

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION

ACTION REQUEST

Subject: Option Agreement between the University of Michigan and  
NOTA Laboratories LLC

Action Requested: Approval of Option Agreement

Preamble:

A statutory conflict of interest situation was identified by the Office of Technology Transfer while reviewing the technology transfer agreement that then triggered a review by the Medical School Conflict of Interest Board and the UMOR Conflict of Interest Review Committee. A plan for management of the possible risks associated with the conflict of interest was then developed and approved by the Board and Committee and agreed to by the parties involved in this plan.

This proposed option agreement (“Agreement”) falls under the State of Michigan Conflict of Interest Statute because Professors Mark E. Meyerhoff, Mark A. Zacharek, and Marc B. Hershenson are employees of the University of Michigan (“University”) and partial owners of NOTA Laboratories LLC. The law permits such an Agreement provided it is disclosed to the Board of Regents (“Regents”) of the University of Michigan and approved in advance by a 2/3 vote.

Background:

Mark E. Meyerhoff, PhD, a Professor in Department of Chemistry, Mark A. Zacharek, MD, an Associate Professor in Department of Otolaryngology, and Marc B. Hershenson, MD, a Professor in Department of Pediatrics and Communicable Diseases, are partial owners of a for-profit company called NOTA Laboratories LLC (the “Company”). The Company was formed to commercialize novel solutions to both treat and prevent chronic rhinosinusitis and desires to option from the University of Michigan the University’s rights associated with the following technology:

UM OTT File No. 7304, entitled: “Electrochemical Nitric Oxide Generation for Inhalation Therapy” (Inventors: Mark E. Meyerhoff, Robert H. Bartlett, Elizabeth J. Brisbois, Andrew Paul Hunt, Nicolai Lehnert, Yu Qin, Hang Ren)

The Office of Technology Transfer selected the Company as a University partner and negotiated the terms of the proposed Agreement in accordance with University policy and its accepted licensing principles.

Parties to the Agreement:

The Regents of the University of Michigan and NOTA Laboratories LLC

Agreement Terms Include:

Agreement terms include granting the Company an exclusive option to the technology. The Company will reimburse ongoing patent costs, perform technical diligence, and provide a business plan that describes the Company's intention and ability to develop and commercialize the technology. Terms of the subsequent license agreement would include a royalty on sales and reimbursement of patent costs.

The University will retain ownership of the optioned technology and may continue to further develop it and use it internally. No use of University services or facilities, nor any assignment of University employees, is obligated or contemplated under the Agreement. Standard disclaimers of warranties and indemnification apply, and the Agreement may be amended by consent of the parties, such as adding related technology. University procedures for approval of these changes will be followed and additional conflict of interest review will be done as appropriate.

Pecuniary Interest:

The pecuniary interests of Drs. Meyerhoff, Zacharek, and Hershenson arise from their ownership interests in NOTA Laboratories LLC.

Net Effect:

The Office of Technology Transfer has negotiated and finalized the terms of a worldwide option agreement for patents related to UM OTT File No. 7304 for all fields of use. NOTA Laboratories LLC will obtain evaluation rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the Medical School Conflict of Interest Board and the UMOR Conflict of Interest Review Committee. In light of this disclosure and our finding that the Agreement was negotiated in conformance with standard University practices, I recommend that the Board of Regents approve the Agreement between the University and NOTA Laboratories LLC.

Respectfully submitted,



S. Jack Hu  
Vice President for Research

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