



Information about deliveries to purchase pedigreed seed

The deliveries to purchase pedigreed seed (DPPS) delivery contract is a delivery provision that helps you defray the cost of purchasing pedigreed seed. This provision only applies to CWB marketed grains.

Sign-up

- The sign-up deadline is **Thursday, June 29, 2012**.
- Fax the completed contract to 1-204-983-8031.
- Within two business days from receipt of your fax, you can view DPPS contracts in e-Services. Incomplete or missing information may delay contract processing.

Delivery and settlement

- DPPS contracts are 100-per-cent accepted.
- Pedigreed seed purchased before the 2011-12 crop year is not eligible for this program.
- Cash tickets must be settled by July 31, 2012.
- Indicate the DPPS contract number on the cash ticket.
- If a cash advance was taken on any of the tonnes being signed up, the required advance deduction must be taken.
- Deliveries made under this contract are not eligible for new-pool pricing.



2011-12 DELIVERIES TO PURCHASE PEDIGREED SEED DELIVERY CONTRACT PROGRAM TERMS AND CONDITIONS

1. DEFINITIONS

- a. **“Actual Grade”** is the eligible grades of *Wheat* and *Durum* that is actually delivered by the producer as reported on the Producer Certificate.
- b. **“Buy-out Price”** means the price at which the CWB will allow the producer to buy out their obligations under this delivery contract prior to delivery. The formula by which the per-tonne Buy-out Price is calculated shall be equal to: [(expected price - average price) x (per cent of pool sold) x number of tonnes] plus a \$25 administration fee. The *Buy-out Price* is only applicable for undelivered *Total Contracted Net Tonnes*.
- c. **“Cash Purchase Ticket”** means a ticket is issued indicating the grade, weight, price and amount payable to the owner of the grain for each delivery of grain to a primary elevator, process elevator or grain dealer. The ticket is a negotiable instrument and can be cashed at any chartered bank or credit union. It is defined in the Canada Grain Act.
- d. **“Contract Expiry Date”** means the date on or before which the producer must offer tonnes for delivery pursuant to this contract. Such date is June 29, 2012 or such earlier date as determined by the CWB.
- e. **“CWB Act”** means *The Canadian Wheat Board Act*, as amended from time to time.
- f. **“Delivery Call”** means a request from the CWB that certain *Wheat or Durum* be delivered as published on the CWB's Web site at www.cwb.ca or as provided to a producer by written or verbal notice.
- g. **“DPPS”** – is the Deliveries to Purchase Pedigreed Seed delivery contract.
- h. **“Durum”** means *Durum* grading as Canada Western Amber Durum (CWAD).
- i. **“Max Tonnes Eligible for Delivery”** means the tonnes eligible for delivery by dividing the cost of the pedigreed seed by the net initial price of the class and grade being delivered against this delivery contract.
- j. **“Total Contracted Net Tonnes”** is the number of net tonnes of the *Wheat or Durum* that the producer has committed and the CWB has accepted under this contract and will deliver to the CWB. The CWB is not obligated to accept delivery of any tonnes in excess of the *Max Tonnes Eligible for Delivery* as indicated on the contract form or requested contract amount.
- k. **“Wheat”** means *Wheat* grading as Canada Western Red Spring (CWRS), Canada Western Red Winter (CWRW), Canada Western Hard White Spring (CWHWS), Canada Prairie Spring White (CPSW), Canada Prairie Spring Red (CPSR), Canada Western Soft White Spring (CWSWS) and Canada Western Extra Strong (CWES).

2. OFFER AND ACCEPTANCE

- a. In accordance with these Terms and Conditions, the producer offers, for purchase by the CWB (the “*Offer*”), such quantity and quality of *Wheat or Durum* as specified in the *Offer*.
- b. *DPPS* is open to the producer from August 1, 2011 until June 29, 2012. However, the CWB reserves the right to extend or withdraw the *Offer* at any time and without prior notice.
- c. The producer acknowledges and agrees that the tonnes specified in the *Offer* represent the actual tonnes that the producer has produced on the lands described in the producer's 2011-12 delivery permit book or have been carried over from the producer's previous delivery permit book.
- d. The producer's *Offer* will not be valid unless it is made in strict compliance with one of the approved methods of making an *Offer* and unless it is actually received at the CWB head office prior to the withdrawal of the *DPPS* delivery contract.
- e. The approved method of making an *Offer* are:
 - i. fax an executed *DPPS* contract form to the CWB at 1-204-983-8031. The sign-up 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 sign-up, the CWB may, in its sole discretion, reject the acceptance of the sign-up and lock-in as invalid. The sign-up will be deemed to have been received at the time printed on the fax by the CWB's fax machine.
- f. The CWB will immediately accept the producer's *Offer* provided that the *DPPS* program has not been withdrawn by the CWB before it receives the producer's *Offer*.

3. CWB'S OBLIGATIONS

The CWB agrees as follows:

- a. To accept delivery of the *Wheat or Durum* from the producer, in accordance with the *CWB Act* and the terms and conditions of this *DPPS* delivery contract.
- b. In accordance with the *CWB Act*, to pay to the producer:



**2011-12 DELIVERIES TO PURCHASE PEDIGREED SEED
DELIVERY CONTRACT PROGRAM
TERMS AND CONDITIONS**

- i. the initial payment for the class and quality of *Wheat or Durum* delivered in effect at the time of delivery, less any amounts owing to the CWB and all authorized deductions including those under the *Prairie Grain Advance Payments Act*, the *Agricultural Marketing Programs Act*, the *Enhanced Spring Credit Advance Program* and the *Spring Credit Advance Program*;
- ii. in the event that the *Wheat or Durum* has been priced under a 2011-12 CWB Producer Payment Options contract, to pay the producer in accordance with that contract.

4. PRODUCER'S OBLIGATIONS

- a. The producer agrees to:
 - i. sell the *Wheat or Durum* to the CWB; and
 - ii. deliver the *Wheat or Durum*, and any portion thereof called for by the CWB, to the CWB on or before the termination date specified in any *Delivery Call*.; or
 - iii. buy-out undeliverable tonnes; and
 - iv. at the request of the CWB, supply a copy of the pedigreed seed sales invoice, clearly indicating the sale date, sale price, seed certificate or lot number, seed grower name and buyer name; and
 - v. comply in all respects with this Agreement.
- b. The producer agrees that *Wheat or Durum* that is a *non-registered* variety, must be represented as such and delivered as feed.

5. DELIVERY

- a. The producer shall deliver the *Total Contracted Net Tonnes* or any portion thereof, to the CWB by July 31, 2012. The producer shall not deliver any tonnes in excess of the *Total Contracted Net Tonnes*.
- b. The CWB reserves the right to exclude tough and damp *Total Contract Net Tonnes* as well as any *Total Contracted Net Tonnes* of a grade different than that stated in the *DPPS delivery contract* from any *delivery call* with respect to the *delivery contract*.
- c. If the producer is unable to deliver the *Wheat or Durum* before the end of the crop year in which the producer entered into this delivery contract, the CWB may issue, in its sole discretion, a deferred delivery permit to the producer in accordance with the *CWB Act*.
- d. The producer will ensure that the grain shipped in a producer car is in marketable condition. The producer will be charged additional costs if the grain is not in marketable condition.

6. PASSAGE OF TITLE

All right, title, and interest to the *Wheat or Durum* shall remain with the producer until the *Wheat or Durum* has been delivered to the CWB and the grade has been established and a cash ticket has been issued. The producer must deliver the *Durum* and settlement must be made on or before July 31, 2012.

7. DEFAULT

- a. The producer shall be in *Default* under the *DPPS* delivery contract for the *Wheat or Durum* ("in *Default*") if:
 - i. the producer fails, or the CWB receives information that the producer is or will be unable, to deliver ninety (90%) per cent to one hundred (100%) per cent of the *Wheat or Durum* called for by the CWB on or before July 31, 2012; or
 - ii. the *Total Contracted Net Tonnes* are not cash ticketed on or before July 31, 2012; or
 - iii. the producer delivers tonnes in excess of the *Total Contracted Net Tonnes*; or
 - iv. any portion of the *Wheat or Durum* delivered by the producer to the CWB contains a non-registered variety which is represented by the producer as being a registered variety of that class of *Wheat or Durum*; or
 - v. all or any portion of the *Wheat or Durum* delivered or to be delivered by the producer is determined by the CWB to be ineligible for delivery under the contract for the *Wheat or Durum*; or
 - vi. the producer files for bankruptcy or a receiving order is made against the producer; or
 - vii. the producer fails to supply a copy of the pedigreed seed sales invoice, indicating all information set out in Section 4.(a); or
 - viii. the grain is shipped in a producer car and is not in marketable condition.
- b. In the event that the producer is in *Default*, the CWB may void the contract for the *Wheat or Durum* and any other contract between the CWB and the producer and/or the CWB may restrict the producer's delivery opportunities under such contracts.



**2011-12 DELIVERIES TO PURCHASE PEDIGREED SEED
DELIVERY CONTRACT PROGRAM
TERMS AND CONDITIONS**

- c. The producer shall pay damages to the CWB to compensate the CWB for its losses, costs and/or damage incurred or suffered as a result of the producer's *Default*. Any *Default* will require the producer to pay damages to the CWB within 30 days of any such *Default* or make a suitable repayment agreement. The producer shall pay a \$25 per transaction fee plus the greater of:
 - i. the liquidated damages amount posted on the CWB Web site (www.cwb.ca) or provided by calling the CWB at 1-800-275-4292. The specific liquidated damages amount may vary from day-to-day depending on market conditions but will fairly reflect the difference between the price for which the CWB could reasonably have expected to sell the *Total Contracted Net Tonnes* and the average per tonne value at which the CWB has sold comparable grain during the pool year to date; multiplied by the percentage of the pool (by class) sold;
 - ii. in the event that the producer's *Default* leads to the CWB defaulting or risking *Default* under the terms of a sale of the contracted grain to a third party, the producer shall pay the full amount of the CWB's actual losses, costs and/or damages incurred or suffered by the CWB as a result of its *Default* or its efforts to avoid *Default*, as the case may be.
- d. The liquidated damages assessed hereunder will be paid in addition to any liquidated damages which may be assessed pursuant to any other contract entered into by the producer and the CWB.
- e. The producer and the CWB agree that liquidated damages determined in this manner are reasonable and 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.
- f. Liquidated damages will be assessed using the *Buy-out Price* in effect on July 31, 2012.
- g. Liquidated damages may be off-set by the CWB against any and all amounts that may become payable by the CWB to the producer, pursuant to the *CWB Act* 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 book may be so endorsed.
- h. In the event that the producer ceases to make deliveries to the CWB, the CWB may, in its sole discretion, engage a collection agency to assist with the collection of the outstanding liquidated damages.

8. GENERAL

- a. The delivery contract for the *Wheat or Durum* constitutes the entire Agreement between the CWB and the producer with respect to the delivery of the *Wheat or Durum*. There are no representations, warranties, terms or conditions, whether express or implied, beyond those contained herein. There shall be no changes or modifications to the delivery contract unless they are made in writing, and signed by both the producer and the CWB.
- b. The producer may, at any time after entering into this agreement, buy-out his or her obligations hereunder by paying the CWB the *Buy-out Price*.
- c. If any provision, or part thereof, of the delivery contract is determined to be void, invalid, or unenforceable, it will be severed and will not void, invalidate, or make unenforceable any other provision of the delivery contract.
- d. The *DPPS* delivery contract 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.
- e. The contract 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 the *DPPS* delivery contract will bind the CWB without its prior written consent, which consent may be withheld.
- f. If the producer is a corporation, partnership, cooperative or other business entity, the delivery contract 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. That the producer is the age of majority in the Province of Manitoba or where the producer is a corporation, partnership, cooperative or other business entity, the producer and the person signing on behalf of the producer is of the age of majority in the Province of Manitoba, and is duly authorized to sign on behalf of the corporation, partnership, cooperative or such other business entity.
- h. The producer shall fully indemnify the CWB for any and all legal expenses associated with the enforcement of the *DPPS* delivery contract.
- i. Time shall be of the essence of the delivery contract.



**2011-12 DELIVERIES TO PURCHASE PEDIGREED SEED
DELIVERY CONTRACT PROGRAM
TERMS AND CONDITIONS**

- j. The exercise by the CWB of any right or remedy provided herein shall not affect any other right or remedy that the CWB may have under this Agreement. Nor shall the failure or delay of the CWB to exercise any right or remedy be considered a waiver of any right or remedy it may have.