



Effective August 1, 2007

**No. 5 CWAD**

For office use only

### 2007-08 Early Payment Option Sign-up/Lock-in Application

**Please Fax to: (204) 983-8031**

This document forms part of the CWB 2007-08 No. 5 CWAD Early Payment Option for Durum: Terms and Conditions.

The sign-up deadline date is July 31, 2008, or such earlier date as the CWB designates when the Early Payment Value (EPV) approaches the initial payment value for the reference grade.

**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) ( )	

**SIGN-UP** When signing a No. 5 CWAD Early Payment Option (EPO), you are committing tonnes as well as locking in your EPV and Discount.

**A NET TONNES** .000  
*Minimum of 20 tonnes*

Please indicate the **net tonnes of No. 5 CWAD** you want to commit.  
In **Part B**, please indicate the **EPV and Discount** you wish to lock in.  
An 80 per cent minimum delivery guarantee applies to this program.

**B EARLY PAYMENT VALUE** Please indicate the **EPV and Discount** you wish to lock in.  
**Choose only one option.**

80%     90%     100%    **Based on the No. 5 CWAD Pool Return Outlook (PRO).**

You will receive the EPV and Discount based on the time your FAX is received.

The CWB will guarantee producers who sign a No. 5 CWAD EPO for durum that a minimum of 80 per cent of all their production offered under 2007-08 durum delivery contracts will be accepted, up to a maximum of their No. 5 CWAD EPO tonnage. Guaranteed Delivery Contracts (GDCs) offer 100 per cent acceptance, therefore the 80 per cent delivery guarantee does not apply. The No. 5 CWAD EPO for durum is a payment option only, with no delivery terms.

For example, with a delivery guarantee of 80 per cent, a producer expecting to commit 1 000 tonnes of durum to CWB delivery contracts should not assign more than 800 tonnes to a No. 5 CWAD EPO. Producers must maximize the tonnage offered under Series A delivery contracts. If CWB contract acceptance for Series A and B combined is greater than the 80 per cent delivery guarantee, or the durum is accepted under a GDC, the producer could use this percentage to apply deliveries against the No. 5 CWAD EPO for durum.

See important information on next page.

**READ THE FOLLOWING PARAGRAPH CAREFULLY.**

I (the *Producer*) have read the CWB 2007-08 No. 5 CWAD Early Payment Option for Durum: 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 a.m. to 6 p.m. Mon. - Fri.  
Central Time)

**Important: Please keep the original for your records.**



## Information about the No. 5 CWAD Early Payment Option for durum

### Reference grade

The Early Payment Value (EPV) is based on the contract value representing the percentage of the No. 5 CWAD Pool Return Outlook (PRO) for this program.

### Definitions

- Early Payment Option (EPO) - A program to provide producers with improved cash flow and a guaranteed payment value.
- Early Payment Value (EPV) - The published contract value representing the percentage of the PRO before the discount.
- Discount - The amount deducted for risk, time value of money and administration costs.

### Designating deliveries for payment

Be sure to advise your elevator agent to apply your No. 5 CWAD deliveries against your EPO contract when making settlement for the initial payment.

At the time of delivery, you receive the initial payment (less freight and handling) at the elevator, for the grade of durum you deliver. Your EPO additional payment is issued within 10 business days of the CWB receiving the settlement information from the elevator agent. An incremental payment is added to the CWB payment for deliveries made later in the crop year to reflect the producer's time value of money for this later delivery. You are eligible for adjustment, interim and final CWB payments when those payments exceed your total gross EPO payments (total payments + discount, less incremental payment). This represents the upside potential of your EPO contract if CWB sales returns exceed your EPV.

### EPO payment example

On October 1, Joe signs a 200 tonne No. 5 CWAD EPO contract with a 90 per cent EPV. Based on his delivery opportunity at the time, Joe delivers all 200 tonnes of No. 5 CWAD in October, and applies the delivery against his EPO contract with a 90 per cent EPV and a PRO value of \$120.00 per tonne for No. 5 CWAD.

	<b>\$ per tonne</b>	<b>\$ per bushel</b>
EPV (90 per cent of the PRO)	\$108.00	\$2.94
Less discount	<u>- 1.50</u>	<u>-0.04</u>
Net EPV price	\$106.50	\$2.90
Reference grade initial payment (No. 5 CWAD)	<u>-85.00</u>	<u>-2.31</u>
EPO additional payment	<u>21.50</u>	<u>0.59</u>
Initial payment for the grade delivered (No. 5 CWAD)	<u>85.00</u>	<u>2.31</u>
<b>Total payment</b>	<b>\$106.50</b>	<b>\$2.90</b>

Joe is eligible for further CWB pool payments for his No. 5 CWAD once the payments exceed his total gross EPO payment of \$108.00 (\$106.50 + \$1.50 discount).  
Note: all values are in store St. Lawrence and Vancouver. Freight and handling from your delivery location must be deducted to arrive at a farmgate value. An incremental payment may be added to the CWB additional payment for deliveries later in the crop year.

### Assignment or buyout

**If you wish to assign or buy out your No. 5 CWAD EPO contract, contact the CWB at 1-800-275-4292.**

1. You can assign the outstanding tonnes of your No. 5 CWAD EPO to another producer who is willing to assume the terms and conditions of the contract. There is a \$15 transaction fee to transfer a contract, which is charged to the assignor (original contract holder). Call the CWB to inquire about transfer opportunities.
2. You can buy out the outstanding tonnes on your No. 5 CWAD EPO. The buyout rate equals the discount per tonne at time of sign-up, less the time value of money, plus an administration fee of \$15 per transaction.
3. You can transfer your No. 5 CWAD EPO to a durum EPO or a No. 4 CWAD EPO contract. This transfer option gives producers flexibility to meet their EPO commitments when their No. 5 CWAD is upgraded. You will receive the EPV for durum that was in effect at the time you locked in your EPV for No. 5 CWAD. (The CWB will charge the cost of opportunity to transfer as determined by the current market spread.)

#### EPO transfer fee formula

{(original discount of the existing EPO - current discount of the existing EPO) + (current discount of the transfer class - original discount of the transfer class)} If negative, then \$0.

Plus applicable roll fee and \$15 per transaction administration fee. Roll fees are \$0.25 per tonne for 80 per cent, \$0.50 per tonne for 90 per cent and \$1.00 per tonne for 100 per cent.

**1. DEFINITIONS**

- a. "Approved Methods of Acceptance" are as set out in paragraph 2.f. below.
- b. "Buyout Price" is the price available from the Canadian Wheat Board (CWB) from time to time at which the CWB will allow the producer to buy out his/her obligations under this Agreement. The *Buyout Price* equals the *Discount* per tonne on the *Sign-up Date*, less the time value of money and an administration fee of \$15 per transaction.
- c. "Delivery Opportunities" are the opportunities for the delivery of *Durum* through delivery contract calls made by the CWB from time to time during the crop year.
- d. "Delivery Guarantee" is the greater of the percentage identified as such in the *Pricing Schedule*, being at present 80 per cent, or the percentage accepted under 2007-08 CWB delivery contracts.
- e. "Discount" is the amount identified as such in the *Pricing Schedule* to be deducted from the *Early Payment Value*.
- f. "Durum" for the purpose of this contract is No. 5 CWAD.
- g. "EPO" is the early payment option as provided for herein.
- h. "EPO Offer Expiry Date" is July 31, 2008, or such earlier date as the CWB designates by withdrawing the *Offer*.
- i. "Early Payment Value" is either the 80, 90, or 100 per cent option of the Pool Return Outlook chosen by the producer at the time of acceptance, and identified as such in the *Pricing Schedule*, that the producer can apply the *Net Tonnes* to by locking in one of the percentages pursuant to Paragraph 2. below.
- j. "Fax Form" is the "2007-08 Early Payment Option Sign-up/Lock-in Application" for No. 5CWAD.
- k. "Incremental Payment" is an amount identified as such in the *Pricing Schedule*.
- l. "Initial, Adjustment, Interim and Final Payments" are those payments made by the CWB for *Durum* delivered during the crop year in accordance with the *Canadian Wheat Board Act*.
- m. "Net Tonnes" is the number of net tonnes of *Durum* that the producer has signed up under the *EPO* and will deliver to the CWB. The *Net Tonnes* must be a minimum of 20 net tonnes.
- n. "Pricing Damages" equal the *Discount* per tonne on the *Sign-up Date*, less the time value of money and an administration fee of \$15 per transaction.
- o. "Pricing Schedule" is the schedule published by the CWB from time to time that identifies the *Early Payment Value* and *Discount*, *Incremental Payment*, *Delivery Guarantee* and the *Reference Grade*.
- p. "Reference Grade" is No. 5 CWAD as set out in the *Pricing Schedule*.
- q. "Risk Premium" is the cost charged to the producer to *Transfer* quantities previously contracted for an *EPO* for No. 5 CWAD to an *EPO* for *Durum* or an *EPO* for No. 4 CWAD. An amount of \$1.00 per tonne will be charged for 100 per cent option, \$0.50 per tonne will be charged for 90 per cent option and \$0.25 per tonne will be charged for 80 per cent option *Transfers*.
- r. "Settlement Date" is the date on which a Producer Certificate is issued in respect of *Durum* priced under the *EPO*.
- s. "Sign-up Date" is the date on which the producer commits the *Net Tonnes* to the program and locks in the *Early Payment Value* and *Discount*.
- t. "Transfer" is the process whereby a producer may *Transfer* tonnes previously contracted for an *EPO* for No. 4 CWAD to an *EPO* for *Durum* or an *EPO* for No. 5 CWAD at the same *Early Payment Value* percentage plus the *Risk Premium* and *Transfer Cost*, plus a \$15 per transaction fee.
- u. "Transfer Cost" equals any positive value resulting from taking the *Discount* of the priced *Durum* on the *Sign-up Date* less the *Discount* of the priced *Durum* on the *Transfer Date*, plus the *Discount* of the *Transfer* grade on the *Transfer Date* less the *Discount* of the *Transfer* grade on the *Sign-up Date*.
- v. "Transfer Date" is the date on which the producer chooses to *Transfer* a defined quantity of *Durum* from a previously contracted *EPO* for No. 5 CWAD to an *EPO* for *Durum* or an *EPO* for No. 4 CWAD.

**2. OFFER AND ACCEPTANCE**

- a. In accordance with these Terms and Conditions, the CWB offers to pay the producer in respect of the *Net Tonnes*, the amounts set forth in Paragraph 3.c. below (the "Offer").
- b. The *Offer* is open for acceptance by the producer until July 31, 2008 unless earlier terminated by the CWB. The CWB reserves the right to withdraw the *Offer* at any time and without prior notice.
- c. The CWB reserves the right to reject a producer's acceptance of the *Offer*, for any reason, including where a producer has outstanding *Pricing Damages* pursuant to a previous Producer Payment Option contract.
- d. A producer's acceptance of the *Offer* will not be valid unless it is made in strict compliance with one of the *Approved Methods of Acceptance* outlined in Paragraph 2.f. below.
- e. A producer's acceptance of the *Offer* will not be valid unless it is actually received at the head office of the CWB prior to the earlier of withdrawal of the *Offer* by the CWB or the expiration of the time for acceptance.
- f. The *Approved Methods of Acceptance* are:
  - i. Telephoning the CWB at 1-800-275-4292 and providing, as instructed: the producer's 10 digit CWB identification number, confidential Personal Identification Number (PIN) and the number of *Net Tonnes*. The CWB's records of such telephone call, including any written confirmation, are conclusive and binding on the producer.
  - ii. 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 on the part of the CWB as to the information provided by the producer in the *Fax Form*, the CWB may, in its sole discretion, reject the acceptance of the *Offer* 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.

**3. CWB'S OBLIGATIONS**

- a. Subject to paragraph 3.b., the CWB guarantees that it will accept delivery of the *Net Tonnes* up to the *Delivery Guarantee*.
- b. The CWB is not obliged to accept delivery of the *Net Tonnes* unless it is satisfied, in its sole discretion, that the producer took full advantage of all *Delivery Opportunities* for *Durum* that were available to the producer from time to time during the crop year for which the *EPO* was chosen.
- c. The producer locking in an *Early Payment Value* and *Discount* under this Agreement shall be paid as follows:
  - i. the *Initial Payment* for the *Reference Grade*;
  - ii. add the difference between the *Early Payment Value* locked in on the *Sign-up Date* and the *Initial Payment* for the *Reference Grade* on the *Settlement Date* ;
  - iii. add the *Incremental Payment* locked in on the *Sign-up Date* that corresponds to the *Settlement Date*; and
  - iv. subtract the *Discount* locked in on the *Sign-up Date*.
- d. The CWB also agrees to pay a producer, all *adjustment, interim or final payments* for the *Reference Grade* delivered to the extent that such payments exceed the *Early Payment Value*.
- e. If the payment total set out in paragraph 3.c. is less than the *Initial Payment* for the *Reference Grade* on the *Settlement Date*, the CWB shall have the right to set-off, to the extent of the difference, 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.

- f. Payments shall be subject to all deductions authorized under the *Canadian Wheat Board Act* or otherwise authorized by law, including, without limitation, deductions under the *Agricultural Marketing Programs Act*, the *Prairie Grain Advance Payments Act*, the *Spring Credit Advance Program* and the *Enhanced Spring Credit Advance Program*.
- 4. PRODUCER'S OBLIGATIONS**
- a. The producer undertakes to deliver the *Net Tonnes* in accordance with the CWB's delivery contract program(s) and this Agreement.
- b. The producer acknowledges that, except to the extent that any provisions may be inconsistent, this Agreement does not alter the producer's obligations under any delivery contract entered into between the producer and the CWB. The producer agrees that this shall be the case regardless of whether such delivery contract is entered into prior to or subsequent to the producer entering into this Agreement or selecting a payment option pursuant to this Agreement. In the event of such an inconsistency, the provisions of this Agreement will prevail.
- 5. LOCKING IN THE EARLY PAYMENT VALUE AND DISCOUNT**
- a. The producer must lock in an *Early Payment Value* and *Discount* for all of the *Net Tonnes* in accordance with the *Pricing Schedule* in effect on the *Sign-up Date*. No partial lock-ins are permitted.
- b. The *Early Payment Value* and the *Discount* locked in shall be those in effect at the time the CWB receives the producer's acceptance in accordance with Paragraph 2.f.
- c. Any attempt by the producer to lock in the *Early Payment Value* and *Discount* will not be valid unless it strictly complies with Paragraph 2.f.
- d. *EPO* contracts originating from a *Transfer* will receive the *Early Payment Value* and *Discount* in accordance with the *Pricing Schedule* in effect on the *Sign-up Date*. The *Risk Premium* will be charged to the producer in addition to the *Discount*, the *Transfer Cost* and a \$15 per transaction administration fee.
- 6. DESIGNATING THE NET TONNES**
- The producer shall:
- a. At the time the CWB receives the producer's acceptance of the *Offer* in accordance with Paragraph 2.f., designate the *Net Tonnes* to be priced under the *EPO*;
- b. On or before the *Settlement Date*, the producer shall indicate whether any or what portion of the *Durum* to be delivered shall be deemed the *Net Tonnes* and priced under the *EPO*. Such designation shall be to the CWB's agent at the location where the *Durum* is delivered.
- 7. PRODUCER BUYOUTS, TRANSFERS AND ASSIGNMENTS**
- a. The producer may, at any time after entering into this Agreement, buy out his or her obligations hereunder by paying to the CWB the *Buy-out Price*.
- b. *Transfer* all or a portion of the outstanding *Net Tonnes* to an *EPO* for *Durum* or an *EPO* for No. 4 CWAD. All of the terms and conditions of the *EPO* for *Durum* or the *EPO* for No. 4 CWAD will apply. The *Early Payment Value* and *Discount* for an *EPO* for *Durum* or an *EPO* for No. 4 CWAD, available on the *Sign-up Date* will apply, subject to a *Transfer Cost*. The *Transfer Cost* will be based on market values on the date the producer contacts the CWB to *Transfer*.
- c. The producer (assignor) may assign all of the rights and obligations of the producer under this Agreement to another producer (assignee) upon the receipt of written consent from the CWB. A \$15 per transaction administration fee will be charged to the assignor.
- 8. DEFAULT**
- a. The producer shall be deemed to be in default under this Agreement if the producer fails, for any reason, to deliver all of the *Net Tonnes* in accordance with the CWB's published *Delivery Opportunities* and this Agreement. Any default will require the producer to pay *Pricing Damages*. The producer will be prohibited from entering into any future Producer Payment Option agreements until such time as the *Pricing Damages* pursuant to this Agreement and any applicable liquidated damages are paid.
- b. In the event that the producer is in default as a result of his/her failure to deliver the *Net Tonnes* through the CWB's published *Delivery Opportunities*, the *Pricing Damages* assessed in accordance with this Agreement will be paid in addition to any liquidated damages which may be assessed pursuant to the delivery contract entered into by the producer with the CWB.
- c. The producer and the CWB agree that the *Pricing Damages* 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 do not constitute a penalty.
- d. *Pricing 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.
- 9. GENERAL PROVISIONS**
- a. This Agreement constitutes the entire agreement between the CWB and the producer with respect to the pricing of 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" as used herein shall include the *Fax Form* and the *2007-08 Early Payment Option for No. 5 CWAD: Terms and Conditions*.
- 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 and the courts of the Province of Manitoba shall have exclusive jurisdiction in the case of any dispute.
- d. The producer represents that he/she is of the age of majority in the Province of Manitoba. 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 is of the age of majority in the Province of Manitoba.
- e. This Agreement shall 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.
- 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. 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.
- i. Any deliveries made against this Agreement may be made to the benefit of any producer listed under the producer's permit book. All deliveries are subject to the terms and conditions established for the 2007-08 crop year.
- j. Time shall be of the essence in this Agreement.