

1 **§ 100608. Revenue Sharing.**

2 (a) A Grantee and Collaborator must share with the State of California a fraction of
3 Licensing Revenue received under a License Agreement for a CIRM-Funded Invention, CIRM-
4 Funded Technology, or results of CIRM-Funded Research, as follows:

5 (1) Subject to subdivision (a)(2) of this regulation and to adjustments made in accordance
6 with the provisions hereof, the amount owed is 25 percent of Licensing Revenue received in
7 excess of \$500,000 to the State of California for deposit into the State's General Fund (such
8 payments to be used by the State of California in a manner consistent with Title 35 United States
9 Code, Section 202, subdivision (c)(7)). The threshold amount of \$500,000 (in the aggregate)
10 shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer
11 Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982-84=100)
12 as prepared by the Bureau of Labor Statistics of the United States Department of Labor and
13 published for the month of October 2009, and the numerator of which is such Index published
14 for the month in which the Grantee accepts the Grant.

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

1 (b) A Grantee and Collaborator must share with the State of California a fraction of any
2 Net Commercial Revenue it receives from a self-commercialized product it commercializes itself
3 and which resulted from its CIRM-Funded Research (regardless of whether a CIRM- Funded
4 Invention or CIRM-Funded Technology is involved) as follows:

5 (1) Grantees and Collaborators must pay royalties to the State of California for deposit
6 into the State’s General Fund on Net Commercial Revenue exceeding the threshold amount
7 described in subdivision (a)(1) of this regulation. Total payments under this subdivision (b)(1)
8 shall equal and not exceed three times the total amount of the CIRM Grant or Grants that led to
9 the product. The rate of payback of the royalty shall be at a rate of three (3) percent of the annual
10 Net Commercial Revenue from the product.

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

18 (3) In addition to any amounts due under any other provision of this regulation, where a
19 patented CIRM-Funded Invention(s) or patented CIRM-Funded Technology is involved in the
20 achievement of Net Commercial Revenue realized by a Grantee or Collaborator equivalent to or
21 greater than \$500 million in any year, and where a CIRM Grant or Grants amounting to more
22 than \$5 million (in the aggregate) were made in support of CIRM-Funded Research that

1 contributed to the creation of Net Commercial Revenue, the Grantee or Collaborator will pay the
2 State of California one percent annually of Net Commercial Revenue in excess of \$500 million
3 for the life of any patent covering such patented CIRM-Funded Invention or patented CIRM-
4 Funded Technology.

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