

**ICOC Meeting February 3-4, 2010**  
**Proposed Guidelines for Loan Terms**

**I. Proposed Guidelines for Loan Terms, with Specific Terms to be Determined by Request for Applications**

- 1) **Two Types of Loans – Loan Recipient Can Choose, in its Sole Discretion, Either:**
  - a. **Product Backed Loan:** Repayment of the loan is predicated on the success of the product being developed.
  - b. **Company Backed Loan:** The Loan Recipient is obligated to repay the loan regardless of whether the CIRM-funded product/project results in any revenues.
  
- 2) **Term of Loans** – The term of CIRM loans shall be 5 years, subject to modification on an RFA by RFA basis by the Finance Subcommittee, based on the recommendation of the President. The Loan Recipient may extend the term of the loan up to a maximum term of 10 years, provided that it agrees to be bound by the provisions set forth in paragraph 3 and 4 below. A term of more than ten years shall require the approval of the Finance Subcommittee, based upon the recommendation of the President.
  
- 3) **Conditions for Extension of Loan Term**
  - a. **Payment of Accrued Interest for 5 year Loan:**
    - i. Years 1 -5: interest accrues, no payment due
    - ii. Year 6: Recipient owes 25% of unpaid, accrued interest paid out over the 6<sup>th</sup> year in 4 equal quarterly payments; remaining interest is accrued
    - iii. Year 7: Recipient owes 25% of unpaid, accrued interest paid out over the 7<sup>th</sup> year in 4 equal quarterly payments; remaining interest is accrued
    - iv. Year 8: Recipient owes 25% of unpaid, accrued interest paid out over the 8<sup>th</sup> year in 4 equal quarterly payments; remaining interest is accrued
    - v. Year 9: Recipient owes 25% of unpaid, accrued interest paid out over the 9<sup>th</sup> year in 4 equal payments; remaining interest is accrued.
    - vi. Year 10: Recipient owes 25% of unpaid, accrued interest paid out over first 3 quarters in 3 equal payments; principal and remaining unpaid accrued interest are due at end of year 10
  - b. **Interest Rates:**
    - i. The interest rate for a 5 year loan term shall be Prime plus 1% or LIBOR plus 2%, as determined by the Finance Subcommittee, based on the

recommendation of the President, for each specific Request for Application.

- ii. For each additional year of the Loan Term beyond the 5<sup>th</sup> year, the interest rate of the Loan shall increase by: 1% in year 6; 2% in year 7; 3% in year 8; 4% in year 9; and 5% in year 10.
- iii. The interest rate shall not exceed the maximum interest rate permitted by law.

- c. **Notice of intent to extend** – The Loan Recipient must provide notice of its intent to extend the loan term at least 90 days prior to end of the Loan Term; the term may be extended on a year by year basis up to 10 years in sole discretion of Loan Recipient, subject to satisfaction of scientific and financial milestones, the absence of an event of acceleration, and compliance with terms of Notice of Loan Award.

- 4) **Loan Disbursements** - Funding of the loan will occur at intervals set forth in the Notice of Loan Award and only upon satisfaction of conditions set forth in the Notice of Loan Award. A delay in meeting timelines will not automatically result in acceleration or termination of the loan, but it could result in a delay or suspension in the disbursement of additional funds.

5) **Warrants** –

- a. **Company Backed Loans:** lesser of 20% of Loan Recipient's shares, fully diluted and
  - i. 10% of the Loan Amount- if Loan Recipient shows a profit for previous 2 years
  - ii. 25% of the Loan Amount - if Loan Recipient has BOTH: (a) raised in prior financings since its inception 3x the total amount of the loan; AND (b) has entered into a contractual arrangement (still in effect) with a biotechnology or pharmaceutical company which requires the payment of licensing revenues or milestone payments predicated on the success of a funded project (regardless of whether it is a CIRM Funded Project).
  - iii. 50% of the Loan Amount- if Loan Recipient has met only one of the two requirements set forth above in section 5(a)(ii)
  - iv. 75% of the Loan Amount - if none of the criteria set forth above in Section 5(a)(ii) are satisfied

- b. **Product Backed Loans:** lesser of 20% of Loan Recipient's shares, fully diluted and

- i) 50% of the Loan Amount - if the Loan Amount is less than 50% of the total funds required to complete the CIRM-Funded Project as defined in the activities based budget attached to the Notice of Loan Award (e.g. FDA approval, identification of a development candidate, etc.)
- ii) 60% of the Loan Amount- if the Loan Amount is less than 75% of the total funds required to complete the CIRM-Funded Project as defined in the activities based budget attached to the Notice of Loan Award (e.g. FDA approval, identification of a development candidate, etc.)
- iii) 100% of the Loan Amount - if the Loan Amount represents more than 75% of the total funds required to complete the CIRM-Funded Project as defined in the activities based budget attached to the Notice of Loan Award (e.g. FDA approval, identification of a development candidate, etc.)
- iv) In each of the above cases, the determination of the total project costs will be determined as of the date of the execution of the Notice of Loan Award and shall be calculated using the indirect costs reimbursement rate as set forth in the Grants Administration Policy.

**6) Subordination**

- a. **Company Backed Loans** – The Loan Administration Policy will not address subordination of Company Backed Loans.
  - b. **Product Backed Loans** – Unless additional debt is used to support the CIRM-Funded Project, CIRM will not subordinate to company-wide debt without the consent of the Finance Subcommittee, based on the recommendation of the President; such consent may not be unreasonably withheld.
- 7) **Acceleration** – The current acceleration provisions will be deleted and replaced with the following: In the event of any change of control, CIRM shall have the right but not the obligation to accelerate repayment of the Loan. This decision shall be made by the Finance Subcommittee, based on the recommendation of the President. If the proposed change of control is not a matter of public knowledge, the Finance Subcommittee shall consider the matter in closed session to protect the confidentiality of the proposal.

- 8) **Forgiveness** – Company Backed Loans will not be forgiven on the basis of failure of a Progress Milestone, Go/No Go Milestone or Financial Milestone. .

## II. Other Provisions

- 1) Effect of Current and Future Amendments - Amendments to the LAP will only apply prospectively to loans made following the amendment(s), unless CIRM and Loan Recipient agree otherwise.
- 2) Common vs. Preferred Stock Warrants - Warrants Section 7c will be amended to permit warrants of either common or preferred stock, as determined by CIRM in its sole discretion.
- 3) Duplicative Provisions - Eliminate provisions duplicative of those in the GAP or IP regulations.
- 4) Forgiveness/Suspension – Clarify amendments to the LAP relating to forgiveness and suspension will be made.
- 5) Interest - Interest will be compound rather than simple.
- 6) Modification of Loan Terms – Amend LAP to specify that the Finance Committee may modify these loan terms, based on the recommendation of the President, as appropriate for each Request for Applications. If the Finance Subcommittee does not modify these guidelines for a specific RFA, the terms set forth herein shall apply to the RFA.
- 7) Modify the monetary threshold for loans (currently, loans are only available for RFAs that provide for awards of \$3 million or more) to permit the Finance Subcommittee, based on the recommendation of the President, to adjust the threshold on an RFA by RFA basis.

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