



Horticultural
Development
Company

HDC Studentship Scheme 2010

HDC Studentship Scheme

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INTRODUCTION

Mindful of growers concerns about the lack of high calibre staff for succession within their businesses and the decline in numbers of young scientists working in horticultural research, the Horticultural Development Council launched the HDC Studentship Scheme in 2000. The Horticultural Development Company continues to support this initiative. Funds will be provided for up to two new PhD studentships per year.

Academic institutions that undertake research relevant to horticulture are invited to tender three-year research projects addressing suitable horticultural issues. Research priorities are clearly presented in the HDC research strategy documents on the HDC website. The successful applicant institutions will select suitable students to undertake the project on the understanding that the student will:

- Spend time on grower holdings and in liaison with growers to develop awareness of the operations and needs of commercial horticultural enterprises
- Give presentations to growers about the project work
- Publish grower relevant aspects of the work in HDC News and other grower publications in addition to mainstream scientific journals
- Be available for eventual employment within the UK horticultural industry or the key UK horticultural research institutions should the opportunities arise

In the medium term if some of the successful students remained in academia they could provide new foci for research excellence in specific areas already identified as important for the industry. An additional longer-term benefit will be a progressive supply of postgraduates who might also find work with research councils, government departments or other funding organisations.

Such HDC alumni should be able to influence the direction of their employers' research programmes to deliver basic and strategic research with relevance to potential end users. This would also help meet the government requirements on Science and Innovation for encouraging the exploitation of the output from the science base by promoting industry-university collaboration, inculcating business skills into scientists and encouraging small companies to do more R&D.

TERMS OF AGREEMENT

- The contractor must accept the terms and conditions of the HDC research funding agreement or RFA, including those covering intellectual property. These are set out in Appendix I and II. These terms are non-negotiable so if they are unacceptable to your institute then do not apply.
- HDC undertakes to pay £21,050 in the first year rising by £500 per year (an annual increment of approximately 2.5% to allow for inflation) for three years for:
 - a) The student's living expenses
 - b) University fees
 - c) Consumable costs

These total £64,650 over the three years.

- HDC will also pay additional expenses up to a maximum of £2,000 per annum associated with industry liaison such as travel expenses for visits to growers' holdings, growers' costs for on-site trials and attendance at grower events in relation to the project.
- The successful applicant organisations will arrange and manage selection of their student to undertake the work and notify HDC of progress. By prior agreement a representative of HDC should be invited to the interview or to meet the selected student before their appointment.
- The supervising organisation undertakes to ensure that the student will report on the work to growers, if requested to do so by HDC, i.e. a short article in HDC News once per year, presence at relevant conferences/exhibitions, verbal presentations at grower events.
- Where appropriate to the project, part of the work should be done on a grower site. Alternatively the student will be expected to visit growers to gain a good understanding of commercial horticulture.

RESPONSIBILITIES

Contractor will:

- Select student
- Undertake academic supervision
- Ensure that reports and final thesis are produced to appropriate standard and by agreed dates
- Notify HDC of progress by invitation to presentations of the work
- Send copies of any written output for academic and trade publications, meetings and conferences to HDC for approval prior to publication and/or dissemination
- Organise annual project review meeting to include HDC representative(s)
- Guarantee access for the student to taught courses that will enhance his/her skills e.g. statistics, engineering, crop protection

HDC will:

- Pay the sum of £21,050, £21,550, and finally £22,050 to the contractor at the start of the first, second and third academic year respectively to disburse as stated in the contract
- Arrange contact with growers for on-site work or educational visits
- Provide details of HDC News scheduled article requirements
- Notify student and supervisor of technology transfer opportunities (e.g. conferences, exhibitions, grower walks, workshops) that the student should attend to feature the project
- Provide a staff representative and/or grower to attend project progress reviews

PROCEDURE

July – October 2009

The notice and HDC Studentship Scheme pack will be posted on HDC website and key contractors informed in late July.

To allow HDC sector panels to discuss and comment on applications the closing date for applications varies according to the sector:

- Monday 24 August 2009 for Bulbs and Outdoor Flowers
- Monday 31 August 2009 for Field Vegetables
- Monday 8 September 2009 for Soft Fruit
- Monday 21 September 2009 for Hardy Nursery Stock
- Monday 19 October 2009 for Tree Fruit
- Monday 26 October 2009 for Mushrooms, Protected Ornamental Crops and Protected Edible Crops

Where the application is cross-sector and so needs to be considered by more than one panel the closing date will be for the earliest of the appropriate panels.

Applications will be logged and receipt acknowledged by the HDC Technical Administrator.

September – November 2009

Applications will be discussed by the appropriate HDC sector panels.

December 2009

A preliminary screening of applications by HDC Technical Managers will be undertaken in consultation with appropriate members of industry taking into account the sector panels' views, the relevance of the project to HDC priorities, supervisor capabilities, applicant institution facilities etc.

January-February 2009

The full list of applications, each with a brief summary and the findings of the screening, will be sent to the HDC Board. The HDC Board will select up to two applications and the successful applicants will be notified immediately. Final decisions on the detail of the projects will be agreed by consultation between the HDC Technical Manager for the relevant sector, the relevant Panel chairman and/or designated representative and the supervisor at each institution.

March-April 2010

The official contract and payment terms will be agreed with the organisation(s).

Spring/summer 2010

The successful institutions recruit a suitable student for their project, starting as early as possible in order to secure the most able.

October 2010

Project(s) start.

APPLICATION PROCESS

Having determined that the HDC terms and conditions are acceptable to their institution before making an application, prospective supervisors should then submit:

1. A completed HDC Studentship Application Form
2. A covering letter outlining;
 - a. the research facilities available for the work
 - b. relevant taught courses to which the student could have access if required
 - c. biometrics (statistics) support
 - d. welfare services
 - e. credentials of supervisor(s)

HDC recognises that as a studentship the project content should not be too prescriptive. Supervisors are asked to provide a general background theme and broad project outline. The purpose of a studentship is to enable an individual, with guidance, to develop and implement original ideas and to learn practical skills. The benefits to HDC will lie in developing individuals with both research skills and an understanding of the horticultural industry.



HDC Studentship Application Form

In Confidence

Please return this application form to the Technical Administrator, at
HDC, AHDB Horticulture, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL.
Tel. 0247 647 8662; E-mail. : TechAdmin@hdc.org.uk

1. Title of project

2. Project leader

Name:		Tel:	
Address:		Fax:	
		Email:	

3. Project summary

4. Proposed start date

5. Proposed duration of project

6. Key words

7. Funding requested from HDC

8. Are the results of this project likely to be suitable for organic production?

9. Priority research initiative addressed from the HDC R&D Research Strategies

10. Background and commercial objectives
The problems, opportunities and need for the project

11. Benefits to the industry

12. Related work
Previous and current work in the field.
(Append references as appropriate)

13. Programme of work - (should be self contained description of the research to be undertaken)

- i) Overall aim of the project
- ii) Specific objectives
- iii) Methods
- iv) Workplan and approaches to be taken

14. Milestones
Milestones are tasks achieved to meet the specific objectives. Include estimates of dates by which they will be reached.

15. Location(s) and facilities
Main site, additional research sites, growers holdings (with addresses and contact details)

16. Project co-ordinator(s)

17. Communication plan

18. Exploitation of results

APPENDIX I – INTELLECTUAL PROPERTY RIGHTS
SCHEDULE (SCHEDULE 4 OF THE HDC RESEARCH FUNDING
AGREEMENT)

1. Subject to the Researcher complying with this Agreement, all Intellectual Property Rights contained within the Results, other than third party Intellectual Property Rights and any of the Board's Intellectual Property Rights, shall vest in the Researcher automatically upon creation.
2. The Researcher shall:
 - 2.1 ensure that all its staff, students and sub-contractors are and will be at all times during the term of this Agreement, engaged in relation to the Project on terms which vest all Intellectual Property Rights contained within the Results in the Researcher;
 - 2.2 provide the Board with reports in accordance with the Finance and Reports Schedule, which shall contain details in relation to the progress of the commercial exploitation of the Results and on any assignment or licence of the Results; and
 - 2.3 do all things and execute at the Board's expense any documents reasonably required to give effect to such vesting or assignment/ licensing in the Board as is necessary to give effect to paragraph 3.
3. The Researcher hereby grants to the Board a perpetual, irrevocable worldwide non-exclusive licence free of any charge or royalty to use the Results for:
 - 3.1 the purposes of publishing a report or any other communication in relation to the Project to the Members, subject to the Board's obligations of confidentiality set out in Clause 16 of Schedule 5; and
 - 3.2 any other of the Board's purposes;and to sub-license the Results (including without limitation to its Members) on the same terms as the licence set out in this paragraph 3.
4. Where the use Results by the Board or the Board's sub-licensees also requires (or would benefit from) a licence to use any other Intellectual Property Rights held by the Researcher (including any rights held under licence by the Researcher from a third party, including by way of example only from DEFRA) which are not

contained within the Results and hence within the licence granted under paragraph 3 above, the Researcher hereby grants a perpetual, irrevocable worldwide non-exclusive licence (or, if appropriate, sub-licence) to the Board of such related Intellectual Property Rights, which shall be royalty-free where such use is for non-commercial purposes, but shall contain reasonable payment terms to be agreed between the Parties in good faith, where such use is for commercial or revenue generating purposes.

5. The Researcher shall:
 - 5.1 identify and inform the Board of any Intellectual Property Rights contained within the Results which may be suitable for protection and exploitation as soon as practicable upon their creation;
 - 5.2 subject to paragraph 9, secure necessary protection for such Intellectual Property Rights in all or any part of the world, and maintain such protection as is necessary to promote the commercial exploitation of the Results at its own expense; and
 - 5.3 inform the Board of any such Intellectual Property Rights so protected, and provide details of any subsequent assignment or licence of any such Intellectual Property Results.
6. Subject to paragraph 7 and without prejudice to paragraph 10, and irrespective of whether the Researcher has assigned the Intellectual Property Rights contained within the Results, any income generated from the commercial exploitation of the Results (the "Income") shall, after deduction of allowable costs (as defined in paragraph 8), be apportioned between the Parties as follows:
 - 6.1 The Board: 10%;
 - 6.2 The Researcher: 90%.
7. The Income shall be payable for the longer of:
 - 7.1 The term of any patent arising from or incorporating any of the Results; or
 - 7.2 The period in which any Know-How arising from the Results and used in any products or services commercially exploited by the Researcher continues to generate income.
8. Allowable costs, for the purposes of paragraph 6, shall not include any of the sums referred to in the Finance and Reports Schedule or any payments due to the Researcher's employees, students or researchers under any rewards or incentive schemes, whether

contractual, ex gratia, or statutory, and without prejudice to the foregoing allowable costs shall be limited to:

- 8.1 the registration fees for the registering or maintaining of any Intellectual Property Rights contained within the Results and any associated filing and prosecution costs in relation to such Intellectual Property Rights;
 - 8.2 any legal or other professional fees and costs reasonably incurred in relation to legal proceedings in relation to such Intellectual Property Results in any appropriate forum and before any appropriate tribunal in any country and any costs ordered by any such tribunal to be paid by the Parties;
 - 8.3 any other reasonable cost or expenditure which may be agreed from time to time by the Board and the Researcher; and
 - 8.4 subject to the Board's prior written agreement, any reasonable marketing, packaging and/or distribution costs, and any relevant experimental development costs including costs of field trials and/or demonstration projects incurred at the Researcher's expense.
9. If so requested by the Board, the Researcher will inform the Board, in writing, whether or not it intends to protect or exploit the Intellectual Property Rights contained within any or all of the Results in any part of the world. If the Researcher does not intend to protect or exploit such Intellectual Property Rights but the Board desires such protection to be obtained or to carry out such exploitation then the Board shall be entitled to obtain such protection at its own cost and the Researcher shall assign to the Board with full title guarantee, at no charge, all Intellectual Property Rights contained within such part of the Results which the Researcher has given notice that he does not intend to pursue or no longer has interest in pursuing. The Researcher will not be entitled to any share of the Income generated from the exploitation of such assigned Intellectual Property Rights by the Board.
10. The Researcher shall keep at its normal place of business detailed accurate and up to date records and accounts showing details of its commercial exploitation of the Results including the sale of products or services which incorporate the Results, Income received, allowable costs deducted and the amount of licensing revenues received by it in respect of the Results in a format sufficient to ascertain that revenue sharing pursuant to paragraph 6 above, has been properly accounted for and apportioned in accordance with this Agreement. The Researcher shall make such records and accounts available at its premises in the United

Kingdom on reasonable notice for inspection during business hours by the Board or his representatives for the purpose of the verifying the accuracy of any statement or report given by the Researcher to the Board and to take copies and shall supply the Board or their representative with such explanation as they may request.

11. The Researcher hereby indemnifies and shall keep indemnified and hold harmless the Board and the Board's sub-licensees from and against any claims, demands, losses (whether direct or indirect), liabilities, obligations, actions, proceedings, costs and expenses which they may suffer or incur, or which may be brought or established against any of them, by any person, and which in any case arise directly or indirectly out of or in connection with or by reason of:
 - 11.1 any defect in or incorrect application by the Researcher of the Results;
 - 11.2 any claim by a third party that the Researcher's, the Board's, any Member's, or any of the Board's licensee's or sub-licensee's possession, operation, copying, application or use of the Results infringes the Intellectual Property Rights of that third party; or
 - 11.3 any product liability claims made by any third party as a result of any product developed from the Results or any work resulting in such a product (save to the extent that such liability arises solely as a result of the acts of omissions of or on behalf of the Board or its sub-licensee).
12. If the Researcher is unable to carry out any of its obligations or satisfy any requirements under the Agreement due to any infringement or alleged infringement of any third party Intellectual Property Rights which it cannot rectify within a reasonable period as specified by the Board such inability shall, in addition to the Board's rights in paragraph 11, be deemed a material breach by the Researcher for the purpose of clause 18.2 of Schedule 5 and the Board may, without prejudice to any of its other rights and remedies, exercise the powers and remedies available under the said clause 18.
13. For the avoidance of doubt, and subject to the provisions of paragraph 4, nothing in this schedule shall assign or transfer any intellectual property rights owned by either party in existence before the Commencement Date.

**APPENDIX II – STANDARD TERMS FOR RESEARCH FUNDING
(SCHEDULE 5 OF THE HDC RESEARCH FUNDING
AGREEMENT)**

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1. DEFINITIONS

1.1 In this Agreement the following words and expressions shall have the meanings given to them below, unless the context otherwise requires:

"Board's Representative"	Has the meaning set out in clause 4.3.
"Commencement Date"	The date set out in paragraph 4.1 of the Project Specification.
"Completion Date"	The date set out in paragraph 4.2 of the Project Specification.
"Equipment"	All equipment used by the Researcher in relation to the Project.
"Intellectual Property Rights"	All intellectual property rights, including any patent, invention, copyright, design right, registered design, trademark or service mark, trade name, business name, logo, Know-how, patentable invention for the purposes of the Patents Act 1977, database right for the purposes of the Copyright and Rights in Databases Regulations 1997, domain name, technical information or Know-how and any application, continuation, re-issue, extension and division for any of the foregoing and any similar rights in any jurisdiction.
"Know-how"	All information not in the public domain held in any form (including, without limitation, that comprised in or derived from oral and written instructions, diagrams, drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods) used in connection with or arising as a result of the Project.

"Members"	Growers or horticultural industry organisations that pay a levy or subscription to the Board. (and "Membership" shall be construed accordingly).
"Project Coordinator"	The Member or industry advisor appointed by the Board to provide liaison with the horticultural industry and guidance on commercial practice.
"Project Leader"	The person named in paragraph 2 of the Project Specification.
"Project Review Meeting"	The meeting described in clause 4.5.
"Project Specification"	The details of the Project as set out in Schedule 3.
"Project Year"	Each consecutive 365 day period or 366 days in the case of a leap year, commencing on the Commencement Date.
"Researcher"	The person or persons named in this Agreement as the Researcher. Where the Researcher consists of more than one person, the obligations of those persons in respect of the Agreement shall be joint and several.
"Researcher's Representative"	Has the meaning set out in clause 4.1.
"Results"	All results arising from the Project, including any Intellectual Property Rights created, devised, developed, made during or generated by agents, employees, students or sub-contractors of the Researcher in the course of the Project and any materials or media recording, embodying or applying any of these Intellectual Property Rights otherwise arising out of or in connection with the Project.
"Schedule"	Any of the schedules annexed to the Agreement.

1.2 Unless the context otherwise requires, references in this Agreement:

1.2.1 to the Researcher or to the Board shall, where appropriate, be references to any lawful successor, assignee or transferee;

1.2.2 to the Researcher shall, where appropriate, be references to each individual person constituting the Researcher;

1.2.3 to clauses and Schedules are references to the clauses and Schedules of this Agreement;

1.2.4 to "person" or "third party" include any individual, company, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency, whether or not having a separate legal personality;

1.2.5 to one gender include all genders, and references to the singular include the plural and vice versa;

1.2.6 to any statute, statutory provision or regulation, are references to that statute, statutory provision or regulation, as from time to time amended, extended or re-enacted.

1.3 The headings in this Agreement are for convenience only, and shall be ignored in construing the terms of this Agreement.

2. RESEARCH FUNDING AGREEMENT

2.1 The Researcher and the Board agree to observe and comply with this Research Funding Agreement in relation to all Research.

2.2 The Researcher will carry out the Project in accordance with the Project Specification and deliver the Results obtained to the Board for the benefit of the membership.

2.3 The Board will make funding available to the Researcher for the agreed costs properly incurred in carrying out the project as set out in the Finance Schedule.

2.4 This Agreement supersedes and replaces all previous agreements, representations and statements relating to this Project, and consists of:

2.4.1 The Introductory Section;

2.4.2 the Project Specification;

2.4.3 these Standard Terms for Research Funding; and

2.4.4 the other Schedules;

and the documents shall take precedence in the order in which they appear in this clause 2.4.

3. DURATION

3.1 The Researcher shall commence work on the Project by no later than the Commencement Date.

3.2 The Researcher shall complete the Project by the Completion Date ensuring that work undertaken is finished sufficiently in advance to enable it to submit a final report as set out in paragraph 5 of the Finance and Reports Schedule.

3.3 Subject to the Board's right of termination, the Agreement shall remain in force until the performance of all obligations, the satisfaction of all liabilities and the exercise of all rights under this Agreement and for the avoidance of doubt shall remain in force notwithstanding the achievement of the Completion Date.

4. PROJECT MANAGEMENT

4.1 The Researcher shall nominate a suitably qualified and experienced representative, as set out in paragraph 2.1 of the Contact Schedule, who will be the main point of contact with the Project Manager (the "Researcher's Representative") and will ensure regular attendance at meetings by such representative or by an acceptable substitute.

4.2 Either Party may change their respective Representatives by giving the other party not less than 14 days written notice.

4.3 The Board's Representative, as set out in paragraph 1.1 of the Contact Schedule, will act as the Project Manager for the Project. The duties of the Project Manager, to be carried out in association with the Researcher Representative will be:

4.3.1 to monitor, coordinate and do all that is reasonably practical to expedite the proper performance of the Project;

4.3.2 to convene and chair the Project Review Meetings and to distribute, in advance, the agenda and any other relevant papers for each such meeting;

4.3.3 to record and distribute to each Party the minutes of the proceedings of each Project Review Meeting.

4.4 The Researcher shall ensure that the Researcher's Representative shall:

4.4.1 monitor and do all that is reasonably practical to expedite the performance of the part of the Project to be performed by the Researcher;

4.4.2 act as the formal contact point between the Board and Researcher for the collection, coordination and communication of management information and delivery of any other items which the Parties are required to provide;

4.4.3 notify the Project Manager promptly of the commencement of the performance of the Researcher's part of the Project and of the completion, cessation or any anticipated delay in the performance of such part of the Project;

4.4.4 supply the Project Manager promptly with all documents and other items which that Party is required to provide under the terms of the Agreement;

4.4.5 attend all Project Review Meetings in person or, if unable to attend, to send an acceptable substitute;

4.4.6 provide promptly and fully to the Project Manager all such co-operation and assistance as may reasonably be required in the performance of all of the Board's activities in relation to the Project.

4.5 Project Review Meetings will be convened by the Project Manager on behalf of the sector panel that authorised funding for the Project.

4.5.1 Attendance

Project Review Meetings will be attended by:

- Project Manager (Chair)
- The Board's Sector Communications Manager as and when appropriate
- Researcher's Representative
- Project Leader (if not the Researcher's Representative)
- Project Coordinator and other growers as appropriate
- Other researchers or advisers as appropriate

4.5.2 Project Review Meeting Format

- a The Project Leader and/or main Researcher will give a short presentation on the Results to date.
- b Progress in relation to the Project objectives and milestones will be discussed.
- c The programme for subsequent work will be discussed.
- d The communication plan referred to in the Project Specification will be discussed, including the transfer of know-how and related information to Members. This will also be an opportunity for the participants to discuss ways of monitoring and evaluating eventual uptake of the Results by Members.
- e Regulatory (e.g. pesticides) and environmental issues will be considered.

4.5.3 Purpose of the Project Review Meeting

- i) Share understanding of progress made towards achieving the objectives.
- ii) Discuss and agree the significance of the Results to the horticultural industry.
- iii) Share appreciation of any particular difficulties or problems that arose during the preceding Project Year.

- iv) Explore the need for any change in emphasis within the present Project.
- v) Discuss possible follow-on work.
- vi) Agree, at least in outline, the timing and character of general or specific publications, or events, arising from the work reviewed.

4.5.4 Outcomes

As a consequence of the Project Review Meeting the Project Leader may be asked to update and revise the work programme in consultation with the Project Manager and Project Co-ordinator. Once agreed the revised programme will be appended to the Agreement.

5. REPORTS

5.1 The Researcher is responsible, unless expressly agreed otherwise in writing by the Board, for submitting reports and assessments to the Board as follows:

5.1.1 Annual reports for the Project will be supplied to the Board no later than the dates set in the Finance and Reports Schedule for that Project Year.

5.1.2 A final report, which shall include details of the findings of the final Project Year of the Project and a detailed summary and conclusions of the Project overall, will be supplied to the Board no later than the date set in the Finance and Reports Schedule.

5.1.3 A project assessment form supplied by the Board must be completed by the Researcher and submitted to the Board with each annual and final report.

5.1.4 The Researcher shall supply any additional reports in respect of the Project, at such time or times, and in such form, as the Board may reasonably require.

5.2 The Researcher shall ensure that each report meets the requirements set out in the HDC Report Format, as shall be notified by the Board to the Researcher on or before the Commencement Date, ("Acceptable Quality").

5.3 In the event that, in the Board's reasonable opinion, the Researcher submits a report which is not of Acceptable Quality, the Researcher shall remedy any deficiencies identified by the Board and submit a revised report at no additional cost to the Board within such reasonable time period as shall be specified by the Board.

5.4 If the Researcher fails to deliver a report that is of Acceptable Quality to the Board by the relevant date specified in paragraph 4 of the Finance and Reports Schedule, the Board may, without prejudice to any other right or remedy, reduce the funding for the previous annual period as follows:

Up to 1 Month	0%
Up to 2 Months	10%
Up to 3 Months	20%
Up to 4 Months	30%

5.5 If the report is still outstanding more than 4 months after the relevant date set out in paragraph 4 of the Finance and Reports Schedule then the funding will continue to be reduced by a further 10% per month up to the full project cost for that period.

5.6 Reports will be deemed to be of Acceptable Quality if no written statement (including e-mail) to the contrary is received by the Researcher from the Board within one month of acknowledged submission of the report.

5.7 The timely delivery of reports of Acceptable Quality is of great importance to the Board and accordingly the rights of the Board to reduce the funding payments under clauses 5.3 and 5.4 shall be without prejudice to the Board's other rights and remedies (including the right to terminate this Agreement on the basis that time is of the essence for the delivery of reports of Acceptable Quality).

6. FINANCIAL ARRANGEMENTS

6.1 The Researcher shall submit any invoices required in accordance with the Finance and Reports Schedule to the address given in paragraph 1.4 of the Contacts Schedule.

6.2 The funding arrangements shall be as follows:

6.2.1 Payments will be made to the Researcher quarterly in arrears in accordance with the provisions of the Finance and Reports Schedule.

6.2.2 The Board is liable to the Researcher only for payments in accordance with the Finance and Reports Schedule.

6.3 Any funding to the Researcher made in error by the Board shall be recoverable by the Board from the Researcher.

7. ASSIGNMENT AND SUB CONTRACTS

7.1 The Researcher shall not assign or subcontract any of its rights or obligations under this Agreement, including its the work in relation to the Project, without the prior written approval of the Board. Where such approval is given, any sub-contractor's costs shall be certified by the Researcher as having been properly and necessarily incurred in accordance with the Project Specification and the Researcher will be responsible for the payment of such sub-contractor.

7.2 If the Researcher is permitted to sub-contract in accordance with clause 7.1 the Researcher shall be responsible for all of the acts and omissions of its sub-contractors as fully as if they were the acts and omissions of the Researcher or its employees and the Researcher shall remain the Board's sole point of contact in relation to the Project.

7.3 The Researcher shall be solely responsible for the performance of its obligations arising from such sub-licences and any claims against it as at the date of termination of this Agreement or arising by reason of anything done or omitted to be done prior thereto and the Researcher shall at all times indemnify the Board against all actions, proceedings, costs, damages, claims and demands in respect of its failure to comply with its obligations thereunder.

7.4 Where the Researcher enters into a sub-contract for the provision of services as part of the Project, the Researcher shall ensure that a provision is included in the sub-contract which requires the Researcher to pay all sums due to the sub-contractor within a specified period not exceeding 30 days after the Researcher has verified the relevant invoice. The Researcher shall use all reasonable endeavours to verify the invoices promptly.

7.5 Where the Researcher becomes liable to pay interest payments to a sub-contractor under the provisions of the Late Payments of Commercial Debts (Interest) Act 1998, the Board will not reimburse those costs unless they are incurred due to the negligence or default of the Board.

8. RESEARCHER STATUS

Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement shall constitute or be deemed to constitute a partnership between the Parties nor constitute either Party the agent of the other Party for any purpose. Accordingly the Researcher shall not (and shall ensure that any other person engaged in relation to the Agreement shall not) say or do anything that might lead any other person to believe that the Researcher is acting as the agent, representative or employee of the Board.

9. WARRANTIES

9.1 The Researcher warrants to the Board that:

9.1.1 it shall carry out and shall ensure that his employees, agents and sub-contractors also carry out the Project with all reasonable skill, care and due diligence, in accordance with best professional, technical and scientific knowledge and practice, and any legislative requirements;

9.1.2 any materials or processes used in connection with the carrying out of the Project shall be in accordance with standards set out in this Agreement;

9.1.3 the proper use by the Board of any documentation, materials or Results delivered by the Researcher pursuant to the Agreement, shall not to the best of the Researcher's knowledge and belief, constitute an infringement of the Intellectual Property Rights of any third party;

9.1.4 the Researcher has understood the nature and extent of the Project to be carried out and satisfied himself in relation to all matters connected with the Project including the supply of and conditions affecting its employee, the suitability of the premises where the Project is to be carried out and any Equipment necessary for the carrying out of the Project subject to all such matters being reasonably discoverable by the Researcher.

10. LIMITATION OF LIABILITIES

10.1 The Board shall not be liable to the Researcher in respect of any:

- 10.1.1 loss of business, revenue, profit, goodwill or anticipated savings; or
- 10.1.2 any indirect or consequential loss or damage; arising out of or in connection with this Agreement.

10.2 Subject to clause 10.4, the aggregate liability of the Board to the Researcher, for all claims arising out of or in connection with this Agreement shall be limited to the total amount of funding granted to the Researcher under this Agreement.

10.3 Subject to clause 10.4 and to the indemnities in relation to intellectual property rights in the Intellectual Property Rights Schedule (under which indemnities the liability of the Researcher is unlimited) the aggregate liability of the Researcher to the Board for all claims arising out of this Agreement shall be limited to an amount equal to the amount of funding granted to the Researcher under this Agreement.

10.4 In relation to this Agreement, neither Party excludes or limits liability to the other Party in respect of:

- 10.4.1 death or personal injury resulting from negligence within the meaning of section 1(1) of the Unfair Contract Terms Act 1977;
- 10.4.2 any fraudulent pre-contractual misrepresentations made by it on which the other Party can be shown to have relied; or
- 10.4.3 any other liability which by law it cannot limit or exclude.

11. EQUIPMENT

11.1 All Equipment purchased by the Researcher for use on the Project shall, where reasonably practicable, be acquired by competitive tender and shall be in accordance with the project costs in the Project Specification.

11.2 Unless otherwise agreed in writing with the Board, the Researcher shall provide all the Equipment necessary for the provision of the Project.

11.3 The Researcher shall maintain all items of Equipment in good and serviceable condition.

11.4 All Equipment shall be at the risk of the Researcher and the Board shall have no liability for any loss of or damage to any Equipment except to the extent that the Researcher is able to demonstrate that such loss or damage was caused or contributed to by the negligence or default of the Board.

11.5 Title in all Equipment purchased for use on the Project by the Researcher remains with the Researcher both during the delivery of the Project and after completion.

12. RESEARCHER'S PERFORMANCE AND PERSONNEL

12.1 The Researcher shall properly manage and monitor the Project and immediately inform the Board if any aspect of the Agreement is not being or is unable to be performed.

12.2 The Researcher shall provide all the necessary facilities and Equipment necessary to complete the Project.

12.3 The Researcher shall deploy sufficient personnel of appropriate qualifications, competence and experience to complete the Project to time and shall ensure that those personnel are properly managed and supervised.

12.4 The Researcher shall give the Board, if so requested, and subject to any requirements or limitations of the Data Protection Act 1998, such particulars as the Board may reasonably require of all persons who are or may be at any time employed on the Project.

12.5 If, after due consultation with the Researcher, the Board gives the Researcher notice that any person or Equipment is to be removed from involvement in the Project, together with the reason for such removal, the Researcher shall take all reasonable steps to comply with such notice and such decision of the Board shall be final and conclusive.

12.6 The Researcher shall take all reasonable steps to avoid any changes of personnel working on the Project, but where the Researcher considers it necessary to do so or the personnel withdraw from or become unavailable for the Project for whatever reason, the Researcher shall give the Board not less than one month's notice of any intention to replace any such personnel together with the reasons for such replacement.

12.7 Where the Project involves research into 'symptoms', infections or infestations, the Researcher will aim to establish experimental sites so that they provide 'symptoms', infections or infestations that meet the Project requirements. The Board acknowledges that due to the inherently unpredictable nature of field experiments, the Researcher cannot guarantee that the relevant 'symptoms', infections or infestations will always occur. Where shortcomings occur on a site, the Researcher undertakes to inform the Board through the Project Manager as soon as reasonably practical. In the event of an experimental site being either discontinued or found to be unsatisfactory, the Parties will seek to reach agreement as to the apportionment of relevant costs incurred for the work carried out to date. The Researcher will discuss and agree with the Project Manager whether the contract is to continue. Where the Researcher includes more than one organisation then satisfactory agreement will need to be reached with all Parties.

13. UNSATISFACTORY PERFORMANCE

13.1 Where in the reasonable opinion of the Board the Researcher has failed to:

- 13.1.1 comply with any of the warranties in clause 9;
- 13.1.2 fulfil his obligations under the Finance and Reports Schedule; or
- 13.1.3 progress the Project in accordance with the Project Specification,

the Board may give the Researcher a notice specifying the way in which his performance falls short of the requirements of the Agreement, or is otherwise unsatisfactory.

13.2 Where the Researcher has been notified of a failure in accordance with clause 13.1 the Board may:

- 13.2.1 direct the Researcher, to remedy the failure at his own expense within such time as may be specified by the Board; and/or
- 13.2.2 withhold or reduce funding to the Researcher, in such amount as the Board reasonably deems appropriate in each particular case.

13.3 If, having been notified of any failure, the Researcher fails to remedy it in accordance with clause 13.2, the Board may treat such continuing failure as a material breach of the Agreement and terminate this Agreement in accordance with clause 18.2.

13.4 For the avoidance of doubt, any reduction of funding due to a delay by the Researcher in the delivery of a report of Acceptable Quality is to be made in accordance with clause 5.4 and not clause 13.2.2.

14. USE OF THE RESULTS

14.1 Subject to the provisions of clause 14.2, the Researcher shall not make any information arising from the Project available to anyone other than the Board, unless:-

- 14.1.1 the Researcher supplies the Board with the relevant information in the form in which is the Researcher intends to release it; and
- 14.1.2 the Board has, within a period of four weeks from the receipt of the request by the Researcher for permission to make such information available in writing given its express permission in writing. If permission is not granted the Board will state the reasons for such refusal; and
- 14.1.3 all such forms of publication include a statement that the Project was supported by Board funds, and the Results of the research shall vest in the Board, as duly

constituted, whereby such rights are held solely in the interests of the Membership.

14.2 Nothing herein contained shall prevent the Researcher or any persons employed by the Researcher

14.2.1 making use of, for education, research or consultancy purposes, in any future work or knowledge obtained in the course of or arising from the Project; or

14.2.2 from doing work of a similar nature to the Project at any time.

14.3 In any material provided to the Membership by or at the instance of the Board which contains information arising from or relating to the Project, the identity, nature and involvement of the Researcher shall be included in such material.

15. INTELLECTUAL PROPERTY

15.1 All Intellectual Property Rights created, developed or utilised under this Agreement shall be dealt with in accordance with the Intellectual Property Rights Schedule.

16. CONFIDENTIALITY

16.1 The Parties acknowledge that the Project may generate valuable and confidential Results and that the ability to exploit such Results will depend on all such technical information, documents and other materials recording or embodying the Results remaining confidential. In addition, each of the Parties acknowledge that, for successful collaboration during the Project, it may be necessary for confidential information including technical information, documents and other materials to be disclosed by any one Party to one or more of the other Parties. Accordingly, each of the Parties undertakes to keep all such confidential information disclosed by other Parties, the Results and all documents and other materials recording or embodying confidential information or Results confidential, and not to use or disclose to any third party any such confidential information or Results, except in accordance with this Agreement or to the extent considered by all the Parties to be necessary or desirable for the protection of the Results, or save as required by law.

16.2 The obligations of confidentiality contained in clause 16.2 shall not apply:

- to the extent necessary to allow any Party to seek advice from its own legal and other professional advisors and its insurers;
- to information which is or which becomes generally available to the public other than by breach of clause 14.1 or this clause 16; or
- to information which has been or is subsequently received by the disclosing Party (without similar obligations of confidence) other than in connection with the Project; or
- to information required to be disclosed by law.

16.3 If any Party is requested to disclose commercially sensitive information contained in the Results or in the other Party's or a third party's proprietary information supplied to it by the other Party or a third party:

- agreement to the conditions of such disclosure by the Project Manager is required;
- subject to the applicable law requiring such disclosures the recipients shall be required to enter into an appropriate confidentiality agreement with the relevant Party.

16.4 The provisions of this clause 16 shall survive the termination of the Agreement and shall continue thereafter in full force and effect.

17. BREACH OF AGREEMENT

17.1 Without prejudice to clause 13 and to the specific obligations under this Agreement, the Researcher will use its reasonable endeavours to fulfil its obligations within the Project and, in the event of a breach, will take all reasonable measures to protect the Board from loss or damage resulting from that breach.

17.2 If the Researcher commits a material breach of any of its obligations under this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so by the Board:

- 17.2.1 the Board shall be entitled to terminate the Agreement forthwith;
- 17.2.2 rights granted to the Board by the Researcher to use Intellectual Property Rights shall continue for the duration of the Project;
- 17.2.3 where exploitation of the Results depends on Intellectual Property Rights licensed by the Researcher, the provisions in clause 15 shall continue to apply to those Intellectual Property Rights;
- 17.2.4 all rights acquired during the Project by the Researcher to use Intellectual Property Rights provided by the Board shall cease immediately.

18. TERMINATION

18.1 The Researcher shall notify the Board in writing immediately upon the occurrence of any of the following events:

- (a) being an individual:-
 - is the subject of a bankruptcy order; or
 - has made a composition or arrangement with his creditors; or
 - dies or is judged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983
- (b) being a company :-
 - goes into compulsory winding up; or
 - passes a resolution for voluntary winding up; or

suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets;

has entered into a voluntary arrangement with its creditors under Part I of the Insolvency Act 1986, or has proposed or entered into any scheme of arrangement or composition with its creditors under part 26 of the Companies Act 2006; or

has been dissolved;

(c) being a partnership or unregistered company :-

goes into compulsory winding up; or

is dissolved; or (in the case of a partnership only) suffers an administrator or receiver and manager to be appointed over the whole or any part of its assets ; or

has entered into a composition or voluntary arrangement with its creditors; or

any individual member of the partnership falls within clause 18.1(a) above;

or is in any case affected by any similar occurrence to any of the above in any jurisdiction.

18.2 On the occurrence of any of the events described in clause 18.1 or, in accordance with clause 17.2 or, in accordance with clause 18.4 the Board shall be entitled to terminate this Agreement by notice to the Researcher with immediate effect and without compensation to the Researcher.

18.3 Without prejudice to the provisions of this clause, the Agreement may be terminated by agreement at any time or by either Party by giving not less than three months notice in writing to the other Party, such notice to be given only upon there being a valid reason (such as, by way of example only, initial results being delivered to the Board, or some other event occurring, which indicates to the Board that further research on the Project is unnecessary and/or irrelevant or that the continued performance of the Project is otherwise not capable of producing a satisfactory outcome for the Board). In the event of termination the provisions of clause 18.6 will apply.

18.4 If the Board's horticulture levy is discontinued pursuant to Article 11 of the Agriculture and Horticulture Development Board Order 2008, the Board shall have the right to terminate this Agreement as from the date on which the ballot to discontinue the horticulture levy is held but without prejudice to all rights and obligations which may have arisen prior to the date of the Order coming into force. In the event of termination the provisions of clause 18.6 below shall apply.

18.5 The Researcher shall, during the notice period, at the Board's request:

18.5.1 refrain from commencing the Project;

18.5.2 cease work immediately; or

18.5.3 complete, in accordance with Agreement, any part of the Project, which shall be paid at the agreed price or,

where no agreement exists as to price, a fair and reasonable price to be agreed between the Parties.

18.6 In the event of the Agreement being terminated before the Completion Date in accordance with clause 18.2 or 18.3 the Parties shall negotiate funding on the basis of work done from the date of the last statement (if any) up to the termination date. The Researcher may also claim costs or other sums that it is legally bound to pay after the termination date as a result of commitments properly incurred before the date that it receives notice of termination but shall not be entitled to any payment by way of compensation.

18.7 Except as expressly provided in this Agreement, termination of the Agreement shall not affect:

18.7.1 any obligation or liability of any Party which has accrued up to the date of termination;

18.7.2 any of the provisions of this Agreement which are intended to continue to have effect after the Agreement has been terminated including without limitation the obligations contained in the Intellectual Property Schedule and clause 16.

19. FORCE MAJEURE

Neither Party shall be liable for any delay in performing, or for failure to perform, its obligations under this Agreement if the delay or failure results from any cause or circumstance beyond its reasonable control, including any breach or non-performance of this Agreement by the other Party ("Force Majeure Event"), provided the same arises without the fault or negligence of such Party. If a Force Majeure Event occurs, the date(s) for performance of the obligation affected shall be postponed for as long as is made necessary by the Force Majeure Event, provided that, if any Force Majeure Event continues for a period of or exceeding three months, either Party may terminate this Agreement immediately by written notice to the other Party. Each Party shall use its reasonable endeavours to minimise the effects of any Force Majeure Event.

20. DISPUTE RESOLUTION

20.1 The Parties shall in good faith attempt to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement.

20.2 If any such dispute cannot be resolved in accordance with clause 20.1, the relevant Parties shall refer the matter to mediation in accordance with clause 20.3.

20.3 The procedure for mediation shall be as follows:

20.3.1 a neutral person ("the Mediator") shall be chosen by agreement between the relevant Parties, alternatively, any Party may within 14 days from the date of the proposal to appoint a mediator, or within 14 days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to the Centre for Dispute Resolution ("CEDR") to appoint a mediator;

20.3.2 the relevant Parties shall within 14 days of the appointment of the Mediator meet with him or her to agree a timetable for the exchange of all relevant and necessary information and the procedure to be adopted for the mediation. If appropriate, the relevant Parties may at any stage seek from CEDR guidance on a suitable procedure;

20.3.3 unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the relevant Parties in any future proceedings;

20.3.4 if the relevant Parties reach agreement on the resolution of the dispute, that agreement shall be put in writing and shall be binding upon the relevant Parties;

20.3.5 failing agreement, any relevant Party may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant Parties.

20.3.6 Each Party shall bear its own costs unless the Mediator directs otherwise.

20.4 For a period of sixty days from the date of the appointment of the Mediator, or such other period as the relevant Parties may agree, none of the Parties to the dispute may commence any proceedings in relation to the matters referred to the Mediator.

21. GENERAL

21.1 The Agreement and any variation made in accordance with clause 4.5.4 sets out the entire agreement between the parties and supersedes any prior agreement whether formal or informal concerning the subject matter expressed herein.

21.2 If any clause or provision of the Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction in any proceedings relating to the Agreement, such provision shall be severed and the validity or enforceability of the remainder of the Agreement shall not be affected thereby.

21.3 For the purposes of the Contracts (Rights of Third Parties) Act 1999, this Agreement is not intended to, and does not give any person who is not a party to it any right to enforce any of its provisions.

21.4 Any notice required to be given under, or any communication between the Parties with the respect to any of the provisions of the Agreement shall be in writing in English and

21.4.1 shall be deemed to take effect five business days after the date of posting if sent by pre-registered or recorded delivery post to the address of the receiving Party as specified in the Contacts Schedule (as or amended from time to time by due notice in writing to the other Parties); or

21.4.2 on the day of transmission if sent by facsimile transmission or other means of electronic telecommunication in permanent written form.

21.5 This Agreement shall be governed by and interpreted in accordance with English Law and, subject to clause 20, the Parties hereby irrevocably submit to the exclusive jurisdiction of the English courts.