

~~Interim~~ **CIRM Loan Administration Policy**
~~Adopted by ICOC January 30, 2009, effective June 15, 2009~~

Preface

The California Institute for Regenerative Medicine (CIRM) issues Requests for Applications for research grants, inviting applications from non-profit and for-profit organizations. Beginning in early 2009, CIRM intends to supplement its grant funding by offering research loans to for-profit organizations. This policy covers the procedures that will apply to research loans.

The Independent Citizen's Oversight Committee (ICOC), CIRM's governing board, has adopted the CIRM Grants Administration Policy for Academic and Non-Profit Institutions (Non-Profit GAP). The Non-Profit GAP applies generally to grant funding of scientific and medical research. The ICOC has also adopted the CIRM Grants Administration Policy for For-Profit Organizations (For-Profit GAP), which is applicable to for-profit organizations that apply for or receive CIRM funding through grants. The For-Profit GAP largely incorporates the Non-Profit GAP. Where differences between for-profit and non-profit organizations warrant different treatment, the For-Profit GAP provides the modified policies that apply to for-profit applicants and grant recipients.

This Loan Administration Policy (LAP) takes a similar approach, working from the Non-Profit GAP and setting out the modified policies that apply to CIRM loan funding of for-profit organizations. Note that this LAP does not incorporate the For-Profit GAP, which continues to apply to for-profit organizations to the extent that CIRM funds them through grants.

I. INCORPORATION BY REFERENCE

The Non-Profit GAP and all appendices, as they may be amended from time to time, are hereby made applicable to for-profit organizations that apply for or receive CIRM loans, to the extent that they do not conflict with the policies stated herein. Where differences between grants and loans warrant different treatment, this LAP provides the modified sections that apply to loans. All other provisions of the Non-Profit GAP apply to loans. When Non-Profit GAP provisions are applied to loans, "Loan" replaces "Grant" and "Loan Recipient" replaces "Grantee."

~~The Non-Profit GAP and this~~ The loan administration policy statement may be updated periodically by CIRM. Any new or amended regulations adopted by the ICOC will be applied ~~to currently active loans on the start date of the next budget period. Principal investigators, program directors and organizational officials with active CIRM loans will receive notification of revised loan terms and conditions or revised editions of the Non-Profit GAP and LAP as they are released. All revisions~~ only to loans awarded after the amendments are adopted, unless CIRM and the Loan Recipient agree otherwise All revisions to the LAP will be posted on the CIRM website (<http://www.cirm.ca.gov>).

CIRM’s right to enforce the provisions of this LAP shall survive the end of the term of the loan, and should CIRM no longer exist, those rights may be enforced by the State of California.

C. Defined terms

The following definitions supplement the definitions provided in the Non-Profit GAP.

Accrued Interest	Interest owed on the Loan.
<u>Change of Control</u>	<u>In the event of a sale, merger, transfer, exchange or other disposition (whether of assets, stock or otherwise) of a majority or controlling ownership position.</u>
Debtor <u>Borrower</u>	A For-Profit Organization that is responsible for repayment of a Loan. The Debtor <u>Borrower</u> may or may not be the Loan Recipient.
<u>CIRM-funded Project</u>	<u>The research project described in the Notice of Loan Award</u>
<u>Company-Backed Loan</u>	<u>A loan which the Loan Recipient organization is obligated to repay, notwithstanding the status of the CIRM-funded project.</u>
Earned Interest	Interest that a Loan Recipient earns on unspent funds that it has received from CIRM.
Loan	A funding mechanism with repayment provisions providing money and/or property to an eligible entity to assist the Loan Recipient in carrying out an approved project or activity. Loans may be Recourse <u>Company-Backed</u> or Non-Recourse <u>Product- Backed</u> .
Loan Balance	Amount determined by adding (1) the amount CIRM has distributed to the Loan Recipient pursuant to the Loan, and (2) Accrued Interest to date, and subtracting (3) any prepayment of the Loan Balance.
Loan Period	The time between the date of CIRM’s first release of funds pursuant to the Loan Award and the date when the loan must be repaid. This repayment deadline is different from the end of the research project – see “Project Period.”
Loan Recipient	An Organization that is the Recipient of an Award and that is legally responsible and accountable for the use of the funds provided and for the performance of the CIRM-funded Project or Activity. The Loan Recipient is the entire legal entity even if a particular component is designated in the NLA. The Loan Recipient may or may not be the Debtor <u>Borrower</u> .
Non-Recourse Loan	A Loan which the Loan Recipient organization is obligated to repay, subject to suspension or forgiveness of all or part of the loan based on the status of the CIRM-funded project.

Notice of Loan Award (NLA)	The document that notifies the Loan Recipient and others that an Award has been made, contains or references all terms and conditions of the Award as well as the Loan Recipient's and PI's agreement to those terms and conditions, and documents the commitment of CIRM funds.
Recourse Product-Backed Loan	A loan Loan which the Loan Recipient organization is obligated to repay, notwithstanding subject to suspension or forgiveness of all or part of the loan based on the status of the CIRM-funded project.

D. Types of support

1. CIRM may offer support in the form of Grants or Loans. ~~In an~~ [Eligibility for each type of funding will be decided on a case-by-case basis prior to issuance of the RFA. Unless otherwise determined by the Finance Subcommittee of the ICOC, based on the recommendation of the President, CIRM will only offer Grants in connection with RFAs](#) for which the ICOC has budgeted less than \$3 million per award, ~~CIRM will only offer Grants. For RFAs targeting larger awards, eligibility for each type of funding will be decided by the ICOC when it authorizes CIRM to prepare and issue the RFA. The ICOC may direct that an RFA offer only Grants, only Loans, or some combination, subject to the following guidelines.~~
2. The ICOC may provide that For-Profit Applicants are only eligible for Loans, or that they can choose between Grants and Loans. When a For-Profit Organization receives a Loan, that organization is both the Loan Recipient and the ~~Debtor~~ [Borrower](#).
3. The ICOC may permit Non-Profit Applicants to apply for Loans, but only if the Application includes a Co-PI from a For-Profit Organization that agrees to be the ~~Debtor~~ [Borrower](#). The Non-Profit Applicant would be the Loan Recipient.
4. [An RFA may place other restrictions or conditions on eligibility, such as requiring the IND holder of a CIRM Funded Project to be the Loan Recipient.](#)

This section supplements Section I.D. of the Non-Profit GAP.

E. Roles and Responsibilities

3. Financial Services Provider:

CIRM will engage the services of external financial services providers to perform specified functions related to the evaluation and administration of loans. [Unless otherwise provided in an RFA, the Loan Recipient shall be](#)

[required to cover certain or all costs incurred on CIRM's behalf by the Financial Services Provider.](#)

II. LOAN APPLICATION AND REVIEW PROCESS

A. Eligibility

1. PI and PD Eligibility

Principal Investigators ("PI") or Program Directors ("PD") from For-Profit applicants and Loan Recipients must be employed primarily by the For-Profit organization (i.e., at least 50% time) at the time of award and during the entire project period.

This requirement supplements the requirements of section II.A.1. of the Non-Profit GAP.

~~I. PRE-AWARD AND AWARD~~

~~C. Public Policy Requirements~~

~~9. Sharing of Publication-Related Biomedical Materials~~

~~CIRM Loan Recipients shall share biomedical materials first created with CIRM funding and described in published scientific articles for research purposes in California as specified in CIRM's Intellectual Property and Revenue Sharing regulations. Annual reporting requirements pertaining to CIRM-funded patented inventions and projects, which may extend 15 years beyond the project period, are also specified in CIRM's Intellectual Property and Revenue Sharing regulations.~~

~~This section supersedes Section III.C.9. of the Non-Profit GAP.~~

V. PAYMENT AND USE OF FUNDS

B. Costs and Activities

1. Allowable Project Costs and Activities

Allowable travel-related expenses include costs for transportation, lodging, subsistence, and related items incurred by key personnel on project-related business. Reimbursement for transportation expenses shall be based on the most economical mode of transportation (e.g., coach fare) and the most commonly traveled route consistent with the authorized purpose of the trip. Reimbursed lodging and subsistence expenses must be ordinary and necessary to accomplish the official business purpose of the

trip. Excluding travel for clinical research or regulatory affairs, travel-related expenses shall be limited to an annual allowance of \$5,000 per person per CIRM award.

This section supersedes paragraph 3, section V.B.1. of the Non-Profit GAP.

3. Facilities Costs

Facilities costs cover general operating costs of the Loan Recipient's facilities that will house all elements of the funded project or activity. A fixed rate for facilities costs to for-profits organizations will be specified on a per-RFA basis. The fixed facilities cost rate shall be no higher than the average of the Category A and B facilities costs reported per fiscal year for Academic and Non-Profit Organizations.

This section supersedes section V.B.3. of the Non-Profit GAP.

5. Indirect Costs

Indirect costs will be up to 25 percent of allowable direct research funding costs awarded by CIRM (i.e., project costs and facilities costs), exclusive of the costs of equipment, consulting and subcontract amounts in excess of \$25,000, and will be specified on a per-RFA basis.

This section supersedes section V.B.5. of the Non-Profit GAP.

6. Interest Earned on CIRM Funds

Loan Recipients with [RecourseCompany-Backed](#) Loans are not required to account to CIRM for interest earned on funds that CIRM advanced pursuant to the Loan award. Loan Recipients with [Non-RecourseProduct-Backed](#) Loans must reinvest and account for interest earned as provided in the Non-Profit GAP. Interest earned on CIRM funds does not increase or decrease the amount required to be repaid.

D. Prior Approval Requirements

5. Relinquishment of Award and Award Transfer

A Loan Recipient may at any time relinquish an Award by submitting a relinquishing statement that includes a) a statement of reasons for relinquishing the award; b) an estimate of the unexpended balance of any funds paid to the Loan Recipient; c) and an assurance that all unexpended funds will either be returned to CIRM, or in the case of an Award transfer, transferred to a new Loan Recipient within 90 days of the date of relinquishment. In the case of a transfer, the relinquishing Loan Recipient

may be required to transfer CIRM-funded equipment purchased with the Award.

With prior approval, and at the request of the Loan Recipient organization, the continuation of CIRM loan activities may be transferred to a different eligible organization in California in the event that:

- a. the PI transfers organizations
- b. the program is sold to another organization
- c. the CIRM Loan Recipient is acquired by another organization

The CIRM Loan Recipient must submit to CIRM a written request and justification that the prospective transferee organization has the intent and means to continue the proposed research – including access to intellectual property rights available at the original Loan Recipient. The request must be submitted at least 90 days before the proposed effective date of award transfer. If the initial request to transfer the award is approved, final approval will be contingent upon the current Loan Recipient relinquishing rights to the Loan. Furthermore, the Loan Recipient may be required to transfer to the new organization any equipment purchased under the Loan. Before the transfer can take place, the original Loan Recipient must submit to CIRM a relinquishing statement that includes an estimate of the unexpended balance of any funds paid to the Loan Recipient and an assurance that all unexpended funds will be transferred to the new Loan Recipient or returned to CIRM within 90 days of the relinquishing date.

The transferee Loan Recipient must submit to CIRM a letter that states its intention to assume responsibility for the Award based on the approved application, including all applicable provisions of this Loan Administration Policy for For-Profit Organizations and CIRM's [Intellectual Property and Revenue Sharing intellectual property](#) regulations, and the following items:

- a. New application face page with original signatures
- b. Detailed budget(s) for the remaining project period (including the estimated unexpended balance from the original Loan Recipient)
- c. Biographical sketches for new key personnel
- d. Other support for new key personnel
- e. Facilities and resources
- f. Public policy assurances (e.g., human subjects, animal, biohazard), where applicable.

~~The transferee Loan Recipient will be subject to the same financial and business evaluation as new Loan applicants. CIRM will not approve~~

~~transfer of a Loan to an organization that does not meet CIRM underwriting standards.~~

CIRM will issue a new NLA to the PI and the transferee Loan Recipient when all required documents have been received and the transfer has been approved by CIRM. Transfer of the Award is effective when the NLA is signed by the PI and the Authorized Organizational Official of the transferee Loan Recipient and returned to and received by CIRM. Payment will not be issued until the Award transfer is effective.

As part of the new NLA, the transferee Loan Recipient assumes all loan repayment obligations of the relinquishing Loan Recipient. If the request to transfer the Award of a CIRM-funded program is not approved, CIRM may provide written notification of termination of the Award. The Loan Recipient will be required to submit a final report on the project and a final financial report within 90 days of the effective date of Award termination. All unexpended funds as of 30 days of the date of Award termination must be returned to CIRM within 120 days of termination of the Award. Further, the Loan Recipient shall continue to be responsible for all ongoing obligations of the award under CIRM's [Intellectual Property and Revenue Sharing intellectual property](#) regulations.

This section supersedes section V.D.5. of the Non-Profit GAP.

H. Reporting Requirements

3. Other Reports

During the Loan Period ~~and for 15 years after the end of the Loan Period~~, Loan Recipients must provide written notification to CIRM within 30 days of the occurrence of any of the post-Award changes described below:

- ~~a. — Loan Recipients shall report to CIRM publications, inventions, patent applications, licensing and invention utilization activities that result from CIRM-funded research. Specific reporting requirements are detailed in CIRM's Intellectual Property and Revenue Sharing regulations.~~
- b.** Termination of a program that is currently funded by CIRM. The Loan Recipient organization will be required to submit a final report on the project and a final financial report within 90 days after the effective date of award termination. All unexpended funds as of 30 days after the date of award termination must be returned to CIRM within 60 days after termination of the award. Further, the Loan Recipient organization shall continue to be responsible for all ongoing obligations of the award under

CIRM's ~~Intellectual Property and Revenue Sharing~~[intellectual property](#) regulations.

This section supersedes section V.H.3. of the Non-Profit GAP.

5. Reporting Related to Loan Terms

In addition to other reporting requirements, Loan Recipients and ~~Debtors~~[Borrowers](#) must notify CIRM of any event that would trigger accelerated Loan repayment pursuant to section VII.F, ~~including initial public offerings and follow-on financing. Loan Recipients and Debtors must also provide any reports required by the terms of plans and terms agreed to pursuant to sections VII.G.2 and VII.H.~~

I. Project Close-Out

Close-out marks the end of the CIRM-funded ~~research project~~[Project](#). Project close-out has no effect on the date when Loan repayment is due. CIRM will close out a ~~project~~[CIRM-funded Project](#) as soon as possible after the project period end date or the end date of any authorized extension. Close-out includes timely submission of all required reports and reconciling amounts due the Loan Recipient or CIRM. CIRM may withhold funds from the Loan Recipient for future or concurrent Awards if a project close-out is pending the submission of overdue reports.

As part of close-out of a project funded by a ~~Non-Recourse~~[Product-Backed](#) Loan, the Loan Recipient and ~~Debtor~~[Borrower](#) must submit a plan for continued development of the project. CIRM approval of the plan is necessary to complete close-out, and will be based on whether the plan, in the [reasonable](#) judgment of the President of CIRM, appropriately balances the considerations specified in Section 125290.30, subdivision (h), of the Health and Safety Code.

Close-out of a project does not cancel any requirements for property accountability, record retention, reporting or financial accountability. Following close-out, the Loan Recipient remains obligated to return funds due as a result of later refunds, corrections, or other transactions, and CIRM may recover amounts based on the results of an audit covering any part of the funding period. In addition, the Loan Recipient is obligated to report to CIRM after project close-out any patents filed, patents issued, licenses granted, or income received that resulted from CIRM-funded research. (See CIRM's Intellectual Property and Revenue Sharing regulations.)

This section supersedes section V.I. of the Non-Profit GAP.

J. Failure of Compliance

If the Loan Recipient or PI fails to comply with the terms and conditions of a Loan Award, CIRM may take any of the actions that it could take for failure of compliance with a Grant Award, as described in section V.J. of the Non-Profit GAP. If CIRM determines that the failure justifies recovery of previously awarded funds, the Loan Recipient is fully liable for that obligation, without regard to whether the Loan is [RecourseCompany-Backed](#) or [Non-RecourseProduct-Backed](#).

If a Loan Recipient is required to return funds due to failure of compliance, the returned funds will be deducted from the Loan Balance. Interest that accrued on those funds before they were returned to CIRM will not be deducted from the Loan Balance. Recovery of funds for failure of compliance does not affect CIRM's interest in the warrants issued when those funds were released.

This section supplements section V.J. of the Non-Profit GAP.

VII. LOAN TERMS

A. [RecourseCompany-Backed](#) and [Non-RecourseProduct-Backed](#) Loans

CIRM will offer two types of Loans: [RecourseProduct-Backed](#) Loans and [Non-RecourseCompany-Backed](#) Loans. [RecourseCompany-Backed](#) Loans must be repaid to CIRM, with accrued interest, at the end of the Loan Period. ~~For Non-Recourse Loans, repayment obligations are conditional, as described below. Evaluation, regardless of applications for Recourse Loans will consider whether the ability~~ [CIRM-Funded Project results in any revenues. Repayment of a Product-Backed Loan is predicated upon the applicant organizations success of the product being developed.](#)

~~The following are guidelines for Loan Terms. Specific terms will be determined in each RFA by the the Finance Subcommittee of the ICOC, based on the recommendation of the President, as appropriate for each RFA. If the Finance Subcommittee does not modify these guidelines for a specific RFA, the terms set forth herein shall apply to repay the RFA.~~

~~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.~~

B. Interest Rate

~~Each RFA that offers Loans will state Unless otherwise provided in the applicable RFA,~~

- i. ~~The interest rate, determined by the Finance Subcommittee for a 5 year loan term shall be LIBOR plus 2%.~~

- ii. For each additional year of the ~~COC~~ Loan Term beyond the 5th 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.

Interest ~~is calculated as simple interest~~shall be compounded annually, from the date on which CIRM disburses funds to the Loan Recipient.

C. Warrants

1. Requirement

~~Debtors are required to issue stock warrants to CIRM. Warrants must be provided whenever CIRM disburses a portion of the total Loan amount. Debtors on Recourse Loans must provide warrants with a value equivalent to ten percent (10%) of the amount disbursed. Debtors on Non-Recourse Loans must provide warrants with a value equivalent to the lesser of (1) the full amount disbursed or (2) 20% of the Debtor's shares, on a fully diluted basis.~~

a. Company-Backed Loans: A Loan Recipient that is awarded a Company-Backed Loan shall provide warrants to CIRM equal to the lesser of 20% of Loan Recipient's shares, fully diluted and

- iv. 10% of the Loan Amount if Loan Recipient shows a profit for previous 2 years
- v. 25% of the Loan Amount -if Loan Recipient has BOTH: (a) raised in prior financings since its inception three times 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).
- vi. 50% of the Loan Amount if Loan Recipient has met only one of the two requirements set forth above in section C.1(a)(v)
- vii. 75% of the Loan Amount if none of the criteria set forth above in Section C.1(a)(v) are satisfied

b. Product-Backed Loans: A Loan Recipient that is awarded a Product-Backed Loan shall provide warrants to CIRM equal to the 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 set forth in the Notice of Loan Award.
- 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 set forth in the Notice of Loan Award.
- 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 set forth in the Notice of Loan Award.
- iv) For the purposes of Section C.1(b)(i), (ii) and (iii), the “total funds required to complete the CIRM-funded Project” shall be determined as of the date of the execution of the Notice of Loan Award and shall be calculated using the indirect cost reimbursement rate specified in the Grants Administration Policy.

2. Warrant terms

If the ~~Debtor~~Borrower is publicly held, the warrant strike price will be the closing price of the ~~Debtor’s~~Borrower’s common or preferred stock reported for the business day immediately before ~~each CIRM disbursement~~of funds, depended upon whether CIRM selects common or preferred stock warrants. For privately held ~~Debtors~~Borrowers, the warrant strike price will be set at the share price from the most recent round of equity financing ~~prior to ICOC approval~~before each disbursement of the Loan~~CIRM funds.~~ If there has been no previous round, the warrants will be floated until the next round. The warrants are transferrable, may be exercised at any time, and expire 10 years from the date on which they are issued. Warrants may be of either common or preferred stock, as determined by CIRM in its sole discretion.

D. Loan Period

~~Debtors may elect a Loan Period of six years or ten years at the time of Application. The Finance Subcommittee may authorize CIRM to offer different Loan Periods in a particular RFA.~~
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 below in Section H. A term of more than ten years shall require the approval of the Finance Subcommittee, based upon the recommendation of the President.

E. Prepayment and Repayment at End of Loan Period

Unless the repayment obligation has been accelerated, suspended or forgiven, the Loan Balance is due and payable to CIRM on the last day of the Loan Period. A DebtorBorrower may prepay the full amount of the Loan Balance, with accumulated interest, at any time, without penalty.

F. Loan Acceleration

~~A Loan will become due before~~In the event of the Loan Period, upon the occurrence of certain events which trigger an obligation to repay the Loan.

1. Change of Control

~~If there is a any change of control of the Debtor, including a merger with a public or private company, and if the combined enterprise value exceeds \$100 million, the Loan Balance becomes due and payable to CIRM 30 days after the effective date of the change of control.~~

2. Follow-on Financing

~~If the Debtor secures follow-on financing that exceeds \$60 million or 20 times amount of the Loan authorized by the ICOC, whichever is less, the Loan Balance becomes due and payable to CIRM 30 days after the close of financing.~~

3. Relinquishment or Termination

~~If the Loan Recipient relinquishes the Loan, or if CIRM terminates the Loan for any of the reasons stated in chapter V of the Non-Profit GAP and the LAP, the Loan Balance becomes due and payable to CIRM 90 days after the effective date of the relinquishment or termination.~~

4. Pivotal Trial

~~If the Loan Recipient, Debtor or a licensee begins a pivotal trial based on the CIRM-funded research, the Loan Balance becomes due and payable to CIRM six months after the start of the trial, shall have the right but this acceleration trigger does not apply to Loans with a Loan Period shorter than 10 years 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.~~

G. Suspension and Forgiveness of Non-Recourse Product-Backed Loans

Decision 1: Option A:

1. ~~Project Abandonment~~

~~At any time prior to the end of the Loan Period, the Debtor may apply for suspension of all or part of the Loan, based on a showing that it has abandoned the project funded by CIRM. A project will be considered abandoned if, during the Project Period, CIRM has terminated the project or discontinued funding at a Go/No-Go decision point specified in the RFA and/or NLA. At or after the end of the Project Period, a project will be considered abandoned if the Debtor has determined that it is not commercially feasible to continue development of the product.~~

~~2. Suspension of Repayment~~

~~To Any Loan Recipient of a Product-Backed Loan may apply for a suspension of repayment. In its application, the Debtor Product-Backed Loan Recipient must:~~

~~(a) show that it has complied with all CIRM reporting requirements and audit requests. The Debtor must also;~~

~~(b) submit a plan for access to and exploitation of any CIRM-Funded Invention* (as defined in CIRM's Intellectual Property and Revenue Sharing Regulations) or CIRM-Funded Technology* (as defined in CIRM's Intellectual Property and Revenue Sharing Regulations) arising from the Loan-funded project. Suspension of repayment will not be granted unless, in the judgment of the President of CIRM, the plan appropriately balances the considerations specified in Section 125290.30, subdivision (h), of the Health and Safety Code. CIRM-funded Project; and~~

~~The Debtor must also~~

~~(c) agree to terms for repayment of the Loan Balance if the Debtor it resumes development of the project or otherwise derives revenue from CIRM-Funded Invention* or CIRM-Funded Technology* arising from the Loan CIRM-funded project. Project.~~

~~Suspension of repayment will not be granted unless the terms for exploitation of any CIRM Funded Inventions, resumption and of Loan obligations upon resumption of the CIRM funded Project and the amount of repayment are approved by the Finance Subcommittee of the ICOC, which will determine whether the proposed terms, under the circumstances of the project, are acceptable and appropriately balance the considerations specified in Section 125290.30, subdivision (h), of the Health and Safety~~

*-Term defined in CIRM's Intellectual Property and Revenue Sharing Regulations

Code. If further activity results in a repayment obligation under the agreed-upon terms, the Debtor/Product-Backed Loan Recipient must promptly notify CIRM and make whatever payments are owed under those terms.

3Option B:

(a) In the event that the recipient of a product backed loan does not successfully develop a product, the obligation to repay the loan shall be forgiven provided that:

(i): the Product Backed Loan Recipient:

(A) demonstrates that it has complied with all CIRM reporting requirements and audit requests;

(B). submits a plan for access to and exploitation of any CIRM-Funded Invention (as defined in CIRM's Intellectual Property and Revenue Sharing Regulations) or CIRM-Funded Technology(as defined in CIRM's Intellectual Property and Revenue Sharing Regulations) arising from the CIRM-funded Project; and

(C). agrees to terms for repayment of the Loan Balance if it resumes development of the project or otherwise derives revenue from CIRM-Funded Invention or CIRM-Funded Technology arising from the CIRM-Funded Project; and

(ii) The Finance Subcommittee approves the terms for resumption of Loan obligations and the amount of payback.

(b) For purposes of this section, "successfully develop a project" means that the Product-Backed Loan Recipient has derived revenue from the CIRM-Funded Invention or CIRM-Funded Technology arising from the CIRM-Funded Project.

(c) If Borrower's obligation to repay has been suspended and if further activity results in a repayment obligation under the agreed-upon terms, the Product-Backed Borrower must promptly notify CIRM and make whatever payments are owed under those terms.

Option C:

(a) A Product-Backed Loan shall be automatically forgiven in the event that:

(i) The Borrower has complied with all reporting requirements;

- (ii) The Borrower either abandons, the CIRM-Funded Project during the Loan Period (and submits a declaration to this effect) or CIRM terminates the Project; and
- (iii) The Borrower has failed to obtain at least one market authorization or otherwise has failed to generate revenue from a product or drug funded in whole or in part from a CIRM Loan.

(b) Notwithstanding subpart (a) above, a Loan which has been forgiven will automatically be reinstated in the event that the Borrower obtains revenue from a product or drug funded in whole or in part from the Product-Backed Loan. If the Borrower's obligation to repay has been forgiven and if further activity results in a repayment obligation under this provision, the Product-Backed Loan Recipient must promptly notify CIRM. The President of CIRM may reinstate the Loan for the period remaining on the Term or agree to other terms.]

Decision 2:

2. Loan Forgiveness

Any Loan Balance which has not become due and payable 15 years after the end of the Project Period will automatically be forgiven.]

H. Conditions and Notice for Extension of Loan Period for Recourse and Non-Recourse Loans

~~The Debtor may apply to extend the Loan Period, and delay repayment, based on a showing that there has been a delay in the further development of the project. A project is delayed if technical or financial obstacles have impeded development of the project, and the Debtor organization has a viable plan to move development forward. The application for suspension must be submitted to CIRM no later than 30 days before the end of the Loan Period. It must explain the current development plan, and demonstrate complete compliance with all CIRM reporting requirements. The application may be granted if, in the judgment of the President of CIRM, the application demonstrates that the extension is necessary to allow a viable development plan to proceed.~~

~~If the Loan extension application is granted, the Loan Period will be extended by up to two years to accommodate the new development plan. A Debtor organization may apply for an additional two-year extension at the end of an extended loan term. There is no fixed limit on the number of extensions available. Extended loans continue to accrue interest.~~

A Loan Recipient may extend the term of its five-year loan according to the conditions of this Section. 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 the 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. Payment of interest Accrued for a Five (5)-year Loan will occur as follows:

- A. Years 1 -5: interest accrues, no payment due
- B. Year 6: Recipient owes 25% of unpaid, accrued interest paid out over the 6th year in 4 equal quarterly payments; remaining interest is accrued
- C. Year 7: Recipient owes 25% of unpaid, accrued interest paid out over the 7th year in 4 equal quarterly payments; remaining interest is accrued
- D. Year 8: Recipient owes 25% of unpaid, accrued interest paid out over the 8th year in 4 equal quarterly payments; remaining interest is accrued
- E. Year 9: Recipient owes 25% of unpaid, accrued interest paid out over the 9th year in 4 equal payments; remaining interest is accrued.
- F. Year 10: Recipient owes 25% of unpaid, accrued interest paid out over the first 3 quarters in 3 equal payments; principal and remaining unpaid accrued interest are due at end of year 10.

I. Subordination

In the case of a Product-Backed Loan, 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.

J. Loan Application Process

1. CIRM Loan Application Form and Financial Review

~~By the application deadline for an RFA that offers Loan funding, a Loan applicant must submit a Loan application form. The applicant must indicate its preference among available Loan terms for that RFA, e.g., Recourse, Non-Recourse, Loan Term, etc. If an Application seeks Recourse Loan funding for a project with scientific merit, the ICOC may deny the Application if the applicant does not meet the credit standards for Recourse Loans. Accordingly, applicants that prefer Recourse Loans must indicate whether they would accept Non-Recourse Loan funding as an alternative. Applicants must also indicate on the application whether they seek a Loan Period of six or ten years (or other Loan Period that the Finance Subcommittee has authorized for the RFA). If a Loan applicant is a Non-Profit Organization, the loan application form must be submitted by~~

~~the proposed Debtor for a Product-Backed Loan or a Company-Backed Loan. The Loan Applicant will be required to submit financial information, pursuant to CIRM's or its agents' request. **Decision 3: Option A:** {The ICOC may decline to award a Loan on one or more legal or financial grounds, including but not limited to risk of attachment, bankruptcy, or insolvency, or failure to meet industry standards for financial practices or adhere to generally accepted accounting principles.} or **Option B:** {In addition to rejection of a Loan on scientific and programmatic grounds, the ICOC may reject a loan for any of the following reasons:~~

2. ~~Financial Feasibility Review~~

~~CIRM will assign each Loan applicant (or Debtor) to a Financial Services Provider. Each applicant or Debtor will work directly with a Financial Services Provider to provide the financial and business information that the Financial Services Provider needs to evaluate the applicant's ability to manage and repay CIRM funds. The Financial Services Provider will collect from the applicant a processing fee to offset the cost of financial feasibility review.~~

~~J. Loan Administration Fee~~

~~During the Loan Period, CIRM may charge each Debtor a loan administration fee to offset the cost of loan administration by a Financial Services Provider.~~

~~K. Intellectual Property and Revenue Sharing Regulations~~

~~Except as provided in section VII.E.1.b. (regarding suspension of Non-Recourse Loans), Loan Recipients are not subject to the revenue sharing provisions of CIRM's Intellectual Property and Revenue Sharing regulations. In all other respects, Loan Recipients are subject to the same intellectual property regulations as Grantees.~~

~~lap_interim_adopted.doc0902030900~~ 1) Failure of good legal standing:

- 2) History of legal non-compliance;
- 3) Evidence of a significant risk of attachment, bankruptcy or insolvency that threaten the performance of the Project; or
- 4) Failure to adhere to generally accepted accounting principles.}]

2. Scientific Review

Loan applications will be subject to the same scientific review by the Grants Working Group as a Grant application, and final determination of scientific merit by the ICOC.