

**LEASE AGREEMENT
BETWEEN THE CITY OF MILWAUKEE
AND
DISCOVERY WORLD LTD
(1122 East Michigan – Restaurant Property)**

This Lease Agreement ("Lease") made as of the ____ day of _____, 2017, by and between DISCOVERY WORLD, LTD, a Wisconsin non-stock corporation, (hereinafter referred to as "Tenant"), and the CITY OF MILWAUKEE, a Wisconsin municipal corporation, by and through its Board of Harbor Commissioners (hereinafter collectively referred to as the "City").

A. **Demise of Premises.** City hereby leases, demises and lets unto Tenant, subject to the terms and conditions contained herein, the real property, plus any improvements and fixtures on the real property, located at 1122 East Michigan Street in the City of Milwaukee as more particularly described and depicted in Exhibit A, which is affixed hereto and incorporated into this Lease by reference (hereinafter referred to as the "Premises"). The Premises also includes the building, patio, green spaces and landscaping, lake walkway and parking lot located on the Premises. The Premises does not include any dockwall abutting Lake Michigan.

1. **Condition.** Tenant acknowledges and agrees that it has examined the Premises, knows the condition thereof and accepts the same in an "AS IS" condition. No representations or warranties as to the condition or repair of the Premises have been made by City or its agent prior to or at the execution of this Lease. City shall not be required to recondition or rework the Premises in any manner whatsoever to equip the Premises for Tenant's use.
2. **Compliance with Laws.** Tenant shall, at its own cost and expense, ensure that the Premises conform with all laws, ordinances, rules, requirements, and regulations of the federal, state, county and city governments, and of any and all other governmental authorities or agencies affecting the Premises, whether presently existing or hereafter enacted.
3. **Former Lakebed Restrictions.** Tenant and City acknowledge that the Premises is former lakebed of Lake Michigan and is subject to the requirements and use restrictions of Lakebed Grants from the Wisconsin Legislature (Ch. 151 Laws of 1929, as amended by Ch. 516, Laws of 1929 and Ch. 76, Laws of 1973). Tenant shall abide by these requirements and use restrictions during the term of this Lease. Tenant acknowledges that failure to abide by these requirements and use restrictions may result in enforcement action by the State of Wisconsin and/or the Premises reverting back to State of Wisconsin ownership and subsequent termination of this Lease.

Tenant shall have no recourse or seek any damages against City in the event of such termination of this Lease by or ordered by the State of Wisconsin.

4. Other Restrictions on Title. Tenant's occupancy of the Premises is subject to any recorded easements and restrictions of record.

B. **Term.** This Lease shall be for an initial term of 15 years commencing at midnight on January 1, 2018 (the "Commencement Date") and terminating at 11:59 p.m. on December 31, 2033 (the "Initial Term"). This Lease may be extended for one 5-year extension following the Initial Term, at Tenant's sole option ("Tenant's Renewal Term") by Tenant providing written notice to City at least 6 months prior to termination of the Initial Term of Tenant's intent to extend the Lease. Following the Tenant's Renewal Term, the Lease may be extended for two additional 5-year extensions upon mutual written consent of both Tenant and City (each a "Mutual Renewal Term") at least 6 months prior to termination of the Tenant's Renewal Term or the first Mutual Renewal Term.

C. **Rent.**

1. "Annual Gross Sales" shall be defined in this Lease as all funds (whether paid by cash, credit, check, charge account, exchange or otherwise) received by Tenant in a calendar year as a result of Tenant's use and operation of the Premises regardless of whether the serving or delivery of the products, services, commodities or merchandise is done or made on the Premises or elsewhere. Annual Gross Sales shall include all funds received by Tenant (or third parties utilizing the Premises including, but not limited to, a sub-tenant, assignee, management company or restaurant operator) for all products, services, commodities or merchandise provided on or prepared at the Premises including, but not limited to, sales of food and beverage products and services, collection of parking fees, sales of merchandise, sales of catering services for food or beverages prepared or partially prepared on the Premises even if served away from the Premises, and collection of rental or event fees for use of any portion of the Premises. Annual Gross Sales shall not include: (i) any sales, excise or other direct taxes on the consumer that are collected by Tenant but ultimately paid to a taxing jurisdiction, (ii) any gratuities paid by patrons or customers to employees of Tenant, and (iii) funds received by Tenant from its employees for the sale at cost of uniforms or other items required to be worn or utilized by said employees in the course of their employment.
2. Rent for each year of the Lease (including the Initial Term, the Tenant's Renewal Term and any Mutual Renewal Terms) shall equal 6% of Annual Gross Sales, but shall not, except as described in subparagraph e below, be less than \$200,000

(“Rent”). On January 1 of each year, an estimate shall be made of the Rent that will be due for that calendar year (the “Estimated Annual Rent”) and shall be calculated as follows, subject to an Annual Rent Adjustment as set forth in subparagraph 3, below:

- a. In the first year of the Initial Term the Estimated Annual Rent shall be \$200,000.
 - b. In the second year of the Initial Term the Estimated Annual Rent shall be 6% of the Annual Gross Sales in the previous calendar year, but shall not be lower than \$200,000 or higher than \$300,000.
 - c. In the third year of the Initial Term the Estimated Annual Rent shall be 6% of the Annual Gross Sales in the previous calendar year, but shall not be lower than \$200,000 or higher than \$400,000.
 - d. In each year of the Lease subsequent to the third year of the Initial Term, the Estimated Annual Rent shall be 6% of the Annual Gross Sales from the previous calendar year, but shall not be lower than \$200,000.
 - e. In the event that the Premises suffer damage or casualty as described in Section N, below, and such damage or casualty causes the cessation of operation of the Premises by Tenant for more than 120 days in a single lease year, then the Rent shall be 6% of the Annual Gross Sales for that lease year, even if that amount is below \$200,000.
3. The Estimated Annual Rent shall be divided into 12 equal monthly payments to be paid to City on the 15th day of each month. Within 30 days after December 31 of each year, a year-end adjustment shall be calculated as the difference between the Rent and the Estimated Annual Rent actually paid by Tenant for the year that just ended (the “Annual Rent Adjustment”) and shall be reported to the Port Director. If the Annual Rent Adjustment is a positive number, that amount shall be paid by Tenant to City with its next regularly scheduled monthly rent installment. If the Annual Rent Adjustment is a negative number, that amount shall be applied as a credit against Tenant’s future monthly rent installments.

D. **Records.** Tenant shall maintain complete, accurate and verifiable books and records of its business conducted on the Premises, the form of such books and records to be subject to the approval of the City’s Port Director and the City’s Comptroller and to be made available to properly accredited representatives of the City, at any reasonable time after request at Tenant’s office, for audit or for such other inspection as may be deemed desirable by the City. Tenant shall, simultaneously with delivery of

the Annual Rent Adjustment report to the Port Director, provide City with the annual sales report used to calculate Annual Gross Sales for the prior calendar year. Such annual sales reports shall be kept in accordance with generally-accepted accounting principles. City shall have the right, but not the obligation to audit Tenant's annual sales reports. Tenant shall reimburse City for any such audit in the event that the audit reveals that Annual Gross Sales have been underreported by 5% or more during any audited period. Subject to Section U.6. of this Lease, Tenant's books and records are its private property and City shall endeavor to keep confidential all information which it derives therefrom to the fullest extent allowed by law.

E. **Use of the Premises.** Tenant shall use the Premises for restaurant, catering, banquet, meeting/event and bar services and for parking. Additional uses of the Premises are not permitted without the prior written approval of the City's Port Director. Tenant acknowledges the suitability of the Premises for its intended uses and bears sole responsibility for making any determination with respect thereto. In addition to its commercial uses as described above, Tenant shall also allow the Premises to be utilized by the general public as follows and as further described in the letter dated March 24, 2017 from the Wisconsin Department of Natural Resources, attached hereto as Exhibit B:

1. A minimum of five parking spaces on the Premises shall be made available to the general public for self-parking at no cost for use by people who are visiting and utilizing the Lake Michigan lakefront on or near the Premises. Tenant shall install and maintain signage both at the parking spaces and at Tenant's valet stand indicating the availability of free parking for the general public. Such parking by the public may be subject to limited duration by Tenant, but such time limitation may not be less than 60 minutes per user.
2. Tenant shall make the restrooms in the building on the Premises available to the general public, including those who are not patrons of Tenant's business. Tenant shall install and maintain signage indicating the availability of restrooms during Tenant's regular business hours.
3. Tenant shall make a minimum of 6 outdoor tables located north of the existing retaining wall on the patio of the Premises available to the general public for their use even if they are not patrons of Tenant's business. Tenant shall install and maintain signage indicating the availability of these tables to the general public. Members of the general public utilizing these outdoor tables may consume their own food and beverages at the tables, but may not bring or consumer their own alcoholic beverages. Members of the public so utilizing these tables are not precluded from ordering food or beverages from the Tenant's business if they desire.

4. Tenant shall allow public access to the walkway surrounding the building on the Premises on a 24-hours a day, seven days a week basis every day of the Lease except during temporary closures as reasonably necessary for Tenant to conduct maintenance or repairs, to protect the safety of the public or to avoid the acquisition of adverse or prescriptive rights. Any such temporary closure shall require the prior approval of City's Port Director except in emergency situations or when ordered closed by the City's Port Director, Milwaukee Police Department, Milwaukee Fire Department or United States Coast Guard for security or safety purposes, in which case the City's Port Director shall be notified by Tenant of such closure as soon as reasonably practical. The lake walkway shall, at Tenant's sole costs, be kept in good repair, lit for safety, identified with appropriate signage in multiple locations to notify the public that the lake walkway is available for use by the public and be compliant with the requirements of the Americans with Disabilities Act of 1990, including changes made by the ADA Amendments Act of 2008 (P.L. 110-325), which became effective on January 1, 2009, and as further amended from time to time.
5. In furtherance of the public access requirements on the Premises, Tenant shall make its business on the Premises affordable to the general public by providing a daily meal option that can be purchased at a price no higher than \$15 (not including tax and gratuity) for a sandwich, side dish and beverage. The price of this meal option may be adjusted, at the discretion of the Board of Harbor Commissioners, every five years during the term of this Lease based upon the cumulative percentage increase in the Consumer Price Index for All Urban Consumers, also referred to as "CPI-U," published by the United States Department of Labor, Bureau of Labor Statistics found online at <http://www.bsl.gov> (or a reasonably equivalent index if such index is discontinued) over the preceding five years.
6. Tenant shall, for the duration of the Term, install and maintain native plantings and informational signage regarding those plantings on the Premises.

F. **Termination and Vacation.**

1. Early Termination. This Lease may be terminated prior to the date of its stated expiration as described in Section B, above, only by the mutual written consent of the City's Port Director and the Tenant or as otherwise provided in this Lease.
2. Vacation of Premises. Upon the expiration or termination of this Lease, Tenant shall peaceably and quietly surrender the Premises to City in good order, condition and

repair and in substantially the same condition in which it was received, reasonable wear and tear excepted, free and clear of all materials and equipment. Upon six months' prior written request by City, Tenant shall remove all buildings and improvements from the Premises within six months after termination of the Lease and return the Premises to City as vacant land. Absent such request by City, all improvements and fixtures maintained upon the Premises shall be the property of City and shall remain upon and be surrendered with the Premises as a part thereof; provided, however, trade fixtures, equipment or other unattached and movable personal property owned by Tenant may (and upon City's request shall) be removed from the Premises by Tenant and Tenant shall promptly repair any and all damage caused by such removal at Tenant's sole expense.

3. Failure to Vacate. In the event that Tenant fails to vacate the Premises in a timely fashion and as required herein, City shall have the option to do any or all of the following: (a) cause the Premises to be vacated; (b) charge Tenant twice the Rent set forth in Section C of this Lease for all periods subsequent to the date of expiration or earlier termination of this Lease or of any agreed extension thereof; and (c) to assess and recover against the Tenant the actual costs of such vacation and any damages sustained by the City as a consequence of the Tenant's failure to timely vacate the Premises.
4. Continuing Obligations. The surrender of the Premises upon the expiration or early termination of this Lease shall not relieve Tenant of the obligation to pay for all repairs or replacement to the Premises which Tenant was obligated to perform during the Term, which obligation shall survive the expiration or early termination of this Lease until all costs of repairs or replacements necessary due to Tenant's use of the Premises are paid in full.
5. Hold Over. No holding over by Tenant nor acceptance of rent by City shall operate to renew or extend this Lease without the prior written consent of City. No acceptance of rent with or without City's consent shall be construed as a renewal on any other basis than a month to month tenancy unless reduced to writing specifying a longer term and signed by City and Tenant.

G. **Default**. The occurrence of one or more of the following events shall be considered an Event of Default under the terms of this Lease:

1. Tenant files a petition for bankruptcy or is adjudged a bankrupt under federal bankruptcy laws, as now or hereafter amended, or under the laws of the State of

Wisconsin, and any such petition or judgment is not vacated, stayed or set aside within 60 days from the date of the filing, entry or granting thereof; or

2. Tenant makes an assignment for the benefit of creditors, applies for or consent to the appointment of a receiver for Tenant, or is ordered by a court into receivership; or
3. Tenant abandons the Premises for a period of 30 days; or
4. Tenant is delinquent in any Rent or other payments due under this Lease and such delinquency shall continue for 5 days after notice thereof in writing to Tenant; or
5. Tenant defaults in any of the other covenants or agreements herein contained to be kept, observed and performed by Tenant, and such default shall continue for 30 days after notice thereof in writing to Tenant provided, however, that if such default cannot be cured in 30 days, but Tenant commences a cure of such default within said 30 days and diligently pursues such cure to completion, Tenant shall not be in default; or
6. Tenant makes any assignment, sublease, transfer, conveyance or other disposition of its interest in the Premises without the express written consent of City.
7. Tenant and City are parties to a certain Amended and Restated Lease Agreement with an original date of August 11, 2003 and an amended and restated date of _____, 2017, for property directly south of the Premises known as Discovery World ("DW Lease"). In the event that Tenant is in default under the terms of the DW Lease and such default results in a termination of the DW Lease or closure of the Discovery World Museum for a period of six months or more, City may review Tenant's use of the Premises under this Lease to determine whether Tenant's default under the DW Lease causes or is likely to cause Tenant to no longer be in compliance with this Lease and in particular the requirements of Section E and Exhibit B of this Lease. In the event that City determines such non-compliance has occurred or is likely to occur, City may declare such non-compliance to be a default under this Lease and shall provide Tenant with notice and opportunity to cure as described in subsection 5, above.

Upon occurrence of any one or more Event(s) of Default, it shall be lawful for City, at its election in the manner and terms herein provided, to declare this Lease terminated and to recover possession of the Premises, either with or without process of law, to enter and to expel, and remove Tenant and all agents, employees, representatives, sub-tenants or assignees of Tenant operating, managing or occupying the Premises, using such force as may be necessary in so doing.

H. **Maintenance and Housekeeping.**

1. **City's Obligations.** City shall have no obligation for any repairs, maintenance or capital expenditures on the Premises. City or its agents shall have reasonable access to the Premises to inspect the condition of the Premises during the term of this Lease. City shall provide advance notice to Tenant of any such access except in the event of an emergency.
2. **Tenant's Obligation.** Tenant shall keep the Premises in a clean, orderly and well-maintained state and shall be responsible, at Tenant's sole expense, for all maintenance, repair and replacement, including, without limitation, all mechanical, structural and exterior maintenance, repairs and replacements of any improvements located on the Premises. Subject to the following sentence, Tenant shall have no obligation to maintain or repair the dockwall abutting Lake Michigan adjacent to the Premises. Any damage caused by Tenant or Tenant's employees, agents, servants or invitees to the Premises or the dockwall abutting Lake Michigan or any part of the building or other improvements located on the Premises shall be promptly repaired at Tenant's sole expense. All Tenant's personal property upon the Premises shall be at the risk of Tenant only and City shall not be liable for any theft thereof or loss or damage thereto. Tenant shall obtain and maintain adequate insurance on its personal property located on the Premises. If a major capital expenditure is required in the final 24 months of the Lease term, Tenant shall not be obligated to make such expenditure unless the Lease term has been extended as described in Section B, above, or unless City agrees to reimburse Tenant for the unamortized expense of the repair upon expiration of the Lease.
3. **Quality of Work.** Tenant shall perform, or have its contractors perform, all repairs, replacements and maintenance on or at the Premises in a good and workmanlike manner, using materials and labor of the same character, kind and quality as originally employed within the Premises; and all such repairs, replacements and maintenance shall be in compliance with all governmental and quasi-governmental laws, ordinances and regulations.
4. **Failure to Perform.** In the event Tenant fails to properly perform any such repairs, replacement or maintenance within a reasonable period of time, City shall have the option to perform any such repairs on behalf of Tenant, in which event Tenant shall reimburse to City the costs thereof within 30 days after receipt of City's invoice for same.

5. Alterations. Tenant may, from time to time and at its expense, make such ordinary alterations or improvements to the interior portions of the Premises as may be necessary or proper for the conduct of its business. Any such alterations shall be made at Tenant's own expense, in a good workmanlike manner, in accordance with the laws, ordinances and codes relating thereto, free from any claim or claims for construction liens and shall remain for the benefit of City unless otherwise provided. Tenant shall not make any alterations, additions, buildings or improvements to the exterior portions of the Premises without the prior written consent of City. Tenant may, at Tenant's sole cost and expense, install such trade fixtures at the Premises as Tenant may deem necessary. All alterations and installations made by Tenant to the Premises shall be in compliance with all applicable governmental and quasi-governmental laws, ordinances and regulations. Tenant shall furnish, upon City's request, plans, specifications, drawings and/or renderings of any proposed alterations, additions, buildings or improvements. Tenant may, with prior written approval of the Port Director, install a temporary tent over the patio portion of the Premises, subject to conditions deemed appropriate by the Port Director.
6. Permits and Licenses. Tenant or its contractors agree to properly secure all necessary permits and licenses required by any state, federal or local departments or agencies for the construction, maintenance, alterations and installations occurring on the Premises and for the operation of Tenant's business and improvements. A copy of each such permits or licenses shall be provided to the City's Port Director upon request.

I. Utilities. Tenant shall be responsible for and promptly pay all charges for gas, electricity, water, sewer, telephone and other utilities used or consumed in the Premises. In no event shall City be liable for interruption or failure in the supply of any utility to the Premises and/or any loss, cost or damage suffered by Tenant in connection therewith. Additionally, and without in any way limiting the generality of the foregoing, City shall have no liability for any cost, expense or damage suffered by Tenant as a result of flooding or bursting of pipes, regardless of cause, and Tenant agrees to look solely to its insurer with respect to same.

J. Assignment and Subleasing. Tenant shall not assign or sublet the Premises or any portion thereof, nor allow the same to be used or occupied by any other person or for any other use than herein specified, without the prior written consent of the Board of Harbor Commissioners. Any amendment to any such sub-lease or assignment or change in ownership of such sub-tenant or assignee shall also require prior written consent from the Board of Harbor Commissioners. For purposes of this

Section, the transfer of any majority interest in any corporation or partnership shall be deemed to be an assignment of this Lease requiring approval of the Board of Harbor Commissioners. In the event the Board of Harbor Commissioners consents to any sublease or assignment, any amendment to such sublease or assignment or change in ownership of a sub-tenant or assignee, the same shall not constitute a release of Tenant from the full performance of Tenant's obligations under this Lease. Further, in the event of any such sublease or assignment, amendment or change in ownership, Tenant shall reimburse City for all reasonable attorneys' fees in connection with reviewing and/or drafting any appropriate documents to affect such transfer of Tenant's interests. Notwithstanding the requirements of this Section, Tenant may enter into a sublease or an operation or management agreement with Specialty Restaurants of Wisconsin, Inc. for the Premises without prior written approval from the City. However, any such sublease or agreement with Specialty Restaurants of Wisconsin, Inc. shall be consistent with the terms and requirements of this Lease and Tenant shall provide City with a copy of any such sublease or agreement.

K. **Indemnification.** Tenant hereby agrees to indemnify and save harmless City from and against all liabilities, claims, demands, judgments, losses and all suits at law or in equity, costs and expenses, including reasonable attorney's fees, for injury to and/or death of any person or persons and/or loss and/or damage to the Premises of any person, firm or corporation whomsoever, including both parties hereto and their employees, arising from the construction, maintenance or operation of Tenant's improvements and equipment, or in the carrying on of its business as hereinbefore set forth, except when such liability, claim, demand, judgment or loss arises solely from a negligent act of the City, its agents, contractors or employees.

L. **Insurance.** Tenant shall maintain in full force and effect throughout the term of this Lease, the following insurance covering any and all liability or obligations which may result from operations by Tenant, Tenant's employees, agents, contractors or subcontractors as aforesaid in this Lease:

1. Premises insurance coverage protecting against physical damage (including but not limited to fire, lightning, extended coverage perils, vandalism, sprinkler leakage, water damage, collapse and other special extended perils) to the extent of the replacement cost of Tenant's personal property and improvements on the Premises including, but not limited to, the building located on the Premises as well as goods or property in Tenant's care, custody or control.
2. Comprehensive General Liability Insurance (including but not limited to Products and Completed Operations and Contractual Liability, as applicable to Tenant's obligations under this Lease) with limits not less than:

Each Occurrence Limit:	\$2,000,000
Products/Completed Operations Aggregate:	\$2,000,000
General Policy Aggregate:	\$2,000,000

3. Automotive Liability Insurance with Limits not less than:

Bodily Injury and Property Damage Combined Single Limit:	\$1,000,000 per occurrence
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4. Worker's Compensation Insurance in accordance with Chapter 102, Wisconsin Statutes and any applicable federal law.
5. Umbrella Coverage: \$10,000,000 in aggregate
6. Environmental Impairment Liability Coverage to be continued for a period of 4 years after Lease expiration.

Each Occurrence Limit	\$2,000,000
Aggregate Coverage	\$4,000,000

All such policies shall be of a form and content satisfactory to City. In addition, the Board of Harbor Commissioners of the City of Milwaukee and the City of Milwaukee will be designated on the General Liability, Property Insurance, Automobile and Umbrella policies as additional named insureds. All policies shall be with companies licensed to do business in the State of Wisconsin and rated A or better in the most current issue of Best's Key Rating Guide. Tenant shall furnish City with certificates of insurance for all policies showing that insurance has been written as required. Such evidence shall be provided by Tenant at least 30 days prior to occupancy; and further, such policies shall provide that no less than 30 days written notice be given to City before any such policies are cancelled or substantially changed to reduce the insurance provided thereby. Said certificates of insurance shall remain in effect for the duration of this Lease. Tenant shall not act in any manner that may make void or voidable any insurance required herein. Upon written demand, Tenant shall provide City full, complete and accurate copies of the insurance policies required by this Lease. Once in every 3-year period during the term of this Lease, City shall review the extent and limits of the insurance coverage required herein. After said review, should City determine an increase in the extent and/or limits of insurance coverage is required, Tenant shall be so notified in writing and Tenant shall cause such increases to be placed in effect within 30 days of receiving such notice. In no event shall the extent and limits of insurance coverage be reduced from the amounts shown herein.

M. **Taxes and User Fees.** Tenant shall pay and discharge when due all taxes, if any, assessments, levies, user fees and other charges, general and special, that are or may be during the term

hereof levied, assessed, imposed or charged on the Premises or the improvements thereon or hereafter placed thereon.

N. **Destruction.** If any of the improvements on the Premises are damaged in whole or in part by casualty so as to render the Premises untenable, and if the damages cannot be repaired within 270 days from the date of said casualty, this Lease shall terminate as of the date of such casualty unless otherwise agreed by City and Tenant. If the damages can be repaired within 270 days, Tenant may elect to make such repairs at its sole cost. If Tenant does not elect within 60 days after the date of such casualty to repair same, then either party may terminate this Lease by written notice served upon the other. In the event of any such termination, the parties shall have no further obligations to the other, except for those obligations accrued through the effective date of such termination; and, upon such termination, Tenant shall immediately surrender possession of the Premises to City. Should Tenant elect to make such repairs, this Lease shall remain in full force and effect, and Tenant shall proceed with all due diligence to repair and restore the improvements to a condition substantially similar to that condition which existed prior to such casualty.

O. **Compliance with Laws and Orders.** Tenant agrees to observe fully and to comply with any laws, statutes, regulations, ordinances, rules, requirements or directives applicable to Tenant's operation and use of the Premises now in force or which shall emanate from any state, federal or local departments or agencies having jurisdiction.

P. **Signs.** Any signage installed by Tenant upon the Premises shall conform to all applicable codes and ordinances. Upon the expiration or earlier termination of this Lease, Tenant shall remove all signage and repair any damage to the Premises caused by reason of such removal, unless City directs that the sign(s) remain.

Q. **Condemnation.** If any or all of the Premises shall be condemned by any governmental agency or political subdivision, or sold under threat of such condemnation, then either party shall have the option to terminate and cancel this Lease by written notice to the other party within 45 days of the electing party's receipt of notice of such intended condemnation. If neither party elects to terminate this Lease, then the Lease shall remain in full force and effect. If the Lease is terminated, then the termination shall be deemed effective as of the date of surrender to the governmental authority and Rent and other charges due hereunder shall be adjusted as of such date. In either case, Tenant shall have no interest in any award or proceeds of sale in the event of a condemnation or sale in lieu of condemnation. All damages awarded for a taking under the power of eminent domain of any part of the Premises shall belong to and be the sole property of City and Tenant shall have no claim for loss of its leasehold estate or the value of the unexpired term hereof; provided, however, that if City's award is not affected thereby, Tenant shall be entitled to any separate award made for interruption of business and the relocation of

Tenant's equipment, trade fixtures and other property. City covenants that for the duration of the Lease term, as extended pursuant to the terms of this Lease, City shall not exercise its right of eminent domain with respect to the Premises.

R. **Refuse; Recycling.** Tenant shall keep the Premises in a clean and tenantable condition and shall not allow any garbage, rubbish, refuse, dirt, papers, boxes or cardboard of any kind to accumulate in or about the Premises. Tenant shall, at its own cost and expense, cause any garbage, rubbish, refuse, dirt, papers, boxes or cardboard to be promptly and continuously removed from the Premises. Throughout the Term, Tenant shall be solely responsible, at Tenant's sole expense, for the segregation of waste into such categories and using such containers as required by any governmental authority or private vendor performing waste removal from the Premises.

S. **Environmental Compliance and Obligations.**

1. **Compliance with Environmental Regulations.** Tenant shall fully comply with all environmental laws, including statutes, regulations, or other applicable requirements imposed by any federal, state, or municipal agency with respect to the environmental condition of the Premises and/or with respect to any activities or operations that Tenant may conduct upon the Premises (hereinafter referred to as "Environmental Requirements"). Tenant shall not cause, permit or suffer the existence or commission by Tenant, its agents, employees, contractors or invitees, or by any other person of any violation of any Environmental Requirements upon, about or beneath the Premises or any portion thereof.
2. **Environmental Laws.** The term "Environmental Laws" shall mean and include (a) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901-6987, as amended by the Hazardous and Solid Waste Amendments of 1984; (b) the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601-9657; (c) the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 1801-1812; (d) the Toxic Substances Control Act, 15 U.S.C. § 2601, et. seq.; (e) the Clean Air Act, 42 U.S.C. § 7401, et. seq.; (f) the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136, et. seq.; (g) Chapters 280-299 of Wisconsin Code; and all similar federal, state, or local environmental laws, ordinances, rules, codes and regulations, and as any of the foregoing may have been amended, supplemented, or supplanted and any other federal, state or local laws, ordinances, rules, codes and regulations now existing relating to the environment or the regulation or control or

imposing liability or standards of conduct concerning toxic or hazardous waste, substances or materials.

3. Hazardous Material; Environmental Liens. Except to the extent commonly used in the day-to-day operation of the Premises, and in strict compliance with all Environmental Requirements (including those relating to storage, use and disposal), Tenant shall not cause, permit or suffer any "hazardous material" or "hazardous substance" (as defined by applicable Federal or State statutes or regulations) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined, or used upon, about, or beneath the Premises or any portion thereof by Tenant, its agents, employees, contractors, tenants or invitees, or any other person. Tenant shall not create or suffer to exist with respect to the Premises any lien, security interest, or other charge or encumbrance of any kind relating to the environmental condition of the Premises, including (without limitation) any lien imposed pursuant to Sec. 107(f) of the Superfund Amendments and Reauthorization Act 1986 (42 U.S.C. § 9607(L)) or any similar State Statute.
4. Obligation to Investigate and/or Remediate. Tenant shall, upon demand of the City, and at its sole cost and expense, promptly take all actions to investigate and/or remediate the environmental condition of the Premises which may be required by any federal, state or local governmental agency or political subdivision which remediation is necessitated from, or attributable to, the presence upon, about, or beneath the Premises of any "hazardous material" or "hazardous substances" or any violation of Environmental Requirements caused by the presence of and/or activities or operations conducted by the Tenant upon the Premises. Any such investigation and/or remediation shall be performed by and under the direction of a qualified environmental consulting or engineering firm approved by City in advance of the commencement of the work. Tenant agrees to allow entry upon the Premises by the City, or agents, contractors or employees of the City for purposes of conducting environmental audits and/or other tests for the purpose of determining the impact of Tenant's presence and/or activities or operations upon or with respect to the Premises upon the environmental condition thereof. In the event that Tenant performs any such environmental audit and/or test on its own behalf, it shall promptly provide to the City full and complete copies of any results and/or reports that are generated in connection with the above activities. In the event that the investigation conducted under this subsection 4 reveals that an environmental condition needing remediation

as described herein was a condition that pre-existed the execution of this Lease or any other lease or other agreement under which Tenant leased the Premises, then City shall be obligated to conduct such remediation as described herein rather than Tenant.

5. Survival of Obligations. Tenant's obligations with respect to the environmental condition of the Premises (as more fully set forth in subsections (1) through (3) above) shall survive the expiration or termination of this Lease.
6. No Waiver. Nothing in this Lease shall be deemed to be or constitute a waiver by the City of any defense available to it as a governmental entity pursuant to 42 U.S.C. § 9601 (35) (A) (ii) and § 9607 (b) (3) or Wis. Stat. § 292.11(9)(e), 292.23(2), 292.24(2) and 292.26.

T. **Liens.** Tenant shall not mortgage or otherwise encumber or allow to be encumbered its interest herein without obtaining the prior written consent of City. Should Tenant cause any mortgage, lien or other encumbrance (hereinafter singularly or collectively referred to as "Encumbrance") to be filed, against the Premises, Tenant shall dismiss or bond against same within 15 days after the filing thereof. If Tenant fails to remove said Encumbrance within said 15 days, City shall have the absolute right to remove said Encumbrance by whatever measures City shall deem convenient including, without limitation, payment of such Encumbrance, in which event Tenant shall reimburse City, all costs expended by City, including reasonable attorney's fees, in removing said Encumbrance. All of the aforesaid rights of City shall be in addition to any remedies which either City or Tenant may have available to them at law or in equity.

U. **Miscellaneous Provisions.**

1. Time of the Essence. It is expressly understood and agreed to by the parties hereto that time is of the essence for each term and provision of this Lease.
2. Waiver. One or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition. No breach of a covenant or condition of this Lease shall be deemed to have been waived by either party unless such waiver is in writing signed by both parties. Wherever in this Lease a party's consent is required, such consent shall not be unreasonably withheld or delayed.
3. Sole Agreement and Amendment. This shall be binding upon the parties hereto and their respective successors and assigns, and may not be modified orally or in any other manner other than by agreement, in writing, signed by each of the parties to this Lease. Each person signing this Lease warrants that this is the full, entire and

complete Lease between the parties; that the terms of this Lease supersede and nullify any and all prior discussion, negotiations or agreements between the parties and/or any of the parties' respective officers, employees or agents relating in any manner to the subject matter of this Lease; and that no promise or inducement not expressed in this Lease has been made or exists to cause or influence each such person to execute this Lease. Each person signing this Lease warrants their ability to bind the party on whose behalf each signs.

4. Notice. Any notice provided for herein or given pursuant to this Lease, shall be deemed in compliance herewith if in writing and sent by United States certified or registered mail, postage prepaid, return receipt requested, or by receipted personal delivery to the parties as follows:

To the City:

BOARD OF HARBOR COMMISSIONERS
2323 S. Lincoln Memorial Drive
Milwaukee, WI 53207
Attention: Municipal Port Director

To The Tenant:

DISCOVERY WORLD LTD
500 N. Harbor Drive
Milwaukee, WI 53202
Attention: President

with a copy to:

Specialty Restaurants of Wisconsin, Inc.
c/o Mr. Keith Traften
520 West McKinley Avenue
Milwaukee, WI 53212

and

Attorney Bruce T. Block
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

5. Governing Law. This Lease shall be governed by the internal laws of the State of Wisconsin. If any term or provision of this Lease or any exhibits hereto, or the application thereof to any person or circumstance, shall to any extent be declared invalid or unenforceable, then the remainder of this Lease and exhibits, or the application of such term or provision to persons or circumstances other than those as

to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by applicable law.

6. Public Records. The parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Lease are subject to and conditioned on the provisions of Wis. Stat. §19.21, et seq. Tenant acknowledges that it is obligated to assist the City in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Lease. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Lease.
7. No Slavery Affidavit. The Tenant shall execute the Affidavit of Compliance attached hereto as Exhibit C contemporaneously with its execution of this Lease.
8. Nondiscrimination. Tenant hereby agrees that in its use of the Premises and in its activities undertaken pursuant hereto it shall not discriminate, permit discrimination or restriction on the basis of race, sexual orientation, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap or national origin.
9. Counterparts. This Lease may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same Lease.
10. Approval. The Board of Harbor Commissioners approved this Lease and authorized its execution, subject to approval by City's Common Council, at its meeting on June 8, 2017. City's Common Council approved this Lease and authorized its execution on _____, 2017, by passage of Resolution No. _____.
11. Early Termination of Prior Lease. City and Tenant are parties to a prior lease dated December 28, 1966, and amended from time to time, for land that is approximately the same as the Premises (as amended, the "Prior Lease"). The Prior Lease has a termination date of January 31, 2018 according to its terms. City and Tenant hereby agree to early termination of the Prior Lease effective at 11:59 p.m. on December 31, 2017.

The parties hereto have by their duly authorized officers executed this Lease.

DISCOVERY WORLD LTD

Name / title

STATE OF _____
_____ COUNTY

Personally came before me this _____ day of _____, 20____, _____,
the _____, who by its authority and on its behalf executed the foregoing instrument
and acknowledged the same.

NOTARY PUBLIC, State of Wisconsin
My Commission Expires _____

CITY OF MILWAUKEE

Tom Barrett, Mayor

James R. Owczarski, City Clerk

COUNTERSIGNED:

Martin Matson, Comptroller

Signatures of Tom Barrett, Mayor; James R. Owczarski, City Clerk; and Martin Matson, Comptroller, are
hereby authenticated this _____ day of _____, 2017.

Mary L. Schanning, Deputy City Attorney

BOARD OF HARBOR COMMISSIONERS

Timothy K. Hoelter, President

Paul Vornholt, Secretary

**STATE OF WISCONSIN
MILWAUKEE COUNTY**

Personally came before me this _____ day of _____, 20____, Timothy K. Hoelter, President, and Paul Vornholt, Secretary, of the Board of Harbor Commissioners, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, State of Wisconsin
My Commission Expires _____

APPROVED as to Form and Execution this
_____ day of _____, 2017

Mary L. Schanning, Deputy City Attorney

1122-2014-75:237768

PLEASE NOTE: TENANTS MUST COMPLETE THE FOLLOWING:

(Note: Someone other than the individual who executed this Lease must certify the following):

CERTIFICATE RE: CORPORATION

I, _____ certify that I am the _____ of the above
(print name) (print title)

TENANT named herein; that _____, who executed this Lease on behalf of
(print signator of tenant)

the above TENANT was then _____ of said corporation, and in said
(official capacity of signator)

capacity, duly signed said Lease for and on behalf of said corporation, being duly authorized so to do under its bylaws or is authorized so to do by action of its duly constituted board, all of which is within the scope of its corporate powers.

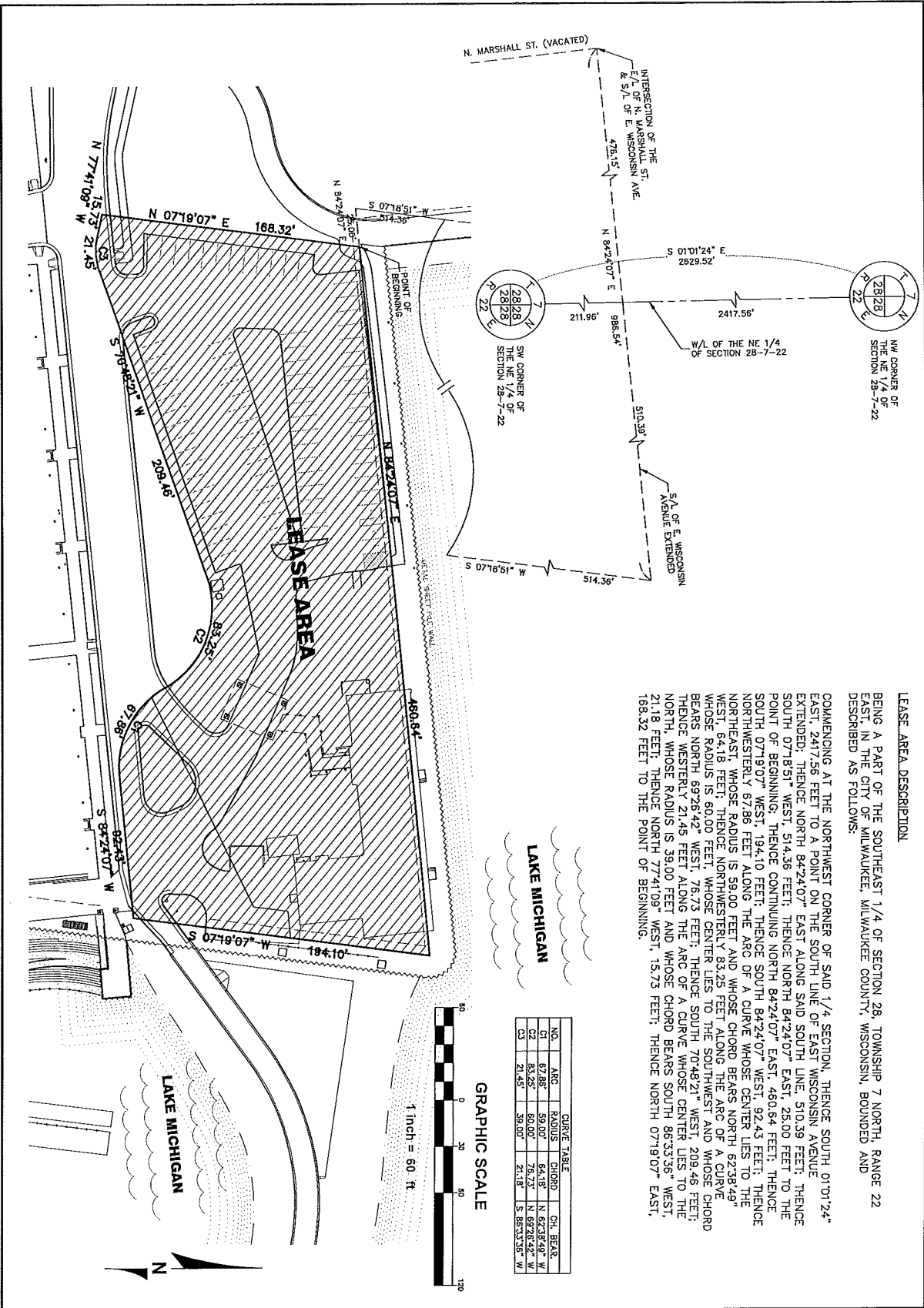
Dated at _____ this _____ day of _____ 20 ____
(location)

(signature)

EXHIBIT A

Description / Diagram of the Premises
(To be updated prior to finalizing)

The Premises shall include the areas designated as
“Lease Area,” “License Area #1” and “License Area #2” on the following pages.



EXHIBIT

Lease Area HARBOR HOUSE

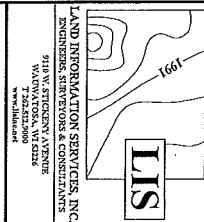
CITY OF MILWAUKEE, WI

LAND INFORMATION SERVICES INC.
ENGINEERS, SURVEYORS & CONSULTANTS
910 W. FISHCREEK AVENUE
MILWAUKEE, WI 53214-2000
TEL: 778.22.2000
WWW.LIS-INC.COM

LIS

DRAWN BY: M.A.B.
CHECKED BY: M.L.W.
DATE: 6/07/17
JOB NUMBER: S07017AR0EX

Harbor House
Lease Area
SHEET 1 OF 3

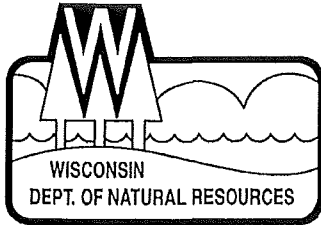


CITY OF MILWAUKEE, WI

Harbor House
License Area
SHEET 2 OF 3

EXHIBIT B

DNR Letter



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott Walker, Governor
Cathy Stepp, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

March 24, 2017

MR. TIMOTHY K. HOELTER
PRESIDENT, BOARD OF HARBOR COMMISSIONERS
2323 S. LINCOLN MEMORIAL DRIVE
MILWAUKEE, WI 53207-1054

RE: Proposed Lease Renewal for the Harbor House Restaurant Property

Dear Mr. Hoelter:

I am in receipt of your letter dated October 27, 2016, in which you inquire as to the Department of Natural Resources' position regarding a proposed lease renewal between the Board of Harbor Commissioners and Discovery World, LTD, for the site of what is currently the Harbor House restaurant.

It is the Department's position that we will continue to follow the 1987 Attorney General's opinion as has been done since the opinion was issued. While the Department believes that a private restaurant remains an inconsistent use of lakebed grant land, the Department also recognizes that it may not be an equitable or reasonable use of the state's prosecutorial discretion to seek to have the restaurant removed some 50 years after its construction and 30 since the Attorney General issued his opinion.

The Department will not seek removal of the restaurant building or object to the Board of Harbor Commissioners entering into a lease for a restaurant at the existing site, provided 1) the private use of the site, including the building envelope of the restaurant, is not expanded, and 2) the Board and its lessee remain responsible for the existence and maintenance of public amenities that have been agreed to for the site. Specifically, the Department expects that:

1. The Board and its lessee will continue to allow the public to access the patio and walkway on the site,
2. The Board or its lessee will maintain adequate signage informing the public of the public space,
3. The Board or its lessee will continue to allow the public to use restaurant bathrooms when the restaurant is open, without the need for a purchase,
4. The Board or its lessee will maintain adequate free parking for the public,
5. The Board or its lessee will maintain native plantings and informational signage on the site.

I would like to express my appreciation for the efforts that have been made to maintain and improve public access to this lakebed grant area. Please be aware that the Department will continue to assess the adequacy of these measures to ensure appropriate public use of the site. Should these or other appropriate conditions cease to be followed in the future, the Department may need to reevaluate its position with

respect to the continued use of this area. I would also expect that the Board will notify the Department well in advance of any contemplated physical alteration or change in use of the site.

Thank you for appropriately apprising the Department of the Board's plans for its lease of this lakebed grant area. Please do not hesitate to contact me if I can provide additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ed Eberle".

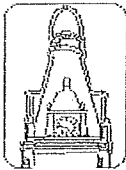
Ed Eberle
Assistant Deputy Secretary

cc:

Mary Schanning, Milwaukee Deputy City Attorney, via email: mschan@milwaukee.gov
Bruce Block, Attorney, via email: bblock@reinhartlaw.com

EXHIBIT C

Affidavit of Compliance
(No Slavery Affidavit)



City
of

Milwaukee

CITY OF MILWAUKEE - DEPARTMENT OF ADMINISTRATION
PROCUREMENT SERVICES SECTION

AFFIDAVIT OF COMPLIANCE

DISCLOSURE OF PARTICIPATION IN OR PROFITS DERIVED FROM SLAVERY BY CONTRACTORS

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

This affidavit of compliance will be the contractor's sworn statement that publicly discloses any slavery policies sold by any companies, or profits from slavery by industries or their predecessors who are doing business with the City of Milwaukee as defined in the Milwaukee Code of Ordinances 310-14.

Please check one:

_____ This business was not in existence prior to the slavery era (1865).

_____ This business was in existence prior to the slavery era (1865). I have searched any and all records for records of investments or profits from slavery, and have found no such records.

_____ This business was in existence prior to the slavery era (1865). I have searched any and all records for records of investments or profits from slavery, and am disclosing the following findings (attach additional pages, if necessary):

I hereby declare that all statements are true, accurate and complete as of the date furnished to the City of Milwaukee.

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____

DATE: _____

Subscribed to before me on this _____ day of _____, 20____, at _____
County, _____ State.

NOTARY PUBLIC SIGNATURE: _____
(SEAL)

PRINT NAME: _____

My commission expires: _____

PLEASE RETURN THIS FORM TO:
200 E. WELLS STREET, ROOM 601, MILWAUKEE, WI 53202
OR FAX TO 414-286-5976