**Certification Mark License Agreement**

This certification mark license agreement ("Agreement"), effective as of \_\_\_\_\_\_\_\_\_\_(the "Effective Date"), is made by and between Fodmap Pty Ltd, a proprietary limited company organized and existing under the laws of Australia, located and doing business at 1st Floor, 91 Maroondah Hwy, Ringwood Victoria, 3134 (“Fodmap”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Licensee"), a \_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of the state of \_\_\_\_\_\_\_\_\_\_\_, having an address at\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Both Fodmap and \_\_\_\_\_\_\_\_\_ are sometimes referred to as a “Party ” and collectively, as the “Parties.”

###### Whereas, Fodmap has established a certification program (“Program”) wherein it tests and certifies food products that meet the low FODMAP level per serving criteria as set out in the accompanying rules, a copy of which are attached hereto as Exhibit A and are fully incorporated herein (the "Rules");

###### Whereas, as a part of that Program, Fodmap has developed certain unique marks to identify those products that have successfully passed through testing and have been certified by Fodmap. Those marks include the FODMAP FRIENDLY mark, among others (collectively, the “Certification Marks”), copies of which are attached hereto as Exhibit B;

###### Whereas, any member of the Program may submit products for testing as defined by the Rules, by an independent test facility designated by Fodmap;

###### Whereas, Licensee has submitted its \_\_[product]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for testing in accordance with the Rules. The \_\_[product]\_\_\_\_ passed testing and was deemed certified by Fodmap on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Certified Product(s)); and

###### Whereas, Licensee now wishes to use the Certification Marks in connection with its Certified Product and agrees to fully comply with Fodmap's Program and Rules.

NOW, THEREFORE, for good and valuable consideration the receipt of which is hereby acknowledged, the Parties agree as follows:

# Ownership of the Certification Marks. Licensee acknowledges that Fodmap has exclusive rights to license the use of the Certification Marks for use in connection with its Program and Rules, and that any and all goodwill which accrues from the use of the Certification Marks by the Licensee accrues for the benefit of Fodmap.

# Grant of Rights. Fodmap hereby grants to Licensee for the duration of this Agreement the non-exclusive right and license to use the Certification Marks for use in connection with the Certified Product, provided that:

* + 1. Licensee’s Certified Product complies with the Rules;
    2. Licensee demonstrates that it will comply with the requirements of the Rules;
    3. Fodmap is satisfied that Licensee’s proposed use of the Certification Marks in connection with the Certified Product and supply or promotion of the Certified Product will not mislead or deceive the public; and
    4. Licensee uses the Certification Marks in connection with the Certified Product exclusively in the following manner:

1. Application of the Certification Marks. Licensee uses the Certification Marks in connection with the Certified Product exclusively in the following manner:
   * 1. Certified Product must have the approved serving size, as indicated by the Rules, clearly shown as the recommended serving size in the nutritional information panel, or where the Certified Product is not required to carry a nutritional information panel, the approved serving size must be located near the Certification Marks;
     2. Certification Marks may only be applied to Certified Product; and
     3. Certification Marks must be applied exclusively in the following manner:
        1. Be applied in full color using Pantone (PMS) colors green PMS 363C and PMS 376C;
        2. Be applied on the front of the packaging of the Certified Product;
        3. Be sized such that the text of the Certification Marks is of similar size to other dominant text on the front of the packaging of the Certified Product;
        4. Constitute at least 5% of the area of the front of the packaging and in any event shall have a minimum dimension of 5 mm high and 5 mm wide;
        5. May not be obscured by overlying matter on the packaging including text, pictures, graphics, trademarks, logos or names; and
        6. May not be incorporated into any other matter on the packaging including text, pictures, graphics, trademarks, logos or names.

# Term. The term of this Agreement is one (1) year from the Effective Date of this Agreement.

# Territory. The authority to use the Certification Marks extends throughout the United States of America / United States of America and Canada / Canada / the world.

# Licensee’s Warranties and Responsibilities. Licensee warrants that:

### its Certified Product sold or distributed to the public will comply with Fodmap's Program and Rules;

### it will comply with reasonable changes to Fodmap's Program and Rules within three (3) months from the date of receipt of written notification to Licensee of such changes; and

### it will not challenge Fodmap's rights under its Program and Rules or under this Agreement;

* + 1. it will not sublicense use of the Certification Marks other than as absolutely necessary to enable the manufacture and packaging of the Licensee’s Certified Product; and
    2. it will not assign any rights under this Agreement except with the prior written consent of Fodmap, whose consent may be given or withheld at its sole discretion.

# Fodmap's Standards and Quality Control.

## Fodmap may, in its sole discretion, give Licensee additional direction and make additional policies that are not inconsistent with this Agreement as to the use of the Certification Marks, promotion of the Certified Product, administration of the process for obtaining or extending the term of this Agreement, and Licensee must comply with these additional directions and policies.

## Licensee agrees that the Certified Product will at all times during the term of this Agreement conform to the specifications upon which the product was approved.

## Fodmap has the right to request samples of the Certified Product and packaging at periodic intervals, which Licensee agrees to provide to Fodmap, at no cost to Fodmap, within \_\_\_\_ business days from receipt of its written request.

## Fodmap has the right to inspect Licensee’s production facilities of the Certified Product upon reasonable notice in order to assure Fodmap that the provisions of this Agreement are being observed. In the event that Fodmap is not satisfied that the Certification Marks are being used by the Licensee exclusively in association with the Certified Product, Fodmap will notify the Licensee of the result of its inspection and the Licensee must, within 14 days of such notification, ensure, to the satisfaction of Fodmap, that the Certification Marks are being used exclusively in association with the Certified Product and that the Certified Product conforms to the standards of quality and specifications asset forth in Fodmap’s Program and Rules and in accordance with the terms of this Agreement.

## If at any time the Certified Product fails to conform to the standards of quality and specifications as set forth in Fodmap's Program and Rules, as determined in Fodmap’s sole discretion, Fodmap will so notify the Licensee by certified mail. Upon receipt of such notification, Licensee must, within \_\_\_\_ business days, ensure, to the satisfaction of Fodmap, that the breach of standards of quality and specifications has been rectified. If Licensee fails to satisfy Fodmap that the Certified Product conforms to the standards of quality and specifications as set forth above, Licensee will immediately cease all use of the Certification Marks on its undistributed Certified Products. Licensee will also notify all distributors and customers who may have non-compliant Certified Products and advertising therefore bearing the Certification Marks upon written notification of a request to do so by Fodmap.

# Substandard Certified Products. If Fodmap finds that the Certification Marks have been used by the Licensee upon or in relation to Certified Products that do not comply with the terms of this Agreement or Fodmap’s Program and Guidelines, Fodmap has the right to demand that the Licensee immediately remove the Certification Marks from the Certified Products and advertising therefor.

# Protection of the Certification Marks.

## Licensee acknowledges the validity and inherent distinctiveness of the Certification Marks and agrees not to challenge Fodmap's ownership of them or their validity, and Licensee further agrees that it will do no act or thing to impair the Certification Marks.

## Licensee agrees that any and all rights that may be acquired by the use of the Certification Marks by Licensee will inure to the sole benefit of Fodmap. In those countries where Fodmap, in its sole opinion, deems it necessary, Licensee will be recorded as a registered Licensee of the Certification Marks at Fodmap's expense, and Licensee will cooperate with Fodmap to affect such recordals.

## Licensee agrees not to adopt, use or register the Certification Marks or any part thereof or any similar mark as part of its trade name, trademark, service mark, certification mark, collective mark, domain name or any other designation similar to the Certification Marks. Licensee further agrees to refrain from adopting, using or registering the Certification Marks or any mark similar to the Certification Mark in any country or opposing any of the Fodmap's applications to register the Certification Marks, contesting the validity of any such registrations, or causing or assisting any person or entity to do the same. The foregoing obligations apply to Licensee during the term of this Agreement and thereafter.

# Advertising and Packaging. Licensee is authorized to use the Certification Marks for marketing and packaging provided that the Certification Marks appear in accordance with the Rules.

# License Fees. Fodmap will charge a license fee pursuant to the Fee Policy for Licensee’s authorized use of the Certification Marks for the term of this Agreement. The license fee is due to Fodmap within 14 days of receipt of notice of the license fee from Fodmap. So that Fodmap may verify the license fee, the Licensee must:

* + 1. Provide to Fodmap on an annual basis or following Fodmap’s request, a certified statement as to past, projected and/or actual sales of the Certified Product including gross revenue for each Certified Product in the manner and form required by Fodmap from time to time;
    2. Provide to Fodmap on a quarterly basis, a report as to actual sales including gross revenue for each Certified Product; and
    3. Following Fodmap’s request, permit an independent third party audit of sales by an auditor, selected by Fodmap.

11.1 Where the Licensee’s actual sales of the Certified Product are more than stated in a certified statement provided under Clause 11(i) used to calculate the license fee, the license fee may be recalculated and the difference is payable by the Licensee to Fodmap on written notice to Licensee, within a period of 14 days of receipt of the notice.

11.2 Where the third party audit under Clause 11(iii) identifies actual sales more than 5% higher than reported by the Licensee, the cost of the third party audit is payable by the Licensee.

# Indemnity. Licensee agrees to defend, indemnify and hold Fodmap and its respective representatives, employees, officers, directors and agents harmless against all claims, suits, cost, damages, judgments, attorney’s fees, settlements or expenses incurred caused by, arising from or relating to any breach of this Agreement by Licensee or claimed, obtained or sustained by any third party, whether for personal injury, misrepresentation, or otherwise arising out of or relating to the manufacture, advertising, promotion, use, marketing or sale of the Certified Products certified by Fodmap in accordance with its Program and Rules, provided such claims are not caused by Fodmap’s negligence or breach of this Agreement.

# Infringement of the Mark by Others. In the event that the Licensee learns of any infringement or threatened infringement of the Certification Marks or that any third party alleges or claims that the Certification Marks are likely to cause deception, mistake, or confusion to the public, Licensee will immediately notify Fodmap. Licensee will provide the necessary information and assistance to Fodmap or its authorized representatives in the event that Fodmap decides that proceedings will be commenced or defended. Any such proceedings will be at the expense of Fodmap and any recovery will belong solely to Fodmap.

# Unauthorized Use of the Certification Marks by Licensee. Licensee acknowledges that if it engages in any unauthorized use or reference to the Certification Marks, its right to continue using the Certification Marks may be terminated, and that irreparable injury will occur if such unauthorized use continues.

# Termination.

# 

## Fodmap may terminate this Agreement in writing to Licensee in any of the following circumstances:

## the unauthorized use of or reference to the Certification Marks;

## failure of the Certified Product to comply with Fodmap’s Program and Guidelines and Rules; or failure to conform to the specifications on which the Certified Product was approved,

## Licensee’s unauthorized assignment of any right granted in this Agreement;

## Licensee’s non-payment of any license fees that are unpaid within 30 days from the date those fees were due and payable;

## Licensee stops or suspends payments of all or a class of its debts or is insolvent or bankrupt;

## Licensee conducts its business in any way that endangers public health and safety;

## Licensee, or a member of its staff, is convicted in a court of law of an offense where, in the reasonable opinion of Fodmap, that conviction materially and adversely affects Fodmap or the good name, goodwill or good reputation of Fodmap or the Certification Marks;

## Fodmap is not satisfied that Licensee is using the Certification Marks exclusively in connection with the Certified Product;

## Licensee voluntarily abandons its business;

## Fraudulent conduct by the Licensee, including conduct in connection with its application for granting the license under this Agreement, including a willful and material falsification or error by Licensee of any report, statement or other written data furnished to Fodmap;

## Fodmap may terminate this Agreement upon learning that Licensee has committed a material breach of this Agreement and has failed to cure the breach within forty-five (45) days after delivery of written notice specifying the breach, or immediately if the same material breach has occurred on more than two previous occasions.

## This Agreement may be terminated by either party by giving a one-month notification in writing to the other party.

## Upon any termination or nonrenewal of this Agreement all rights and licenses granted by Fodmap to Licensee will terminate immediately, Licensee will immediately discontinue its use of the Certification Marks, Licensee must either destroy or return to Fodmap all relevant packaging bearing the Certification Marks, and the Licensee is not relieved of any obligation to make payments of outstanding fees owned under the Rules.

# Notice. Any notice or other communication required or which may be given under this Agreement must be in writing and be delivered by certified mail, e-mail with certified mail confirmation, or by Federal Express or other overnight courier service, as follows. Notices and requests will be deemed delivered when received by Fodmap or Licensee.

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| --- |
| If to Fodmap: |
|  |
| Fodmap Pty Ltd |
| 1st Floor, 91 Maroondah Hwy |
| Ringwood, Victoria 3134 AUSTRALIA |
| [info@fodmap.com](mailto:info@fodmap.com) |
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|  |
| If to Licensee: |
|  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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# Application Process for Obtaining Permission to Use the Certification Marks. An application to Fodmap for Licensee status must be made in writing in the form required by Fodmap, and must include the following:

* + 1. Written material giving information about the applicant and evidence that the applicant meets the Licensee requirements in accordance with the Rules;
    2. The non-refundable application fee of \_\_\_\_; and
    3. Samples of applicant’s proposed product in the form and quantities required by Fodmap from time to time.
  1. As soon as practicable, upon receipt of an application, Fodmap or its authorized representative will, by reference to the Rules, categorize applicant’s proposed product and assess the proposed serving size of applicant’s proposed product.
  2. All fees and costs associated with the testing of applicant’s proposed product are payable by the applicant, and at Fodmap’s sole discretion, may be payable in advance and/or directly to the laboratory and are non-refundable.
  3. A list of Fodmap-approved hospital, university and NATA accredited laboratories will be available from Fodmap.

# Record Keeping. Licensee is required to keep records in accordance with the stipulations attached at Exhibit C.

# Miscellaneous Provisions

## Interpretation. The validity, interpretation, construction and performance of this Agreement shall be according to the laws of the United States and the State of Illinois, without regard to its conflicts of law principles.

## Binding effect. The terms and conditions of this Agreement will inure to the benefit of, and be binding upon, the respective successors, assigns, and affiliates of the Parties.

## Costs. Each Party agrees to bear its own costs and expenses in complying with the terms of this Agreement. Should Fodmap or Licensee, through any Court of competent jurisdiction or otherwise, successfully enforce any of the terms and conditions of this Agreement against the other Party, the losing party agrees to pay to the prevailing party its costs, including reasonable attorneys' fees and costs.

## Severability. If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, and deemed omitted, the balance of the Agreement remains enforceable.

## Waiver; Modification. No provision of this Agreement may be amended, modified, waived or discharged unless such amendment, waiver, modification or discharge is agreed to in writing and signed by each of the parties hereto or a duly authorized representative thereto. No waiver by either Party hereto at any time of any breach by any other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party will be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

## No Joint Venture, Partnership or Mutual Endorsement of Goods. This Agreement may not be construed in any way as establishing a partnership, joint venture, express or implied agency, or endorsement between the Parties.

## Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which will be an original, and all of which constitutes an agreement. A facsimile signature will be given the same binding effect as if the signature were an original.

## Integration. This Agreement and the documents to be delivered in connection therewith, and the exhibits and schedules thereto, if any, set forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersede all prior and contemporaneous agreements, promises, covenants, arrangements, understandings, communications, representations or warranties, whether oral or written, by either Party hereto; and any prior agreement of the Parties hereto in respect of the subject matter contained herein is hereby terminated and canceled. No agreements or representations, whether written, oral, express or implied, with respect to the subject matter hereof have been made by either Party that are not set forth expressly in this Agreement and the other documents to be delivered in connection herewith and therewith.

## Headings. All headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of any provision or provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

|  |  |
| --- | --- |
| **FODMAP PTY LTD** | **LICENSEE** |
|  |  |
| Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Dated: | Dated: |

**Exhibit A**

**Rules**

**for the use of the**

**FODMAP FRIENDLY**

**Certification Trade Mark**

**of**

**Fodmap Pty Ltd**



1. Definitions
   1. In these Rules:
      1. **Approved Product** means a food product approved in accordance with these Rules and in relation to which a License has been granted;
      2. **Approved Serving Size** means a Approved Product’s serving size determined by reference to the Low FODMAP Guidelines as set out in Schedule 1;
      3. **Approved User Requirements** means the requirements a Licensee must demonstrate, as set out in Schedule 3;
      4. **Applicant** means a party who has made an Application;
      5. **Application** means an application made by a party for the grant of a License to use the Trade Mark in connection with a Proposed Product in accordance with these Rules;
      6. **Fodmap** means Fodmap Pty Ltd, ACN 154 738 459, whose business address is 1st Floor, 91 Maroondah Hwy, Ringwood Victoria, 3134, Australia;
      7. **FODMAP** means Fermentable Oligosaccharides, Di-saccharides, Mono-saccharides and Polyols;
      8. **Fodmap Friendly** means a product that meets the Low FODMAP Guidelines.
      9. **License** means a non-exclusive written license granted by Fodmap to an Applicant to use the Trade Mark in connection with an Approved Product;
      10. **Licensee** means the party authorized under a License to use the Trade Mark;
      11. **Low FODMAP Guidelines** means the guidelines set out in Schedule 1 of **these Ru**les, including categorisation of food products, serving sizes and maximum FODMAP levels per serving;
      12. **NATA Accredited laboratory** means a laboratory accredited by the National Association of Testing Authorities (NATA), Australia;
      13. **NATA Mutual Recognition laboratory** means a laboratory accredited by an association recognized by NATA under a mutual recognition agreement, including laboratories accredited by an association recognized by the International Laboratory Accreditation Cooperation (ILAC) under the ILAC Mutual Recognition Arrangement;
      14. **Testing** means analysis of samples of a Proposed Product or Approved Product, undertaken using:

High Performance Liquid Chromatography (HPLC) with Evaporative Light Scattering Detection (ELSD) enzymatic analysis equipment; or

bio-analysis test kits Fructans, D-Fructose/D-Glucose, Lactose/D-Galactose, D-Mannitol/L-Arabitol, Raffinose/D-Galactose, D-Sorbitol/Xylitol, D-Xylose;

or equipment of greater sensitivity;

in accordance with procedures specified in Schedule 2;

by:

a hospital or university laboratory; a NATA Accredited or NATA Mutual Recognition laboratory; a laboratory owned or operated by Fodmap Pty Ltd or one of its subsidiaries; a staff member of Fodmap Pty Ltd or one of its subsidiaries in a hospital, university, NATA Accredited or NATA Mutual Recognition laboratory; and

* + 1. **Trade Mark** means the trade mark or trade marks defined in Schedule 4.

1. Grant of a License to use the Trade Mark
   1. Fodmap will only grant a License to an Applicant who makes an Application in accordance with these Rules if:
      1. the Applicant meets the Approved User Requirements;
      2. the Applicant's Proposed Product, following Testing, meets the Low FODMAP Guidelines;
      3. the Applicant demonstrates that it will comply with the requirements of these Rules and the Low FODMAP Guidelines; and
      4. Fodmap is satisfied that the Applicant's proposed:
         1. use of the Trade Mark in connection with the Proposed Product; and
         2. supply or promotion of the Proposed Product;

will not mislead or deceive the public, or breach any provision of applicable consumer law.

Schedule 1 – Low FODMAP Guidelines

1. FOOD CATEGORIES and Permitted FODMAP levels per serving

The FODMAP content of product samples of the proposed Approved Serving Size must meet each of the criteria specified in the relevant category tabled below.

* 1. CATEGORY - ALL FOODS, EXCEPT CEREALS, GRAINS AND FOODS MADE FROM CEREALS AND/OR GRAINS

|  |  |
| --- | --- |
|  | **Criteria** |
| **FODMAP** |  |
| -Excess Fructose | ≤ 0.2 g (Excess fructose = total fructose – total glucose) |
| -Lactose | ≤ 4 g |
| -Sorbitol | ≤ 0.3 g however total polyols must not exceed 0.5 g |
| -Mannitol | ≤ 0.3 g however total polyols must not exceed 0.5 g |
| -Oligosaccharides | The sum total of all fructans and galacto-oligosaccharides (GOS) cannot exceed 0.2 g |
| -Polyols | ≤ 0.5 g |

* 1. CATEGORY - CEREALS AND GRAINS AND FOODS MADE FROM CEREALS AND/OR GRAINS

|  |  |
| --- | --- |
|  | **Criteria** |
| **FODMAP** |  |
| -Excess Fructose | ≤ 0.2 g (Excess fructose = total fructose – total glucose) |
| -Lactose | ≤ 4 g |
| -Sorbitol | ≤ 0.3 g however total polyols must not exceed 0.5 g |
| -Mannitol | ≤ 0.3 g however total polyols must not exceed 0.5 g |
| -Oligosaccharides | The sum total of all fructans and galacto-oligosaccharides (GOS) cannot exceed 0.3 g |
| -Polyols | ≤ 0.5 g |

1. TESTING AND Serving Sizes

Products certified under the FODMAP FRIENDLY certification trade mark program are certified on the basis of an Approved Serving Size. This means a small serving of a product may become an Approved Product where a large serve will not.

Testing of a Proposed Product, or re-Testing of an Approved Product, is undertaken using samples of the proposed Approved Serving Size set by Fodmap. Products such as fruit having natural size variations may be approved on the basis of an average serving size at Fodmap’s absolute discretion.

An Approved Serving Size must be a realistic and reasonable quantity consumed as a serve.

Where a product has a natural serving size, such as a biscuit, muesli bar or the like, the Approved Serving Size must correspond to the natural serving size. Disingenuous and unrealistic definitions of serving size are not permitted. By way of a non-limiting example, where a “30 gram serving” equates to 0.5 biscuits, the Approved Serving Size will be 60 grams equating to 1.0 biscuits. If the 60 gram biscuit exceeds the permitted FODMAP level, it cannot become an Approved Product.

A minimum Approved Serving Size will be set by Fodmap in its absolute discretion.

The Approved Serving Size must be clearly marked on the product as the recommended serving size in grams, kilograms, millilitres or decilitres as appropriate. Optionally corresponding and accurate volumetric measures (such as 0.5 metric cups), or portion measures (such as 1 biscuit or 2 squares of chocolate or 1 sachet) can be marked as a recommended serving size in addition to weight or liquid volume.

The Low FODMAP Guidelines are copyright and the intellectual property of Fodmap. The Low FODMAP Guidelines must not be used for any purpose other than establishing a product’s eligibility under the FODMAP FRIENDLY certification trade mark program. The Low FODMAP Guidelines must not be copied or distributed to third parties without prior authorisation from Fodmap.

Schedule 2 – Testing Regime

|  |  |  |
| --- | --- | --- |
| **Method Summary of** | **VL295\_Common Sugars** |  |
| **Summary Issued** | **17th February 2010** |
| Determination of Common Sugars in Foods by HPLC | |
| **Analysis Description** | **Determination of common Sugars in Foods** | |
| **Matrix / Matrices** | **Foods** | |
| **Reference Method(s)** | **AOAC 13th Ed. 31.138-31.142** | |
| **Limit of Reporting (LOR)** | **0.2 g/100g with refractive index detector.**  **0.05 g/100g with ELSD detector.** | |
| **NATA Accredited** | Yes | |
| **Preparation & procedure** | **Preparation:**  Sample is homogenised and a sub sample is accurately weighed. Sugars are extracted with 25 ml water at 60°c for 30 minutes.  The extract is clarified with 25 ml acetonitrile and filtered through a 0.45um filter into a 2ml vial, suitable for HPLC.  **Determination for common sugars:**  Filtered solution is analysed by HPLC using amino column with an acetonitrile/water mobile phase containing salt and refractive index detection. Quantitation is made against a standard solution containing known amounts of fructose, glucose, sucrose, maltose and lactose.  **Determination for low level sugars:**  Filtered solution is analysed by HPLC using carbohydrate ES column with an acetonitrile/water mobile phase and evaporative light scattering detector (ELSD). Quantitation is made against a standard solution containing known amounts of fructose, glucose, sucrose, maltose and lactose.  **Calculation:**  Result calculation is performed by HPLC software and a report generated. | |
| **Comments, limitations or known interferences** | Sorbitol, galactose and other sugar alcohols may interfere with glucose or other sugars. When this occurs the glucose is determined using different mobile phase or separately using a Bio-Rad HPX column.  The method uncertainty is relatively high at levels approaching the Limit of Reporting (0.2g/100g). | |
| **Equipment used** | Flasks and glassware  Balance  Blender  HPLC with RI or ELSD Detection and appropriate column(s)  Software to perform integration and calculation of results | |
| **QA Protocols per batch** | 1 duplicate each batch (up to 15 samples usually)  A standard is run every 5 samples  A control reference is run each batch  A recovery test in every batch | |
| **Mass of Sample required** | 15 g per sample, however more sample would be required for QA. | |

|  |  |  |
| --- | --- | --- |
| **Method Summary of** | **Common Sugars** |  |
| **Summary Issued** | **19 June 2013** |
| Determination of Common Sugars in Foods by Spectrophotometric Enzymatic analysis | |
| **Analysis Description** | **Determination of common Sugars in Foods** | |
| **Matrix / Matrices** | **Foods** | |
| **Reference Method(s)** | **AOAC Methods: 999.03, 984.15, Industry Standards** | |
| **Limit of Reporting (LOR)** | **Fructose: 1mg/100g, Glucose: 1mg/100g, Sorbitol: 2mg/100g,**  **Mannitol: 5mg/100g, GOS: 50mg/100g, Lactose: 30mg/100g**  **Fructans: 20mg/100g** | |
| **Certification** | Enzyme kits: ISO 9001:2008 Certification | |
| **Preparation & procedure** | **Preparation:**  Wet samples are pooled and homogenised. A sub sample is accurately weighed and frozen in a container appropriate for freeze drying. Once completely dried the sample is reweighed to calculate water content.  Dry samples are pooled and homogenised to pass a 0.5mm screen. A sub sample is accurately weighed. Sugars are extracted with 80 ml water at 80°c for 15 minutes. The extract is cooled and made up to a final volume of 100ml with distilled water.  The extract is filtered through a 0.45um filter into a 2ml vial, suitable for the assay.  **Determination for common sugars:**  Filtered solution is analysed by individual enzyme kits appropriate to the sugar being measured. Quantitation is made by a linear absorbance relationship.  **Calculation:**  Result calculation is performed by Megazyme software and a report generated. | |
| **Comments, limitations or known interferences** | Internal standards are included to account for any potential interference. Losses in sampling handling and extraction can be identified by performing recovery experiments. | |
| **Equipment used** | Flasks and glassware  Balance  Blender  Spectrophotometer with variable wavelengths  Freeze dryer and vacuum pump  Software to perform integration and calculation of results | |
| **QA Protocols per batch** | Samples run in triplicate each batch  A duplicate standard is run every batch  A control reference is run each batch | |
| **Mass of Sample required** | 5 g per sample, however more sample would be required for QA. | |

Schedule 3 – APPROVED USER REQUIREMENTS

An Applicant and/or Licensee must be able to demonstrate, to the satisfaction of Fodmap, that it:

* + - * 1. has the capacity, skill and expertise to meet all of the requirements set out in the Rules and, in particular, to produce a food product in accordance with the Low FODMAP Guidelines;
        2. has a commercially sound business plan or business operation;
        3. is not in default under a decree, or a by-law or regulation of any government, statutory, municipal body or organisation having jurisdiction over the health and food industries and is compliant and will continue to be compliant in all material respects with and not in breach of all relevant laws; and
        4. holds all licenses, permits, authorisations and consents required for the conduct of all aspects of its business, and to the best of its knowledge, all such licenses, permits and authorisations as required are in full force and effect.

**Exhibit B**

**Certification Marks**

Schedule 4 – TRADE MARK(s)

Trade mark means the certification trade mark which is the subject of

US trade mark registration no. 4,562,216 (application no. 85/774893)

in the name of Fodmap Pty Ltd



**Exhibit C**

**Record Keeping**

For all labels, packaging, advertising or other materials (“materials”) to which the Trade Mark has or will be applied the Licensee must keep records including:

* the Certified Product and Approved Serving Size;
* a copy of artwork;
* a production sample;
* the quantity of materials ordered or produced;
* the quantity of materials used;
* the product in respect of which the materials were used;
* relevant dates between which materials were in use;
* sales information including units sold and gross revenue, for each Certified Product and Approved Serving Size.