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CITY OF SANTEE

LOCATION AGREEMENT

between

**City of Santee,
a California Municipal Corporation**

and

**HD Supply Facilities Maintenance, Ltd.,
a Florida Limited Partnership**

LOCATION AGREEMENT

ARTICLE 1 PARTIES AND EFFECTIVE DATE.

1.1 Parties. This Location Agreement ("**Agreement**") is entered into by and between (i) **CITY OF SANTEE**, a California municipal corporation and charter law city ("**City**") and (ii) HD Supply Facilities Maintenance, Ltd., a Florida limited partnership ("**Company**").

1.1.1 City and Company are sometimes individually referred to herein as "**Party**" and collectively as "**Parties**."

1.1.2 This Agreement shall be binding upon and shall inure to the benefit of City and Company and their respective successors, heirs, and assigns.

1.2 Effective Date. This Agreement will become effective on the date on which signed by the appropriate authorities of both City and Company (the "**Effective Date**").

ARTICLE 2 RECITALS

2.1 Company supplies maintenance, repair and operations products and customer service to owners and managers of multifamily, hospitality, educational and commercial properties, healthcare providers, and municipal and government facilities ("**Business Activities**").

2.2 Company has a temporary business location in the City at 101 Riverview Parkway, Santee, California 92071 (the "**Company Facility**"). Company desires to create a permanent business location and expand the Company Facility in part to permanently establish the City as the point of sale for the Company's Retail Sales (as defined in Article 3 of this Agreement) for the Term of this Agreement, and to provide opportunities for continued growth and expansion of its Business Activities. Company's intent is to establish a comparable operation to the one it maintains at 10641 Scripps Summit Court, San Diego, California 92131 ("**San Diego Location**"). Expanding the Company Facility will include, but not be limited to, creating call center jobs and setting aside office space for administrative staff and varying levels of support management.

2.3 City, in consideration of the permanent additional Local Sales Tax Revenues to be generated in the City by Company for the benefit of City and for the Term of this Agreement, which City would not otherwise realize without Company creating a permanent Company Facility, desires to provide the City Payment (as defined in Article 3 of this Agreement) to Company as incentive for locating its expansion, including without limitation, a permanent point of sale for Retail Sales for the Term of this Agreement within the City.

2.4 Such City Payment will be an amount paid from any legally available source of funds and shall be measured by a percentage of the Local Sales Tax Revenues generated in the City by Company and actually received by the City.

2.5 The expansion of the Company Facility in the City will provide significant public benefits to the City, in that the additional Local Sales Tax Revenues to be paid by Company represent a substantial and significant source of additional public revenue for the City, which may be used by the City for the funding of necessary public services and facilities, including, without implied limitation, public safety services and facilities. It will also increase economic development and job creation within the City.

2.6 Company and City wish to enter into this Agreement for the purposes described above.

ARTICLE 3 DEFINITIONS.

3.1 Definitions. Unless the context otherwise requires, the terms in this Article 3 shall for all purposes of this Agreement have the meanings defined herein. The following definitions apply equally to the singular and plural forms.

3.1.1 "Agreement" shall have the meaning set forth in Section 1.1.

3.1.2 "Business Activities" shall have the meaning set forth in Section 2.1.

3.1.3 "Business Day" means a day which is not a Saturday, Sunday, City furlough day or legal holiday on which banking institutions in the State or the City are closed.

3.1.4 "City" shall have the meaning set forth in Section 1.1.

3.1.5 "City Payment" means a quarterly or other payment to Company, payable from any legally available source of funds, in an amount equal to fifty percent (50%) of Local Sales Tax Revenues actually received by the City, as set forth in Section 4.2.

3.1.6 "Company" shall have the meaning set forth in Section 1.1.

3.1.7 "Company Facility" shall have the meaning set forth in Section 2.2.

3.1.8 "Data and Documentation" means any and all sales and use tax returns, bills, invoices, schedules, vouchers, receipts, cancelled checks, statements and other documents reasonably required by City to evidence Local Sales Tax Revenues paid by Company to the City.

3.1.9 "Effective Date" shall have the meaning set forth in Section 1.2.

3.1.10 "Enforced Delays" shall have the meaning set forth in Section 4.23.

3.1.11 "Event of Default" shall have the meaning set forth in Section 4.6.

3.1.12 "Financial Assistance" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief or rebates, relief from public improvement obligations, and payment for public improvements to or for the benefit of Company.

3.1.13 "First Fiscal Quarter" means the Fiscal Quarter commencing after the Effective Date of this Agreement.

3.1.14 "Fiscal Quarter" means one calendar year quarter (as used by retailers) within the Term and commencing on or about February 1, May 1, August 1, or November 1, and ending on, on or about as applicable, the immediately following April 30th, July 31st, November 30th, or January 31st. As an example, the first Fiscal Quarter of the 2013 Fiscal Year commences on February 4, 2013 and ends on the immediately following May 5, 2013.

3.1.15 "Fiscal Year" means one calendar year as used by retailers, which consists of fifty-two (52) consecutive weeks within the Term (as opposed to 365 days) and commencing on or about each February 1, and ending on or about the immediately following January 31st. As an example, the 2013 Fiscal Year commences on February 4, 2013 and ends on the immediately following February 2, 2014.

3.1.16 "Increased Amount" shall have the meaning set forth in Section 4.2.5.

3.1.17 "Local Sales Tax Revenues" means that portion of the Sales Tax, if any, paid by Company upon taxable sales and uses attributable to the operations of Company (or affiliated companies which locate or relocate their sales offices in or to the City during the Term of this Agreement, as further described in Section 4.2 of this Agreement) and allocated and paid to and actually received by the City under the Sales and Use Tax Law. Local Sales Tax Revenues shall not include any of the following: (i) Penalty Assessments, (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of San Diego, a district or any entity (including an allocation to a statewide or countywide pool) other than the City, (iii) any administrative fee charged by the SBE, (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except the City's) law, rule, or regulation, (v) any Sales Tax attributable to any transaction not consummated within the Term, or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/ or pledged to a specific use other than for deposit into or payment from the City's general fund.

Without limiting the generality of the foregoing, City and Company acknowledge that as of the Effective Date of this Agreement, the California legislature has adopted certain legislation commonly known as the "Triple-Flip" which diverts to the State of California a portion of the Local Sales and Use Tax Revenue that was, prior to the Triple Flip's enactment, payable to the City. Currently, the Triple Flip diverts 25% of the Local Sales Tax Revenue that previously was payable to the City. City and Company acknowledge that such legislation will cause a reduction of up to twenty five percent of the Local Sales Tax Revenue which would otherwise be attributable to Company's sales and that such reduction will cause a corresponding temporary decrease in the City Payment to Company. Furthermore, Company and City acknowledge that it is possible that the Triple Flip or some other alternative may be enacted and effective during one or more years during the term and may materially and negatively impact the amount of the City Payment. City does not make any representation, warranty or commitment concerning the future action of the California legislature with respect to the Bradley-Burns Tax Revenue that may be allocated to the City. Company agrees that it is undertaking its obligations

pursuant to this Agreement based upon its own investigation of the risks associated with any legislative changes that would affect the amount of the Allocation Payment.

Notwithstanding the preceding paragraph, City acknowledges that the California Legislature has provided for the payment to the City of other revenues for the purpose of offsetting any losses in the Local Sales Tax Revenue. As such, City agrees to use such replacement revenues as part of the definition of the Local Sales Tax Revenue covered by this Agreement to the extent permitted by law and will continue to do so, as long as they are (i) intended to offset the loss of any or all Local Sales Tax Revenue allocable to the City, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales and use tax revenues received by California municipalities.

If the Sales and Use Tax law is further amended, terminated or rescinded, and Local Sales Tax Revenues are calculated in an alternate manner or are replaced or partially replaced by an alternate revenue stream (i) arising from the retail sale, storage, use or other consumption of tangible personal property by the Company from or on property located in the City, or (ii) designated as being a replacement for Local Sales Tax Revenues previously generated by the retail, sale, storage, use or other consumption of tangible personal property on or from locations in the City, then Local Sales Tax Revenues shall also mean those revenues actually paid or caused to be paid by the Company and ultimately collected for the City in the alternate manner of calculation or the alternate revenue stream, as long as the City receives its portion of such revenues and has the legal right under California law to retain and control the disposition of substantially all of its portion thereof, provided that such revenues shall only be considered Local Sales Tax revenues to the extent that they actually offset the loss of Local Sales Tax Revenues (including both current Local Sales Tax Revenues and prior period Local Sales Tax Revenues).

3.1.18 "Penalty Assessments" means penalties, assessments, collection costs and other costs, fees or charges resulting from late or delinquent payment of Sales Tax and which are levied, assessed or otherwise collected from Company.

3.1.19 "Refund Amount" shall have the meaning set forth in Section 4.2.5.

3.1.20 "Retail Sales" means all sales of tangible personal property with a point of sale in the City to any person or entity which is subject to the Sales and Use Tax Law and which generates Local Sales Tax Revenues. Retail Sales specifically excludes sales of tangible personal property made from the San Diego Location and walk-up sales at any of the Company's warehouses in California.

3.1.21 "Retail Sales Office" means any form of business entity of Company, or a subsidiary or affiliate of Company, which maintains a Retail Sales operation within the City at which Retail Sales transactions are consummated pursuant to the Sales Tax Law.

3.1.22 "San Diego Location" shall have the meaning set forth in Section 2.2.

3.1.23 "Sales Tax" means all sales and use taxes levied under the authority of the Sales and Use Tax Law, excluding Sales Tax which is to be refunded to Company because of an overpayment of Sales Tax.

3.1.24 "Sales and Use Tax Law" means (i) Part 1 of Division 2 of the California Revenue and Taxation Code, commencing with Section 6001, and any successor law thereto, (ii) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto, (iii) any legislation allowing the City or other public agency with jurisdiction in the City to levy any form of sales and use tax on the operations of Company, and (iv) regulations of the SBE and other binding rulings and interpretations relating to (i), (ii) and (iii) hereof.

3.1.25 "SBE" means the California State Board of Equalization, and any successor agency.

3.1.26 "Term" shall mean that period commencing as of the First Fiscal Quarter and ending twenty (20) years thereafter, unless earlier terminated or extended as provided by this Agreement. The Parties may extend this Agreement by mutual written consent for an equivalent Term or other term specified in an extension agreement.

ARTICLE 4 GENERAL TERMS

4.1 Location and Operation of Company Within City. Company has agreed to expand its temporary location and establish a permanent location as its point of sale within the City and agrees to continue to operate its Retail Sales activities in the City until this Agreement expires or is terminated by either Party as provided in Section 4.10.

4.1.1 The Retail Sales Office of Company has obtained and will maintain a retail sales tax permit from the SBE. Except as otherwise provided in this Agreement, Company agrees to conduct its business so that the point of sale for Retail Sales made by Company during the Term of this Agreement will be the City, pursuant to the Sales and Use Tax Law. In all Sales Reports filed by Company with the SBE relating to Retail Sales, where such a designation is permitted or required under the Sales and Use Tax Law, Company shall specify the City as the point of sale for all of its Retail Sales, with the exception of Retail Sales from a location other than the City as permitted by Section 4.1.2 of this Agreement.

4.1.2 Notwithstanding Section 4.1.1 of this Agreement,

- (i) the point of sale for Retail Sales made by the Company during the Term of this Agreement is not required to be the City if the Company makes a reasonable determination that certain sales activities cannot reasonably be located within the City including, without limitation, those retail sales made from its San Diego Location; and
- (ii) Company may make Retail Sales from a location that is not within the City, such as from its San Diego Location, to the extent any one or more of the following circumstances applies in whole or in part:
 - (a) The Company Facility, in which Company's Retail Sales Offices

are located, is damaged, destroyed, or condemned, or access to the Company Facility is lost or materially interfered with, or Company is otherwise prevented from using and occupying the Company Facility for its Retail Sales Offices;

- (b) Company outgrows the Company Facility or its lease terminates or expires by its terms or for any other reason, and Company is unable to obtain replacement space suitable for Company's needs (taking into account the quality and size of any such replacement space and other commercially reasonable criteria) within the City on commercially reasonable terms;
- (c) City is in default under this Agreement;
- (d) City is no longer authorized or permitted to pay all or any portion of the City Payment to Company; or
- (e) Company is required by law or as a condition of sale required by customer to make certain sales from a location other than the Company's Retail Sales Offices within the City.

4.2 Payment of the City Payment. As consideration for Company's expansion and permanent location and operation in the City, as described in Section 4.1 of this Agreement, City shall pay Company the City Payment. City Payments will be made within thirty (30) days following the receipt of the Local Sales Tax Revenues by the City, in accordance with the conditions provided in Section 4.2.1. In the event any company affiliated with Company locates or relocates a sales office in or to the City during the Term of this Agreement, the term "Local Sales Tax Revenues" shall be deemed to include Local Sales Tax Revenues derived from taxable sales and uses attributable to the operations of such affiliated companies and City shall pay the City Payment attributable thereto to Company, or to such affiliated company, as directed by Company.

4.2.1 Conditions Precedent to City Payment. City's obligations under Section 4.2 are contingent on the satisfaction of the following conditions precedent:

- (i) Company having completely fulfilled its material obligations under this Agreement;
- (ii) City's receipt and reasonable approval of the Data and Documentation; and
- (iii) The City's actual receipt of Local Sales Tax Revenues of no less than Five Hundred Thousand Dollars (\$500,000.00) during a Fiscal Year. All receipts shall relate to the Fiscal Year in which the sales generating such receipts were made, such that the preceding amount can be averaged over a twelve (12) month period constituting a Fiscal Year.

If City's actual receipt of Local Sales Tax Revenues is less than \$500,000.00

during a Fiscal Year, City may elect thereafter either to make City Payments on a quarterly basis or to make City Payments at the end of each Fiscal Year. For example, if during the Fiscal Year ending on or about January 31, 2015, the City receives Local Sales Tax Revenues of less than \$500,000.00, but has made quarterly City Payments during the Fiscal Year from approximately February 1, 2014 through January 31, 2015, the City may elect to make a single annual City Payment at the end of the next Fiscal Year, ending on or about January 31, 2016, which payment will be contingent on the City receiving Local Sales Tax Revenues of at least \$500,000.00 during the Fiscal Year from February 1, 2015 through January 31, 2016. Pursuant to this Section, the City may elect each Fiscal Year to make quarterly or annual City Payments on the basis of all conditions precedent being satisfied during the previous Fiscal Year.

4.2.2 Adequate Consideration. Each City Payment due and payable shall constitute the total payment to Company for the Fiscal Quarter, Quarters or Year, as applicable, to which it relates, and shall be paid by City for and in consideration of the expansion and permanent location and operation by Company of the Business Activities in the City during such Fiscal Quarter, Quarters or Year, as applicable. The Parties have determined and agreed that the City Payment represents fair consideration to Company for its covenants and obligations hereunder.

Both City and Company expressly acknowledge and agree that Company will receive no compensation under this Agreement other than the City Payment. Company will not be entitled to any other reimbursement or compensation from the City for any costs incurred by Company in performing or preparing to perform its obligations under this Agreement.

4.2.3 City Business License and Permits. Company acknowledges that it is solely responsible for any and all applicable fees and permits.

4.2.4 No Carry Forward or Back. City and Company acknowledge and agree that the calculation and determination of all financial components of the Parties' rights and obligations under this Agreement shall be computed on a Fiscal Year-to-Fiscal Year basis, except as otherwise provided in this Agreement. Revenues generated in one Fiscal Quarter may be carried forward or back to any prior or future Fiscal Quarter of that Fiscal Year, it being the express agreement and understanding of the Parties that for each Fiscal Year the financial obligations of the Parties and satisfaction of the conditions precedent to such obligations shall be determined and made independently of any other Fiscal Year.

4.2.5 Recapture or Increase of City Payments. If, due to an error in the calculation or allocation of the Local Sales Tax Revenues, the SBE determines that any of the Local Sales Tax Revenues received by the City must be repaid or increased, offset against or added to future Sales Tax payments, or otherwise recaptured ("Refund Amount") or increased ("Increased Amount"), the Company shall pay the City the Refund Amount or the City shall pay the Company the Increased Amount utilizing one of the following methods:

(i) Within thirty (30) days after written notice of the Refund Amount from City, Company shall either repay the miscalculated or misallocated Refund Amount, which the City previously paid to Company, or offset the Refund Amount by agreeing, in writing, that the City may withhold all or portions of future City Payments until the Refund Amount is repaid

in full, or otherwise provide for the recapture of the Refund Amount by the City. Alternatively, after written notice from Company, City shall either pay the Increased Amount in the next City Payment or enter into an agreement for the payment of the Increased Amount. If either Party fails to make such payment, or enter into an agreement for such payment or recapture, within the timeframes set forth in this Section, then such obligation shall accrue interest from the date of such Party's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, until paid.

(ii) Further, if at any time, SBE fails or refuses to remit to the City all or any portion of any Local Sales Tax Revenues applicable to any time period during the Term, then such Local Sales Tax Revenues retained by the SBE shall not be considered in calculating any City Payment under this Agreement, unless and until such retained Local Sales Tax Revenues are paid to the City at any time during the Term of this Agreement, whereupon such payment shall be included in the next City Payment due Company. Notwithstanding the preceding, if the reason for SBE's refusal is because of any act or omission of the City (and not the Company), then the City shall be obligated to make such City Payment in full.

(iii) Notwithstanding anything contained herein to the contrary, City is responsible for paying its share of any Local Sales Tax Revenue it received that is later required to be refunded pursuant to this Agreement.

4.3 Compliance with Legal Requirements. Company covenants and agrees that its employment and other business practices will comply in all material respects with the requirements of any applicable federal, state and city statutes, rules, regulations and ordinances.

4.4 Tax Information. Company acknowledges that, as a public entity, City is subject to the California Public Records Act, and may be required to provide discloseable documents, including Sales Tax reporting and payment information related to Sales Taxes, in response to a request for public records. City shall notify Company in writing of any request for Company's Sales Tax reporting and payment information from a third party. The Company must respond to the City's written notice within seven (7) calendar days and identify any and all proprietary, trade secret, or confidential commercial or financial information which is the subject of the third-party request. Company shall indemnify the City for any costs, fees and other liabilities associated with its refusal to permit disclosure of such identified information; otherwise, the requested information may be released.

4.5 Audit of Books and Records.

4.5.1 City Review of Company Records. Anytime receipts in a Fiscal Year fall below the threshold level identified in Paragraph 4.2.1(iii), Company shall during normal business hours, upon no less than seventy-two (72) hours prior written request from City, make its books and records relating to the calculation and determination of Company's rights and obligations under this Agreement available at no cost to City and/or its designees (including its accountants and/or attorneys who must agree in writing to keep such information confidential) and shall direct its accountants and other consultants and contractors in possession of its books and records to do likewise; provided, however, that nothing herein shall be deemed to abridge or constitute a waiver of Company's evidentiary rights and privileges arising pursuant to any

provision of law. Furthermore, all such books and records may only be made available and introduced as evidence in any proceeding brought to enforce this Agreement or as otherwise ordered by any court of competent jurisdiction if an order preserving their confidentiality is obtained. City shall bear the costs of its own auditors, experts and other consultants it may engage to complete its investigation of Company's books and records; provided, however, that any audit and/or investigation undertaken in connection with any proceeding to enforce this Agreement, or as otherwise ordered by the court, may be recovered as an item of litigation expense pursuant to Section 4.26 but only to the extent such costs are reasonable and necessary.

4.5.2 Company Review of City Records. Upon reasonable notice, City shall allow Company and its representatives to review records of the receipt of Local Sales Tax Revenues by the City, including information received from SBE relating to Company. In the event of an underpayment of Local Sales Tax Revenue by the SBE, the City will promptly use its best efforts to pursue its available administrative remedies against the SBE, at no cost to Company. Company shall have the right to be present at and participate in all SBE administrative proceedings, at Company's cost and expense. If the City fails to use its best efforts to pursue such administrative remedies, then City shall be liable to Company for that portion of any City Payment lost as a result of such failure, which lost portion shall be included in the next City Payment to become due to Company.

4.6 Event of Default. Each of the following shall constitute an "Event of Default":

4.6.1 Failure by a Party to comply with and observe any of the conditions, terms, or covenants set forth in this Agreement, if such failure remains uncured within thirty (30) days after written notice of such failure from the non-defaulting Party to the defaulting Party in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the defaulting Party fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion. However, if a different period, notice requirement, or remedy is specified under any other section of this Agreement, then the specific provision shall control.

4.6.2 Any representation or warranty contained in this Agreement or in any application, financial statement, certificate, or report submitted pursuant to this Agreement proves to have been incorrect in any material respect when made and is not corrected after notice and opportunity to cure as provided in 4.6.1 above.

4.7 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties under this Agreement are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another Party.

4.7.1 Rights not Granted under Agreement. This Agreement is not, and shall not be construed to be, a statutory development agreement under Government Code Section 65864 *et seq.* or any other law. This Agreement is not, and shall not be construed to be, an approval of or an agreement to issue permits or a granting of any right or entitlement by the City

concerning any project, development, or construction by Company in the City. This Agreement does not, and shall not be construed to, exempt Company in any way from the requirement to obtain permits and/or other discretionary or non-discretionary approvals as may be necessary for the development, maintenance and operation of any project, development or construction of Company within the City. This Agreement does not, and shall not be construed to, exempt Company from the application and/or exercise of the City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety and welfare of its citizenry.

(i) **Defense of this Agreement.** In the event a third-party files a legal action challenging the City's approval of this Agreement or the pursuit of the activities contemplated by this Agreement, the City may terminate this Agreement on thirty (30) days' written notice to Company without any further obligation to perform the terms of this Agreement and without any liability to Company resulting from such termination, unless Company unconditionally agrees to indemnify and defend the City against such third-party legal action. Should Company agree to do so, such notification shall be in writing. Notwithstanding anything contained herein to the contrary, City is responsible for paying its share of any Local Sales Tax Revenue it received that is later required to be refunded pursuant to this Agreement.

4.8 No Financial Assistance. Except as provided in Section 4.11 or if the Company, in its sole judgment, determines that City has defaulted and failed to cure as provided in Section 4.6 this Agreement, Company covenants and agrees for the period beginning on the Effective Date and continuing until and including the expiration of this Agreement, Company will not directly or indirectly solicit or accept any Financial Assistance from any other public or private person or entity, to the extent such Financial Assistance is given for the purpose of causing or would result in either Company's relocation from the City or termination of this Agreement.

4.9 Sole Compensation. Both City and Company expressly acknowledge and agree that Company will receive no compensation under this Agreement from City except as expressly set out in this Agreement. The City Payment shall not be reduced or offset for any costs or expenses incurred by City in performing or preparing to perform its duties under and pursuant to this Agreement, which shall be paid solely by the City out of legally available funds.

4.10 Expiration/Termination. This Agreement will terminate upon the expiration of the Term, in the Event of Default that remains uncured, described in Section 4.6, by either Party, or by mutual written consent of all Parties to this Agreement. Except as otherwise provided, upon such termination all executory obligations under this Agreement that accrue or arise subsequent to the date of termination shall also terminate, but obligations that have accrued or arisen prior to such termination shall remain in full force and effect. Without limiting the generality of the foregoing, no termination of this Agreement shall operate to release or discharge City from any obligation to make the City Payment with respect to sales occurring prior to the date of termination or to release or discharge Company from any obligation to refund City any overpaid City Payment(s) or other portion of the City Payment in accordance with Section 4.2.

4.11 Reserved.

4.12 Reserved.

4.13 Amendment of Agreement. At any time, City and Company may determine that this Agreement should be amended for the mutual benefit of the Parties, or for any other reason, including an amendment to induce Company to maintain its operations in the City when this Agreement could otherwise be terminated. City and Company agree to consider reasonable requests for amendments to this Agreement which may be made by any of the Parties hereto, lending institutions, bond counsel or financial consultants. Any amendments to this Agreement must be in writing and signed by the appropriate authorities of both City and Company.

4.14 California Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

4.15 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

4.16 Business Days. Any act or thing required to be done or exist on any date set forth herein which does not constitute a Business Day in any year shall be deemed to be done or to exist on such date if such act or thing is done or exists on the next date, which constitutes a Business Day.

4.17 Tax Consequences. Company shall be responsible for federal, state and/or local income taxes resulting from its receipt of the City Payment.

4.18 Consent. Whenever consent or approval of any Party is required under this Agreement, that Party shall not unreasonably withhold, delay or condition such consent or approval unless a different standard is otherwise provided by a specific provision of this Agreement.

4.19 Notices and Demands. All notices or other communications required or permitted between City and Company under this Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopy, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), and addressed to the Parties at the addresses provided below, subject to the right of either Party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been received on the second Business Day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by telecopy or courier service (e.g., Federal Express), shall be deemed received upon actual receipt of the same by the Party to whom the notice is given.

If to the City:

City Manager
10601 Magnolia Avenue
Santee, CA 92071

With a copy to: Shawn Hagerty
Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92120

If to the Company: HD Supply Facilities Maintenance, Ltd.
10641 Scripps Summit Court
San Diego, California 92131-3961
Attn: Company President

With a copy to: HD Supply, Inc.
3100 Cumberland Boulevard SE # 1700
Atlanta, GA 30339-5940
Attn: General Counsel

4.20 Non-liability of City Officials and Employees. No council member, officer, official, contractor, consultant, attorney or employee of City shall be personally liable to Company, any successors or assignees, or any lender or other party holding an interest in Company or Company's property, in the event of any default or breach by City, or for any amount which may become due to Company or to its successors or assignees, or on any obligations arising under this Agreement.

4.21 Non-liability of Company Officials and Employees. No board member, official, contractor, consultant, attorney, parent company or employee of Company shall be personally liable to City, any voluntary or involuntary successors or assignees in the event of any default or breach by Company, or for any amount which may become due to City or to its successors or assignees, or on any obligations arising under this Agreement.

4.22 Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the Parties. No other understanding, oral or otherwise, in direct conflict with this Agreement shall be deemed to exist or to bind any of the Parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment. Neither Party is relying on any statement, representation or warranty of the other Party not expressly set out in this Agreement. Each of the undersigned authorized representatives of the Parties warrants and represents and does hereby state and represent that no promise or agreement which is not herein expressed has been made to him or her in executing this Agreement, and that none of us is relying upon any statement or representation of any agent of the Parties. Each Party is relying on his or her own judgment and each Party has been represented by independent counsel of its choosing.

4.23 Changes in General Economic Conditions. The Parties expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of any of them which may have provided a basis for entering into this Agreement, and which occur at any time after the execution of this Agreement, are not Enforced Delays and do not provide either Party with grounds for asserting the existence of a delay or

excuse in the performance of any covenant or undertaking which may arise under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions, or changes in such economic assumptions relating to the terms and covenants of this Agreement could impose an inconvenience or hardship on the continued performance of such Party under this Agreement, but that such inconvenience or hardship is not an Enforced Delay and does not excuse the performance by such Party of its obligations under this Agreement.

4.24 Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the obligations of City and Company under this Agreement. In addition to specific provisions of this Agreement, providing for extensions of time, times for performance hereunder shall be extended where delays in performance are due to war, insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God; acts of a public enemy; acts of governmental authorities; epidemics; quarantine restrictions; and freight embargoes (collectively, "**Enforced Delays**") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of Company to obtain or maintain financing for its operations or due to City's inability to make City Payments payable to Company. In no event shall either Party be deemed in default of this Agreement because of an Enforced Delay event.

4.25 Arbitration.

(a) If a controversy or claim arises out of or relates to the Agreement, or the breach thereof, and if said controversy or claim cannot be settled through negotiation, the parties agree first to try in good faith to settle such controversy or claim by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Mediation is a condition precedent to arbitration in section (b) below.

(b) Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by final arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules including the Optional Rules for Emergency Measures of Protection, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration will be conducted in the County of San Diego, California (or such other venue the parties may agree to), in accordance with the United States Arbitration Act. There shall be three arbitrators, named in accordance with such rules. The award of the arbitrators shall be accompanied by a statement of the reasons upon which the award is based.

4.26 No Violation of Government Code section 53084.5. The parties agree that Government Code section 53084.5 does not apply to the transactions contemplated under this Agreement. In the event that a claim is made against the City to the contrary, Company agrees to defend such claims, both on its own behalf and that of the City, and City agrees to cooperate in the defense of any claim that this Agreement and/or the payment of City Payments under this Agreement, violate or are illegal or impermissible as a result of Government Code section 53084.5. Company further agrees to indemnify and hold harmless City and its officers, employees and elected and appointed officials from and against all liabilities that may arise from

or relate to this Agreement or occur as a result of a final determination by a court of competent jurisdiction that this Agreement violates Government Code section 53084.5. City and Company may, but are not required to, agree in a separate writing to share the costs of such defense. Notwithstanding anything contained herein to the contrary, City is responsible for paying its share of any Local Sales Tax Revenue it received that is later required to be refunded pursuant to this Agreement.

4.27 Attorneys' Fees. In the event of the bringing of an arbitration, action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Agreement or any other dispute between the Parties concerning this Agreement then the prevailing Party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees and expert witness fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees and expert witness fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section, Costs shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section shall survive any termination of this Agreement.

4.28 Jurisdiction and Venue. After arbitration is completed in accordance with Section 4.25 above, any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate California state court in San Diego County, California. Both Parties hereto irrevocably consent to the personal jurisdiction of that court. City and Company each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction.

4.29 Interpretation. City and Company acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the Parties with respect to any ambiguities in this Agreement.

4.30 No Waiver. Failure to insist on any occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver by any Party of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment by any Party of such other right or power at any other time or times.

4.31 Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their voluntary and involuntary successors and assigns.

4.32 No Third Party Beneficiaries. The performance of the respective obligations of City and Company under this Agreement are not intended to benefit any party other than City or Company, except as expressly provided otherwise herein. No person or entity not a signatory to this Agreement shall have any rights or causes of action against any Party to this Agreement as a result of that Party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

4.33 Warranty Against Payment of Consideration for Agreement. Company warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. Third parties, for the purposes of this Section, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Company.

4.34 Severability. City and Company declare that the provisions of this Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Agreement and the remainder of the Agreement enforced in accordance with its terms; provided, if at any time the City fails to have the legal right to retain and control the disposition of all or substantially of its portion of the Local Sales Tax Revenues, or the obligation of City to pay the City Payment is held to be void or unenforceable, either Party will have the right, on written notice, to terminate this Agreement without any further liability to the other Party.

4.35 Further Acts and Releases. City and Company each agrees to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

4.36 Reserved.

4.37 Relationship of Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement.

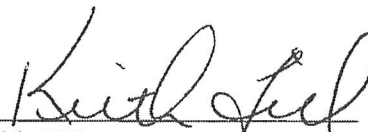
4.38 Interruption of Operations Caused by Enforced Delays. Company will not be considered to have ceased operations at the Company Facility to the extent that those operations are delayed or rendered impracticable by Enforced Delays provided that the operations resume as soon as reasonably practical after the Enforced Delays have ended and any repairs or other work necessitated by the Enforced Delays have been performed (these repairs and other work will be performed with diligence).

[Signatures on following page]

**SIGNATURE PAGE
TO
LOCATION AGREEMENT**

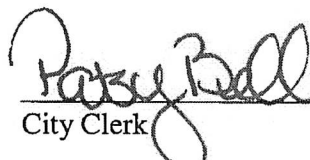
**CITY OF SANTEE,
a California municipal corporation**

Dated: 5-8-13

By: 
Keith Till
City Manager

ATTEST:

Dated: 5-8-13

By: 
City Clerk

APPROVED AS TO LEGAL FORM:

Dated: 5/8/13

By: 
Shawn Hagerty
City Attorney
BEST BEST & KRIEGER LLP

**COMPANY:
HD SUPPLY FACILITIES MAINTENANCE, LTD.,
a Florida Limited Partnership**

Dated: 5/14/13

By: 
Anesa Chaibi
President and CEO

CERTIFICATION OF LIMITED PARTNERSHIP AUTHORITY

The undersigned general partners of HD Supply Facilities Maintenance, Ltd., a Florida limited partnership ("Partnership"), do hereby certify that we are all of the general partners of the Partnership, there are no other general partners and no consent or approval of any other person is required for the undersigned to make the certifications set forth in this Certificate.

We further certify that the following named person(s):

Anesa Chaibi

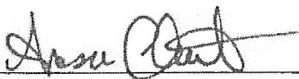
are, without any additional or further consent of any person, authorized and empowered for and on behalf of and in the name of the Partnership to: (1) sign and deliver that certain Location Agreement between the City of Santee and HD Supply Facilities Maintenance, Ltd ("Agreement"), regarding the Partnership's location of certain business activities within the City of Santee, California and the City's payment of certain monies to the Partnership and performance of other obligations set forth in the Agreement; (2) sign, enter into, make and/or deliver all other documents to be signed, entered into, made and/or delivered by or on behalf of the Partnership in connection with the transactions contemplated in the Agreement; and (3) take all actions that may be considered necessary by or on behalf of the Partnership to conclude the transactions and complete the activities contemplated in the Agreement.

The authority conferred and certified to in this Certificate shall be considered retroactive and any and all acts authorized in this Certificate that were performed before the making of this Certificate are approved and ratified. The authority conferred and certified to in this Certificate shall continue in full force and effect until the City Manager of the City of Santee shall have received notice in writing from all of the general partners of the Partnership of the revocation of this Certificate.

We further certify that: (1) the activities covered by the authorities certified to in this Certificate and the foregoing certifications constitute duly authorized activities of the Partnership; (2) these authorities and certifications are now in full force and effect; (3) there is no provision in any document under which the Partnership is organized and/or that governs the Partnership's continued existence limiting the power of the undersigned to grant such authority or make the certifications set forth in this Certificate; and (4) all such power, authority and certifications are in conformity with the provisions of all such documents.

Partnership General Partners:

By: HD Supply GP & Management, Inc., a Delaware corporation

By: 
Anesa Chaibi
Authorized Signatory