Amend 17 Cal. Code of Regs. section 100608 to read:

§ 100608. Revenue Sharing.

(a) Licensing Revenue.~~(a)~~ A Grantee and Collaborator must share with the State of California a fraction of Licensing Revenue arising in whole or in part from a ~~received under a License Agreement for a~~ CIRM-Funded Invention, CIRM-Funded Technology, or results of CIRM-Funded Research, as follows:

(1) In~~Subject to subdivision (a)(2) of this regulation and to adjustments made in accordance with~~ the event that CIRM funds at least one half of the total cost of the CIRM-Funded Project resulting in the licensed or transferred CIRM-Funded Invention, CIRM-Funded Technology or results of CIRM-Funded Research, ~~-~~then ~~provisions hereof,~~ the amount owed is 25 percent of Licensing Revenue received in excess of $500,000 and shall be payable to the State of California for deposit into the State's General Fund (such payments to be used by the State of California in a manner consistent with Title 35 United States Code, Section 202, subdivision (c)(7)). The threshold amount of $500,000 (in the aggregate) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982-84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2009, and the numerator of which is such Index published for the month in which the Grantee accepts the Grant. In the event that CIRM funds less than one half of the total cost of the CIRM-Funded Project resulting in the licensed or transferred CIRM Funded Invention, CIRM Funded Technology or results of CIRM-Funded Research then the amount owed is 15 percent of Licensing Revenue in excess of the threshold amount described above.

(2) Notwithstanding the forgoing, in the event that a Commercializing Entity is making royalty payments pursuant to subsection (b) below, For-Profit Grantees and For-Profit Collaborators will have no obligation to share with the State of California, any Licensing Revenues they derive as a result of the same commercial revenue stream.

(b) Net Commercial Revenue.~~(2) If any funding sources other than CIRM (including those of the Grantee or Collaborator, as the case may be) directly contributed to the development of said CIRM- Funded Invention or CIRM-Funded Technology, then the return to the State of California on Licensing Revenue in excess of the threshold amount described in subdivision (a)(1) of this regulation shall be proportionate to the support provided by CIRM, as follows: The amount of CIRM funding of the CIRM-Funded Invention or CIRM-Funded Technology shall be divided by the total of funding provided by all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the State of California of Licensing Revenue.~~

~~(b)~~ A Commercializing Entity~~Grantee and Collaborator~~ must share with the State of California for deposit in the State's General Fund a fraction of ~~any~~ Net Commercial Revenue that results in whole or in part~~it receives~~ from ~~a self-commercialized product it commercializes itself and which resulted from its~~ CIRM-Funded Research (regardless of whether a CIRM-Funded Invention or CIRM-Funded Technology is involved) as follows:

(1) A royalty~~Grantees and Collaborators must pay royalties to the State of California for deposit into the State's General Fund~~ on Net Commercial Revenue ~~exceeding the threshold amount described in subdivision (a)(1) of this regulation. Total payments under this subdivision (b)(1) shall equal and not exceed three times the total amount of the CIRM Grant or Grants that led to the product. The rate of payback of the royalty shall be~~ at a rate of 0.1% per $1 million of

CIRM Grant(s) for the earlier of Ten (10) years~~three (3) percent of the annual Net Commercial Revenue~~ from the date of First Commercial Sale~~;~~ or nine times the ~~product.~~

~~(2) In addition, if Net Commercial Revenue from a product commercialized by the Grantee, or Collaborators and which resulted from its CIRM-Funded Research exceeds the milestone of $250 million in any calendar year, a one-time payment of three times the total~~ amount of the Grant(s); (By way of example, Grants totaling $15 million~~) awarded shall be paid to the State of California. In addition, if Net Commercial Revenue exceeds the milestone of $500 million in any calendar year, an additional one-time payment of three times the total amount of the Grant(s) awarded shall be paid to the State of California.~~

~~(3) In addition to any amounts due under any other provision of this regulation, where a patented CIRM-Funded Invention(s) or patented CIRM-Funded Technology is involved in the achievement of Net Commercial Revenue realized by a Grantee or Collaborator equivalent to or greater than $500 million in any year, and where a CIRM Grant or Grants amounting to more than $5 million (in the aggregate) were made in support of CIRM-Funded Research that contributed to the creation of Net Commercial Revenue, the Grantee or Collaborator~~ will result in royalty payments of 1.5% of Net Commercial Revenues.)~~pay the State of California one percent annually of Net Commercial Revenue in excess of $500 million for the life of any patent covering such patented CIRM-Funded Invention or patented CIRM-Funded Technology.~~

(2) In addition, upon satisfaction of the obligation in subsection (b)(1) above, a 1% royalty shall be owed on Net Commercial Revenues in excess of $500 million per year, until the last to expire patent covering a CIRM Funded Invention, if any, that generates, or plays a role in the generation of, in whole or in part said Net Commercial

Revenue; provided at least $5 million in CIRM Grant or Grants were made in support of such CIRM-Funded Research, CIRM Funded Technology or CIRM Funded Inventions

(3) For purposes of subdivision (c) of this section, the royalty rate calculation shall apply only to Grants made to For-Profit Grantees and which were awarded subsequent to the effective date of this section, as amended.

(4) Royalty payments owed pursuant to this section shall be paid 60 days following the end of each calendar quarter.

(c) Grantees and Collaborators shall include provisions within any license of a CIRM-Funded Technology or CIRM-Funded Invention ensuring that a Commercializing Entity, whether a licensee or sub-licensee, directly owes payments to the State pursuant to subdivision (b) of this Section, where applicable.

(d) Revenues due the State according to this Section shall be paid to the California State Treasurer's Office, Division of Cash Management.

Note: Authority cited: Article XXXV, California Constitution; and Section 125290.40(j), Health and Safety Code. Reference: Section 125290.30, Health and Safety Code.