

## TRUST BOARD MEETING – 30 September 2010

Title of the Paper:	Ear Scaffold (Northwood Implants)
Agenda item:	129/10
Author:	Anna Anderson, Director of Finance
Trust Objective:	Objective N/A
<b>Key issues</b> Report on <ul style="list-style-type: none"><li>Progress with the on going discussions on the commercialisation of the ear scaffold invention</li></ul> Purpose <ul style="list-style-type: none"><li>To advise the Board of the outcome of final negotiations</li></ul>	
<b>Risk Implications for the Trust</b> <i>(including any clinical and financial</i>	<b>Mitigating Actions (Controls):</b>
There are no risks to the Trust identified at this time	N/A
<b>Level of Assurance that can be given to the Trust Board from the report</b> [significant, sufficient, limited, none]: Significant	
<b>Links to Key Line of Enquiry (KLOE 1 - 5)</b> N/A	
<b>Legal Implications:</b> The Trust has entered into binding legal agreements. Based on the advice of solicitors acting for the Trust there are no financial risks to the Trust or risks to the Trust’s reputation from entering into these agreements.	
<b>Recommendation to the Trust Board:</b>  The Trust Board members are asked to: <ul style="list-style-type: none"><li>note the action taken by the Chairman to agree that the legal documents should be signed on behalf of the Trust</li><li>ratify the action taken by the Chairman</li></ul>	



## ***Public Board Meeting, September 2010***

### **Ear Scaffold**

Presented by: Anna Anderson

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## **1. Purpose**

This paper provides an update to the Board on recent discussions and actions taken in relation to the Ear Scaffold project (Northwood Implants).

## **2. Background**

2.1 Throughout 2008 and 2009 the Board received a number of briefing papers on the progress being made with the establishment of Northwood Implants (the company taking forward the ear scaffold project) and the relative position of the Trust in relation to its relationship with the Company and its rights and obligations in respect of the development of the ear scaffold product.

2.2 In the earlier part of 2010 Non Executive Members of the Board, together with the then Acting Director of Finance and the subsequent permanent Director of Finance, entered into detailed discussions with Norbert Kang, the inventor, and his advisors Stratagem, in order to finalise the details of the various legal documents. Following discussions with the Trust Chairman it was agreed that negotiations would be concluded and presented to the Chairman for action to be taken to agree them if the timescale for completing the documentation fell outside of the normal Trust Board timetable.

## **3. Current Position**

3.1 During July and August 2010 negotiations on the legal structure and associated documents were finalised. All parties were ready to sign the documents at the beginning of September. Following confirmation from the Chairman that he was prepared to take Chairman's action the Director of Finance signed the documents on behalf of the Trust.

3.2 The Trust has now entered into the following documents:

- Investment Agreement
- Investor Rights Agreement
- Patent Licence
- Heads of Terms

3.3 Throughout the negotiations confirmation was given that the Trust would not have to make any cash contribution to the Company and that the Trust would receive an allocation of shares in exchange for transferring the intellectual property for the ear scaffold invention from the Trust to the Company. Assurance was also given that there were no significant areas of exposure for the Trust either financially or in relation to reputation. Contained within the agreements are the necessary clauses to ensure that the intellectual property and associated Patents return to the Trust should the Company fail to meet its obligations in relation to exploiting the business opportunities and market conditions that prevail into the future.

One of the requirements on the Trust, before entering into an agreement to hold shares in a company, is to have the agreement of the Secretary of State for Health. Within the Department of Health the Commercial Directorate undertakes the scrutiny of such arrangements on behalf of the Secretary of State. The Trust submitted all the legal documents to the Commercial Directorate and responded to the issues they raised. Advice from the solicitors acting for the Trust in relation to the negotiation has indicated that the Trust has fulfilled its obligations under existing NHS legislation in respect of Secretary of State's approval.

#### **4. Recommendation**

4.1 The Board is asked to ratify the action taken by the Chairman to agree that the legal documents should be signed on behalf of the Trust

**Anna Anderson**  
Director of Finance  
September 2010