

When Recorded Return To:

Parsons Behle & Latimer  
One Utah Center  
201 South Main Street, Suite 1800  
Post Office Box 45898  
Salt Lake City, Utah 84145-0898  
Attention: Shawn C. Ferrin

00482214 Bk00926 Pg01094-01106

PATSY CUTLER - IRON COUNTY RECORDER  
2004 APR 22 16:38 PM FEE \$38.00 BY DBJ  
REQUEST: SO UTAH TITLE CO/CEDAR CITY

Space above for County Recorder's Use

**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS (the "Declaration") is made as of April 21<sup>st</sup>, 2004, by PROVIDENCE QUANTUM PARTNERS, L.C., a Utah limited liability company ("Declarant") with reference to the following:

A. Declarant is the owner of that certain property located in Iron County, Utah (the "Restricted Property"), which property is more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. Home Depot U.S.A., Inc., a Delaware corporation ("Home Depot"), has the right to purchase from Declarant a portion of the Restricted Property (hereinafter the "Home Depot Property"), which property is more particularly described on Exhibit B, which is incorporated herein by this reference.

C. As a condition precedent to Home Depot's purchase of the Home Depot Property, Home Depot is requiring that Declarant enter into this Declaration.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Declarant declares as follows:

1. Home Improvement Store Restrictions. No portion of the Restricted Property (other than the Home Depot Property) shall be used for a Home Improvement Center. The term "Home Improvement Center" shall mean any retail store primarily devoted to the retail sale of all or several Prohibited Home Improvement Items (defined below) and related items as an integrated retail concept. Furthermore, no portion of the Restricted Property located south of Cross Hollow Drive (other than the Home Depot Property) shall be used for any business which sells, displays, leases, rents or distributes the following items or materials, singly or in any combination (singly or in any combination, the "Prohibited Home Improvement Items"): lumber, hardware, tools, plumbing supplies, pool supplies, electrical supplies, paint, kitchen or bathrooms or components thereof (including tubs, sinks, faucets, cabinets, showers, vanities, countertops and related hardware), windows, hard and soft flooring (including tile, wood flooring, rugs and carpeting), siding, ceiling fans, gardening and garden nursery supplies, indoor and outdoor lighting systems and light fixtures, kitchen appliances, closet organizing systems, or other products generally sold in a retail home improvement center, except for the incidental sale

of such items. An "incidental sale of such items" is one in which there is no more than the lesser of (i) five percent (5%) of the total building footage of such business, or (ii) 1,000 square feet of sales and/or display area, relating to such items individually or in the aggregate. Notwithstanding the foregoing, Pioneer Floor Coverings shall be allowed to operate on the Restricted Property located south of Cross Hollow Drive provided that such operation is not within in the areas cross-hatched on Exhibit C, attached hereto and incorporated herein by this reference.

2. Governing Law. This Declaration shall be governed by and construed in accordance with and interpreted under the laws of the State of Utah.

3. Severability. If any term or provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Declaration, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, condition, and provision of this Declaration shall be valid and enforced to the fullest extent permitted by law.

4. Binding Effect. The restrictions contained in Section 1 above shall be a burden on the Restricted Property (except for the Home Depot Property), shall be for the benefit of the Home Depot Property, and shall run with the land.

5. No Waiver. Failure of a party to insist upon strict performance of any provisions of this Declaration shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of this Declaration shall be waived unless such waiver is in writing and signed by the party alleged to have waived its rights.

6. Costs and Expenses and Remedies Upon Breach. In the event of a breach in any of the restrictions contained herein, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees and experts' fees, which may arise or accrue from enforcing this Declaration or in pursuing any remedy provided by the laws of the State of Utah, whether such remedies are pursued by filing suit or otherwise. Because it would be difficult to ascertain the exact money damages suffered by a non-breaching party, such non-breaching party is entitled to appropriate equitable remedies in the event of any such breach.

7. Interpretation. The paragraph headings in this Declaration are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction. The use of the singular in this Declaration shall include the plural, where the context is otherwise appropriate.

[SIGNATURE PAGE FOLLOWS]

00482214 Bk00926 Pg01095



CONSENT AND SUBORDINATION OF LENDER  
(Zions First National Bank)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the undersigned, as the beneficiary and holder of: (i) that certain Deed of Trust dated March 2, 2000, and recorded in the official records of the Iron County Recorder on March 6, 2000 as Entry No. 418966 in Book 707, Page 856; (ii) that certain Modification of Deed of Trust dated March 7, 2003, and recorded in the official records of the Iron County Recorder on March 14, 2003, as Entry No. 462296, in Book 854, Page 344; (iii) that certain Construction Deed of Trust dated October 25, 2000, and recorded in the official records of the Iron County Recorder on November 27, 2000, as Entry No. 427770 in Book 730, Page 925; (iv) that certain Fixture Filing recorded in the official records of the Iron County Recorder on November 27, 2000, as Entry No. 427772 in Book 730, Page 940; (v) that certain Assignment of Rents dated October 25, 2000, and recorded in the official records of the Iron County Recorder on November 27, 2000, as Entry No. 427771 in Book 730, Page 934; and (vi) that certain Supplemental Construction Deed of Trust dated April 13, 2001, and recorded in the official records of the Iron County recorder on April 16, 2001, as Entry No. 432860 in Book 746, Page 257 (collectively, the "Encumbrances"), which Encumbrances encumber real property (the "POP Property") owned by Providence Quantum Partners, L.C. ("PQP"), hereby: (1) consents to the execution and delivery of the Declaration by PQP affecting the PQP Property; and (2) subordinates all of its rights, title and interests under the Encumbrances in and to the PQP Property to the rights, title, interests, obligations and benefits created by, or arising under, the Declaration, so that the Declaration shall unconditionally be and remain at all times an interest in real property prior and superior to the Encumbrances. Nothing contained herein shall be construed to impose upon the undersigned any obligation created by the Declaration, unless and until the undersigned has acquired fee title to all or a portion of the PQP Property.

ZIONS FIRST NATIONAL BANK

By: *Keith Colton*  
Name: SMITH COLTON  
Title: SVP

00482214 Bk00926 Pg01097

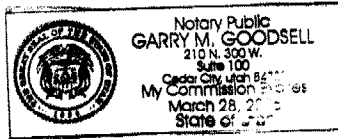
STATE OF UTAH )  
 )  
 ) :SS.  
COUNTY OF IRVING )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day April, 2004, by SCOTT COLTAN, the SENIOR VICE PRESIDENT of ZIONS FIRST NATIONAL BANK, a \_\_\_\_\_

[Signature]  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: LEONAR CITY, UT

My Commission Expires:

3/28/2006



00482214 Bx00926 Pg01098

**EXHIBIT A  
TO  
DECLARATION OF RESTRICTIONS**

---

**DESCRIPTION OF RESTRICTED PROPERTY**

[All property owned by Declarant in the Providence Center shopping center. Title Company to attach metes and bound description prior to closing.]

00482214 Bk00926 Pa01099

587561.2

A-1

PROVIDENCE QUANTUM L.C NORTH PARCEL:

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST, OF THE SALT LAKE BASE MERIDIAN; THENCE N01°09'20"W, 487.07 FEET; THENCE N90°00'00"E, 970.84 FEET TO THE POINT OF BEGINNING; THENCE N38°55'45"E, 204.54 FEET; THENCE S51°04'15"E, 225.70 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 05°32'19"; THENCE SOUTHEASTERLY ALONG SAID CURVE 9.67 FEET; THENCE S45°31'56"E, 0.66 FEET; THENCE N38°55'45"E, 314.53 FEET; THENCE N51°04'15"W, 232.28 FEET; THENCE N44°07'12"E, 235.56 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 87°12'21"; THENCE EASTERLY ALONG SAID CURVE 22.83 FEET; THENCE S48°40'27"E, 275.15 FEET; THENCE S38°55'45"W, 204.55 FEET; THENCE S51°04'15"E, 178.30 FEET; THENCE S22°41'29"W, 418.05 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 250.00 FEET AND A CENTRAL ANGLE OF 67°02'54"; THENCE SOUTHWESTERLY ALONG SAID CURVE 292.55 FEET; THENCE S89°44'23"W, 85.23 FEET; THENCE N00°15'37"W, 107.61 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 07°31'33"; THENCE NORTHERLY ALONG SAID CURVE 13.14 FEET; THENCE N86°37'06"W, 155.95 FEET; THENCE N22°34'31"W, 296.69 FEET TO A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 417.55 FEET, AND A CENTRAL ANGLE OF 03°11'14". RADIUS POINT BEARS N47°53'01"W. THENCE NORTHEASTERLY ALONG SAID CURVE 23.23 FEET TO THE POINT OF BEGINNING. CONTAINING 8.405 ACRES.

00482214 Bk00926 Pg01100

PROVIDENCE QUANTUM L.C. SOUTH PARCEL:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST, OF THE SALT LAKE BASE MERIDIAN; THENCE S89°51'05"W, 150.02 FEET; THENCE N01°09'20"W, 403.91 FEET; THENCE S90°00'00"W, 362.90 FEET; THENCE N02°37'28"W, 1375.45 FEET; THENCE S65°56'25"E, 168.00 FEET; THENCE N22°19'39"E, 40.95 FEET; THENCE N24°06'44"E, 74.00 FEET; THENCE S68°20'15"E, 727.15 FEET; THENCE N21°39'45"E, 330.64 FEET; THENCE S65°53'16"E, 343.67 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 825.00 FEET, AND A CENTRAL ANGLE OF 19°57'43". RADIUS POINT BEARS N87°20'58"W. THENCE SOUTHERLY ALONG SAID CURVE 287.43 FEET; THENCE S22°36'45"W, 473.15 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 1155.00 FEET AND A CENTRAL ANGLE OF 06°35'24"; THENCE SOUTHWESTERLY ALONG SAID CURVE 132.84 FEET; THENCE S29°12'09"W, 337.59 FEET TO A CURVE TO THE LEFT HAVING A RADIUS OF 1084.93 FEET AND A CENTRAL ANGLE OF 31°59'12"; THENCE SOUTHERLY ALONG SAID CURVE 605.69 FEET TO A POINT OF REVERSE CURVATURE HAVING A RADIUS OF 634.07 FEET AND A CENTRAL ANGLE OF 00°04'43"; THENCE SOUTHERLY ALONG SAID CURVE 0.87 FEET; THENCE N89°59'59"W, 122.92 FEET TO THE POINT OF BEGINNING. CONTAINING 34.099 ACRES.

00482214 Bk00926 Pg01101



PROVIDENCE QUANTUM L.C. EAST PARCEL:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST, OF THE SALT LAKE BASE MERIDIAN; THENCE N01°09'20"W, 2239.41 FEET; THENCE N90°00'00"E, 1213.51 FEET TO THE POINT OF BEGINNING; THENCE S12°08'19"W, 1121.56 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 246.48 FEET, AND A CENTRAL ANGLE OF 29°15'22". RADIUS POINT BEARS N49°32'25"W. THENCE SOUTHWESTERLY ALONG SAID CURVE 125.86 FEET TO A POINT OF REVERSE CURVATURE HAVING A RADIUS OF 1084.93 FEET AND A CENTRAL ANGLE OF 17°25'33"; THENCE SOUTHWESTERLY ALONG SAID CURVE 329.97 FEET TO A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1245.00 FEET, AND A CENTRAL ANGLE OF 02°32'36". RADIUS POINT BEARS N64°50'39"W. THENCE NORTHEASTERLY ALONG SAID CURVE 55.26 FEET; THENCE N22°36'45"E, 473.15 FEET TO A CURVE TO THE LEFT HAVING A RADIUS OF 915.00 FEET AND A CENTRAL ANGLE OF 28°30'49"; THENCE NORTHERLY ALONG SAID CURVE 455.36 FEET; THENCE N05°54'04"W, 156.76 FEET; THENCE N84°05'56"E, 118.30 FEET; THENCE N08°19'46"E, 68.45 FEET; THENCE N30°24'32"E, 88.38 FEET; THENCE N08°19'46"E, 54.22 FEET; THENCE N01°24'13"W, 50.10 FEET; THENCE N40°18'04"E, 16.91 FEET; THENCE N53°19'46"E, 11.57 FEET; THENCE S81°40'14"E, 9.41 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1150.00 FEET, AND A CENTRAL ANGLE OF 05°29'51". RADIUS POINT BEARS S08°19'45"W. THENCE EASTERLY ALONG SAID CURVE 110.34 FEET; THENCE S70°49'42"E, 58.25 FEET TO THE POINT OF BEGINNING. CONTAINING 7.022 ACRES.

00482214 Bk00926 Pg01102

**PROVIDENCE QUANTUM L.C., WEST PARCEL:**

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST, OF THE SALT LAKE BASE MERIDIAN; THENCE N01°09'20"W, 131.59 FEET; THENCE N38°17'15"E, 132.30 FEET; THENCE N02°18'07"E, 178.13 FEET; THENCE N49°39'13"E, 268.90 FEET; THENCE N22°42'23"W, 224.97 FEET; THENCE N52°04'50"E, 285.45 FEET; THENCE S22°34'28"E, 222.45 FEET; THENCE S49°39'13"W, 288.50 FEET; THENCE S22°42'23"E, 416.20 FEET; THENCE N46°49'39"E, 292.47 FEET; THENCE S22°34'28"E, 171.22 FEET; THENCE S73°44'03"W, 275.35 FEET; THENCE S22°42'23"E, 17.71 FEET; THENCE S70°47'16"E, 193.66 FEET; THENCE N73°44'03"E, 127.26 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 455.00 FEET, AND A CENTRAL ANGLE OF 24°35'43". RADIUS POINT BEARS S73°44'03"W. THENCE SOUTHERLY ALONG SAID CURVE 195.32 FEET; THENCE S08°19'46"W, 150.82 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTHWESTERLY ALONG SAID CURVE 62.83 FEET; THENCE N81°40'14"W, 99.00 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 1150.00 FEET AND A CENTRAL ANGLE OF 05°06'09"; THENCE WESTERLY ALONG SAID CURVE 102.41 FEET; THENCE CONTINUE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°33'53", A DISTANCE OF 252.19 FEET; THENCE N64°00'12"W, 13.00 FEET; THENCE N25°59'48"E, 171.50 FEET; THENCE N64°00'12"W, 212.07 FEET; THENCE S25°59'48"W, 171.50 FEET; THENCE N64°00'12"W, 101.22 FEET TO THE POINT OF BEGINNING. CONTAINING 9.332 ACRES.

00482214 Bk00926 Pg01183

**EXHIBIT B  
TO  
DECLARATION OF RESTRICTIONS**

---

**DESCRIPTION OF HOME DEPOT PROPERTY**

The land referred to in this instrument is situated in Iron County, Utah and is described as follows:

BEGINNING AT A POINT LOCATED N01°09'20"W ALONG THE SECTION LINE 805.29 FEET AND N90°00'00"W 309.09 FEET FROM THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST OF THE SALT LAKE BASE MERIDIAN; RUNNING THENCE N21°39'45"E 415.63 FEET; THENCE S68°20'15"E 33.00 FEET; THENCE N21°39'45"E 82.68 FEET; THENCE S68°20'15"E 158.83 FEET; THENCE N21°39'45"E 220.00 FEET; THENCE N66°39'45"E 45.01 FEET; THENCE S68°20'15"E 80.00 FEET; THENCE N66°40'06"E 81.33 FEET; THENCE S68°20'15"E 324.00 FEET TO A POINT LOCATED ON THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE CENTER DRIVE; THENCE S22°36'45"W ALONG SAID RIGHT-OF-WAY 331.25 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 1155.00 FEET AND A CENTRAL ANGLE OF 06°35'24"; THENCE SOUTHWESTERLY ALONG SAID CURVE AND ALONG SAID RIGHT-OF-WAY 132.84 FEET TO THE P.T.; THENCE S29°12'09"W 327.07 FEET; THENCE DEPARTING SAID LINE AND RUNNING N73°13'09"W 232.51 FEET; THENCE N68°20'15"W 395.27 FEET TO THE POINT OF BEGINNING. CONTAINING 10.68 ACRES.

00482214 Bk00926 Pg01104

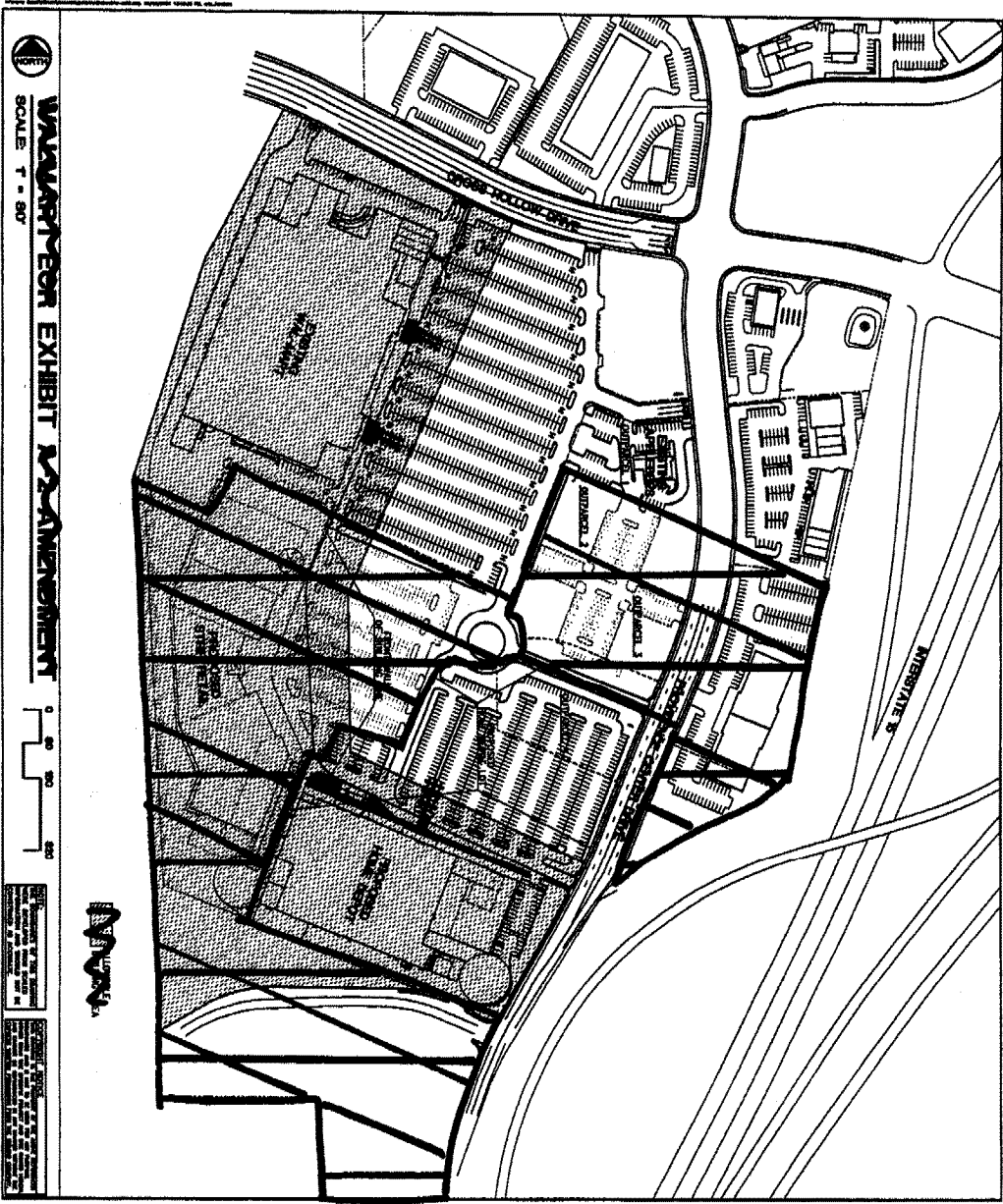
**EXHIBIT C  
TO  
DECLARATION OF RESTRICTIONS**

---

**PIONEER FLOOR COVERINGS**

[See Attached.]

**00482214** Bk00926 Pg01105



**WALNUT CREEK EXHIBIT MANAGEMENT**  
 SCALE: 1" = 50'



**NOTES:**  
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

**THE HOOK DEPOT**  
 1000 S. 1000 W.  
 CEDAR CITY, UT 84701  
 TEL: 437-2222  
 FAX: 437-2222  
 WWW.HOOKDEPOT.COM

**EXHIBIT MANAGEMENT**  
 CEDAR CITY,  
 UTAH

