

## **BAYERVALUE PROGRAM ADDITIONAL TERMS AND CONDITIONS**

### **Application of Terms and Conditions**

1. The BayerValue Program consists of numerous Bayer CropScience Inc. (Bayer) grower programs that are identified by Bayer from time to time as being part of the BayerValue Program. These terms and conditions apply to all such grower programs.
2. Growers must be registered in and comply with all terms of the BayerValue Program to be eligible to participate in and receive benefits under the BayerValue Program.
3. Registration can be completed directly by the grower contacting Bayer or Bayer may in its discretion permit a grower to be signed up by an authorized Bayer or third party representative.
4. The grower must provide Bayer with complete and accurate registration information.
5. Registration in the BayerValue Program automatically enrolls the grower in the present and future BayerValue Programs, unless the grower expressly advises Bayer otherwise or Bayer expressly advises the grower otherwise.

### **Eligible Participants**

6. A grower is:
  - a. an individual sole proprietor actively engaged in producing a crop on land in Canada owned by or leased to such individual sole proprietor for that purpose; or
  - b. a corporation actively engaged in producing a crop on land in Canada owned by or leased to such corporation for that purpose; or
  - c. a partnership (a "Partnership") where the Partnership is a demonstrably distinct farming operation in Canada:
    - i. comprised of only those members of the Partnership ("Partners") engaged in producing a crop on land, or with assets or equipment, that is owned by the Partnership or contributed by the Partners; and
    - ii. distributes all or a portion of revenue, if any, from such crop among Partners.
7. The grower acknowledges and agrees that the relationship between Bayer and the grower and Partners is a business to business relationship and that the grower's and Partner's purchases of Bayer products are as business inputs to the grower's and Partner's farming operations.
8. The BayerValue Program is not available to buying groups or any individual or entity other than a grower as defined above.
9. Where the grower is a Partnership, the grower shall designate a primary contact and in doing so represents that the designed contact is authorized by the Partnership and all Partners to act as agent for and to legally bind the Partnership and all Partners to the terms of the BayerValue Program.
10. Bayer shall be able to conclusively rely on any notice or instructions provided by the grower's designated contact as being legally binding on the Partnership and all Partners.

### **Applicable Sales and Products**

11. Specific BayerValue Programs will be developed by Bayer that are applicable to each crop season (each a "Crop Season").
12. Unless otherwise permitted by Bayer in its sole discretion, growers must be registered prior to **May 1** of the calendar year for a Crop Season to be eligible to receive benefits under the BayerValue Program for that Crop Season.
13. Eligible products for all BayerValue Programs for each Crop Season must be purchased between **October 1** of the year prior to the Crop Season and **September 30** of the Crop Season and used in the applicable Crop Season on the land referenced in the definition of grower and identified by the grower to Bayer.
14. Eligible product must be purchased by the grower at a Bayer approved retail outlet in Canada and used by the grower in the grower's Canadian farming operation. A Bayer approved retail outlet is any retail outlet that purchases product directly from Bayer.
15. Products that have been purchased from retail and then returned or resold are not eligible under the BayerValue Program.

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### **Redemption**

16. The grower is the legal entity or individual that (for the purposes of the BayerValue Program and in relation to Bayer) will be entitled to all benefits under the BayerValue Program earned by the grower and/or Partners through the BayerValue Program.
17. By registering for the BayerValue Program, the grower authorizes Bayer and its agents to automatically process entitlements earned by or available to the grower under the BayerValue Program that are processed by Bayer through the receipt by Bayer of:
  - a. electronic transactional data from suppliers of the grower and/or Partners; or
  - b. proof of purchases of products by and from the grower and/or Partners that are satisfactory to Bayer.
18. Grower will earn or obtain entitlements under the BayerValue Program only where the grower and all Partners qualify for and meet all terms and conditions of the BayerValue Program.
19. Bayer will endeavor to issue payment under the BayerValue Programs by November 1 of each Crop Season, provided that the distributor/retail submits the grower's complete purchase profile via transactional data to Bayer within 60 days prior to Nov 1 of a Crop Season.
20. Bayer takes commercially reasonable efforts to provide for the accuracy of payments. As all calculations for total rebates are based on the purchase information supplied at a given point in time, adjustments to these purchase credits are always a possibility due to a variety of factors not necessarily under the control of Bayer. Therefore, Bayer reserves the right to credit or debit a grower's account or subsequent years' accounts based on all information supplied as of the date upon which a grower's rebate was calculated and cheque printed, and, any information supplied subsequent to this date.
21. For any debits owing to the grower from a Crop Season that is outstanding as of March 31 of the next Crop Season, Bayer will endeavor to pay such amounts within 30 days. Any debits incurred after that date will be processed as part of the then current Crop Season.
22. For any credits to Bayer from a Crop Season outstanding as of March 31 of the next Crop Season, the grower at Bayer's election will refund the amount owing to Bayer or allow Bayer to deduct the amount from any other BayerValue payment due or that come due.
23. If a grower has discrepancies to report respecting a payment received, the grower must report these within 60 days of receiving payment, after which date the grower will agree that Bayer shall not be obligated to issue any credit for or provide payment respecting any discrepancies. Growers can call Bayer toll-free at 1-888-283-6847 or email us at [rebate.fulfillment@bayercropscience.com](mailto:rebate.fulfillment@bayercropscience.com) respecting potential discrepancies.
24. It is the grower's responsibility to have these rebate cheques cashed appropriately within a reasonable time of receiving these cheques to avoid "stale-dating" (typically 6 months after print date). Replacement cheques will not be provided nor owed to the grower.
25. Notwithstanding anything in this BayerValue Program, a grower will be deemed not to have earned and shall forfeit:
  - a. any entitlements under this BayerValue Program in a Crop Season unless and until the value of a grower's entitlement exceeds \$10 that Crop Season;
  - b. any adjustments to entitlements under this BayerValue Program in a Crop Season, where following a payment of entitlements to a grower for that Crop Season, the value of adjustments to entitlements for that Crop Season do not exceed \$10.
26. Notwithstanding anything in this BayerValue Program, Bayer may delay payment of any entitlements earned under the BayerValue Program until the cumulative amount owing to a grower exceeds certain minimal amounts determined by Bayer CropScience from time to time in its sole discretion. Bayer shall endeavor to make payment of such earned entitlements at the next scheduled issuance of BayerValue payments.

### **Payee Directions**

27. The grower shall be required to direct Bayer to pay all entitlements earned or obtained by grower under the BayerValue Program to the payee(s) identified at the time of registration (the "Payee").

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28. All BayerValue Program entitlements paid by Bayer to the Payee shall satisfy any and all obligations of Bayer to pay such entitlements to grower and/or Partners and grower shall be required to indemnify and shall hold Bayer harmless from making such payments as directed.

**Transactional Information**

29. Bayer will verify all transactions. Where payments are made using transactional data as supplied by the distributor/retailer, payment will only be made on data that has been validated by such distributor/retailer.
30. The grower acknowledges that Bayer may contact the distributor/retail from which the grower purchased product relevant to the BayerValue Program to confirm and obtain the particulars for and documentation of such sale(s).
31. Grower agrees that Bayer and its agents may utilize electronic means and technology (computer systems, internet applications, etc.) in association with carrying out BayerValue Program.
32. Where approved distributor/retail does not supply Bayer with required information, grower shall submit copies of invoices or receipts for all applicable product purchases prior to any BayerValue Program payment.

**Consents, Use of Information and Privacy**

33. By registering for the BayerValue Program, the grower consents to Bayer's and/or its agents' collection, use and disclosure of information including transactional data for purchases of all and any Bayer CropScience products or other products and any associated personal information, for the following required purposes (the "Required Purposes"):
- a. the grower's participation in, and Bayer's and/or its agents' assessing and processing entitlements under, the BayerValue Program;
  - b. investigating and acting on violations of the BayerValue Program and/or Bayer's intellectual property rights.
34. By registering for the BayerValue Program, the grower consents to Bayer's and/or its agents' collection, use and disclosure of information including transactional data for purchases of all and any Bayer products and other products and any associated personal information, for the following other purposes ("Other Purposes"):
- a. the grower's participation in, and Bayer's and/or its agents' assessing and processing entitlements under, other marketing programs that are not part of the BayerValue Program ("Other Grower Programs");
  - b. Bayer better understanding a grower's needs and preferences in order to develop and offer information, services and products by Bayer, Bayer Inc., Bayer's agents, or Bayer's authorized distributors/retailers or other business connections.
35. The terms and conditions of the BayerValue Program shall apply to Other Grower Programs unless and to the extent otherwise determined and communicated by Bayer. In the event of any inconsistency between the terms and conditions of the BayerValue Program and of the Other Grower Programs, the terms and conditions of the BayerValue Program shall prevail unless and to the extent otherwise determined and communicated by Bayer.
36. Grower acknowledges and agrees that Bayer and its agents may communicate with the grower by electronic messages for commercial activities associated with carrying out the BayerValue Program and any purposes contemplated under the terms and conditions of the BayerValue Program.
37. Where a grower participates in Other Grower Programs, the grower's consents associated with the Other Grower Programs shall be and be deemed to be a Required Purpose. The grower's consents associated with the Required Purposes are a requirement of participation in the BayerValue Program and Other Grower Programs and any revocation of such consents shall terminate the grower's participation in the BayerValue Program and Other Grower Programs and result in immediate forfeiture of any entitlements that would otherwise be due to the grower under the BayerValue Program and Other Grower Programs.
38. If the grower wishes to revoke consents associated with Required Purposes or Other Purposes the grower may:
- a. expressly advise the Bayer privacy officer at [rebate.fulfillment@bayercropscience.com](mailto:rebate.fulfillment@bayercropscience.com) respecting revocation of consent for the collection, use and disclosure of information;

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- b. expressly demonstrate revocation of consent to communications by electronic messages through the mechanisms that may be made available for such revocation by Bayer in the electronic messages.
- 39. Any personal information provided by the grower under the BayerValue Program, will be collected used and disclosed by Bayer in accordance with applicable privacy legislation, Bayer privacy policies and the stated purposes for which such information was sought. For more information, please contact the Bayer CropScience privacy officer at 200, 160 Quarry Park Boulevard SE, Calgary, AB T2C 3G3 or at [rebate.fulfillment@bayercropscience.com](mailto:rebate.fulfillment@bayercropscience.com).
- 40. Bayer shares information with its affiliate companies for specific purposes specified in the terms and conditions. Bayer uses affiliated companies in the United States of America and Germany for certain information technology services including the housing of server technology that is a repository for contact information and transactional data of the grower ("Affiliated Services"). For further information on the nature of the Affiliated Services please contact the Bayer privacy officer using the contact information outlined below.

### **Miscellaneous**

- 41. Grower and Partners must sign, have in full force and effect and continuously comply with the Liberty® and Trait Agreement or its equivalent or replacement agreement (the "LTA") respecting the purchase and use of LibertyLink® Seed and Liberty Herbicide (as those terms are defined in the LTA). The BayerValue Program terms and conditions do not derogate from or vary the terms of the LTA and the terms and conditions of the LTA remain separately enforceable as against growers and Partners.
- 42. Bayer will have the sole authority and discretion to establish and amend the BayerValue Programs and Other Grower Programs and the terms and conditions of and regulating the BayerValue Programs and Other Grower Programs and may amend or terminate the BayerValue Programs or Other Grower Programs and the terms and conditions of and regulating the BayerValue Programs or Other Grower Programs at any time upon publication on Bayer's Canadian internet site.
- 43. Where Bayer publishes a Rebate Calculator for use by a grower, such rebate calculator is for informational purposes only and the actual rebate calculations will be determined exclusively by Bayer in accordance with the BayerValue Program.
- 44. Offer void on all products if any products are used on seed, or plants grown from seed, derived from certified InVigor® hybrid canola seed or if InVigor hybrid canola seed or Liberty herbicide is used contrary to the LTA.
- 45. Grower shall provide Bayer with updated information including personal information as such information changes.
- 46. Grower agrees that the liability of Bayer for any errors or omissions of Bayer or its agents associated with carrying out the BayerValue Program or Other Grower Programs in a particular Crop Season shall be limited to the actual cash value of entitlements of the grower under the BayerValue Program or the applicable Other Grower Programs in the year in which such errors or omissions occurred.
- 47. Bayer is authorized to set off any overpayments made to grower under the BayerValue Program or Other Grower Programs against any amounts owing by Bayer to the grower or Partners.
- 48. Bayer may assign some or all of its rights, duties, liabilities and obligations under the terms and conditions of the BayerValue Program and Other Grower Programs to any other person(s) or entity(ies) without the prior consent of the grower or Partner. Grower consents to the transfer of information arising out of or relating to the Grower's participation in the BayerValue Program and Other Grower Programs for use by such assignee, subcontractor or transferee.