



MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Premier Membership Agreement for the Center for Bits and Atoms

ASSIGNMENT NOVATION AND AMENDMENT

This ASSIGNMENT, NOVATION AND AMENDMENT is entered into on _____ (the "Effective Date") by and among the **Massachusetts Institute of Technology ("MIT")**, a non-profit, tax-exempt educational institution organized and existing under the laws of the Commonwealth of Massachusetts, located at 77 Massachusetts Avenue, Cambridge, MA 02139-4307 USA (hereinafter referred to as "MIT"), acting on behalf of MIT's Center for Bits and Atoms, **Innovate-America ("Assignor")**, a limited liability corporation organized and existing under the laws of Delaware with its principal office at 48 Heather Dr., Norwood, MA 02062, (hereinafter referred to as 'Member'), and **OH₂ Laboratories ("Assignee")**, a a limited liability corporation organized and existing under the laws of Delaware located at 48 Heather Drive, Norwood Avenue 02062.

WHEREAS, Assignor and MIT are parties to the Premier Membership Agreement for the Center for Bits and Atoms effective June 1, 2012 (the "Agreement");

WHEREAS, The parties have agreed to assign and novate the Agreement so that Assignee replaces Assignor as a party to the Agreement and the benefits and burden of the Agreement shall be vested in Assignee in place of Assignor as of the Effective Date;

WHEREAS, MIT wishes to consent to the assignment and novation of the Agreement; and

WHEREAS, MIT and Assignee wish to amend the terms of the Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. Assignor hereby transfers, conveys and assigns to Assignee all of Assignor's right, title and interest in and arising from Agreement as of the Effective Date of this Assignment, Novation and Amendment.
2. Assignee hereby assumes, as of the Effective Date, all liabilities, duties and obligations of Assignor under the Agreement.
3. MIT hereby consents to the assignment and assumption set forth in Paragraphs 1 and 2 above. The Agreement is novated by the substitution of Assignee for Assignor as a party to the Agreement from the Effective Date hereof. As of the Effective Date, all references to the Agreement to Assignor shall be considered references to Assignee.
4. As of and from the Effective Date, MIT releases, relieves and discharges Assignor from all of its duties, obligations and liabilities arising out of or accruing under the Agreement; PROVIDED however that nothing herein contained shall be construed as a release of Assignor from any obligations or liability under the Agreement, which obligations or liability accrued prior to the Effective Date.

5. The address of Assignee for notices under the Agreement shall be:

David Levy, PhD
Chairman and General Manager
OH₂ Laboratories
1069 Miller Avenue
Berkeley, CA 94708
Ph: [REDACTED]
Email: [REDACTED]

6. MIT and Assignee further agree that the Agreement shall be amended as of the Effective Date as described in Exhibit A hereto which is hereby incorporated by reference into this ASSIGNMENT NOVATION AND AMENDMENT.

7. This ASSIGNMENT NOVATION AND AMENDMENT shall be governed and construed in all respects in accordance with the laws of the Commonwealth of Massachusetts named in the Agreement, excluding its choice of law rules.

8. This ASSIGNMENT NOVATION AND AMENDMENT supercedes all prior understandings or communications between the parties on the subject matter of this ASSIGNMENT NOVATION AND AMENDMENT and shall apply in lieu thereof. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.

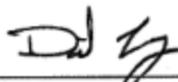
9. The Agreement shall remain in full force and effort, except as modified by the ASSIGNMENT NOVATION AND AMENDMENT. The parties hereto shall, from time to time, and at all times hereafter, without further consideration, do all such further acts and execute and deliver all such further documents as shall be reasonable required to give full effect to the provisions hereof.

IN WITNESS WHEREOF, the parties have caused this ASSIGNMENT NOVATION AND AMENDMENT to be executed and delivered by their respective authorized representatives and effective as of the Effective Date.

INNOVATE-AMERICA

By: 
Name: DAVID LEVY
Title: GENERAL MANAGER

OH₂ LABORATORIES

By: 
Name: DAVID LEVY
Title: GENERAL MANAGER

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

By: _____
Name: _____
Title: _____

EXHIBIT A

AMENDMENT TO THE AGREEMENT

Article 3. MEMBERSHIP, subparagraph (a) is hereby replaced with the following:

- (a) This Agreement provides for **Premier CBA Membership for the period June 1, 2012 – February 28, 2014**, with the intellectual property rights described in Article 12 below, and the funding obligations described in Article 8. CBA members include sponsoring entities with royalty-free or royalty-bearing rights to CBA's intellectual property, with or without project support for activities on or off campus (MIT Media Laboratory sponsor contracts before January 1, 2009 have royalty-free intellectual property access without project support rights).

Effective March 1, 2014 Member's membership level is changed to Principal CBA Membership, with the intellectual property rights described in Article 12 below, and the funding obligations described in Article 8.

Article 8. MEMBER FEES, sentence 1, is hereby revised as stated below:

"Member, in support of CBA, will pay to MIT the amounts below to cover its share of the direct and indirect costs of the Program:

Premier Level Membership: \$1,000,000 per year. Total fees for this level, for the period June 1, 2012 – February 28, 2014 (21 months) shall be \$1,750,000.

Principal Level Membership: \$ 500,000 per year. Total fees for this level for the period March 1, 2014 – May 31, 2017 shall be \$ 1,625,000.

Total Member Fees for Member's Membership (Period of Participation) = \$3,375,000

Article 9. PAYMENT, subparagraph (a) shall be replaced with the following:

- (a) Member will make payments in accordance with the following schedule:

Receipt of payment is herein acknowledged for Premier Membership period 6/1/12 – 2/28/14 in the amount of \$ 1,750,000.

Due 11/1/2014: \$250,000 (for Principal Membership period 3/1/14 – 11/30/14)
Due 2/1/15: \$250,000 (for Principal Membership period 12/1/14 – 2/28/15)
Due 5/1/15: \$250,000 (for Principal Membership period 3/1/15 – 8/31/15)
Due 11/1/15: \$250,000 (for Principal Membership period 9/1/15 – 2/28/16)
Due 5/1/16: \$250,000 (for Principal Membership period 3/1/16 – 8/31/16)
Due 11/1/16: \$250,000 (for Principal Membership period 9/1/16 – 2/28/17)
Due 5/1/17: \$125,000 (for Principal Membership period 3/1/16 – 5/31/17)

Article 12. Patents and Copyrights. This Amendment No. 1 contains no changes to this Article. Member benefits remain same for Premier and Principal Level Membership.

All other terms and conditions remain unchanged.