



PRESS RELEASE – 20 April 2016

## **ESSENTIALLY DERIVED VARIETIES ARE DISTINCT AND SHOULD BE AWARDED A SEPARATE PLANT BREEDERS RIGHT**

*One of the key requirements for a variety to be regarded as essentially derived, is that it must be clearly distinct from its parent variety. In line with this requirement, the award of a Plant Breeders Right in South Africa to the University of California for the Tango variety, does not imply that it is not essentially derived. This matter is currently the subject of a case before the Western Cape Division of the High Court in Cape Town when the interdict application brought by NADOR COTT PROTECTION SARL (NCP) & CITROGOLD (PTY) LTD against EUROSEMILLAS, STARGROW & OTHERS (CASE NUMBER: 17606/14) will be argued.*

*In deciding whether to award a Plant Breeders Right (PBR) to a variety, the Registrar of Plant Breeders Rights will consider whether a variety is novel, distinct, uniform and stable. By definition, an essentially derived variety must be clearly distinguishable from the parent from which it was developed.*

*The fact that Tango has been awarded a PBR in Spain and now in South Africa, is consistent with the notion that an essentially derived variety must be distinct from the parent variety, and can be awarded a separate PBR. However, in both South Africa and Spain, where Nadorcott also has a valid PBR, the licensing of plantings of Tango is being challenged by the NCP in the courts. These legal challenges have the basis that Tango is an essentially derived variety of Nadorcott and therefore the NCP must authorise any Tango plantings being undertaken.*

*Citrogold advises South African citrus growers not to misinterpret the granting of the Plant Breeders Right by the Registrar of Plant Breeders Rights in South Africa to mean that the Tango is not essentially derived from Nadorcott. Citrogold advises growers to take a cautionary approach and to wait for an outcome of the legal proceedings that will determine if Tango is essentially derived from Nadorcott before making any costly long-term planting decisions. If Tango is determined by the courts to be an essentially derived variety of Nadorcott, authorisation from the NCP will have to be obtained for plantings of Tango in South Africa and for the fruit export into the European Union.*

### *About NCP*

*NADOR COTT PROTECTION S.Á.R.L. (NCP) is a limited company with registered office in Saint Raphaél, France. The NCP are the owners of the Nadorcott citrus variety with registered Plant Breeders Right ZA2004/3008 in South Africa.*

### *About Citrogold*

*Citrogold (Pty) Ltd, is a cultivar management company creating, identifying and implementing intellectual property in South Africa with a focus on citrus. Citrogold is the appointed agent for the Nadorcott and has been managing the variety in South Africa.*

### *About Registrar of Plant Breeders Rights*

*The Registrar of Plant Breeders' Rights, is the authority to whom the protection of plant varieties is entrusted, and who exercises the powers and carries out the duties assigned to or imposed under the South African Plant Breeders Rights Act.*