

THE UNIVERSITY OF MICHIGAN

Approved by the Regents  
March 15, 2012

REGENTS COMMUNICATION

ACTION REQUEST

Subject: Option Agreement between the University of Michigan and Brio Device 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. A plan for management of the possible risks associated with the conflict of interest was then developed and approved by this Board 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 Drs. Sabina Siddiqui, Douglas Mullen, Laura (Walz) McCormick, and Ms. Hannah Hensel are all employees of the University of Michigan ("University") and partial owners of Brio Device, LLC. The law permits such an Agreement provided it is disclosed to the executive officers and approved in advance by a 2/3 vote of the Regents of the University of Michigan.

Background:

Dr. Siddiqui, a house officer in Pediatric Surgery, Dr. Mullen, a senior project manager at Michigan Nanotechnology Institute, Dr. McCormick, a Research Fellow in Pediatric Surgery, and Ms. Hensel, a Research Associate in Pediatric Surgery, are the partial owners of a for-profit company called Brio Devices, LLC (the "Company"). The Company was formed recently to commercialize an intubating device and desires an option from the University of Michigan to the University's rights associated with the following technology:

UM OTT File No. 4943, entitled: "Intubating Device" (Douglas Mullen, Hannah Hensel, Sabina Siddiqui, Laura (Walz) McCormick)

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 Brio Device, LLC.

Agreement Terms Include:

Agreement terms include granting the Company an exclusive option to obtain an exclusive license with the right to grant sublicenses. The Company will pay an option fee and reimburse ongoing patent expenses. Terms of the subsequent license agreement would include payment of a royalty on sales and reimbursement of patent costs. The University may receive equity in the Company, along with the right to purchase more equity. 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. Siddiqui, Mullen, McCormick, and Ms. Hensel arise from their ownership interest in Brio Device, LLC.

Net Effect:

The Office of Technology Transfer has negotiated and finalized the terms of an option to obtain a worldwide exclusive license agreement for patents related to UM OTT File No. 4943 for all fields of use.

Brio Device, LLC will obtain use rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the Medical School Conflict of Interest Board. 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 Option Agreement between the University and Brio Device, LLC.

Respectfully submitted,



Stephen R. Forrest  
Vice President for Research

March 2012