

2020-031076

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CHRIS YAMAMOTO

CANYON COUNTY RECORDER

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\$46.00

AGR

TERRACON CONSULTANTS INC

Recording Requested By and  
When Recorded Return to:

Forage Genetics International, LLC  
4001 Lexington Avenue  
Arden Hills, MN 55126  
ATTN: General Counsel

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

**THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT IMPOSING ACTIVITY  
AND USE LIMITATIONS PURSUANT TO THE UNIFORM ENVIRONMENTAL COVENANTS  
ACT, IDAHO CODE § 55-3001, et seq.**

### **ENVIRONMENTAL COVENANT**

This instrument is an Environmental Covenant ("Environmental Covenant") executed by the **GRANTORS**, Forage Genetics International, LLC, ("Forage"), and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. Forage, as the current property owner, grants this Environmental Covenant to all signatories to this instrument. This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. Forage is also a "holder" as defined in Idaho Code § 55-3002(6). For recording indexing purposes the holder, Forage, is the **GRANTEE** as provided in Idaho Code §55-3008.

Property. This Environmental Covenant concerns real property located at 1917 E Fargo Avenue, Nampa, Idaho, in Canyon County, identified as Parcel Number R3120300000 and legally described in the deed attached hereto and marked as Attachment A (hereafter referred to as the "Property").

Property Ownership. Forage hereby represents and warrants to the other signatories to this Environmental Covenant that it is the sole owner of the property, holds fee simple title to the property and Forage has the power and authority to enter into this Environmental Covenant.

#### Reason for Activity and Use Limitations.

The Property described above is currently operating as Forage Genetics International, LLC seed distribution facility and was formerly Allied Seed Cooperative, Inc. (Allied). In July 1990, two 1,000-gallon gasoline underground storage tanks were removed and a petroleum release was discovered. In December 1990, Allied entered into a consent order with the Department. Records indicate Allied conducted groundwater sampling and operated a pump and treat system from 1990 to 1999. Assessment activities resumed in 2012 to include ground water sampling, soil vapor sampling, and the preparation of a risk evaluation.

This Environmental Covenant is required because at the completion of the remedial actions, residual concentrations of petroleum hydrocarbons remain in groundwater underlying the Property. Concentrations of benzene, ethylbenzene, and naphthalene are above allowable risk-based concentrations for groundwater ingestion as determined by the Department. Therefore, future use of the Property shall be limited to protect human health and the environment.

The Environmental Covenant applies solely to the petroleum plume in groundwater originating from the 1990 Forage UST release. Two separate halogenated solvent plumes, not associated with the Forage petroleum release, potentially impact groundwater at the Property. These halogenated solvent plumes originated from a facility (Van Waters & Rogers aka Univar USA, Inc) located in an upgradient groundwater flow direction from the Property, and a facility (Great Western Chemical aka McCall Oil aka BHS Acquisitions aka Dubois Chemical Yard) located in an upgradient to cross-gradient groundwater flow direction from the Property. Both facilities have previously entered into Consent Orders with the Department for the assessment, monitoring, and remediation of their respective halogenated solvent releases.

Name and Location of Administrative Record. A copy of Allied Seed Cooperative Inc. operating as "Forage Genetics International" (Facility Identification Number 3-140022; EDMS Number 2011BAZ244) administrative records; Univar USA Inc. Nampa (EDMS Number 2011BAZ6725) administrative records; and Dubois Chemicals Yard (EDMS Number 2011BAZ616) administrative records can be found at the DEQ Boise Regional Office, 1445 N Orchard Street, Boise, ID 83706.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, Forage, and any successors in interest, are hereby restricted from using the Property, now or at any time in the future, as specifically set forth below:

There shall be no extraction of ground water under the Property for any purpose, including, without limitation, drinking by animals or human beings, irrigation or an industrial or commercial use. Ground water may be extracted as part of an environmental investigation or remediation project.

Breach and Cure of Activity and Use Limitations. Forage, or its successors in interest, shall be responsible for demonstrating that use on the Property is in conformity with the Activity and Use Limitations. If any event or action occurs that constitutes or may constitute a breach of the activity and use limitations, Forage or any successors in interest, shall notify the Department within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by Forage or any successors in interest, and the Department.

Amendment by Consent. The Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a new holder is an amendment.

Duration and Termination. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, in perpetuity unless terminated by court action as provided in Idaho Code § 55-3009 or by consent pursuant to Idaho Code § 55-3010. Forage, or its successors in interest, may seek consent to terminate the Activity and Use Limitations that apply to the

Property, or any subdivided portion thereof, pursuant to Idaho Code § 55-3010, by demonstrating with the record before the Department that:

Contaminated ground water is at levels the Department deems in writing to be adequate for the Property to be developed for unrestricted use.

Provisions to Run With the Land. Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Activity and Use Limitations are imposed upon the Property.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations contained herein.

Recording/Filing of Environmental Covenant. This Environmental Covenant and any amendment or termination of this Environmental Covenant shall be recorded in the County Recorder's Office of the county in which the Property subject to this Environmental Covenant is located. The owner of the Property shall record this Environmental Covenant, and any amendment or termination thereof, within ten (10) days following receipt of the Department's signature hereon. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, the owner of the Property shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination thereof, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of the recorded Environmental Covenant, or any amendment or termination, shall be provided by the owner of the Property to the following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of this Environmental Covenant is not affected by failure to provide a copy of this Environmental Covenant as required under this section.

Compliance Reporting. Forage, or and any successors in interest, shall submit to the Department on an annual basis written documentation verifying that the activity and use limitations remain in place and their compliance with the activity and use limitations.

Enforcement. The Department and any party to the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against the owner of the Property and any other person using the Property. Failure of the owner or any other user of the Property to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, and/or any party to this Environmental Covenant to require that the owner or user of the Property correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, and/or any persons identified in Idaho Code § 55-3011 to file civil actions against the owner or user of the Property as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Non-Waiver. No failure on the part of the Department or any holder at any time to require performance of any term of this Environmental Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's or any holder's rights to enforce such term.

Property Access. The Department shall have a right of access to the Property at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyor of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the then Owners and/or Occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required or permitted to be given hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below or at such other place or places as either Forage or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNERS:

Forage Genetics International, LLC  
**ATTN:** Rick Yabroff  
P.O. Box 339  
Nampa, ID 83563

THE DEPARTMENT:

Idaho Department of Environmental Quality  
**ATTN:** Assessment & Compliance Unit Manager  
1410 N. Hilton  
Boise, ID 83706

Costs and Expenses. All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Property, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of the Environmental Covenant or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

Headings. Headings at the beginning of each section of this Environmental Covenant are solely for the convenience of the parties and are not a part of the Environmental Covenant.

Idaho Code References. All references to the Idaho Code sections include successor provisions.

Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any voluntary consent order or other agreement relating to remediation of the Property entered into between the Department and Forage or any other responsible party.

Nothing in this Environmental Covenant shall affect the obligations of Forage or any other responsible party under such voluntary consent order or other agreement. The Department's acceptance hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.



Signature and Acknowledgments  
Accepted:

Idaho Department of Environmental Quality

Signature: \_\_\_\_\_

Printed Name: John H. Tippetts

Title: Director, Idaho Department of Environmental Quality

Date: 1/21/2020

State of Idaho                    )  
  ) ss.  
County of Ada                    )

On this 21<sup>st</sup> day of JANUARY in the year 2020, before me, a Notary Public in and for said County and State, personally appeared John H. Tippetts, known or identified to me to be the Director of the Idaho Department of Environmental Quality that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Environmental Quality executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for Idaho: \_\_\_\_\_

Residing at: BOISE, ID

Commission Expires: 08/02/2025

Signature and Acknowledgments

Accepted:

Property Owner: Forage Genetics International, LLC

Signature: 

Printed Name: Charles Von Feldt

Title: Chief Technology Officer

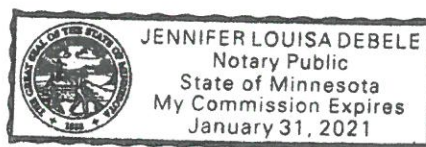
Date: 10-7-19

State of Minnesota )  
 ) ss.  
County of Ramsey )

On this 7 day of October, in the year 2019, before me, a Notary Public in and for said County and State, personally appeared Charles Von Feldt, known or identified to me to be the Chief Technology Officer of Forage Genetics International, LLC that executed this Environmental Covenant, and acknowledged to me that Forage Genetics International, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Minnesota: Jennifer L Debele  
Residing at: 23851 Leo Str NE Stacy MN 55079  
Commission Expires: 1-31-2021



## Attachment A   Legal Description and Deed of Property

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2015-033197

RECORDED

08/26/2015 04:40 PM



00185559201500331970030036

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

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\$16.00

DEED

LAND O'LAKES INC

### WARRANTY DEED

FOR VALUE RECEIVED, **Winfield Solutions, LLC**, a Delaware limited liability company, (hereinafter "Grantor") does hereby grant, bargain, sell, warrant and convey unto **Forage Genetics International, LLC**, a Minnesota limited liability company (hereinafter "Grantee") the following described premises situated in Canyon County, State of Idaho, more particularly described in **Exhibit A** attached hereto (the "Real Property").

To HAVE AND TO HOLD the said Real Property, with their appurtenances, unto the said Grantee, and Grantees heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, the Grantor is the owner in fee simple of said Real Property; that said Real Property are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject, and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Total consideration for this transfer is Five Hundred Dollars (\$500) or less.

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed on this 12 day of August, 2015.

**WINFIELD SOLUTIONS, LLC**

By Charles B. Von Feldt  
Charles B. Von Feldt  
Secretary

State of Minnesota       )  
                                      ) ss.  
County of Ramsey        )

On this 2 day of August in the year of 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles B. Von Feldt, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of Winfield Solutions, LLC, a Delaware limited liability company.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

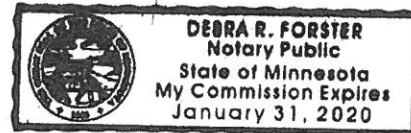


Notary

Residing at: Roseville, MN

My Commission Expires: 1/31/2020

This instrument was prepared by:  
Land O'Lakes, Inc.  
P.O. Box 64101  
Law Department MS2500  
St. Paul, MN 55164-0101



When recorded return to:  
Land O'Lakes, Inc.  
P.O. Box 64101  
Law Department MS2500 (DF)  
St. Paul, MN 55164-0101

Send subsequent tax bills to:  
Forage Genetics International, LLC  
c/o Land O'Lakes, Inc.  
PO Box 64101, MS4015  
Saint Paul, MN 55164-0101

**Exhibit A to Warranty Deed  
Real Property**

The Real Property is more particularly described as follows:

A portion of the East half of the Northwest quarter of Section 14, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

Commencing at the Northwest corner of Section 14, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho; and running South 0°24'05" West, 993.39 feet along the Westerly boundary of said Section 14 to the Northwest corner of the South half of the Southwest quarter of the Northwest quarter of the Northwest quarter, said Section 14; thence continuing South 0°24'05" West, 220.00 feet along said Westerly boundary of Section 14 to a point on the centerline of East Fargo Avenue; thence South 89°35'55" East, 575.00 feet along the centerline of East Fargo Avenue to a point on the centerline of North 17th Street; thence continuing South 89°35'55" East, 665.00 feet along the centerline of East Fargo Avenue to a point; thence South 0°24'05" West, 25.00 feet perpendicularly distant from the centerline of East Fargo Avenue, said point being the TRUE POINT OF BEGINNING; thence South 89°35'55" East, 485.00 feet along said boundary line to a point of curve; thence Southeasterly 31.42 feet along a curve to the right having a radius of 20.00 feet, a tangent of 20.00 feet, a deflection angle of 9000' right and whose long chord bears South 44°35'55" East, 28.28 feet to a point of tangent on the Westerly boundary line of North 20th Street; thence South 0°24'05" West, 196.20 feet along said boundary line to a point on the Northerly right-of-way line of the Oregon Short Line Railroad Company lead track; thence North 89°35'55" West, 505.00 feet along said right-of-way line to a point; thence North 0°24'05" East, 216.20 feet to the TRUE POINT OF BEGINNING.

## Attachment B    Map of Restricted Area

1917 East Fargo Avenue, Nampa, ID

1917 E Fargo Ave



200 ft

Google Earth

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