

Licensor, in its sole discretion) and hold harmless the Licensor from and against any and all claims, actions, causes of action, damages, liabilities, liens, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees, experts' fees and disbursements) resulting from or arising in connection with any release, spill, government requirements/actions/investigations, contamination and/or remediation activities. In the event Licensee must perform remediation as contemplated herein, Licensee agrees to use its best efforts to avoid interference with the building or operations of Licensor on the Property.

As used in this Agreement, the following terms shall have the following meanings:

a) "Hazardous Materials" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law (as defined hereinafter). Without limiting the generality of the foregoing, the term shall mean and include:

i. "Hazardous Substance(s)" as defined in CERCLA (as defined hereinafter), SARA (as defined hereinafter), or Title III of the SARA (as defined hereinafter), each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, and any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes, any petroleum or petroleum-derived waste or product or related materials and any items defined as hazardous, special or toxic materials, substances or waste;

ii. "Hazardous Waste" as defined in the RCRA (as defined hereinafter), and regulations promulgated thereunder;

iii. "Materials" as defined as "Hazardous Materials" in the HMTA (as defined hereinafter), as amended, and regulations promulgated thereunder; and

iv. "Chemical Substance or Mixture" as defined in the TSCA (as defined hereinafter), as amended, and regulations promulgated thereunder.

b) "Released" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, discarding, burying, abandoning, or disposing into the environment.

c) "Environmental Law" shall mean shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials', drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, order, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time:

- i. the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601, *et seq.*) ("CERCLA");
- ii. the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, *et seq.*) ("RCRA");
- iii. the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, *et seq.*) (the "HMTA")
- iv. the Toxic Substances Control Act (15 U.S.C Section 2061, *et seq.*);
- v. the Clean Water Act (33 U.S.C. Section 1251, *et seq.*);
- vi. the Clean Air Act (42 U.S.C. Section 7401, *et seq.*);
- vii. the Safe Drinking Water Act (21 U.S.C. Sections 349, 42 U.S.C. Section 201 and Section 300f, *et seq.*);
- viii. the National Environmental Policy Act (42 U.S.C. Sections 4321, *et seq.*);
- ix. the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 33 U.S.C. and 42 U.S.C.) ("SARA");
- x. Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101, *et seq.*) ("Title III of the SARA");
- xi. the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901, *et seq.*);
- xii. the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136, *et seq.*);
- xiii. the Noise Control Act (42 .S.C. Section 4901, *et seq.*); and
- xiv. the emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100, *et seq.*).

10. This Agreement and the rights created herein shall not be recorded in the public records.

11. Licensee may not assign its rights hereunder without first obtaining Licensor's approval, which may be granted or withheld in Licensor's sole discretion.

12. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. No alteration, modification, amendment, or waiver hereto shall be valid unless evidenced by a writing signed by both parties hereto.

13. In the event of any litigation or arbitration between Licensor and Licensee relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees, and costs.

14. Licensee shall not permit the roads or any driveways, sidewalks or other rights-of-way adjacent to the Licensed Area to be obstructed or disturbed in connection with the Use of the Licensed Area.

15. All notices, demands and requests required or permitted to be given under this Agreement must be in writing and must be (i) delivered personally (with written confirmation thereof); (ii) sent by a nationally recognized overnight courier (subject to written delivery confirmation thereof); (iii)

faxed to the appropriate numbers listed below (subject to overnight delivery of the original pursuant to the terms set forth herein); or (iv) sent by United States certified mail, return receipt requested, postage prepaid and addressed to the parties at their respective addresses set forth below. The initial addresses of the Parties shall be:

LICENSOR: LOWE'S HOME CENTERS, INC.
 1605 Curtis Bridge Road
 Wilkesboro, NC 28697
 Attn: Property Management

With copy to:

 Lowe's Companies, Inc.
 1000 Lowe's Boulevard
 Mooresville, NC 28117
 Attention: Legal Department (NB6LG)

LICENSEE:

 City of Gautier
 3330 Highway 90
 Gautier, MS 39553
 Attention: Chassity Bilbo (City Manager)

Any such notice, request or other communication shall be considered given or delivered, as the case may be, on the date of overnight courier delivery, upon deposit in the United States mail or upon confirmation of the facsimile transmittal as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. By giving at least ten (10) days prior written notice thereof, either party may from time to time change its address to any other address within the United States of America.

16. The failure of either party to this Agreement to insist upon the performance of any of the items and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

17. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURES FOLLOW.**

IN WITNESS WHEREOF the parties have executed this instrument the day and year first above written.

LOWE'S HOME CENTERS, INC.,
a North Carolina corporation

By: 
Name: Tim L. Cooksey
Title: Vice President

ADD
RHP
MR

Licensee:

City of Gautier, Mississippi

By: _____
Name: _____
Title: _____

Exhibit "B"

Use of Licensed Area

Licensee intends to use the Licensed Area for the purposes of holding a "Gautier Mullet and Music Fest".

Additionally, such Use shall be further conditioned on:

Licensee must coordinate all activities so as not to interfere with the customers or operation of Licensor's Retail Property.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 262-2013

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Minutes from Council Meetings held October 1st & 4th, 2013 are hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by Councilman Vaughan, seconded by Councilwoman Martin and the following vote was recorded:

AYES: Gordon Gollott
 Mary Martin
 Johnny Jones
 Hurley Ray Guillotte
 Casey Vaughan
 Rusty Anderson
 Adam Colledge

NAYS: None

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of October 15, 2013.

There came on for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

**RESOLUTION NUMBER 032-2013
PROCLAMATION
(A Local Emergency)**

WHEREAS, the City Council of the City of Gautier, Mississippi does hereby find that the conditions of extreme peril to the safety of persons and property within the City of Gautier, Mississippi, is forecast to receive oil slick in the Gulf of Mexico due to the explosion and collapse of the Deep Water Horizon oil rig in the Gulf of Mexico.

NOW, THEREFORE, BE IT RESOLVED that a local emergency does exist throughout said City of Gautier, Mississippi; and

IT IS FURTHER PROCLAIMED AND ORDERED that said local emergency shall be deemed to continue to exist until further notice.

IT IS FURTHER PROCLAIMED AND ORDERED that the City Manager or City Clerk is hereby authorized to executed any and all documents necessary.

Motion was made by Councilman Vaughan, seconded by Councilwoman Martin and the following vote was recorded:

AYES: Gordon Gollott
 Mary Martin
 Johnny Jones
 Hurley Ray Guillotte
 Casey Vaughan
 Rusty Anderson
 Adam Colledge

NAYS: None

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of October 15, 2013.