No. 7200122

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Ferry-Morse Seed Company

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF seventeen YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

SWEETPEA

'Jet-Set Kilkarney'

In Testimony Whereof, *I have hereunto set my hand and caused the seal of the* Plant Variety Protection Office *to be affixed at the City of* Washington *this* 27th *day of* June *in the year of our Lord one thousand nine hundred and* seventy-five

Attest:

Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Secretary of Agriculture

FORM GR-470
(12-15-72)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

FORM APPROVED
OMB NO. 40-R3712

REVISED APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: *See Reverse.*

1. VARIETY NAME OR TEMPORARY DESIGNATION JET-SET KILLARNEY	2. KIND NAME Sweet Pea	FOR OFFICIAL USE ONLY PV NUMBER 72122
3. GENUS AND SPECIES NAME Lathyrus odoratus	4. FAMILY NAME *(Botanical)* Leguminosae	FILING DATE 4/5/72 TIME 11:30 (A.M.) P.M.
	5. DATE OF DETERMINATION 5/13/71	FEE RECEIVED $ 250 $ 250 $ 250 BALANCE DUE $ — $ — $ —
6. NAME OF APPLICANT(S) Ferry-Morse Seed Co. David G. Lemon Breeder	7. ADDRESS *(Street and No. or R.F.D. No., City, State, and ZIP Code)* P.O. Box 100 111 Ferry-Morse Way Mountain View, California 94040	8. TELEPHONE AREA CODE AND NUMBER (415) 967-6973
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: *(Corporation, partnership, association, etc.)* Corporation	10. STATE OF INCORPORATION California	11. DATE OF INCORPORATION April 7, 1969

12. Name and mailing address of applicant representative(s), if any, to serve in this application and receive all papers:

Donald Brondyke, Executive Vice-President
Ferry-Morse Seed Co.
P.O. Box 100 111 Ferry-Morse Way
Mountain View, California 94040

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

[X] 13A. Exhibit A, Origin and Breeding History of the Variety *(See Section 52 of the Plant Variety Protection Act.)*

[X] 13B. Exhibit B, Botanical Description of the Variety

[X] 13C. Exhibit C, Objective Description of the Variety

[X] 13D. Exhibit D, Data Indicative of Novelty

[X] 13E. Exhibit E, Statement of the Basis of Applicant's Ownership

14A. Does the applicant(s) specify that seed of this variety be sold by variety name only as a class of certified seed? *(See Section 83(a). (If "Yes," answer 14B and 14C below.)* [ ] YES [X] NO

14B. Does the applicant(s) specify that this variety be limited as to number of generations? [ ] YES [X] NO

14C. If "Yes," to 14B, how many generations of production beyond breeder seed? [ ] FOUNDATION [ ] REGISTERED [ ] CERTIFIED

The applicant declares that a viable sample of basic seed of this variety will be deposited upon request before issuance of a certificate and will be replenished periodically in accordance with such regulations as may be applicable.

The undersigned applicant(s) of this sexually-reproduced novel plant variety believes that the variety is distinct, uniform, and stable as required in Section 41 and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Applicant is informed that false representation herein can jeopardize protection and result in penalties.

(revised) 9/4/74
(DATE)

A V Brondyke
(SIGNATURE OF APPLICANT)
Executive Vice President

(DATE)

(SIGNATURE OF APPLICANT)

RECEIVED SEP 9 1971 DEPARTMENT

INSTRUCTIONS

GENERAL: Send an original copy of the application, exhibits and $250.00 fee to U.S. Dept. of Agriculture, Agricultural Marketing Service, Grain Division, 6525 Belcrest Road, Hyattsville, Maryland 20782. (See Section 180.175 of the regulations and rules of practice.) Retain one copy for your files. All items on the face of the form are self-explanatory unless noted below.

ITEM

5 Insert the date the applicant determined that he had a new variety based on the definition in Section 41 (a) of the Act and decision is made to increase the seed.

13a First, give the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method. Second, give the details of subsequent stages of selection and multiplication. Third, indicate the type and frequency of variants during reproduction and multiplication and state how these variants may be identified. Fourth, provide evidence on stability.

13b First, give any special characteristics of the seed and of the plant as it passes through the seedling stage, flowering stage and the fruiting stage. Second, describe the mature plant and compare it with a similar commercial variety grown under the same conditions, and indicate the differences.

13c A supplemental form will be furnished by the PVPO to describe in detail a variety for each kind of seed.

13d Provide complete data indicative of novelty. Seed and plant specimens or photographs of seed and plant comparisons clearly indicating novelty may be submitted. Seeds submitted may be sterile.

13e Indicate whether applicant is the actual breeder, the employer of the breeder, the owner through purchase or inheritance, etc.

72122

VARIETY: SWEET PEA JET SET KILLARNEY
(REVISED) EXHIBIT A: ORGIN AND BREEDING HISTORY OF THE VARIETY

The original cross was made in 1960 between our Super Giant Rose Pink (now Royal Rose Pink) 54/60 and Pygmy White Seeded White. In 1962, a rose-pink selection for the determinate type was made under the number 6561/62. This was grown again in 1963 when the first Salmon-Pink plants showed up, and a selection was made under the number 537A/63. Further single plant selections were made in 1964, 1965, and a mass selection was made in 1966. This was further increased in 1967 and 1968, and we are now holding 530 pounds of stock seed of this variety.

No variants were observed in 1973 production fields, but strong winds caused a mechanical mixture with Jet Set St. Moritz before threshing and 4% cream mixtures were removed from the 1974 production field.

Revised 9/16/74

72122

VARIETY: SWEET PEA JET SET KILLARNEY
(REVISED) EXHIBIT B: BOTANICAL DESCRIPTION OF THE VARIETY

Seeds are brown and typical of most Sweet Pea varieties. Growth is determinate type, and the height of the plants in California is 27 inches. In the open, rows are 69 inches in width. Flower stems are longer than other determinate vined Sweet Peas - 8.7 inches. Flowers are also larger than existing determinate vined varieties - 2.2 inches in diameter and almost duplex in appearance. Color is salmon pink on a cream ground.

Revised 9/16/74

72122

VARIETY: Sweet Pea Jet Set Killarney

(REVISED) EXHIBIT D: Data Indicative of Novelty

Jet Set Killarney most closely resembles the variety Knee-Hi San Francisco, from which it differs in having 1½-2" longer flower stems and ¼-½" wider flowers. Killarney also has thicker flower stems than Knee-Hi San Francisco.

Revised 12/9/74

EXHIBIT "E"

Plant Variety Protection Application

No: 72122

ASSIGNMENT

I, DAVID G. LEMON, agree and hereby do transfer and assign to FERRY-MORSE SEED COMPANY all of my rights, title, and interest in and to that certain variety namely, SWEET PEA - JET-SET KILLARNEY, for which application for Plant Variety Protection Certificate has been filed. This agreement shall be binding on my administrators, successors and assigns.

In Witness Whereof, I have executed this agreement this 11th day of January, 1973.

BREEDER

David G. Lemon

12/72

ASSIGNMENT OF INTELLECTUAL PROPERTY

WHEREAS, HARRIS MORAN SEED COMPANY, a corporation duly organized and existing under the laws of the State of Maryland, having its principal place of business at 4511 Willow Road, Suite 3, Pleasanton, California 94588 ("**Assignor**"), has, pursuant to that certain Bill of Sale and Assignment dated as of June 30, 1997, transferred to FERRY-MORSE SEED COMPANY (CALIFORNIA), a corporation duly organized and existing under the laws of the State of California, having its principal place of business at 555 Codoni Avenue, P.O. Box 4938, Modesto, California 95352-4938 ("**Assignee**"), all of the intellectual property Assignor had adopted, used and was using as of the effective date of this Assignment, including without limitation, the intellectual property represented by the United States Plant Variety Protection Certificates of Assignor identified on Schedule A hereto (collectively, the "**Property**"); and

WHEREAS, on the date hereof, Assignee has changed its name to "Harris Moran Seed Company";

NOW, THEREFORE, effective by this instrument as of the close of business on June 30, 1997, and for good and valuable consideration, receipt of which is hereby acknowledged, Assignor hereby assigns to Assignee any and all right, title and interest worldwide in and to the Property and any and all recordations thereof, including, but not limited to, the use of the Property in any manner, all benefit of any and all prior use of the Property, and any and all rights to initiate claims or proceedings for past, present or future infringements of Assignor's rights, title and interest in and to the Property.

Dated: as of June 30, 1997

HARRIS MORAN SEED COMPANY

By: _____
Philip Ashcraft, President

NEWY01A:171511:1:09/26/97
26757-1

A490370

ENDORSED
FILED
In the office of the Secretary of State
of the State of California

JUN 30 1997

BILL JONES, Secretary of State

CERTIFICATE OF AMENDMENT

OF THE

ARTICLES OF INCORPORATION

OF

FERRY-MORSE SEED COMPANY (CALIFORNIA)

(a California corporation)

To the Secretary of State
State of California

Pursuant to the provisions of the General Corporation Law of the State of California, the undersigned officers of FERRY-MORSE SEED COMPANY (CALIFORNIA), a California corporation (the "**Corporation**"), do hereby certify as follows:

1. The name of the Corporation is Ferry-Morse Seed Company (California).

2. Article One of the Corporation's Articles of Incorporation, which relates to the name of the Corporation, is hereby amended in its entirety to read as follows:

   One. The name of this Corporation is:
   HARRIS MORAN SEED COMPANY.

3. The amendment herein provided for has been approved by the Corporation's Board of Directors.

4. The amendment herein provided for was approved by the written consent of the Corporation's sole shareholder in accordance with the provisions of Section 902 of the California General Corporation Law. The total number of outstanding shares of the corporation is 5,000.

IN WITNESS WHEREOF, each of the undersigned does hereby declare under the penalty of perjury that he or she signed the foregoing Certificate of Amendment as of June 30,

1997, in the Town of Modesto, State of California, in the official capacity set forth beneath his or her signature and that the statements set forth in this certificate are true of his or her own knowledge.

Yves Queste, President

Helen Andritsakis, Secretary

NEWY01A:163794:1:06/25/97
26757-1

A493976

State of California

SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

2 PAGES

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

JUN 30 1997

THE GREAT SEAL OF THE STATE OF CALIFORNIA

EUREKA

Bill Jones

Secretary of State

SEC/STATE FORM CE-107 (REV. 4/97)

97 35085

FORM APPROVED. OMB NO. 40-R3712

FORM GR-470-25
(11-15-73)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

EXHIBIT C
(Sweetpea)

OBJECTIVE DESCRIPTION OF VARIETY

SWEETPEA (*LATHYRUS SPP.*)

NAME OF APPLICANT(S)
David G. Lemon, Breeder

ADDRESS (*Street and No. or R.F.D. No., City, State, and ZIP Code*)
Ferry-Morse Seed Company
P.O. Box 100 111 Ferry-Morse Way
Mountain View, California 94040

FOR OFFICIAL USE ONLY

PVPO NUMBER
72122

VARIETY NAME OR TEMPORARY DESIGNATION
JET SET KILLARNEY

Place the appropriate number that describes the varietal character of this variety in the boxes below.
Where two blank boxes are to be completed, place a zero in first box when number is 9 or less, i.e. [0][9].

1. SPECIES:

[1] 1 = ANNUAL (Odoratus) 2 = PERENNIAL (Latifolius)

2. TYPE

[2] 1 = DWARF OR BUSH < 35 CM. 2 = SEMITALL 35 - 75 CM. 3 = TALL CLIMBING > 75 CM.

3. PLANT

[6][8] CM. TALL

1 [7][4] CM. WIDE, IF BUSH

Stem:

1 [4][4] MM. WIDTH BETWEEN WING EDGES AT FIRST AUXILIARY PEDUNCLE

[2][0] NO. OF INTERNODES ON MAIN STEM

Leaflet:

[1] 1 = LANCEOLATE 2 = ELLIPTIC 3 = OVATE

[9][7] MM. LONG

[9][7] MM. WIDE

[1] Margin: 1 = UNDULATE 2 = FLAT

[1] Margin: 1 = ENTIRE 2 = SERRATE 3 = INCISED 4 = LOBED

Stipule:

[1] 1 = < 1/3 LEAF LENGTH 2 = > 1/3 LEAF LENGTH

[1] 1 = NOT BRACT-LIKE 2 = BRACT-LIKE

Tendril:

[3] 1 = ABSENT 2 = NOT CLINGING 3 = CLINGING

[1] 1 = GREEN 2 = OTHER COLOR (Specify)

4. FLOWER:

[2] Class: 1 = EARLY WINTER FLOWERING 2 = SPRING (Cuthbertson) 3 = SUMMER

[1] Type: 1 = SINGLE 2 = OCCASIONALLY DOUBLE 3 = UNIFORMLY DOUBLE

[9][0] NO. DAYS FROM EMERGENCE TO ANTHESIS (Field grown)

Penduncle:

[2][2] CM. LENGTH (to first flower)

[0][1] NO. PER LEAF AXIL

[0][5] NO. OF FLOWERS PER PANICLE

[1] 1 = STRAIGHT 2 = SLIGHTLY CURVED 3 = GOOSENECK

Standard:

[1] 1 = OPEN 2 = HOODED 3 = SNAPDRAGON

[2] 1 = FLAT 2 = WAVED 3 = CORRUGATED

[5][5] MM. WIDE

[3][6] MM. LONG

Apex:

[2] 1 = ACUTE 2 = OBTUSE

Apex:

[1] 1 = ENTIRE 2 = DEEP CLEFT 3 = NOTCHED

Sides:

[1] 1 = ENTIRE 2 = SERRATE 3 = CRENATE

Sides:

[2] 1 = NARROW 2 = BROAD