

**MARKER SEQUENCE TRANSFER AGREEMENT**

1. The DNA sequence of the markers listed in Exhibit A (hereinafter "Sequence") will be made available by Triticarte Pty Ltd, Australian Company Number 105 494 522, of 1 Wilf Crane Crescent, Yarralumla ACT 2600 AUSTRALIA ("Triticarte") to

_____ ("Recipient")

who has requested marker data produced by Triticarte. In this Agreement "Recipient" includes any individual scientist requesting Sequence ("Recipient Scientist") and their Institution jointly and severally. Sequence is provided to Recipient solely under the terms of this Agreement:

2. This Agreement is effective on the day on which all of Triticarte and Recipient execute the Agreement. Except for the obligations of Recipient under clause 4, which shall remain in force indefinitely, the obligations of Recipient under the Agreement shall remain in effect for 5 years from the effective date.
3. Recipient can use Sequence in-house for any research and development activities, including plant breeding and commercial product development.
4. Recipient cannot use Sequence or any part of Sequence to provide genotyping services to third parties.
5. The Recipient must not distribute Sequence or any part of Sequence to any other person or organization, except those scientists affiliated with and working within the Institution in collaboration with the Recipient Scientist. The Recipient agrees to take the same degree of care as it exercises with its own confidential information or materials of a similar nature to ensure that its affiliates, including all employees, students, collaborators and consultants of the Recipient who receive Sequence, do not distribute Sequence or any part of Sequence to any other person or organization.
6. Until Sequence is made publicly available by Triticarte, the Recipient must not publish Sequence or any part of Sequence without prior written permission of Triticarte.
7. With regard to any publications resulting from the use of Sequence, Recipient shall:
 - (a) submit in confidence to Triticarte any scientific presentations, abstracts, or publications for review at least 30 days prior to submission;
 - (b) make any amendments required by Triticarte to protect the confidentiality of Sequence; and
 - (c) acknowledge Triticarte where applicable and in accordance with standard scientific practice.
8. Recipient shall not be prevented from using or disclosing Sequence or part of Sequence if one or more of the following circumstances apply:
 - (i) Recipient can demonstrate by written records Sequence or part of Sequence was known to it independent of the supply by Triticarte before the date Sequence was supplied to it by Triticarte;
 - (ii) Recipient can demonstrate by written records Sequence or part of Sequence was publicly known before the date Sequence was supplied to it by Triticarte or become public knowledge after that date other than through an act or omission by Triticarte; and
 - (iii) Recipient can demonstrate by written records Sequence or part of Sequence was lawfully obtained by it from a source that is independent of Triticarte without any obligation of confidentiality to Triticarte;

Triticarte Pty Ltd ABN 83 105 494 522

Canberra site:
PO Box 7141 / 1 Wilf Crane Crescent
Yarralumla ACT 2600 Australia

Registered Office:
Locked Bag 1345
PO North Ryde NSW 1670 Australia

Tel: 61 2 62818514 or 62818519 Fax: 61 2 62818533

Tel: 61 2 94908488

9. This Agreement may not be assigned by Recipient, whether by operation of law or otherwise, without the prior written consent of Triticarte.

10. Recipient represents that it is entitled to receive Sequence under all applicable laws and regulations. SEQUENCE IS PROVIDED WITHOUT WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. ACCURACY OF SEQUENCE IS NOT GUARANTEED. SEQUENCE IS ALSO PROVIDED WITHOUT ANY REPRESENTATION OR WARRANTY THAT THE USE OF SEQUENCE WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER RIGHT OF ANY OTHER PARTY.

11. Recipient agrees to waive all claims against Triticarte, and to defend and indemnify Triticarte from all claims and damages asserted by third parties arising from the use of Sequence by the Recipient or any other person permitted under this Agreement.

12. No amendment to this Agreement and no waiver of any breach of any provision of this Agreement will be valid or binding unless set forth by Notice made in writing as set forth in paragraph 13 to the Agreement and duly executed by the Recipient and Triticarte.

13. Recipient and Triticarte agree to ensure that a Notice it sends under this Agreement is in written English under seal or signature by its duly authorised representative and sent by hand, facsimile transmission or registered mail. A notice must be sent as follows:

TO Triticarte:

Triticarte Pty Ltd
PO Box 7141
Yarralumla ACT 2600
Australia
Attention: Eric Huttner (Manager)
Fax: +61 (0)2 6281 8533

TO Institution:

Attention: _____
Fax: _____

Recipient and Triticarte agree to notify the other parties to this Agreement of any changed in address or facsimile number. All Notices under this Agreement must be sent to the last notified address or facsimile number of the recipient on which the Notice is to be served. A notice is deemed to be given:

- (i) If sent by hand, at the time of delivery;
- (ii) If sent by facsimile transmission, at the time recorded on the transmission report; and
- (iii) If sent by registered mail, at the time that the recipient or its agent acknowledged receipt.

14. This Agreement is governed by and will be construed in accordance with the laws of the Australian Capital Territory, Australia and the territory of the Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the Courts of the Australian Capital Territory and any Court which may hear an appeal from these Courts in respect of any proceedings in connection with this Agreement, except in matters where the Federal Court of Australia has original jurisdiction. Recipient and Triticarte irrevocably and unconditionally submit to the exclusive jurisdiction of the Federal Court of Australia and any Court which may hear an appeal from the Federal Court where the Federal Court of Australia has original jurisdiction.

15. Should any dispute arise between Recipient and Triticarte under this Agreement that cannot be resolved by negotiation, Recipient and Triticarte agree to submit such dispute to binding arbitration to be conducted in the Australian Capital Territory and to be governed by applicable legislation governing arbitration. This obligation shall not apply should Triticarte seek immediate injunctive or equitable relief.

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16. Recipient and Triticarte will bear their own costs in connection with the preparation, execution and delivery of this Agreement.
17. Recipient and Triticarte are independent contracting entities without authority to bind the other.
18. This Agreement is binding upon and shall enure to the benefit of Recipient and Triticarte and their successors and permitted assigns and clauses 3-7, 10, 11 and 13-15 hereof shall survive termination of the Agreement.
19. If any provision of this Agreement is wholly or partially unenforceable for any reason, such enforceability will not affect the enforceability of the remainder of this Agreement.
20. This Agreement may be executed as Counterparts.
21. Triticarte may exercise any right, power or remedy at its discretion under the Agreement, and such exercise may be separately or concurrently with the exercise of another right, power or remedy. A single or partial exercise of a right, power or remedy by Triticarte under this Agreement does not prevent a further exercise of that right, power or remedy, or the exercise of any other right, power or remedy. Failure or delay by Triticarte to exercise a right, power or remedy under the Agreement does not constitute acquiescence of that right, power or remedy or prevent its exercise. The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.

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EXECUTED BY TRITICARTE PTY LTD:

SIGNED for and on behalf of) _____
 TRITICARTE PTY LTD) *Signature of Authorized Signatory of Triticarte*
 PTY LTD) _____
 by authority of its Directors in) _____
 accordance with section 127 of) *Printed name of Authorized Signatory of Triticarte*
 the Corporations Act) _____

Legal capacity of Authorized Signatory of Triticarte

THIS _____ day of _____, _____ in the presence of:
 (day of month) (month) (year)

Signature of Witness

Name of Witness (Printed)

EXECUTED BY INSTITUTION:

SIGNED for and on behalf of) _____
 INSTITUTION) *Signature of Authorized Signatory of Institution*
 by) _____
) *Printed name of Authorized Signatory of Institution*

Legal capacity of Authorized Signatory of Institution

THIS _____ day of _____, _____ in the presence of:
 (day of month) (month) (year)

Signature of Witness

Name of Witness (Printed)

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EXHIBIT A

LIST of SEQUENCES TRANSFERRED

[Example]

Marker wPt-9997

Marker bPb-0120

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