

Send Tax Notice To:  
Home Depot U.S.A., Inc.  
2455 Paces Ferry Road N.W.  
C-20  
Atlanta, Georgia 30339-4024

STATE OF ALABAMA )

COUNTY OF SHELBY )

## STATUTORY WARRANTY DEED

THIS IS A STATUTORY WARRANTY DEED executed and delivered this 25<sup>th</sup> day of March, 1999, by METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation, (hereinafter referred to as the "Grantor"), to HOME DEPOT U.S.A., INC., a Delaware corporation, (hereinafter referred to as the "Grantee").

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of the sum of Three Million Seven Hundred Eighty Two Thousand Five Hundred Nine and 73/100 Dollars (\$3,782,509.73) in hand paid by Grantee to Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, the Grantor does by these presents, grant, bargain, sell and convey unto the Grantee the real estate situated in Shelby County, Alabama and more particularly described on Exhibit "A" attached hereto.

TOGETHER WITH all appurtenances thereto belonging or in anywise appertaining and all right, title and interest of Grantor in and to any and all roads, alleys and ways bounding such property.

This conveyance is subject to the following:

1. Taxes for the year 1999, a lien, but not yet due and payable.
2. Mineral and mining rights not owned by the Grantor.
3. Any applicable zoning ordinances.
4. Easements, rights-of-ways, reservations, agreements, restrictions, and setback lines of record as set forth on Exhibit "C" attached hereto and by reference made a part hereof.

Inst # 1999-13028

03/29/1999-13028  
12:00 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
025 CRH 3851.50

5. Said property conveyed by this instrument is hereby subjected to the Declaration of Protective Covenants, attached hereto as **Exhibit "B"** and made a part hereof, and the Easements and Agreements set forth therein; provided, however, that if Grantor should re-acquire title to the property conveyed herein, such restrictions shall be null and void.

TO HAVE AND TO HOLD, unto Grantee, its successors and assigns forever.

The Grantor hereby covenants and agrees with Grantee, its successors and assigns, that the Grantor, its successors and assigns, will warrant and defend the above described real estate against the lawful claims (unless otherwise noted above) of all persons claiming by, through, or under the Grantor.

IN WITNESS WHEREOF, the said Grantor, by its Vice President, Robert R. French who is authorized to execute this conveyance, and the said Grantee, by its \_\_\_\_\_ who is authorized to execute this conveyance, have hereto set their signatures and seals, this the 25<sup>th</sup> day of MARCH, 1999.

**GRANTOR:**

Attest:

**METROPOLITAN LIFE INSURANCE  
COMPANY**

By: Nancy D. Hammer  
Its: Asst. Secretary

By: [Signature]  
Its: Vice President RBA

**GRANTEE:**

Attest:

**HOME DEPOT U.S.A., INC.** MG

By: Marybeth Lamorel  
Its: Assistant Secretary

By: [Signature]  
Its: Kathryn E. Lee 3/25/99  
Senior Corporate Counsel/Real Estate

STATE OF GEORGIA )  
COUNTY OF FULTON )

I, Leticia A. Ponder, a Notary Public in and for said County, in said State, hereby certify that Robert H. French, whose name as Vice President of Metropolitan Life Insurance Company, a New York corporation, signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of this conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 25th day of March, 1999.

(SEAL)

Leticia A. Ponder  
Notary Public  
My Commission Expires: 1-13-2001

STATE OF GEORGIA )  
COUNTY OF COBB )

I, MICHELE BOSEMAN-DUCRE, a Notary Public in and for said County, in said State, hereby certify that Kathryn E. Lee whose name as Sr. Corp. Counsel/Real Estate of Home Depot U.S.A., Inc., a Delaware corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of this conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 25 day of MARCH, 1999.

(SEAL)

Michele Bosman-Ducré  
Notary Public

Notary Public, Cobb County, Georgia  
My Commission Expires Oct. 5, 2002

**THIS INSTRUMENT PREPARED BY:**

Denise W. Killebrew, Esq.  
Berkowitz, Lefkovits, Isom & Kushner, P.C.  
SouthTrust Tower  
420 North 20th Street, Suite 1600  
Birmingham, Alabama 35203-5202

A part of the Southeast Quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama; being more particularly described as follows: COMMENCE at the Northeast corner of the Northeast Quarter of the Southeast Quarter of said section and run West along the North line of said Quarter-Quarter section 310.27 feet to the point of beginning; thence continue along last described course 1273.93 feet; thence backsighting last course turn an interior angle right of  $117^{\circ}02'01''$  and run Southwesterly 400.74 feet to the Northerly Right of Way line of U. S. Highway No. 280; thence backsighting last course turn an interior angle right of  $89^{\circ}59'37''$  and run Southeasterly along said Right of Way line 960.19 feet to the Westerly Right of Way line of Cahaba Bench Road; thence backsighting last course turn an interior angle right of  $134^{\circ}00'00''$  and run Northeasterly 138.93 feet along said Right of Way line; thence backsighting last course turn an interior angle right of  $134^{\circ}00'00''$  and run Northeasterly 201.49 feet along said Right of Way line to a point of curve to the right; running thence Northeasterly along the arc of said curve having a chord of 274.88 feet that forms an interior angle right of  $186^{\circ}09'50''$  to the chord and an arc distance of 275.41 feet (said curve having a radius of 1280.03 feet and a central angle of  $12^{\circ}19'40''$ ); thence backsighting last chord turn an interior angle right of  $186^{\circ}09'50''$  and run Northeasterly 290.50 feet along said Right of Way line to a point of curve to the left; running thence Northeasterly to the North line of said Quarter-Quarter section along the arc of said curve to the point of beginning, said curve having a chord of 119.09 feet that forms an interior angle right of  $176^{\circ}00'38''$  to the chord and an arc distance of 119.19 feet. (said curve having a radius of 855.84 feet and a central angle of  $7^{\circ}58'45''$ ).



## **EXHIBIT B**

This EXHIBIT B (this "Declaration") is attached to and by reference made a part of that certain Limited Warranty Deed dated March 25, 1999, from METROPOLITAN LIFE INSURANCE COMPANY, INC., a New York corporation (hereinafter referred to as "Grantor") to HOME DEPOT U.S.A., INC., a Delaware corporation, (hereinafter referred to as "Grantee").

### **DECLARATION OF PROTECTIVE COVENANTS**

Grantor hereby reserves, solely for the benefit of itself, or its successor, if any, which owns at least three of the following projects within Inverness (as defined below): Inverness Corners Shopping Center, Inverness Plaza Shopping Center, Inverness Country Club and Facilities, Inverness Cliffs Apartments, Inverness Landing Apartments, Office Buildings #10, #22, #31, #40, #42, #44 and #104 and has the majority responsibility for enforcing development standards within Inverness (the "Inverness Developer"); provided that no person or entity whose primary business is a retail home improvement center containing at least fifty thousand (50,000) square feet, or such party's parent, subsidiary or affiliate, shall be entitled to be the Inverness Developer, and Grantor and Grantee hereby covenant and agree that the conveyance herein of the property and the estates granted by the within and foregoing Limited Warranty Deed (hereinafter "Property") is subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to the following Covenants and Restrictions, which shall run with the land and shall be binding upon Grantee, the heirs, legal representatives, successors

and assigns of Grantee, and all parties having or acquiring any right, title, or interest in and to the real property and any part or parts thereof subject to such Restrictions.

## ARTICLE I

### COMMENCEMENT OF CONSTRUCTION

1.1 Time of Commencement. Grantee shall commence construction on the Property of a retail building (hereinafter "Building"), to be used for the purposes set forth in Article II hereof, within twenty-four (24) months from the date of execution and delivery of the deed conveying title to the Property to Grantee (the "Deed"). In the event Grantee fails to commence construction of the Building within such twenty-four (24) month period, Grantor's sole and exclusive remedy shall be to exercise its right of repurchase pursuant to Article IV below.

1.2 Plans. Grantee hereby agrees that construction of the Building shall conform with the exterior plans and appearance specifications, if any, approved by Grantor in the manner provided in ARTICLE II hereinbelow.

1.3 Inverness. The term "Inverness" as used herein shall mean all those tracts and parcels of land located in the City of Hoover, Shelby County, Alabama, and more particularly described in Exhibit "A" attached hereto and made a part hereof. The Property conveyed by the within and foregoing Limited Warranty Deed is hereby declared to be and is designated as part of Inverness.

## ARTICLE II

### PERMITTED USES, PLAN APPROVAL

2.1 Permitted Uses. The Building or Buildings to be constructed on the Property shall be so constructed and used only for the following purposes:

2.1.1 Any lawful retail use other than those prohibited hereby. Grantee hereby agrees that it, its successors and assigns, or anyone holding by, through or under them, shall not use or permit the use of the Property for any other use or purpose without the Grantor's prior written consent which may not be unreasonably withheld, conditioned or delayed.

2.1.2 Any use hereunder shall comply with all laws, ordinances, rules, regulations and requirements of any governmental authority or agency having jurisdiction over the Property, including those relating to the use, maintenance, storage and disposal of "hazardous substances" (as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act, and the rules and regulations promulgated pursuant thereto, as may be amended from time to time), contaminants, oil, radioactive or other materials, the removal of which is required or the maintenance of which is prohibited, penalized or regulated by any governmental unit.

2.1.3 The Property shall not be used or occupied (a) as a restaurant incorporating coin-operated amusements, (b) for any business or use which creates strong, unusual or offensive odors (except cooking odors), fumes, dust or vapors; is a public or private nuisance; emits noise or sounds which are objectionable due to intermittent beat, frequency, shrillness or loudness; or creates unusual fire, explosives or other hazards, (c) as a funeral parlor



or mortuary; flea market; coin-operated laundromat; industrial manufacturing facilities; adult bookstore or establishment selling, exhibiting or distributing nude, pornographic or obscene materials, including, without limitation, lingerie shop; massage parlor; topless or nude bar or lounge; so called "head shop"; amusement arcade or game room; body and fender shop; off-track betting parlor; or kennel or pet store having outdoor boarding facilities; (d) as a discount retailer such as K-Mart; (e) as a supermarket or (f) as a drugstore; provided, however, the Property may be used for a business which, as incidental to its primary business, sells items typically sold at a discount retailer, a supermarket or a drugstore.

2.1.4 Grantor, for itself and its successors and assigns, agrees that no portion of Inverness except for the Property may be used for a home improvement center or for the sale of lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper, carpeting, floor coverings, cabinets, siding, ceiling fans, gardening supplies, nursery products, furniture, or pool supplies or other related items customarily carried by a home improvement center except for the incidental sale of such items.

2.2 Quality of Appearance. The exterior of the Building and signs (the "Signs") on the Property will be subject to paragraph 2.3 below. All utilities serving the Property or the Building or both shall be underground except for temporary utilities for construction purposes and Grantee shall pay any additional costs to any utility company for such underground service.

2.3 Plan Approval. Except as otherwise provide herein, construction of the Building and the Signs shall not commence unless and until Grantee has obtained from Grantor, in the manner set forth hereinbelow, Grantor's unqualified and unconditional approval of any and all

exterior plans and appearance specifications, as hereinafter described, relating to such construction of the Building and Signs on the Property, including, without limitation, plans and specifications for the exterior of the Building, for Signs to be placed on the exterior of the Building or on the Property and for all other items relating to the exterior appearance of the Building and Signs on the Property. Such approval shall not be unreasonably withheld, conditioned or delayed. The scope of review by Grantor shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any similar or dissimilar factors. Commencement of construction prior to receipt of a letter of approval of the Grantor, a copy of which must be signed by the Grantee, and returned to the Grantor for retention, is strictly prohibited. In the event the Grantor no longer owns Inverness, Grantor shall give notice to Grantee to indicate the Inverness Developer, if any, to whom proposed plans are to be forwarded. All such plans and specifications shall be submitted to Grantor for Grantor's review and approval or disapproval in the following manner:

2.3.1 Plans and Specifications. Grantee will submit to Grantor, for Grantor's review and approval or disapproval, plans of the exterior of the Building; a perspective of the Building; specifications for exterior materials of the Building; a site plan of the Property showing the location of exterior Signs, and detailed plans for exterior Signs. Within ten (10) business days from the date Grantor receives all such plans and specifications, Grantor will give Grantee written notice of Grantor's approval or disapproval thereof, together with the specific reasons for any disapproval. If such notice is not so given within such period of time, Grantor shall be

deemed to have approved such plans and specifications. The construction of the Building and Signs shall be in substantial compliance with the plans and specifications submitted to and approved by Grantor, if any (the "Approved Plans").

2.3.2. Mandated Modifications to Plans and Specifications. Notwithstanding anything to the contrary contained herein, Grantee shall not be required to obtain Grantor's approval with respect to any modifications, alterations, additions, or subtractions to Grantee's plans and specifications (including without limitation the Approved Plans) which are required by any local, state or federal governmental authority, agency, or regulatory body.

2.4 Modification to Building and Signs. Grantee and its successors and assigns shall be entitled, in their sole discretion and without obtaining approval from any party, to make any modifications, alterations, additions, and subtractions to the Building and Signs (including without limitation constructing or installing any additional buildings in connection with the operation of the retail store and Signs) so long as the exterior appearance of such modifications, alterations, additions, and subtractions is either (i) compatible with the Building or Signs, as the case may be, which are shown on the Approved Plans, or (ii) consistent with other corporate-wide modifications by Grantee at some or all of its other retail locations that it is then operating.

2.5 Drainage Provisions. The following provisions shall apply to drainage:

2.5.1 In connection with the construction of the Building and of any modifications thereof and of any additional buildings on the Property, Grantee shall make such provision for drainage of the Property affected by such construction and development as is

satisfactory to any appropriate county, municipal, or governmental agencies having authority over such construction and development. Further, Grantee hereby covenants and agrees to hold Grantor harmless against any and all loss, cost, damage, or injury which Grantor shall ever suffer or endure because of Grantee's failure to make adequate provisions for drainage of the Property after said proposed construction and development.

### **ARTICLE III**

#### **MAINTENANCE**

3.1 Maintenance of Property. The Property and areas contiguous to road right of ways including Alabama Highway 280 shall be maintained in an attractive appearance and in a first class manner similar to other retail centers in the area. Subject to the remainder of this paragraph, in the event the owner of the Property fails to keep the Property so maintained, Grantor, its representatives, agents, or employees shall have the right, upon notice to the owner of the Property and a reasonable stated amount of time to cure, to enter onto the Property at reasonable times and perform all work needed or desired in order to maintain the Property in the manner provided. Such entrance upon the Property for such purposes shall not be a trespass. The owner of the Property hereby agrees to pay Grantor such reasonable costs and expenses as Grantor shall incur by so acting to maintain the Property within ten (10) days from the receipt by Grantee of a statement from Grantor for any such work. Notwithstanding anything to the contrary contained herein, this provision of self-help in favor of Grantor shall only be effective from and after such time that the Property is no longer owned by Grantee or Grantee's parent,



subsidiary or affiliate, and is no longer owned by a third party in connection with a financing transaction pursuant to which Grantee or Grantee's parent, subsidiary or affiliate occupies the Property.

3.2 Maintenance During Construction. The following provisions shall be observed:

3.2.1 Dust abatement and erosion control measures shall be provided by the contractor or owner in all stages of construction at least to the specifications of any governmental authority having jurisdiction over the Property.

3.2.2 All building debris, stumps and trees resulting from construction activities must be removed from the Property as often as necessary to keep the construction site reasonably clean and safe. Such debris shall not be dumped in any area of Inverness.

#### ARTICLE IV

#### RIGHT OF REPURCHASE

4.1 Resale. In the event Grantee fails to commence construction of the Building within twenty-four (24) months from the date of execution and delivery of the Deed, Grantor shall have and retains the option (the "Option") to purchase the Property from Grantee at an amount equal to the purchase price paid to Grantor for the Property, without interest. In the event Grantee fails to commence construction of the Building within twenty-four (24) months from the date of execution and delivery of the Deed, the Option shall be exercisable by written notice from Grantor to Grantee not more than thirty (30) days following the expiration of the twenty-four (24) month period.



4.2 Time to Repurchase. In the event Grantor properly exercises the Option, the closing of the repurchase by Grantor shall be consummated within sixty (60) days from the date Grantee receives such notice at a time and a place to be selected by the Grantor in Atlanta, Georgia.

4.3 Deed. If the Grantor elects to exercise the Option pursuant to Section 4.1, Grantee shall reconvey good and marketable fee simple title in and to the Property, to Grantor by limited warranty deed in the form of the Deed subject only to (a) those matters which were of record at the time Grantee obtained title to the Property (b) this Declaration, (c) such easements, encumbrances, and restrictions as Grantor shall have approved, and (d) real property taxes subsequent to the date of the reconveyance to Grantor. The reconveyance price shall be paid by Grantor in cash at the closing. Grantor shall pay all costs and expenses in connection with the conveyance of the Property from Grantee to Grantor, including, without limitation, state and local transfer taxes and documentary stamps, and recording costs.

4.4 Termination of Option. The failure of Grantor to notify Grantee in writing of the exercise of the Option within the time periods specified in Section 4.1 above shall constitute a waiver by Grantor of its right to exercise the Option. Further, the Option shall automatically terminate and expire without any further act by any party on the earlier of (a) the date on which Grantee commences construction of the Building on the Property, or (b) the expiration of the time periods specified in Section 4.1 above for the exercise of the Option without Grantor have properly exercised the Option, or (c) the date which is sixty (60) days following the date on which Grantor has exercised the Option if the closing of the reconveyance of the Property to Grantor has failed to occur by such date as a result of the fault of Grantor. Notwithstanding

anything to the contrary contained herein, Grantor shall execute, deliver and record any documents and instruments which are reasonably requested by Grantee to evidence the termination and expiration of the Option.

## **ARTICLE V**

### **RIGHT OF FIRST REFUSAL**

5.1 Right of First Refusal. In the event Grantee desires to convey the Property prior to construction of the Building thereon, Grantee shall give written notice ("Sale Notice") to Grantor (i) certifying that Grantee has received a proposal from a third party to purchase all or a portion of the Property (the "Sale Parcel") and that Grantee wishes to accept such proposal, (ii) giving the name of the entity making such offer, (iii) identifying the Sale Parcel subject to such offer (the "Offer"), (iv) enclosing a copy of the Offer signed by the prospective purchaser and (v) offering Grantor the option to repurchase the Sale Parcel. The purchase price to be paid by Grantor shall be equal to the purchase price paid to Grantor for the Property. Notwithstanding anything to the contrary contained herein, the right of first refusal contained in this Section 5.1 shall not be applicable to any conveyance, transfer, sale, lease or encumbrance of the Property or any portion thereof pursuant to any deed, lease, mortgage, deed to secure debt, deed of trust, or any other document or instrument in connection with (a) any transaction between Grantee and any parent, subsidiary or affiliate of Grantee, or (b) any financing transaction, or (c) any sale,

encumbrance or transfer of all or substantially all of Grantee's assets (or all or substantially all of Grantee's assets in the State of Alabama).

5.2 Time to Repurchase. Grantor shall within thirty (30) days after delivery of the Sale Notice, deliver to Grantee a notice ("Election Notice") which shall specify whether Grantor shall purchase the Sale Parcel. If Grantor elects to purchase the Sale Parcel, the Closing shall occur within sixty (60) days from Grantor's Election Notice to Grantee at a mutually agreeable time and place in Atlanta, Georgia. If Grantor elects not to purchase the Sale Parcel or if Grantor does not respond to the Sale Notice within said thirty (30) day period, Grantor shall be deemed to have waived the right of first refusal with respect to the Offer.

5.3 Deed. If the Grantor elects to purchase pursuant to the Election Notice, Grantee shall reconvey good and marketable fee simple title in and to the Property, to Grantor by limited warranty deed in the form of the Deed subject only to (a) those matters which were of record at the time Grantee obtained title to the Property (b) this Declaration, (c) such easements, encumbrances, and restrictions as Grantor shall have approved, and (d) real property taxes subsequent to the date of the reconveyance to Grantor. The reconveyance price shall be paid by Grantor in cash at the closing. Grantor shall pay all costs and expenses in connection with the conveyance of the Property from Grantee to Grantor, including, without limitation, state and local transfer taxes and documentary stamps, and recording costs.

5.4 Third Party Closing. Any closing with respect to the Offer to a third party shall be for a price that is no less than ninety-five percent (95%) of the price contained in the delivered Offer, otherwise the Sale Parcel shall again be offered to Grantor in accordance with the

foregoing Right of First Refusal provisions. In the event the transfer pursuant to the Offer does not occur, the Sale Parcel shall remain subject to this Right of First Refusal.

5.5 Termination of Right of First Refusal. The Right of First Refusal shall automatically terminate and expire without any further act by any party on the earlier of (a) the date on which Grantee commences construction of the Building on the Property, or (b) the expiration of the time period specified in Section 5.2 above for the delivery of the Election Notice without Grantor having properly delivered the Election Notice or (c) upon sale to a third party pursuant to Section 5.4 hereof. Notwithstanding anything to the contrary contained herein, Grantor shall execute, deliver and record any documents and instruments which are reasonably requested by Grantor to evidence the termination and expiration of this Right of First Refusal.

## **ARTICLE VI**

### **GENERAL RESTRICTIONS**

6.1 Mining. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon the Property and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on the Property.

6.2 Trash. Trash, garbage or other waste shall not be kept on the Property, except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material. Grantor shall, following notice and a reasonable amount of time to cure, be entitled to enter the Property and perform such maintenance as necessary to comply with this provision.



The owner of the Property shall reimburse Grantor within ten (10) days following receipt of a bill for costs involved in such maintenance. This provision of self help in favor of Grantor shall only be effective from and after such time that the Property is no longer owned by Grantee or Grantee's parent, subsidiary or affiliate, and is no longer owned by a third party in connection with a financing transaction pursuant to which Grantee or Grantee's parent, subsidiary or affiliate occupies the Property.

## **ARTICLE VII**

### **ENFORCEMENT**

7.1 In the event of a violation or breach of this Declaration, or any amendments thereto by any property owner, or agent of such owner, the Inverness Developer, if any, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof or to prevent the violation or breach hereof, to sue for and recover damages or other charges, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. The liability of any property owner pursuant to this Article shall be limited to such property owner's interest in the Property, except for liability resulting from an Environmental Contamination (as defined below) on the Property caused by such property owner or its agents, employees or contractors for which such property owner is responsible under applicable law. In the event of such Environmental Contamination (as defined below), the liability shall not be limited. No delay or failure on the part of any aggrieved party to invoke an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other



party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a difference violation. Grantor shall not be responsible in any way for any delay or failure to enforce or seek to enforce any violation or breach of any of these restrictions or amendments thereto. The term "Environmental Contamination" as used herein shall mean the presence on the Property of any substance which is controlled, regulated, or prohibited under any local, state or federal law relating to the environment.

## **ARTICLE VIII**

### **DURATION AND AMENDMENT**

8.1 The Restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of the Inverness Developer, its successors and assigns for so long as there is an Inverness Developer, as hereinabove defined, but in no event longer than twenty (20) years (the "Restriction Period") from the date hereof, unless waived in writing by the Inverness Developer. Provided, however, this Declaration shall automatically terminate without any further act of any party at such time that there no longer exists any Inverness Developer. Notwithstanding the foregoing, the Inverness Developer shall execute and deliver any documents and instruments which are reasonably requested by Grantee or its successors or assigns to evidence such termination. Grantee and any person or entity acquiring fee or leasehold title to the Property (or any interest therein) shall be bound by this Declaration only as to the Property or portion thereof (or interest therein) acquired by such person or entity. In addition, such person or

entity shall be bound by this Declaration only during the period such person or entity is the fee or leasehold owner of the Property or portion thereof (or interest therein).

## **ARTICLE IX**

### **RECIPROCAL NEGATIVE EASEMENTS**

9.1 Grantor and Grantee covenant and agree that the hereinabove provided restrictions shall not encumber or restrict or burden, either as reciprocal negative easements or as implied covenants or as restrictive covenants or as equitable servitudes or as any other right or interest or claim, any other properties owned in part or entirely by Grantor and which may benefit from the hereinabove provided restrictions, it being the intention of Grantor and Grantee that only the Property shall be restricted thereby. Grantor hereby expresses its general intent to use these same restrictions, as they may be modified, on other property in Inverness, as it may be specifically designated by deed as such from time to time.

## **ARTICLE X**

### **SEVERABILITY**

10.1 Every one of the Restrictions in the Declaration is hereby declared to be independent of, and severable from the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Invalidity by any court of any restriction in this instrument shall in no way affect any of the other restrictions which shall remain in full force and effect.

## ARTICLE XI

### MISCELLANEOUS

11.1 All notices, requests, demands or other communications hereunder shall be in writing and shall be delivered by personal delivery, overnight mail, or delivery service, facsimile, or United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Grantor: Metropolitan Life Insurance Company  
2400 Lakeview Parkway, Suite 100  
Alpharetta, GA 30004  
Attn: EIM Manager  
Facsimile Number: (678) 319-3424

With Copies To: Metropolitan Life Insurance Company  
2400 Lakeview Parkway, Suite 100  
Alpharetta, GA 30004  
Attn: Associate General Counsel  
Facsimile Number: (678) 319-3427

Taylor & Mathis, Inc.  
22 Inverness Center Parkway, Suite 110  
Birmingham, Alabama 35242-0248  
Attn: General Manager - Inverness  
Facsimile Number: (205) 980-5266

If to Grantee: Home Depot U.S.A., Inc.  
Legal Department  
2455 Paces Ferry Road, C-20  
Atlanta, GA 30339  
Attn: Corporate Counsel-Real Estate  
Facsimile Number: (770) 384-3042

With a Copy to:

Home Depot U.S.A., Inc.  
Legal Department  
2455 Paces Ferry Road, C-19  
Atlanta, GA 30339  
Attn: Ed Ogletree, Real Estate Manager  
Facsimile Number: (770) 384-2917

With a Copy to:

Home Depot U.S.A., Inc.  
Legal Department  
2455 Paces Ferry Road, C-20  
Atlanta, GA 30339  
Attn: Senior V.P. - Legal  
Facsimile Number: (770) 384-2739

or to such other address as the parties may from time to time designate by notice in writing to the other parties. Any such notice, request, demand or communication shall be deemed to have been given on the date delivered. Refusal by any party to accept delivery or the inability to deliver because of a change of address of which no notice has been given shall constitute delivery hereunder.

11.2 This Declaration shall be construed in accordance with the laws of the State of Alabama.

11.3 The Article, Section, and Paragraph headings in this Declaration are for convenience only, shall in no way define or limit the scope or content of this Declaration, and shall not be considered in any construction or interpretation of this Declaration or any part hereof.

11.4 Nothing in this Declaration shall be construed to make the parties hereto partners or joint venturers or render either of said parties liable for the debts or obligations of the other.

11.5 This Declaration shall be binding upon and inure to the benefit of Grantee and the successors and assigns of Grantee, and shall be binding upon and inure to the benefit of Grantor and any successor Inverness Developer, if any.

Signed, sealed and delivered  
by Grantor in the presence of:

GRANTOR: METROPOLITAN LIFE  
INSURANCE COMPANY

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

Signed, sealed and delivered  
by Grantee in the presence of:

GRANTEE: HOME DEPOT U.S.A., INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public



# INVERNESS



A MetLife Investment  
Developed and Managed by TAYLOR&MATHIS

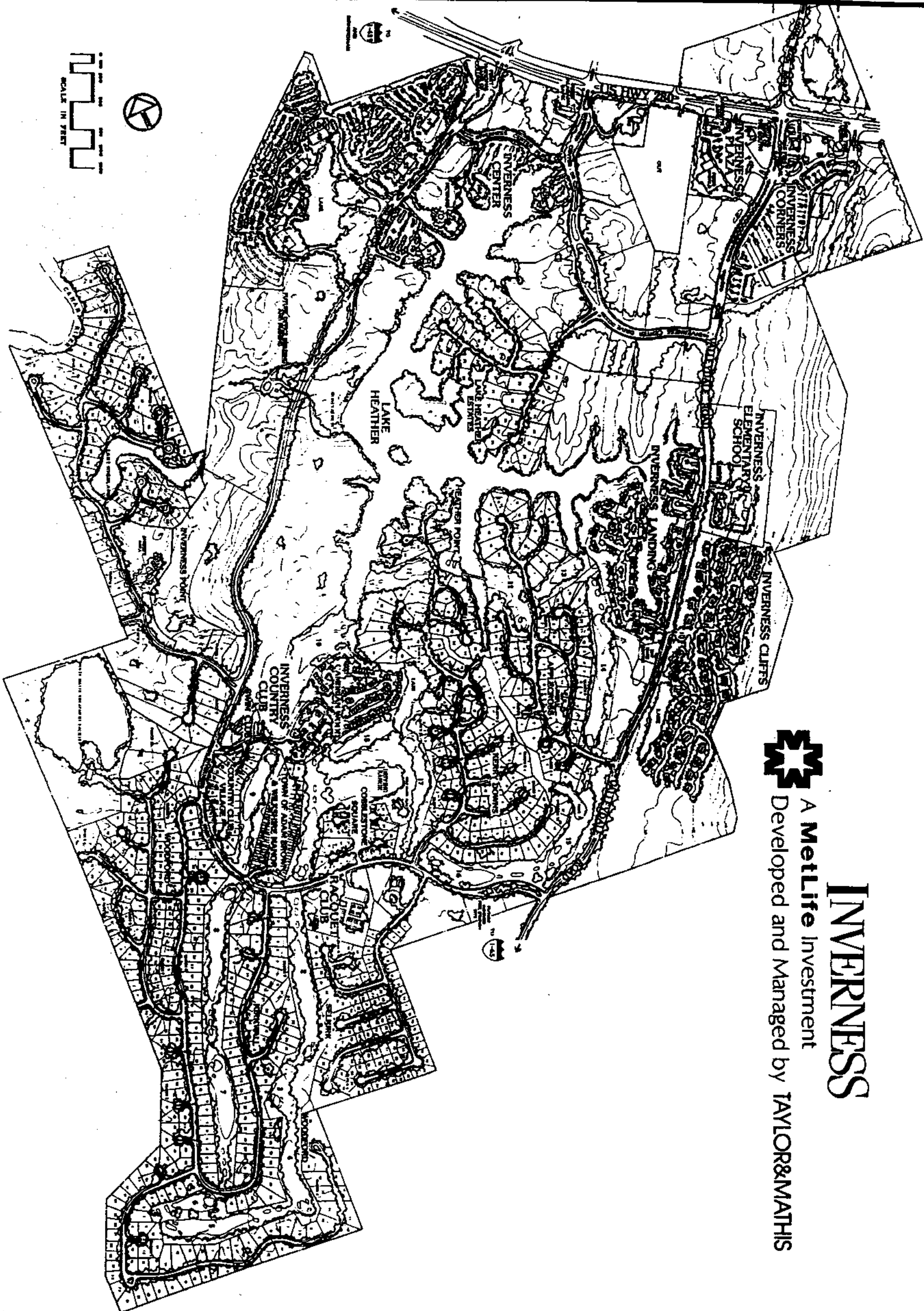


EXHIBIT "C"

1. Taxes for the year 1999, a lien, but not yet due and payable.
2. Mineral and mining rights not owned by the Grantor.
3. Right of Way granted to Alabama Power Company by instruments recorded in Deed Book 180, Page 43.
4. Agreement with City of Hoover as to sewage treatment in Real Volume 314, page 561 and Supplemental Deed and Agreement recorded in Real Volume 365, Page 876.

Inst # 1999-13028

03/29/1999-13028  
12:00 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
025 CRH 3851.50