



2005-06 Guaranteed Delivery Contract Sign-up

**Rejected
selected
barley**

Please Fax to: (204) 983-8031

Producers who have selected barley that was rejected at delivery or unload, can complete the GDC for Rejected Selected Barley if they wish to deliver the grain as feed barley to the CWB.

The CWB had two pool periods for feed barley in the 2005-06 crop year. The first pool period ran from August 1, 2005 to January 31, 2006 and the second ran from February 1, 2006 to July 31, 2006. Producers are eligible for the Pool in effect at the time of rejection.

The Guaranteed Delivery Contract (GDC) offers 100 per cent acceptance upon sign-up.

Producers can apply for an Early Payment Option contract on the tonnes committed to the GDC for Rejected Selected Barley by completing the "2006-07 Early Payment Option Sign-up/Lock-in Application" for feed barley.

Please complete all information in this area.

Producer's Name ("the <i>Producer</i> ") as shown on the Delivery Permit		
Producer's Identification No. 	Producer's Telephone No. ()	Producer's Fax No. ()
	Alternative Telephone No. (daytime/cell) ()	
Delivery Point Name	Company Name	Telephone ()
Company/Delivery Point Code 	Delivery Point Fax No. ()	

SIGN-UP - Please indicate the tonnes of barley you want to commit.

Net Tonnes (Feed barley)	Net Tonnes (Barley)	Not to exceed tonnes on the Selected Barley Storage and Delivery Contract	Selected Barley Storage and Delivery Contract number(s)	<input type="text"/>
	_____ .000			<input type="text"/>
				<input type="text"/>

- If selected barley is rejected at delivery or unload because it does not meet minimum germination levels, producers may be eligible for storage payments based on the following criteria:
- The barley must have been accepted under a 2005-06 *Selected Barley Storage and Delivery Contract (SBSDC)* and delivered after January 1, 2006.
 - Recheck samples must clearly show that the barley was of malting quality before January 1, 2006. The recheck sample must meet the minimum requirement of 95 per cent germination using the industry standard method as described in the 2005-06 *SBSDC*. The grain company head office must send the recheck information to the CWB.
 - The selecting party must verify that the delivery or unload sample is the same grain as the original sample that was submitted with the *SBSDC*. A lock-box sample must be available for this comparison.
 - The grain company head office must advise the CWB to cancel the *SBSDC* by letter or by completing an adjustment/cancellation form and sending it to the CWB.

READ THE FOLLOWING PARAGRAPH CAREFULLY.
I (the *Producer*) have read the *CWB 2005-06 Guaranteed Delivery Contract for Rejected Selected Barley for Pool Period A and Pool Period B: Terms and Conditions*. By completing this document and sending it to the CWB, I agree that all of the said Terms and Conditions will apply to the contract I have selected herein.

 Producer's Signature _____
Position in Company (If Applicable)

Date

FAX (204) 983-8031
Phone 1-800-275-4292
(7:30 a.m. to 6 p.m. Mon. - Fri. Central Time)

Important: Please keep the original for your records.



Information about the Guaranteed Delivery Contract for feed barley

With a GDC, you can receive the initial, adjustment and final payments for rejected selected barley being offered as feed barley for the current Pool Period.

Eligible grades

- No. 1 CW Barley
- No. 2 CW Barley

Contract number

A contract number is required for the CWB to issue payment. When delivering grain towards a GDC, be sure to ask your elevator manager to report the correct contract number on the cash ticket to ensure an accurate and timely payment. See the table below.

Contract type	Contract number required on cash ticket
GDC (without a PPO)	GDC contract number
GDC feed barley against an EPO	EPO contract number
GDC feed barley against an FPC	FPC contract number

Delivery and settlement

Delivery and settlement must be made within 30 days of rejection or prior to the expiry date of the current Pool Period, whichever is earlier.

- At the time of delivery, you will receive the initial payment for the current Pool Period for the grade of barley delivered.
- The grades for delivery are No. 1 CW and No. 2 CW Feed Barley. Lightweight and fusarium damaged grades are not eligible for delivery.

Producer Payment Options

If your selected barley was committed to an Early Payment Option (EPO) or a Fixed Price Contract (FPC), you have three options:

1. Buy out of the PPO contract;
2. Assign the PPO contract to another producer;
3. Transfer to an FPC or EPO for feed barley.

1. DEFINITIONS

- a. "Actual Grade" is the grade of Barley actually delivered by the producer as reported on the Producer's Certificate.
- b. "Approved Methods of Acceptance" are as set out in Paragraph 2.c. below.
- c. "Barley" means No. 1 or No. 2 Canada Western Barley as the case may be.
- d. "GDC Expiry Date" for Pool Period A is January 31, 2006 and the "GDC Expiry Date" for Pool Period B is July 31, 2006.
- e. "Fax Form" is the CWB 2005-06 Guaranteed Delivery Contract for Rejected Selected Barley.
- f. "Initial, Adjustment, Interim, and Final Payments" are those payments made by the CWB for Barley of the Actual Grade during the Pool Period and in accordance with the CWB Act.
- g. "GDC" is the *Guaranteed Delivery Contract for Feed Barley*.
- h. "GDC Delivery Opportunities" are the delivery calls issued by the CWB from time to time and in respect of GDCs.
- i. "Liquidated Damages" is the amount calculated by the CWB as its loss in the event of default on a GDC. *Liquidated Damages* will reflect the CWB's costs of administration, demurrage charges/delivery penalties, and lost opportunity as a result of the default, calculated on a per tonne basis. The minimum damages assessed by the CWB will be \$6.00 per tonne and the maximum damages will be \$25.00 per tonne.
- j. "Net Tonnes" is the number of net tonnes of Barley that the producer has signed up under the GDC and will deliver to the CWB.
- k. "Pool Period" is as defined in Section 31 of the CWB Act. For the purposes of this contract Pool Period A is from August 1, 2005 to January 31, 2006, both dates inclusive and Pool Period B is February 1, 2006 to July 31, 2006 both dates inclusive.
- l. "Settlement Date" is the day on which a Producer's Certificate is issued in respect of Barley priced under the GDC.
- m. "Sign-up Date" is the date on which the producer commits tonnes to the program.

OFFER AND ACCEPTANCE

- a. In accordance with these Terms and Conditions, the CWB offers to purchase the Barley from the producer (the "Offer").
- b. The producer's Selected Barley Storage and Delivery Contract must be cancelled prior to issuing this GDC.
- c. The *Approved Method of Acceptance* is:
 - i. Faxing a Fax Form to the CWB at 1-204-983-8031. The Fax Form must be completed fully and accurately and the producer must sign it. In the event of any uncertainty as to the information provided by the producer in the Fax Form, the CWB may, at its sole discretion, reject the acceptance as invalid. The Fax Form will be deemed to have been received at the time printed on the fax by the CWB's fax machine.

CWB's OBLIGATIONS

3.1 The CWB agrees as follows:

The CWB agrees to accept delivery of the *Net Tonnes* from the producer, in accordance with the *Canadian Wheat Board Act (CWB Act)* and the terms and conditions of the contract for the *Net Tonnes*

3.2 In accordance with the CWB Act, to pay to the producer:

- a. The initial payment in effect for the pool period in which settlement is made, less any amounts owing to the CWB and all authorized deductions including those under the *Prairie Grain Advance Payments Act (PGAPA)*, the *Agricultural Marketing Program Act (AMPA)*, *Spring Credit Advance Program (SCAP)* and *Enhanced Spring Credit Advance Program (ESCAP)*; or,
- b. In the event that the Net Tonnes have been priced under a CWB payment options contract, to pay the producer in accordance with that contract.

3.3 Call for Delivery

The CWB guarantees a 100 per cent call for delivery of the *Net Tonnes* committed at time of rejection.

PRODUCER'S OBLIGATIONS

4.1 Commitment of Tonnes

- a. The producer must commit the *Net Tonnes* at the time they submit their acceptance of the Offer.
- b. By committing the *Net Tonnes* the producer agrees as follows:
 - i. To deliver it to the CWB in accordance with this Agreement;
 - ii. To sell the *Net Tonnes* to the CWB and take settlement prior to the expiry of the *Pool Period A* or *Pool Period B* ;
 - iii. In the event that the producer elects to lock-in an *Early Payment Value* and *Discount*, to do so in accordance with this Agreement; and,
 - iv. To otherwise comply in all respects with this Agreement.

4.2 Delivery

The producer shall deliver the *Net Tonnes* and any portion thereof, to the CWB prior to the expiry of the Pool Period in effect at time of rejection.

5. PASSAGE OF TITLE

All right, title and interest to any grain delivered under this contract shall remain with the producer until it has been delivered to the CWB and the *Actual Grade* has been established.

6 DEFAULT

- a. The producer shall be in default under the *GDC* ("in default") if:
 - i. The producer fails or the CWB receives information that the producer is or will be unable to deliver a minimum of ninety per cent of the *Net Tonnes*;
 - ii. All or any portion of the *Barley* delivered or to be delivered by the producer is determined by the CWB to be ineligible for delivery; and or
 - iii. The producer delivers *Barley* over and above the *Net Tonnes* committed.
- b. In the event that the producer is in default as a result of Paragraph 6.a. above, the CWB may cancel the *GDC* or any contracts.
- c. The producer will be assessed and obligated to pay *Liquidated Damages* for every *Net Tonne* in accordance with this Agreement. The producer may be prohibited from entering into any future *GDCs*, any delivery contracts and any Producer Payment Option agreements until such time as the *Liquidated Damages* are paid.
- d. Further, the producer shall pay *Liquidated Damages* to the CWB to compensate the CWB for its actual losses incurred as a result of the producer's default.
- e. The producer shall pay *Liquidated Damages* on any shortfall below 90 per cent of the *Net Tonnes*.
- f. The producer and the CWB agree that *Liquidated Damages* determined in this manner are a genuine pre-estimate of the actual damages the CWB will incur as a result of the default by the producer and that such damages are not a penalty.
- g. For each net tonne of *Barley* over the *GDC Net Tonnes* committed, the damages shall be equal to the *Liquidated Damages* in effect at the time of such default.
- h. *Liquidated Damages* may be set-off by the CWB against any and all amounts that may become payable to the producer by the CWB, and/or against the proceeds of any and all deliveries made by the producer under the producer's delivery permit, or under any and all delivery permits in which the producer has an interest. Any such delivery permit may be so endorsed.

7 GENERAL PROVISIONS

- a. This Agreement constitutes the entire agreement between the CWB and the producer with respect to the *Net Tonnes*. There are no representations, warranties, terms or conditions, whether express or implied, beyond those contained herein. There shall be no changes or modifications to this Agreement unless they are made in writing, and signed by both the producer and the CWB. For the sake of clarity, the term "this Agreement" shall include the *Fax Form*.
- b. If any provision, or part thereof, of this Agreement is determined to be void, invalid, or unenforceable, it will be severed and will not void, invalidate, or make unenforceable any other provision of this Agreement.
- c. This Agreement shall be governed and construed in accordance with the laws of the Province of Manitoba. The courts of the Province of Manitoba shall have exclusive jurisdiction in the case of any dispute.
- d. The producer represents that they are of the age of majority in the Province in which they reside. Where the producer is a corporation, partnership, co-operative or other business entity, the producer and the person signing on behalf of the producer represent that the person signing on behalf of the producer are of the age of majority in the Province in which the producer resides.
- e. This Agreement shall be binding upon, and enure to the benefit of, the heirs, administrators, executors, legal representatives, successors and permitted assigns of the producer and the CWB. However, no assignment by the producer of this Agreement will bind the CWB without its prior written consent, which consent may be arbitrarily withheld.
- f. If the producer is a corporation, partnership, co-operative or other business entity, this Agreement must be signed in the entity's name and the authorized officer, agent or partner(s) who sign(s) on behalf of the entity must state their position and authority.
- g. The producer shall fully indemnify the CWB for any and all legal expenses associated with the enforcement of this Agreement.
- h. Time shall be of the essence of this Agreement.
- i. The exercise by the CWB of any right or remedy provided herein shall not affect any other remedy that the CWB may have for the same default. Nor shall the forbearance of the CWB to exercise any right or remedy be considered a waiver of any right or remedy it may have.