and the Property.
5. Upon the date of Closing, Purchaser hereby indemnifies and saves and holds

harmless Seller and its officers, directors, subsidiaries, successors, and assigns from and against any and all claims, causes of action, demands, suits, proceedings, damages, liabilities, costs and expenses of every nature whatsoever (including, without limitation, reasonable attorneys' fees) arising from, relating to or on account of any acts or omissions of Purchaser in connection with the Split Parcel under the CNS that accrue from and after the date of Closing.

6. This Assignment shall be binding upon and shall inure to the benefit of the Purchaser, Seller and their respective successors and assigns.

7. This Assignment shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to its principles of conflict of laws.

8. This Assignment shall be conditioned upon the occurrence of the Closing.

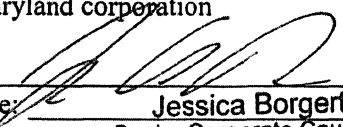
9. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

*[Signature Page to Follow]*

**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment to be executed as of the day and year first above written.

**SELLER:**

**HD DEVELOPMENT OF MARYLAND, INC.**,  
a Maryland corporation

By:   
Name:                                 Jessica Borgert                                  
Title:                                 Senior Corporate Counsel                                

*AD*

**PURCHASER:**

**SOUTHFIELD HD PLAZA, LLC**,  
a Michigan limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed as of the day and year first above written.


**SELLER:**

**HD DEVELOPMENT OF MARYLAND, INC.,**  
a Maryland corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PURCHASER:**

**SOUTHFIELD HD PLAZA, LLC,**  
a Michigan limited liability company

By:   
Name: Matthew Bertze  
Title: Manager

**JOINDER, CONSENT AND RELEASE OF MDEQ**

The undersigned, Michigan Department of Environmental Quality ("MDEQ"), hereby joins in and consents to that certain Assignment and Assumption of Rights and Obligations Under Administrative Agreement and Covenant Not To Sue (MDNR No. CNTS-ERD-94-003) to which this Joinder, Consent and Release is attached (the "Assignment"), and MDEQ (1) agrees to Seller's assignment and transfer to Purchaser of all rights, benefits, protections and obligations of Seller under the CNS as to the Split Parcel portion of the Property only which accrue from and after the date of the Closing; (2) agrees to Purchaser's assumption of all rights, benefits, protections and obligations of Seller arising out of the CNS as to the Split Parcel portion of the Property only, which accrue from and after the Closing; (3) hereby releases Seller from the responsibilities imposed by the CNS as to the Split Parcel only from and after the date of Closing, and (4) agrees to be bound by and subject to the terms and provisions of the Assignment.

IN WITNESS WHEREOF, the MDEQ has executed this Joinder, Consent and Release this \_\_\_\_ day of June 9, 2017.

**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY**

By: Kathleen Shirey  
Name: Kathleen Shirey  
Title: Acting Assistant Director, RRD

**MICHIGAN DEPARTMENT OF ATTORNEY GENERAL**

Laura Gnyp 6/2/2017  
Laura Gnyp (P79943)  
Assistant Attorney General  
Environment, Natural Resources, and Agricultural  
Division  
Department of Attorney General

**EXHIBIT A**

**LEGAL DESCRIPTION FOR SPLIT PARCEL**

Land located in the City of Southfield, Oakland County, Michigan, as more particularly described as:

PART OF THE SOUTHEAST 1/4 OF SECTION 11, TOWN 1 NORTH, RANGE 10 EAST, CITY OF SOUTHFIELD, OAKLAND COUNTY, MICHIGAN, ALL BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 11; THENCE NORTH 86 DEGREES 02 MINUTES 26 SECONDS WEST, 102.24 FEET AND DUE SOUTH 276.69 FEET ALONG THE WEST RIGHT OF WAY LINE OF SOUTHFIELD ROAD TO THE POINT OF BEGINNING; THENCE DUE SOUTH 261.65 FEET; THENCE DUE WEST 45.43 FEET; THENCE SOUTH 02 DEGREES 58 MINUTES 45 SECONDS WEST, 8.17 FEET; THENCE NORTH 89 DEGREES 22 MINUTES 25 SECONDS WEST, 31.33 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 55 SECONDS WEST, 146.45 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 03 SECONDS WEST, 18.94 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, 9.76 FEET; THENCE NORTH 00 DEGREES 24 MINUTES 34 SECONDS EAST, 24.50 FEET; THENCE NORTH 00 DEGREES 01 MINUTES 04 SECONDS WEST, 164.50 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 12 SECONDS EAST, 29.52 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 52 SECONDS EAST, 42.05 FEET; THENCE DUE EAST 136.83 FEET; THENCE DUE NORTH 19.57 FEET; THENCE DUE EAST 47.33 FEET TO THE POINT OF BEGINNING. CONTAINING 52,935 SQUARE FOOT OR 1.215 ACRES.

