

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM316338

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
OMS Investments, Inc.		03/21/2014	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Global Harvest Foods, Ltd.		
<b>Street Address:</b>	16000 Christensen Road #300		
<b>City:</b>	Tukwila		
<b>State/Country:</b>	WASHINGTON		
<b>Postal Code:</b>	98188		
<b>Entity Type:</b>	CORPORATION: WASHINGTON		
<b>PROPERTY NUMBERS Total: 19</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3586840	APPLE CRISP	
<b>Registration Number:</b>	3554141	BERRY PUNCH	
<b>Registration Number:</b>	3674091	BIRD SMART	
<b>Registration Number:</b>	3645562	BIRDWATCHERS' BLEND	
<b>Registration Number:</b>	2457069	BIRDWATCHERS' BLEND MORNING SONG	
<b>Registration Number:</b>	3586836	CHERRY PIE	
<b>Registration Number:</b>	3630138	CLEAN & FREE	
<b>Registration Number:</b>	3453269	COUNTRY PRIDE	
<b>Registration Number:</b>	3586838	DOUGH-NUT	
<b>Registration Number:</b>	3714918	MORNING SONG	
<b>Registration Number:</b>	2255270	MORNING SONG	
<b>Registration Number:</b>	3553092	NUTTY SAFARI	
<b>Registration Number:</b>	3586837	ORANGE SLICE	
<b>Registration Number:</b>	3553093	RAISIN CRUNCH	
<b>Registration Number:</b>	4209316	SAVE THE SONG BIRDS	
<b>Registration Number:</b>	4209315	SAVE THE SONG BIRDS	
<b>Registration Number:</b>	3441928	SONGBIRD SELECTIONS	
<b>Registration Number:</b>	3553118	SUREFRESH	
<b>Registration Number:</b>	3553091	TRAIL MIX	

OP \$490.00 3586840

**CORRESPONDENCE DATA****Fax Number:** 2067822002*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.***Phone:** 206-782-2000**Email:** erin@karpbusinesslaw.com**Correspondent Name:** Erin M. Karp**Address Line 1:** 5516 17th Ave. NW**Address Line 4:** Seattle, WASHINGTON 98107

<b>NAME OF SUBMITTER:</b>	Erin M. Karp
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<b>SIGNATURE:</b>	/Erin M. Karp/
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<b>DATE SIGNED:</b>	09/08/2014
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**Total Attachments: 12**

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## INTELLECTUAL PROPERTY ASSIGNMENT

WHEREAS, OMS Investments, Inc., a Delaware corporation having offices at 10250 Constellation Blvd., Suite 2800, Los Angeles, California 90067 ("ASSIGNOR") owns all right, title and interest in and to the IP Assets (defined below); and

WHEREAS, Global Harvest Foods, Ltd., a Washington corporation having offices at 16000 Christensen Road #300, Tukwila, Washington 98188 ("ASSIGNEE") is desirous of acquiring ASSIGNOR's entire right, title and interest in and to the IP Assets;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASSIGNOR does hereby sell, assign, transfer and set over to ASSIGNEE, its successors and assigns, ASSIGNOR's entire right, title and interest in and to the IP Assets.

"Business" means the business of manufacturing and selling wild bird food in the United States conducted by ASSIGNOR and its Affiliates Gutwein & Co., Inc. and The Scotts Company LLC as of March 21, 2014 through their facilities located in Reynolds, Indiana and Doland, South Dakota.

"Excluded IP Assets" shall have the meaning set forth in Schedule 2 attached hereto.

"Intellectual Property" means (a) trademarks, service marks, trade names, brand names, corporate names, logos, trade dress or other source identifiers or indicia of goods or services, whether registered or unregistered, and all registrations and applications for registration of such, including intent-to-use applications, all issuances, extensions and renewals of such registrations and applications and the goodwill connected with the use of and symbolized by any of the foregoing; (b) internet domain names, whether or not trademarks; registered in any top-level domain by any authorized private registrar or Governmental Authority; (c) original works of authorship in any medium of expression, whether or not published, all copyrights (whether registered or unregistered), all registrations and applications for registration of such copyrights, and all issuances, extensions, restorations, reversions and renewals of such registrations and applications; (d) all know-how, trade secrets, and confidential or proprietary information, however documented and in whatever form, whether in writing, orally, electronically, optically, magnetically, or otherwise, including, without limitation, product specifications, data, charts, know-how, manufacturing know-how, formulae, confidential statements of formula, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, past, current or planned manufacturing methods, processes, equipment, materials, training, controls, or quality, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, client and customer lists and files, historical, current and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, and publications; (e) patented and patentable designs and inventions, all design, plant and utility patents, letters patent, utility models, pending patent applications and provisional applications and all issuances, divisions, continuations, continuations-in-part, reissues, extensions, reexaminations and renewals

of such patents and applications; (f) any and all computer programs, including operating system and applications software, implementations of algorithms and program interfaces, whether in source code or object code form, databases and all documentation relating to the foregoing, including user manuals relating to the foregoing, in each case whether owned or licensed; and (g) all rights to sue and recover and retain damages, costs and attorneys' fees for past, present and future infringement and any other rights relating to any of the foregoing.

"IP Assets" means the Intellectual Property owned by ASSIGNOR that is primarily related to the Business including without limitation the trademarks listed in Schedule 1(a) attached hereto, the patents and patent applications listed in Schedule 1(b), and the domain name listed in Schedule 1(c), but excluding the Excluded IP Assets identified in Schedule 2. ASSIGNOR and ASSIGNEE intend that the definition of "IP Assets" as used herein be the same as the definition of "Purchased Intellectual Property" used in the Asset Purchase Agreement ("APA") dated March 21, 2014 between ASSIGNOR, ASSIGNOR's Affiliates, and ASSIGNEE.

ASSIGNOR hereby covenants that it has the full right to convey the entire interest herein assigned, and that it has not executed, and will not execute, any agreement in conflict with this Intellectual Property Assignment.

ASSIGNOR hereby agrees to execute without further consideration any further documents and instruments which may be necessary, lawful and proper to secure to ASSIGNEE its interest and title in the aforementioned IP Assets.

ASSIGNOR hereby further covenants and agrees that it will communicate to ASSIGNEE any and all facts known to it respecting said IP Assets, and testify in any legal proceeding, sign all lawful papers, execute and deliver all papers and take any actions that may be necessary or desirable to perfect the title to any of the IP Assets.

ASSIGNOR does hereby authorize and request the Director of the United States Patent and Trademark Office and directors of equivalent foreign intellectual property offices, to issue any and all letters patent, trademark registrations, or similar rights which may be granted upon said IP Assets, or any parts thereof, when granted, to said ASSIGNEE.

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IN TESTIMONY WHEREOF, I hereunto set my hand this 21<sup>st</sup> day of MARCH, 2014.

OMS Investments, Inc. (ASSIGNOR)

By: [Signature]

Name: Luis A. Rodriguez

Title: Assistant Secretary

County of Orange )  
 ) ss:  
State of California )

On this 21 day of March, 2014, before me, a Notary Public in and for the County and State aforesaid, personally appeared \_\_\_\_\_, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

(SEAL)

*Please see CA All-purpose acknowledgment*

[OMS Signature Page to IP Assignment]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of Orange

On March 21, 2014 before me, Rachel E Stastny, notary public

Date Here Insert Name and Title of the Officer

personally appeared Luis A. Rodriguez

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ ~~they~~ executed the same in ~~his~~ ~~her~~ ~~their~~ authorized capacity(ies), and that by ~~his~~ ~~her~~ ~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Rachel E Stastny, notary public  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer -- Title(s): \_\_\_\_\_

Individual

Partner --  Limited  General

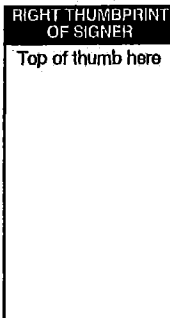
Attorney In Fact

Trustee

Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

Corporate Officer -- Title(s): \_\_\_\_\_

Individual

Partner --  Limited  General

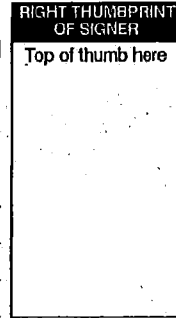
Attorney In Fact

Trustee

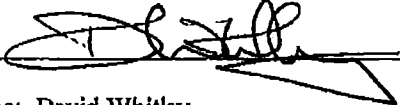
Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Global Harvest Foods, Ltd. (ASSIGNEE)

By: 

Name: David Whitley

Title: President and Chief Executive Officer

Date: March 21, 2014

[GHF Signature Page to IP Assignment]

**SCHEDULE 1  
IP ASSETS**

**(a) United States Trademarks**

Country	Trademark	Status	Registration No.	Registration Date
U.S.	APPLE CRISP	Registered	3,586,840 Int'l Class 31 Wild bird food	03/10/2009
U.S.	BERRY PUNCH	Registered	3,554,141 Int'l Class 31 Wild bird food	12/30/2008
U.S.	BIRD SMART	Registered	3,674,091 Int'l Class 31 Wild bird food	08/25/2009
U.S.	BIRDWATCHERS' BLEND	Registered	3,645,562 Int'l Class 31 Wild bird food	06/30/2009
U.S.	BIRDWATCHERS' BLEND MORNING SONG  	Registered	2,457,069 Int'l Class 31 Wild bird food	06/05/2001
U.S.	CHERRY PIE	Registered	3,586,836 Int'l Class 31 Wild bird food	03/10/2009
U.S.	CLEAN & FREE	Registered	3,630,138 Int'l Class 31 Wild bird food	06/02/2009
U.S.	COUNTRY PRIDE	Registered	3,453,269 Int'l Class 31 Wild bird food	06/24/2008
U.S.	DOUGH-NUT	Registered	3,586,838 Int'l Class 31 Wild bird food	03/10/2009
U.S.	JAZZBERRY	Registered	3,587,073 Int'l Class 31 Wild bird food	03/10/2009
U.S.	MORNING SONG	Registered	3,714,918 Int'l Class 31 Wild bird food	11/24/2009
U.S.	MORNING SONG WILD BIRD FOOD  	Registered	2,255,270 Int'l Class 31 Wild bird food	06/22/1999



Country	Trademark	Status	Registration No.	Registration Date
U.S.	NO-TOUCH	Registered	3,586,839 Int'l Class 21 Bird feeders	03/10/2009
U.S.	NUTRITHRIVE	Registered	4,299,098 Int'l Class 31 Wild bird food	03/05/2013
U.S.	NUTTY SAFARI	Registered	3,553,092 Int'l Class 31 Wild bird food	12/30/2008
U.S.	ORANGE SLICE	Registered	3,586,837 Int'l Class 31 Wild bird food	03/10/2009
U.S.	PUMPKIN DELIGHT	Registered	3,553,072 Int'l Class 31 Wild bird food and small animal feed	12/30/2008
U.S.	RAISIN CRUNCH	Registered	3,553,093 Int'l Class 31 Wild bird food	12/30/2008
U.S.	SAVE THE SONG BIRDS 	Registered	4,209,315 Int'l Class 41 Educational services, namely, developing curriculum for others in the field of wildlife and wildlife preservation and conservation and distribution of educational materials in connection therewith	09/18/2012
U.S.	SAVE THE SONG BIRDS 	Registered	4,209,316 Int'l Class 31 Wild bird food	09/18/2012
U.S.	SONGBIRD GARDEN	Registered	3,597,939 Int'l Class 31 Wild bird food	03/31/2009
U.S.	SONGBIRD SELECTIONS	Registered	3,441,928 Int'l Class 31 Wild bird food	06/03/2008
U.S.	SONGBIRD'S CHOICE 	Registered	2,801,111 Int'l Class 31 Wild bird food	12/30/2003

Country	Trademark	Status	Registration No.	Registration Date
U.S.	SUREFRESH	Registered	3,553,118 Int'l Class 20 Plastic bag closures sold as an integral component of packaged wild bird food	12/30/2008
U.S.	TRAIL MIX	Registered	3,553,091 Int'l Class 31 Wild bird food	12/30/2008

(b) United States Patents and Applications

Country	Title	Status	App. No.	Filing Date yy/mm/dd	Publication No. and Date yy/mm/dd
U.S.	Regional Wild Bird Food Mixtures	Pending	13/250,433	2011/09/30	2012/0117004 2012/05/12
U.S.	Regional Suet Compositions	Expired Provisional	61/582,006	2011/12/30	N/A
U.S.	Regional Suet Compositions	Pending	13/730,238	2012/12/28	2013/0171291 2013/07/04

(c) Domain Names

Domain Name	Registrar	Status
morningsong.com	OMS Investments, Inc.	Expires: 11/30/2014

**(d) Registered United States Copyrights**

*None*

**(e) Software**

*None*

**SCHEDULE 2**  
**EXCLUDED IP ASSETS**

The following assets ("Excluded IP Assets") are excluded from the IP Assets. ASSIGNOR and ASSIGNEE intend that the definition of "IP Assets" as used herein be the same as the definition of "Purchased Intellectual Property" used in the Asset Purchase Agreement ("APA") dated March 21, 2014 between ASSIGNOR, ASSIGNOR's Affiliates, and ASSIGNEE. Capitalized terms used herein and not defined in this Intellectual Property Assignment shall have the meanings defined in the APA.

**Excluded IP Assets:**

1. All Intellectual Property not related exclusively to the Business (except, to the extent expressly identified as a Purchased Asset, Intellectual Property that is used exclusively in Seller's business of manufacturing and selling wild bird food in both the United States and Canada which is primarily related to the Business (and secondarily to the Canadian business)), including without limitation, the SCOTTS® Marks;
2. The SCOTTS SONGBIRD SELECTIONS® Marks; and
3. Any other rights of ASSIGNOR or its Affiliates set forth in Section 2.01(b) of the APA.