

Professor William Ritchie
Chairman
Scottish Aquaculture Research Forum
P.O. Box 7223
Pitlochry
PH16 9AF



19 March 2013

Dear Professor Ritchie

OFFER OF GRANT ASSISTANCE TO SCOTTISH AQUACULTURE RESEARCH FORUM FOR MATCH-FUNDED SARF SPECIAL PROJECTS 2013 (SP2013) STRATEGIC RESEARCH TO SUPPORT SUSTAINABLE GROWTH OF SCOTTISH FARMED FISH AND SHELLFISH

On behalf of Scottish Ministers, I hereby offer a grant not exceeding the sum of £500,000, which will form 50% of the research budget held by SARF to deliver the range of projects as detailed within the SARF Special Projects 2013 business case and for the purposes outlined in clause 4. This grant is offered under section 1, item 1, in column 1, of Schedule 1 to, the Budget (Scotland) Act 2012.

This grant is subject to satisfactory monitoring and we will require you to report progress at certain periods during the funding period.

Payment of the grant is set out in the terms and conditions contained in this offer letter.

The Scottish Ministers reserve the right to demand repayment of the grant or any part of the grant should they consider that the terms of this Agreement have not been followed.

TERMS AND CONDITIONS OF GRANT

1. The Offer of Grant to the Applicant referred to in this letter shall be subject to the following terms and conditions.

Interpretation

2. In this letter -

“the Agreement” means these terms and conditions in the letter and any appendices attached;

"the Applicant" means Scottish Aquaculture Research Forum.

"Grant" means the Grant offered to the Applicant by the Scottish Ministers under Section 1 and Item 1 of Column 1 of Schedule 1 of the Budget (Scotland) Act 2012 as specified in the letter; and

"Grantor" means the Scottish Ministers.

Duration

3. The Agreement shall have effect from 25 March 2013 and shall continue in force for the duration of the projects.

Purpose

4. The Grant shall be used by the Applicant only within the ambit of its rules and regulations and having regard to such for the following particular purposes:

(a) This proposal is for one-off matched funding for strategic research to support the sustainable growth of the Scottish aquaculture industry, including research into sea lice and Amoebic Gill Disease (AGD) which are the key challenges facing the Scottish finfish industry.

(b) to contribute towards specific projects as agreed by the SARF Board and as set out in SARF Special Projects 2013 (SP2013) Business Case.

(c) The total amount available from Marine Scotland is £500,000 and will be match-funded - through SARF - by other non public sector funds to create a total research budget capability of £1million. SARF should provide written assurances confirming industry commitment to match fund has been secured.

5. At all times the Applicant shall have regard to the terms of section 1 of the Budget (Scotland) Act 2012 as it pertains to the purposes for which money may be used, as specified in item 1 in column 1 of Schedule 1 to that Act, in the use of the Grant. The Applicant shall not put any of the Grant received from the Grantor to a purpose not specified in item 1 in column 1 of Schedule 1 to that Act, the interpretation of such to be at the sole discretion of the Grantor.

Payment

6. The Grant shall be paid by the Scottish Ministers to the Applicant in one instalment on receipt of a signed grant acceptance form.

7. The Grantor may refuse to make any payment if they are not satisfied that the Applicant will use such for the purpose determined in clause 4.

Reporting procedures

8. Marine Scotland requires active participation in the preparation, oversight, review and outcomes of the agreed programmes as part of its governance regime.

9. SARF should adhere to the established SARF project monitoring, management and reporting mechanisms, with additional formalised reporting procedures agreed with Marine Scotland as necessary.

Inspection of Company Accounts and Records

10. If the Grantor considers it necessary to gain access to and inspect the Applicant's accounts and records, for the purpose of verification of the proper use of the Grant in terms of these conditions, the Applicant shall immediately upon notification by the Grantor make all such records available for such access and inspection by the Grantor or its representatives. Should the Grantor exercise such rights, the Grantor shall be bound to keep confidential the contents of such accounts and records. However, such a duty of confidentiality shall not prejudice the proper use by the Grantor or its representatives of such information in the management of the sum awarded in terms of this Grant, inclusive of any action taken in terms of this Agreement.

Compliance with Law

11. The Applicant shall ensure that during the duration of the Agreement it shall comply with the law for the time being in force in Scotland; and in particular will not commit any act of discrimination rendered unlawful by the Equality Act 2010, or any other legislation relating to discrimination, on any ground whatsoever. Furthermore, in implementation of this Agreement the Applicant will apply the provisions of European Union and UK Procurement rules and regulations, including the Public Services Contracts Regulations 1993 (SI 1993/3228) (as said Regulations may be subsequently amended or re-enacted), nor undertake any activity which might breach European Union State Aid Rules, as they would apply if the Applicant were to be classed as a Public Body.

Reputation of the Grantor and Public Service Considerations

12. So far as it is able and within its control, the Applicant shall not, and shall ensure that any agents, sub-contractors or persons under its control shall not, knowingly do or omit to do anything in relation to this Agreement or their other activities which may bring the standing or reputation of the Grantor into disrepute or attract adverse publicity to the Grantor.

13. The Applicant is operating in a public service environment and shall at all times have due regard to the need for those in a public service environment to observe high standards of integrity and honesty, fairness, efficiency and economy.

Financial Controls

14. For the duration of the Agreement at the end of each financial year the Applicant shall make available to the Grantor an annual report (in a form approved by the Grantor), of its activities, together with audited annual accounts, not later than 6 months after the end of the financial year end. Such accounts shall be prepared by external auditors in a style approved by the Grantor showing actual expenditure met from the Grant paid to the Applicant. For the avoidance of doubt such accounts must conform with the minimum requirements contained in the Companies Acts 2006, and may require to include any such additional information as the Grantor sees fit. While the accounts shall be prepared by external auditors the responsibility for the accuracy of the accounts and them being in the approved form shall rest with the Applicant. Irregularities within the said audited accounts and report which shall be defined in the sole reasonable opinion of the Grantor shall be treated as a breach of this condition and consequently subject to the provision of clauses 18-23.



15. A duly authorised representative of the Applicant shall certify on the annual report and the audited annual account that the amounts used from the Grant were expended wholly and necessarily by the Applicant in accordance with the Agreement.

16. On the expiry or other termination of the Agreement, the Applicant shall promptly draw up a final financial statement. The final financial statement shall be fully audited and subject to the same financial controls applicable to all reports by the Applicant in terms of the provision of clauses 14-16, and shall be submitted no later than sixty days after the date of termination.

Publicity

17. The Applicant shall where reasonably practicable acknowledge in all Publicity Material relating to the Purposes in respect of which the Grant is expended, the contribution of the Grantor to its costs. The form of such acknowledgement shall be agreed between the Applicant and the Grantor prior to its first publication.

Default

18. Subject to the provisions hereinafter mentioned, the Applicant shall repay the whole amount of the Grant paid to it by the Grantor, or such part of the Grant as the Grantor may notify the Applicant, in the event that:-

(a) the Applicant fails to comply with any of the terms and conditions specified in these presents; or,

(b) any written information given to the Grantor by or on behalf of the Applicant in connection with the payment of any Grant or in terms of these presents, read as a whole, is false or misleading in any material respect, and this is not caused by inadvertent error or omission, whether such information is provided prior to or after the payment of any Grant made; and

(c) the Applicant fails to spend the whole sum granted to it for the purposes detailed within these presents and the attached letter of award.

19. In the event that the Applicant becomes bound to pay any sum to the Grantor in terms of clause 18 of these Conditions, the Applicant shall forthwith pay to the Grantor the appropriate sum within 30 days of a written demand therefore being given by or on behalf of the Grantor to the Applicant. In the event that the Applicant fails to pay such sum within the said period of 30 days, the Grantor shall be entitled to interest on the said sum from the date of the said written demand until payment in full of the said sum and interest thereon is made at the rate of 2% per annum above the base lending rate (or any successor to same) of the Royal Bank of Scotland plc prevailing at the time of the said written demand.

20. Notwithstanding the provisions of clause 18(a), any breach of the terms and conditions which is capable of remedy will not be deemed a breach until the Applicant has received notification from the Grantor and has been given at least 30 days in which to remedy the breach. The Grantor may, provided that the breach is capable of remedy, postpone the exercise of its rights to recover any sum from the Applicant in terms of the said clauses for such period as it sees fit, and give written notice to the Applicant requiring it to remedy the said breach within such period as may be specified in the said written notice, and in the event of the Applicant failing to remedy the said breach within such period, the Applicant



shall be bound to pay the said sum to the Grantor in accordance with the provisions of clauses 18 & 19 inclusive.

21. Any failure or omission by the Grantor to exercise, or delay by the Grantor in exercising, any right or remedy to which it is entitled by virtue of this clauses 18-23, shall not be construed as a waiver of such right or remedy.

22. Without prejudice to the foregoing provisions of clause 18-23, if any of the events specified in clauses 18 & 19 inclusive occur within the duration of the Agreement the Grantor shall be under no obligation to pay the Grant, or the remaining balance thereof, to the Applicant and the Applicant shall be deemed to have forfeited all claims and rights to same, or arising out of or in connection with same.

23. The provisions of clauses 18-23 shall continue to apply for a period of three years after the end of the Financial Year in which the final instalment of the Grant was paid.

24. If at any time within the duration of the Agreement:

(a) the Applicant passes a resolution that it be wound up, or a Court makes an order that the Applicant be wound up, in either case otherwise than for the purposes of reconstruction or amalgamation, or circumstances arise which would enable a Court to make such an order; or

(b) a receiver, manager, administrator or administrative receiver is appointed to the Applicant, or over all or any part of the property which may from time to time be comprised in the property and undertaking of it, or circumstances arise which would entitle a Court or a creditor to appoint such a receiver, manager, administrator or administrative receiver; or

(c) the Applicant is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

(d) there is a change of control as defined by section 416 of the Income and Corporation Taxes Act 1988, in the Applicant, or any Parent Company,

the Applicant shall be bound to inform the Grantor in writing immediately.

25. Should any of the provisions of clause 24(a), 24(b), and/or 24(c) above apply, the Grantor may, but shall not be bound to, terminate the Agreement with immediate effect in writing. For the avoidance of doubt no further sums shall therefore be payable in respect of the purposes outlined in Clause 4 above.

26. Should the event described in clause 24(d) above apply, the Grantor may, but shall not be bound to, terminate the Agreement with immediate effect in writing, and for the avoidance of doubt no further sums shall therefore be payable in respect of Clause 4 above. However, notwithstanding the foregoing the Grantor shall only be permitted to exercise its rights pursuant to this clause 19 for six months after each change of control, and shall not be permitted to exercise such rights where the Grantor has agreed in advance in writing to the particular change of control and such change of control takes place as proposed or, where it has not been possible for such advance notice to be given to be given, the Grantor has subsequently agreed in writing.

27. In addition to its rights of termination as described above, the Grantor shall be entitled to terminate the Agreement by giving to the Applicant not less than 60 days notice to that effect.

Dispute Resolution Procedure

28. All disputes between the parties arising out of or relating to the Agreement shall be referred, by either party, to a senior civil servant working in the Scottish Government - Marine Scotland, which civil servant shall be identified at the request of the Applicant on behalf of the Grantor and a Director of the Applicant for resolution. The decision of that civil servant on the matter referred to them shall be final.

Notices

29. Any document, notice, statement or other thing required to be given or served in terms of this Schedule may be given or served personally, or by sending the same by first class recorded delivery post at or to, in the case of the Grantor, the address specified in the award letter or, in the case of the Applicant at or to the address specified in the Award Letter, or in either case, at or to such other address as shall have been notified to the other party for this purpose. That shall include sending by email, with confirmatory hard copy.

30. Any document, notice, statement or other thing given or served by post in accordance with the foregoing paragraph shall be deemed to have been duly given or served on the second business day after the letter containing same was posted, and in proving that any document, notice, statement or other thing was so given or served, it shall be necessary only to prove that the same was properly addressed and posted in accordance with the provisions of the foregoing paragraph.

Law and Jurisdiction

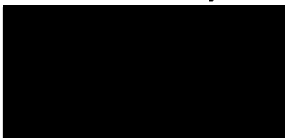
31. Agreement shall be governed by and interpreted in accordance with Scots law and the parties submit to the jurisdiction of the Scottish Courts.

If you wish to accept the offer of grant on the terms and conditions specified herein and in the Schedule you should sign and date the acceptance docket at the end of this letter and Schedule, and return this offer of grant to me at Area 1-B North, Victoria Quay, Edinburgh, EH6 6QQ. Once an acceptance has been received, a copy of the documentation will be sent to you for your retention and the payment will be processed. No grant will be paid until written acceptance is received.

These are the terms and conditions in the offer of grant to Scottish Aquaculture Research Forum, from the Scottish Ministers.

If you have any questions about this offer or its conditions, please do not hesitate to get in touch.

Yours sincerely



Alastair Mitchell



Acceptance of Terms and Conditions of Grant

On behalf of the Scottish Ministers, I formally offer to make a Grant to you in terms of the Scottish Ministers' letter of 19 March 2013 and on the associated terms and conditions.

.....
[Redacted] .. Signature
Alastair Mitchell..... Full Name

Head of MS/ PARF
Aquaculture Unit Position

19 March 2013..... Date

[Redacted] Witness Signature
[Redacted] Full Name

1BN, Victoria Quay,
Edinburgh, EH66QQ..... Address

19 March 2013..... Date

On behalf of Scottish Aquaculture Research Forum I accept the offer of Grant set out in the Scottish Ministers' letter of 19 March 2013 and on the associated terms and conditions.

[Redacted] ... Signature
William Ritchie Full Name
Chairman Position in Company
20.3.13 Date

[Redacted] . Witness Signature
[Redacted] . Full Name
SECRETARIAT Position in company
20.3.13 Date

