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 11 *The People of the State of California*

12 *(Additional counsel on following pages)*
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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 17 COUNTY OF LOS ANGELES
 18

19 PEOPLE OF THE STATE OF CALIFORNIA *ex*
 20 *rel* SOUTH COAST AIR QUALITY
 MANAGEMENT DISTRICT, a Public Entity,

21 Plaintiff,
 22 vs.

23 HOME DEPOT U.S.A., INC., a Delaware
 Corporation, and DOES 1 through 50, Inclusive,
 24 Defendants.
 25

Case No. BC462571, Consolidated
 Case under BC464693

FINAL JUDGMENT AND INJUNCTION
 PURSUANT TO STIPULATION

Judge: Hon. Richard L. Fruin, Jr. Department: 15
 Complaint Filed: June 2, 2011

26 AND CONSOLIDATED ACTION
 27 THE PEOPLE OF THE STATE OF
 CALIFORNIA v. HOME DEPOT U.S.A., INC.,
 et al.
 28

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19

20
21

22 Plaintiff, the People of The State of California, having filed its Complaint and First
23 Supplemented Complaint; and Defendant Home Depot U.S.A. Inc., having accepted service of
24 these complaints, and Plaintiff, appearing through its attorneys Carmen A. Trutanich, Los
25 Angeles City Attorney, by Jessica B. Brown; Paul Zellerbach, District Attorney Riverside
26 County, by Michael Quesnel, Supervising Deputy District Attorney; Tony Rackauckas, District
27 Attorney Orange County, by Kelly A. Roosevelt, Deputy District Attorney; Michael A. Ramos,
28

1 District Attorney San Bernardino County, by Daniel I. Silverman, Deputy District Attorney;
2 and Defendant Home Depot U.S.A. Inc., appearing through its attorney, James R. Asperger of
3 Quinn Emmanuel Urquhart and Sullivan, LLP; and

4 Plaintiff and Defendant having stipulated and consented to the entry of this Final
5 Judgment (“Judgment”) prior to the taking of any proof, and without trial or adjudication of
6 any issue of fact or law herein; and

7 The Court having considered the pleadings and the Stipulation of the parties;
8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

9
10 **1. JURISDICTION**

11 The Superior Court of California, County of Los Angeles, has subject matter jurisdiction over the
12 matters alleged in this action and personal jurisdiction over the parties to this Final Judgment.

13
14 **2. APPLICABILITY OF FINAL JUDGMENT**

15 The provisions of this Final Judgment are applicable to Defendant HOME DEPOT U.S.A., Inc., a
16 Delaware Corporation, and its subsidiaries, affiliates and corporate parents, and each of their affiliates
17 and parents, successors, heirs, assigns, and their respective officers, directors, partners, employees,
18 agents, representatives, property owners, and facility operators.

19
20 **3. INJUNCTIVE RELIEF**

21 **3.1 Specific Injunctive Provisions:**

22 Defendant shall comply with each of the following provisions:

23 **3.1.1 VOC Policy:** Within thirty (30) days of entry of this Final Judgment, Home
24 Depot shall adopt a written policy directed at compliance with South Coast
25 Air Quality Management District (“SCAQMD”) Rule 1113. This written
26 policy, and any updates to this policy shall be maintained for at least four (4)
27 years. This written policy shall include provisions which require
28 manufacturers to identify all product(s) sold through Home Depot that are

1 subject to SCAQMD Rule 1113 and identify the VOC content of the products
2 that those manufacturers identify as architectural coatings. The policy shall
3 also provide that Home Depot shall obtain any and all written representations
4 by manufacturers as to the applicability of SCAQMD Rule 1113 to the
5 manufacturer's product(s) and shall retain such information for a period of at
6 least four years. The policy shall also provide that any subsequent changes
7 in formulation that affect the products' compliance with SCAQMD Rule
8 1113 must be given an independent, new SKU number. In the event Home
9 Depot ceases to sell or offer for sale any product identified as subject to
10 SCAQMD Rule 1113, Home Depot shall retain records reflecting the VOC
11 content for that product for the duration of the Final Judgment. Home Depot
12 shall make those records available, upon reasonable request, to any
13 representative of the SCAQMD and/or and member of the offices of the
14 Local Prosecutors during the existence of this injunction.

15 3.1.2 **Stop Sale:** Within thirty (30) days of the identification by a manufacturer
16 that the VOC content of a product exceed the maximum allowable amount
17 pursuant to Rule 1113, Home Depot shall place that product on Stop-Sale in
18 all stores located in the South Coast District ("District"). This stop sale shall
19 be assigned to the SKU number that is assigned or associated with the non-
20 compliant product(s). Additionally, Home Depot shall also implement this
21 system so that Stop-Sale can not be circumvented by on-line purchases via
22 the internet through any web page maintained by, or maintained for, the
23 Home Depot, including, but limited to, www.homedepot.com.

24 3.1.3 **Training Program:** Within thirty (30) days of entry of this Final Judgment,
25 Home Depot shall adopt a program that will train Home Depot employees on
26 compliance with SCAQMD Rule 1113. Home Depot shall conduct this
27 training on an annual basis: for Merchants who are responsible for products
28 that are identified as architectural coatings (either by the manufacturers or

1 from another source); all front-end supervisors; all Merchandise Execution
2 Team ("MET") supervisors; and all architectural coating department (i.e.,
3 paint, roofing and flooring departments) supervisors at Home Depot stores
4 located in the SCAQMD District. Home Depot shall maintain records
5 identifying each person who completes any of the mandated training
6 programs for a period of at least four years. These records shall be made
7 available to any party to this Judgment and/or SCAQMD upon reasonable
8 notice.

9 3.1.4 **Rule 1113 Liaison:** Within thirty (30) days of entry of this Final Judgment,
10 Home Depot shall designate a Rule 1113 Liaison. The duties of the Liaison
11 shall include, but are not limited to, being knowledgeable about SCAQMD
12 Rule 1113 and 314 including all changes to the rules, acting as in-house
13 contact for Home Depot employees regarding SCAQMD Rule 1113 and 314,
14 consulting on Home Depot policy or system changes that affect compliance
15 with SCAQMD Rule 1113 and 314, and overseeing annual submission of
16 SCAQMD Rule 314 Reports. This Liaison shall be reasonably available to
17 be contacted by the SCAQMD.

18 **4. CIVIL PENALTIES**

19 Defendant shall, within twenty-one (21) business days after entry of this Final Judgment, pay
20 civil penalties, and pay costs, in the total amount of Six Million Twenty Thousand DOLLARS
21 (\$6,020,000.00). Said payment may be made as set forth in paragraphs 4.1, 4.2 and 5 below.

22 4.1 Defendant shall pay civil penalties in the amount of Five Million, Nine Hundred Twenty
23 Thousand Dollars and no cents (\$5,920,000), pursuant to Business and Professions Code section 17206.
24 Payment of this civil penalty amount shall be provided in four (4) separate checks in the amount of One
25 Million, Four Hundred and Eighty Thousand Dollars and no cents (\$1,480,000) each, made payable to:
26 1) the "Los Angeles City Attorney's Office;" 2) the Orange County District Attorney's Office (payee is
27 "County of Orange"); 3) the "San Bernardino County District Attorney's Office," and; 4) the
28

1 "Riverside County District Attorney's Office." For purposes of distribution, these four checks shall be
2 provided to the following address:

3 Jessica B. Brown
4 Deputy City Attorney
5 Los Angeles City Attorney's Office
6 200 North Main Street, 5th Floor
7 Los Angeles, CA 90012

8 4.2 Pursuant to Government Code section 26506, any civil penalties recovered in a civil
9 action "brought jointly in the name of the People of the State of California by the Attorney General, one
10 or more district attorneys, or by one or more city attorneys, or any combination thereof, shall be paid as
11 approved by the court."

12 **5. REIMBURSEMENT OF COSTS OF INVESTIGATION AND ENFORCEMENT**

13 Defendant shall pay One Hundred Thousand Dollars and no cents (\$100,000.00), for
14 reimbursement of costs of investigation, and other costs of enforcement, to: the San Bernardino County
15 District Attorney's Office (for reimbursement to the Environmental Prosecution Trust).

16 **6. MATTERS COVERED BY THIS FINAL JUDGMENT**

17 6.1 This Final Judgment is a final and binding resolution and settlement of all claims,
18 violations or causes of action expressly alleged by the People in the Complaint and First Supplemented
19 Complaint, against Defendant and its subsidiaries, affiliates and corporate parents, and each of their
20 affiliates and parents, successors, heirs, assigns, and their respective officers, directors, partners,
21 employees, agents, representatives, property owners, and facility operators. Nothing herein shall be
22 interpreted to restrict any claims that the People may assert against any manufacturer or supplier of
23 Rule 1113 non-compliant products alleged to have been offered for sale or sold by Home Depot. With
24 respect to any products manufactured by Defendant Custom Building Products, this Final Judgment
25 only resolves claims against Home Depot for its sale and offering for sale of those products. This Final
26 Judgment does not resolve any claim under District Rule 1113 or the Business and Professions Code
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1 with respect to defendant Custom Building Product's manufacture, supply, and sale of non-compliant
2 products in violation of District Rule 1113.

3 6.2 The provisions of paragraph 6.1 are effective on the date of entry of the Final Judgment.
4 The continuing effect of paragraph 6.1 is expressly conditioned on Defendant's full payment of the
5 amounts due under paragraphs 4.1, 4.2 and 5 of this Final Judgment and compliance with its injunctive
6 terms.
7

8 6.3 Paragraph 6.1 does not limit the ability of the People to enforce the terms of this Final
9 Judgment.

10 6.4 Defendant covenants not to pursue any civil or administrative claims against the People
11 or against any agency of the State of California, or any county in the State of California (collectively
12 "Agencies"), or against any of their officers, employees, representatives, agents or attorneys, arising
13 out of this action; provided, however, that if any Agencies initiate claims against Defendant, Defendant
14 reserves any and all rights, claims, demands and defenses against such Agencies.

15 7. **NOTICE**

16 All submissions and notices required by this Final Judgment shall be sent to:

17 For the People:

18
19 Jessica B. Brown
20 Deputy City Attorney
21 Los Angeles City Attorney's Office
22 200 North Main Street, 5th Floor
23 Los Angeles, CA 90012

24 For Defendant:

25 David Steele
26 Home Depot USA, Inc.
27 Senior Counsel Legal Department
28 2455 Paces Ferry Road
Building C-20
Atlanta, GA 30339

1 With Copies to: James R. Asperger
2 Quinn Emanuel Urquhart & Sullivan, LLP
3 865 S. Figueroa Street, 10th Floor
4 Los Angeles, CA 90017

5 Any Party may change its notice name and address by informing the other party in writing, but
6 no change is effective until it is received. All notices and other communications required or permitted
7 under this Final Judgment that are properly addressed as provided in this paragraph are effective upon
8 delivery if delivered personally or by overnight mail, or are effective five (5) days following deposit in
9 the United States mail, postage prepaid, if delivered by mail, or the day that electronic mail is sent if
10 sent before 5 p.m. to the electronic mail addresses of the designated recipients for notice concurrent
11 with sending the notice by overnight mail.

12 **8. EFFECT OF FINAL JUDGMENT**

13 Except as expressly provided in this Final Judgment, nothing in this Final Judgment is intended
14 nor shall it be construed to preclude the People, or any state, county, or local agency, department, board
15 or entity, from exercising its authority under any law, statute or regulation. Except as expressly
16 provided in this Final Judgment, Defendant retains all of its defenses to the exercise of the
17 aforementioned authority.

18 **9. LIABILITY OF THE PEOPLE**

19 The People shall not be liable for any injury or damage to any person or property resulting from
20 any act or omission by Defendant, or any of its directors, officers, employees, agents, representatives or
21 contractors, in carrying out activities pursuant to this Final Judgment, nor shall the People be held as a
22 party to or guarantor of any contract entered into by Defendant, its directors, officers, employees,
23 agents, representatives or contractors, in carrying out the requirements of this Final Judgment.

24 **10. NO WAIVER OF RIGHT TO ENFORCE**

25 The failure of the People to enforce any provision of this Final Judgment shall neither be
26 deemed a waiver of such provision nor in any way affect the validity of this Final Judgment. The
27 failure of the People to enforce any such provision shall not preclude them from later enforcing the
28 same or any other provision of this Final Judgment. Except as expressly provided in this Final

1 Judgment, Defendant retains all defenses allowed by law to any such later enforcement. No oral advice,
2 guidance, suggestions or comments by employees or officials of any Party regarding matters covered in
3 this Final Judgment shall be construed to relieve any Party of its obligations under this Final Judgment.

4 **11. FUTURE REGULATORY CHANGES**

5 Nothing in this Final Judgment shall excuse Defendant from meeting any more stringent
6 requirement that may be imposed by applicable law or by any change in the applicable law. To the
7 extent any future statutory or regulatory change makes Defendant's obligations less stringent than those
8 provided for in this Final Judgment, it may apply to this Court on noticed motion for modification of
9 those obligations contained herein.

10 **12. CONTINUING JURISDICTION**

11 The Court shall retain continuing jurisdiction to enforce the terms of this Final Judgment and to
12 address any other matters arising out of or regarding this Final Judgment and to address any other
13 matters arising out of or regarding the Final Judgment. The People may move the Court to enjoin
14 Settling Defendant from any violation of any provision of the Final Judgment. The parties shall meet
15 and confer prior to the filing of any motion relating to the Final Judgment, any dispute regarding
16 Settling Defendant's compliance with any requirement of the Permanent Injunction, and the parties
17 shall negotiate in good faith in an effort to resolve any dispute without judicial intervention. If the
18 parties are unable to resolve a dispute during meet and confer discussions, either party may move the
19 Court seeking resolution of that dispute by the Court. Any Party may invite any interested third party
20 state or local government entity or agency to participate in any meet and confer discussion, and with
21 the Court's consent, to participate in any court proceeding under this paragraph. Settling Defendant
22 reserves its right to set forth any defenses before the Court.

23 **13. PAYMENT OF LITIGATION EXPENSES AND FEES**

24 Defendant shall make no request of the People to pay its attorney's fees, expert witness fees and
25 costs and all other costs of litigation and investigation incurred to date.

1 **14. ENTRY AFTER NOTICED MOTION**

2 The Parties seek approval of this Final Judgment on noticed motion and have requested that the
3 Court make a determination that the Final Judgment is fair and in the public interest.

4 **15. INTEGRATION**

5 This Final Judgment constitutes the entire agreement between the Parties and may not be
6 amended or supplemented except as provided for herein. No oral representations have been made or
7 relied upon other than as expressly set forth herein.

8 **16. MODIFICATION OF FINAL JUDGMENT**

9 This Final Judgment may be modified only on noticed motion by one of the Parties with
10 approval of the court, or upon written consent by all of the Parties and the approval of the court.

11 **17. TERMINATION OF FINAL JUDGMENT**

12 At any time after this Final Judgment has been in effect for forty-six (46) months, and
13 Defendant has paid any and all amounts due under the Final Judgment, any party may provide notice to
14 the Court (which shall be served on all parties) that the injunctive provisions of this Final Judgment
15 should expire at the end of forty-eight (48) months after entry of this Final Judgment and have no
16 further force and effect ("Notice of Termination"). The People will have thirty (30) days from the
17 receipt of the Notice of Termination to file a motion contesting the expiration of any injunctive
18 provisions. If the People take no action, the injunctive provisions of this Final Judgment will
19 immediately be of no further force at the end of forty-eight (48) months after entry of this Final
20 Judgment. In any event, if no action is taken by any party, this Final Judgment will automatically
21 expire after fifty (50) months after entry of this Final Judgment. With the Court's consent, this motion
22 filed by the People shall be set for hearing no later than fifty (50) months after entry of this Final
23 Judgment by the Court. In the event that such motion is filed, none of the injunctive provisions of the
24 Final Judgment contested in the People's motion will terminate pending the Court's ruling on the
25 motion. The People reserve the right to contest termination exclusively on the grounds that Defendant
26 has not substantially complied in all material respects with the injunctive provisions of the Final
27 Judgment and to offer any evidence relevant to such motion. Defendant reserves its rights to respond
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1 to any ground raised in the People's motion and to offer any evidence relevant to such motion. The
2 injunctive provisions in the Final Judgment will expire and be of no further force or effect unless the
3 Court (upon consideration of the Parties' pleadings and arguments, if any) makes findings of fact and
4 determines that the expiration of the provision at issue would not be in the interest of justice, because
5 Defendant has not substantially complied in material respects with such provision. The termination of
6 the injunctive provisions of the Final Judgment shall have no effect on Defendant's obligation to
7 comply with the requirements imposed by statute, regulation, ordinance, or law.

8 **19. WAIVER OF NOTICE**

9 All parties waive formal Notice of Entry of this Judgment.

10 **IT IS SO STIPULATED.**

11
12 **FOR THE PEOPLE:**

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15 CARMEN A. TRUTANICH, City Attorney
City of Los Angeles, State of California

16
17 DATED: 4/3/13

18 By: 

JESSICA B. BROWN
Deputy City Attorney
Attorneys for Plaintiff

19
20
21 TONY RACKAUCKAS, District Attorney
County of Orange, State of California

22
23 DATED: 4/2/13

24 By: 

WILLIAM G. FALLON
Deputy District Attorney
Attorneys for Plaintiff

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PAUL ZELLERBACH, District Attorney
County of Riverside, State of California

DATED: _____

By: _____
MICHAEL QUESNEL
Supervising Deputy District Attorney
Attorneys for Plaintiff

MICHAEL A. RAMOS, District Attorney
County of San Bernardino, State of California

DATED: _____

By: _____
DANIEL SILVERMAN
Deputy District Attorney
Attorneys for Plaintiff

FOR DEFENDANT:

DATED: March 25, 2013

By: 
JOCELYN HUNTER
HOME DEPOT U.S.A., Inc,

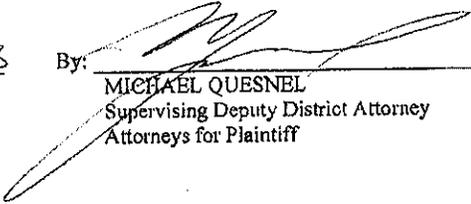
DATED: April 2, 2013

By: 
JAMES R. ASPERGER
QUINNEMANNEL URCHART &
SULLIVAN, LLP
Attorney for HOME DEPOT U.S.A., INC.

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PAUL ZELLERBACH, District Attorney
County of Riverside, State of California

DATED: April 7, 2013

By: 
MICHAEL QUESNEL
Supervising Deputy District Attorney
Attorneys for Plaintiff

MICHAEL A. RAMOS, District Attorney
County of San Bernardino, State of California

DATED: _____

By: _____
DANIEL SILVERMAN
Deputy District Attorney
Attorneys for Plaintiff

FOR DEFENDANT:

DATED: March 25, 2013

By: 
JOCELYN HUNTER
HOME DEPOT U.S.A., Inc,

DATED: April 2, 2013

By: 
JAMES R. ASPERGER
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Attorney for HOME DEPOT U.S.A., INC.

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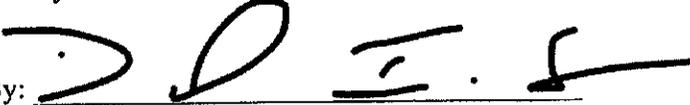
PAUL ZELLERBACH, District Attorney
County of Riverside, State of California

DATED: _____

By: _____
MICHAEL QUESNEL
Supervising Deputy District Attorney
Attorneys for Plaintiff

MICHAEL A. RAMOS, District Attorney
County of San Bernardino, State of California

DATED: 4-2-13

By: 
DANIEL SILVERMAN
Deputy District Attorney
Attorneys for Plaintiff

FOR DEFENDANT:

DATED: March 25, 2013

By: 
JOCELYN HUNTER
HOME DEPOT U.S.A., Inc,

DATED: _____

By: _____
JAMES R. ASPERGER
QUINN EMANUEL URQHART &
SULLIVAN, LLP
Attorney for HOME DEPOT U.S.A., INC.

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IT IS SO ORDERED.

DATED: _____

JUDGE OF THE SUPERIOR COURT