

LIBERTY AND TRAIT AGREEMENT
Void if Grower makes any changes to the LTA

LIBERTY AND TRAIT AGREEMENT

This **Liberty and Trait Agreement** (also the "LTA") is between **BASF Canada Inc.** (also "BASF") and the **Grower**. BASF and the Grower agree as follows:

Definitions

1. Within the Liberty and Trait Agreement there are words and phrases that have specific definitions that apply to the entire LTA. These definitions are set out in Schedule 1 or the body of the LTA. For convenience only, defined words and phrases are highlighted in bold emphasis where first used in the LTA.

Use Conditions

2. The Grower shall not possess or use **LibertyLink Seed** and/or **Liberty Herbicide** unless at the time of purchase, possession or use all of the following conditions ("**Use Conditions**") are met:
 - a. the Grower signs, unaltered, the LTA, obtains a LTA number assigned by BASF and continually complies with the LTA;
 - b. each **Partner** of the Grower, if any, signs the **Partner LTA**, obtains a LTA number assigned by BASF and continually complies with the Partner LTA;
 - c. where the LibertyLink Seed is **BASF Licensed Seed**, the Grower also signs, unaltered, the **Licensor Grower Agreement**, and continually complies with the Licensor Grower License; and
 - d. the Grower purchases, directly or through Partners, LibertyLink Seed and/or Liberty Herbicide from **Authorized Retailers**.

Limited Licenses Respecting Traits and Liberty Herbicide

3. **Traits**: If the Grower fulfills the Use Conditions, BASF grants the Grower a license under the **Patents** to use Traits within the LibertyLink Seed purchased from Authorized Retailers, strictly in accordance with the LTA, including the following terms:
 - a. the LibertyLink Seed shall be used by the Grower only to plant a commercial crop in Canada (the "**Permitted Crop**");
 - b. the harvest from the Permitted Crop ("**Harvested Grain**") shall be sold or otherwise disposed of only into a grain consumption system, to a commercial processor for processing or for legal grain export for consumption or processing;
 - c. planting or growing a crop from Harvested Grain is prohibited;
 - d. use of LibertyLink Seed, Harvested Grain or a Permitted Crop for breeding or other reproductive purposes, or for research or variety comparison trials without the prior written authorization of BASF, is prohibited;
 - e. providing another individual or entity with Harvested Grain or Permitted Crop for use as seed for planting, for research or variety comparison trials, or for breeding or other reproductive purposes, is prohibited;
 - f. providing LibertyLink Seed to an individual or entity who is not a Partner of the Grower is prohibited; and
 - g. use of volunteer seed or plants resulting from the crop grown from LibertyLink Seed for any purpose whatsoever without the prior written authorization of BASF is prohibited.
4. **Liberty Herbicide**: If the Grower fulfills the Use Conditions, BASF grants the Grower a license to use Liberty Herbicide purchased from Authorized Retailers on the Permitted Crop and/or an **Authorized Crop**, strictly in accordance with the LTA, including the following terms:
 - a. Liberty Herbicide shall be used only in accordance with the label of the Liberty Herbicide and only on the Permitted Crop and/or Authorized Crop; and
 - b. providing Liberty Herbicide to an individual or entity who is not a Partner of the Grower is prohibited.

Grower and Partner Information

5. BASF requires and BASF and **BASF Agents** will use **Grower and Partner Information** to assist in the administration of the LTA and **Risk Share Programs**, to assess the Grower and Partner's compliance with the LTA and Licensor Grower Agreements and to enforce BASF, **Licensed Seed Company** and **Licensor** intellectual property rights associated with LibertyLink Seed, Liberty Herbicide and/or Traits. BASF shall use the Grower and Partner Information in compliance with applicable privacy legislation in Canada. BASF may use affiliated companies in the United States of America and Europe for certain information technology services including the housing of server technology that could be a repository for certain Grower and Partner Information. BASF may also use third party cloud-based services and applications to store Grower and Partner Information. For further information, please contact the BASF privacy officer using the contact information outlined below.

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6. During the term of the LTA, the Grower will provide BASF and BASF Agents with all Grower and Partner Information determined by BASF to be required for the purposes described in section 5. The Grower, directly and on behalf of all **Related Parties** and Partners, consents to the collection, use and disclosure of all Grower and Partner Information by BASF and BASF Agents for the purposes described in section 5.
7. Authorized Retailers will be required to provide BASF and other BASF Agents with Grower and Partner Information associated with the Grower and Partner purchases of LibertyLink Seed and Liberty Herbicide and to view information possessed by BASF and other BASF Agents (including Grower and Partner names and the LTA number) to verify that the Grower and Partners have entered into the LTA and, as applicable, the Licensor Grower Agreement, before selling the Grower Liberty Herbicide or LibertyLink Seed.
8. The consents provided by the Grower in section 6 are fundamental terms of the LTA and any revocation of such consents shall be deemed to be an immediate termination by the Grower of the LTA.

Audits

9. During the term of the LTA and for 3 years after the termination of the LTA, BASF and BASF Agents shall have the right to conduct **Audits** of the Grower and Partners as may be determined by BASF in its sole discretion. The Grower irrevocably agrees to the conduct of Audits and to fully and in good faith participate in and take necessary steps to allow and facilitate the conduct of Audits.

Term and Termination

10. The LTA shall come into force when signed by both the Grower and BASF, but shall then be effective from the date on which it was signed by the Grower and shall continue indefinitely until terminated according to the LTA.
11. The LTA can be immediately terminated:
 - a. by the Grower on written notice to BASF, without cause or reason;
 - b. by BASF:
 - i. on written notice to the Grower upon a breach of the LTA by the Grower or the breach of a Partner LTA by a Partner;
 - ii. in accordance with section 33 of the LTA; or
 - iii. with the agreement of the Grower.

If either the Grower or BASF terminate the LTA, sections 12 and 13 apply.

12. The limited licenses granted pursuant to sections 3 and 4 shall immediately cease upon any termination of the LTA by either the Grower or BASF. For greater certainty, the Grower shall have no rights or license from BASF to purchase or use LibertyLink Seed, Liberty Herbicide or Traits (including in relation to LibertyLink Seed, a Permitted Crop, a Harvested Grain or an Authorized Crop).
13. Notwithstanding the termination of the LTA by either the Grower or BASF, the following terms of the LTA shall survive and continue to be in full force and effect: sections 5 through 9, 12 through 24, 26, 27, 29 through 34, and 36 through 43.

BASF Remedies

14. If the Grower breaches the LTA, or if a Partner breaches a Partner LTA:
 - a. the LTA will terminate immediately;
 - b. the Grower will pay to BASF the sum determined in accordance with section 15; and
 - c. the Grower will pay BASF all the costs of any associated Audit and legal costs incurred by BASF.
15. The Grower will account to BASF for all revenue, if any, derived directly or indirectly by the Grower and/or Partners from the use (including any disposition) of any grain of the Grower and/or Partners containing Traits and the use of Liberty Herbicide and pay to BASF the greater of:
 - a. all profits made directly or indirectly by the Grower and all Partners from the use (including any disposition) of any grain containing a Trait and the use of any Liberty Herbicide; or
 - b. the costs and damages incurred by BASF as a result of any breach by the Grower of the LTA or any breach by Partners of Partner LTAs.
16. In addition to the remedies described in sections 14 and 15, BASF shall be entitled to **Injunctive Remedies** against the Grower and Partners and all other remedies and damages available to BASF at law or equity including any indirect, consequential, special, incidental, exemplary and punitive damages.

Warranties

17. BASF's exclusive warranties are:
 - a. with respect to BASF Seed, that at the time of purchase permitted by the LTA, the BASF Seed
 - i. conforms to the label and tags attached on the bag of BASF Seed within the tolerances prescribed by law when used as recommended;
 - ii. is tolerant to Liberty Herbicide registered for use on the BASF Seed when applied in accordance with the label of the Liberty Herbicide; and

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- iii. if BASF Licensed HT Seed, is tolerant to the Alternative System Herbicide registered for use on the BASF Licensed HT Seed when applied in accordance with the label of the Alternative System Herbicide; and
- b. with respect to Liberty Herbicide, that at the time of purchase of Liberty Herbicide permitted by the LTA, the Liberty Herbicide shall meet the chemical and physical specifications identified on the Liberty Herbicide label.
- 18. BASF makes no warranties whatsoever respecting LibertyLink Seed, other than BASF Seed, including no warranties respecting Traits within LibertyLink Seed that is not BASF Seed.
- 19. The entire liability of BASF and its Authorized Retailers for breach of any warranty, breach of the LTA and/or any claim or cause of action of any nature or kind relating to, directly or indirectly, the sale, other provision or use of LibertyLink Seed or Liberty Herbicide, is limited to the purchase price of the BASF Seed in issue (if applicable) and the purchase price of Liberty Herbicide in issue, or replacement of the BASF Seed (if applicable) or Liberty Herbicide, at BASF's sole discretion. BASF shall not be liable on any basis whatsoever for or in association with Alternative System Herbicide other than as identified for BASF Seed in section 17 of the LTA. BASF and Authorized Retailers shall not be liable on any basis whatsoever for any indirect, consequential, special, incidental, exemplary or punitive damages with regard to LibertyLink Seed, Liberty Herbicide, Alternative System Herbicide, Traits or the LTA.
- 20. As a condition to BASF or Authorized Retailer liability respecting LibertyLink Seed or Liberty Herbicide, the Grower must provide BASF (and BASF Agents as directed by BASF) the opportunity to conduct an in-field inspection, take samples and conduct tests associated with the LibertyLink Seed and/or Liberty Herbicide not later than 30 days after the claimed defect was or ought to have been identified.

Intellectual Property

- 21. LibertyLink Seed and Traits are protected under the Patents and/or Licensor Patents. The LTA does not grant or provide to Growers or Partners any intellectual property rights associated with LibertyLink Seed, Traits or Liberty Herbicide other than, and to the extent of, the limited licenses described in sections 3 and 4.

Stewardship

- 22. From time to time BASF may communicate in writing to Grower through amendments or schedules to the LTA, Trait and technology use manuals or otherwise, further recommendations on stewardship practices that the Grower shall consider or requirements for stewardship practices that the Grower shall implement ("**Stewardship Communications**"). Stewardship Communications can be communicated by any mode or media including on websites or social media sites operated by BASF and do not need to be communicated through the notice provisions of the LTA. All Stewardship Communications are effective on the dates stated by BASF within the Stewardship Communications and are incorporated into and form part of this LTA.
- 23. Grower acknowledges and agrees that:
 - a. BASF's affiliate BASF Plant Science is a member of Excellence Through Stewardship® ("**ETS**") and BASF Seeds are commercialized in accordance with the ETS Guide for Product Launch Stewardship;
 - b. The biotechnology traits expressed in LibertyLink Seeds have achieved full regulatory authorizations in Canada and certain key export markets with deemed functioning regulatory systems;
 - c. It is a violation of national and international law to move products containing biotechnology traits ("**Products**") across boundaries into nations where import of Products is not permitted;
 - d. Products, including Harvested Grain, must not be exported without all necessary approvals in the importing nation.
- 24. Grower acknowledges and agrees that the LibertyLink Seed and/or Traits may be licensed from or provided by BASF's Affiliate BASF Agricultural Solutions US LLC and subject to the export control and economic sanctions laws and regulations of the United States of America ("**US Export Control Laws**"), potentially including but not limited to the Export Administration Regulations administered by the U.S. Commerce Department's Bureau of Industry and Security ("**BIS**") and various economic sanctions regimes administered by the U.S. Treasury Department's Office of Foreign Asset Controls ("**OFAC**"). Subject to Canadian laws preventing compliance with US Export Control Laws, Grower agrees to comply with US Export Control Laws, inform BASF immediately of any obstacle to such compliance and not, without prior US Government license or other authorization, export, re-export, transfer or sublicense any LibertyLink Seed or Traits or grain directly or indirectly derived from LibertyLink Seed or confidential information regarding LibertyLink Seeds or Traits, either directly or indirectly, to any country that is subject to a comprehensive U.S. trade embargo (as of 2015, Cuba, Iran, North Korea, Sudan, Syria and the Crimea) or any person or entity that is listed on the "Entity List" or "Denied Persons List" maintained by BIS or "Specially Designated Nationals and Blocked Persons List" maintained by OFAC.

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General Terms

25. Neither the LTA nor any sale to the Grower or Partner of LibertyLink Seed and/or Liberty Herbicide grants any right to the Grower or Partner to purchase LibertyLink Seed and/or Liberty Herbicide.
26. Notices under the LTA shall be given in writing and provided by delivery, mail, fax or email to BASF and the Grower using contact information set out on the signature page or to such other address as may be designated from time to time by notice in writing. Notices shall be deemed to have been given on the date on which the notice has been delivered by hand or sent by fax or email, or on the date 7 days after a notice sent by mail.
27. Grower acknowledges and agrees that the nature of the relationship between BASF and the Grower, including by virtue of the LTA, is a business to business relationship and that Canadian federal anti-spam legislation known as "CASL" is not applicable to communications between the Grower and BASF including as contemplated by this LTA. Notwithstanding, the preceding sentence, the Grower, directly and on behalf of all Related Parties and Partners, consents to BASF sending commercial electronic messages to the Grower, Related Parties and Partners related to or associated with this LTA.
28. Other than the Stewardship Communications, the LTA can be amended only by the mutual written agreement of the Grower and BASF or by BASF providing the Grower with 30 days written notice (the "**Amendment Notice Period**") that all or any portion of the LTA shall be amended as directed by BASF on an identified effective date on or after the Amendment Notice Period (a "**BASF Amendment Notice**"). Where a Grower receives a BASF Amendment Notice, the Grower shall either comply with the terms of the LTA as amended or shall terminate the LTA on written notice provided to BASF prior to expiry of the Amendment Notice Period, in which case, sections 12 and 13 apply. BASF on written notice can require the Grower to sign any amended LTA.
29. The LTA shall be governed by the laws of Alberta and applicable federal laws of Canada. The Grower irrevocably attorns to the non-exclusive jurisdiction of the courts of Alberta and federal courts of Canada for determinations of matters respecting the LTA.
30. The terms and conditions of the LTA, together with any pre-printed language on any bag of LibertyLink Seed (including BASF Seed) approved by and applicable to BASF, container of LibertyLink Herbicide and statutorily required tags or labels accompanying such products, shall constitute the entire agreement between BASF, the Grower and any Partner with respect to the subject matters contained in the LTA and supersede all previous communications and agreements between the Grower and BASF in relation to such subject matters. In the event of any conflict or inconsistency between the terms and conditions of the LTA and any pre-printed language described above, the terms and conditions of the LTA shall prevail.
31. The failure of BASF to insist upon the performance of any provision of the LTA shall not be construed as a waiver or relinquishment of BASF's right with respect to such performance or any provision or to future performance of any provision of the LTA.
32. No presumption shall operate in favour of the Grower or BASF as a result of any responsibility that BASF had for drafting the LTA.
33. In the event that any provision or part of a provision of the LTA is held by a court of competent jurisdiction to be unlawful, void, invalid or unenforceable, then at the option of BASF:
 - a. BASF can immediately terminate the LTA, in which case the provisions of sections 12 and 13 apply; or
 - b. the remaining provisions or parts of such provisions shall be and remain in full force and effect and shall be construed as if the unlawful, void, invalid or unenforceable provision had been deleted from the LTA. The Grower shall not assign the LTA to any other individual or entity, in whole or in part. Upon written notice to the Grower, BASF may assign the LTA to any individual or entity, in whole or in part, without the consent of the Grower.
34. Notwithstanding section 3, the Grower and/or Partner shall ensure that any subsequent purchasers, transferees, lessors or lessees of the land(s) on which there are Permitted Crops and/or Authorized Crops (a "Successor") enter into a LTA prior to becoming a Successor.

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Grower

35. If the Grower operates with Partners, the Grower:
 - a. must separately sign and be bound by this LTA; and
 - b. cause each Partner to, and each Partner shall, separately sign and be bound by a Partner LTA.
36. The full name of the Grower is:

Full legal name of legal entity (must include the words Corporation, Limited or Incorporated or their legal derivatives or equivalent suffix) or individual.

 - a. <>
37. If the Grower is an independent legal entity, the following individuals are the principal individuals owning or operating the Grower:
 - a. <>
38. If the Grower is an individual, the other operating names of the Grower's operations, if any, are:
 - a. <>
39. Contact information for the Grower is:
 - a. Address
 - b. Telephone
 - c. Fax
 - d. Email

BASF

40. Contact information for BASF Canada Inc.. is:

500-90 Burnhamthorpe Rd. West, Mississauga, Ontario, Canada, L5B 3C3
Attention: [AgSolutions Customer Care](#)
Fax: 1-800-354-7144
Email: basf@basf-agsolutions.ca

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Acceptance of LTA

41. BASF may accept a LTA signed and delivered by the Grower by facsimile or electronic transmission provided that in any circumstances BASF may require the Grower to provide BASF with a version of the LTA containing the Grower's original signature.

42. The Grower agrees that the Grower has reviewed the LTA in its entirety, and the Grower and BASF agree to be bound by and comply with the terms of the LTA.

GROWER

BASF Canada Inc.

Per:

Per:

Signature of Individual Grower or Individual
Legally
Authorized to Sign

Signature of Individual Signing for BASF
Canada Inc.

Print Name of Signer

Print Name of Signer

Date:

Date:

If faxed or electronically transmitted to BASF by an Authorized Retailer, please print the name and location of the Authorized Retailer and the name of the Authorized Retailer representative faxing or electronically transmitting the LTA.

Authorized Retailer (Business Name)

Authorized Retailer Location

Authorized Retailer Representative

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SCHEDULE 1- DEFINITIONS

The defined words and phrases set out in this Schedule 1 (and singular and plural versions as the context requires) provide the meaning for such words and phrases as used within the LTA:

1. "**Alternative System Herbicide**" means the herbicide formulations containing the active ingredient registered for use on BASF Licensed HT Seed as part of a herbicide tolerant Trait system (other than Liberty Herbicide).
2. "**Audits**" means investigations by BASF and/or BASF Agents into the Grower's and Partners' operations for purposes described in section 5 of the body of the LTA, including without limitation reviewing and copying the Grower's and Partners' books, records, receipts, invoices, electronic transactional information, insurance documents, land and field records, planting records, spraying records and Partner agreements and inspecting, sampling and testing Grower's and Partners' seeds, fields, crops, containers, storage facilities and equipment.
3. "**Authorized Crop**" means a commercial crop in Canada planted using certified corn or certified soybean seed containing Traits that was produced by or for a Licensed Seed Company for sale in Canada and provided to the Grower under or subject to a grower license issued by the Licensed Seed Company with the permission of BASF.
4. "**Authorized Retailers**" means individuals or legal entities that have signed retail agreements with BASF associated with, among other things, LTAs and the sale of LibertyLink Seed and/or Liberty Herbicide, as well as, at the discretion of BASF, any other seller, reseller, distributor or retailer of BASF product.
5. "**BASF Licensed HT Seed**" means BASF Licensed Seed containing a Trait from a Licensor conferring tolerance to an Alternative System Herbicide.
6. "**BASF Licensed Seed**" means BASF Seed containing a Trait from a Licensor (including BASF Licensed HT Seed).
7. "**BASF Seed**" means proprietary certified canola seed or certified soybean seed containing Traits that is produced by or for BASF and marketed under the trademarks of BASF or its affiliated companies (including BASF Licensed Seed).
8. "**BASF Agents**" means Licensed Seed Companies, Authorized Retailers, Licensors, parent, subsidiary and affiliated companies of or to BASF and other entities as designated from time to time by BASF as its agent or as an agent of one or more Licensed Seed Companies, Authorized Retailers or Licensors for the purposes of this LTA.
9. "**Grower**" means the owner of a farming operation that purchases, directly or through a Partner, and uses LibertyLink Seed and/or Liberty Herbicide and must be either an entity with a legally recognized independent existence under Canadian law or an individual.
10. "**Grower and Partner Information**" means transactional information associated with Grower and/or Partner purchases and/or use of LibertyLink Seed and/or Liberty Herbicide, information including personal contact and other information associated with the Grower and Partners participation in the LTA and information of a nature described in the definition of Audits.
11. "**Injunctive Remedies**" means that if the Grower or a Partner infringes any intellectual property rights of BASF (for example using Traits or Liberty Herbicide contrary to the conditional licenses granted by the LTA), or commits any breaches of the LTA, the Grower agrees that:
 - a. BASF will incur irreparable harm that cannot be fully remedied by the payment of monetary damages; and
 - b. BASF shall be entitled to immediate and permanent injunctive relief (including as appropriate specific performance relief) from courts of competent jurisdiction restraining or rectifying any such infringement or breach.
12. "**Liberty Herbicide**" means the herbicide formulations containing the active ingredient glufosinate ammonium that are registered by BASF and marketed under the trademark Liberty.
13. "**LibertyLink Seed**" means all certified canola and certified soybean seed containing Traits (including BASF Seed) that are:
 - a. produced by or for BASF and/or Licensed Seed Companies for sale in Canada to the Grower and/or Partners through Authorized Retailers; and
 - b. required by BASF to be licensed to the Grower under this LTA.
14. "**Licensed Seed Companies**" means legal entities that have signed agreements with BASF or its related companies that, among other things, expressly authorize the legal entities to use certain Traits within seed produced by or for the legal entities for sale in Canada to the Grower and/or Partners.
15. "**Licensors**" means legal entities that have signed agreements with BASF or its related companies that, among other things, expressly authorizes BASF to use certain Traits within BASF Seed, for sale in Canada to the Grower and/or Partners under circumstances where a Licensor Grower Agreement is required to be signed by the Grower and/or Partner.
16. "**Licensor Grower Agreement**" means a Licensor's form of grower license agreement required to be signed between the Licensor and Growers and/or Partners.
17. "**Licensor Patents**" means all patents and patents pending owned, obtained and/or applied for by Licensors or third party in-licensors to Licensors now and in the future in respect to any invention associated with, directly or indirectly, any Trait contained in BASF Seed under which a Licensor Grower Agreement is required from Licensor for the Grower's performance under this LTA, including without limitation Canadian patents.
18. "**Partners**" means any individuals or legal entities engaged with the Grower, jointly or in common, in carrying on a farming business in which costs of, and/or revenue from, the farming business are allocated between the Grower and the Partners.
19. "**Partner LTA**" means an agreement entered into by a Partner in substantially the same terms as this LTA.
20. "**Patents**" means all patents and patents pending owned, obtained and/or applied for by BASF or its parent, subsidiary or affiliated companies or third party in-licensors to BASF now and in the future in respect to any invention associated with, directly or indirectly, any Trait, seed, plant or plant product contained in LibertyLink Seed or crop protection product under which a license is required from BASF for the Grower's performance under this LTA, including without limitation Canadian patents.
21. "**Related Party**" means:
 - a. if the Grower is a corporation, any shareholder, director, officer of the Grower; and
 - b. any person who farms in conjunction or association with or as an employee of the Grower including as applicable any parent, spouse, child or sibling of the Grower.

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22. "**Risk Share Programs**" means crop loss risk sharing programs offered by BASF to Growers from time to time.
23. "**Traits**" means certain genetically determined characteristics or conditions contained in LibertyLink Seed which are the expression of one or more of the inventions described in one or more of the Patents or Licensor Patents.