

CWB

Basis first contract - Basis target pricing for Producer cars

By completing this document, you are locking in a basis price and a reference grade. This document forms part of the CWB Basis first contract terms and conditions. Your target price will be filled if reached during the pricing hours listed at www.cwb.ca/pricing or at the discretion of CWB.

Target pricing forms must be received by the end of pricing hours in order to receive next day target pricing.

Producer information

Name		Customer No. (12345678)
Preferred phone No.	Fax No.	Alternative phone No.
E-mail		

This form can only be completed by producer car users whose *Producer car Early Delivery Pool and Harvest Pool sign-up form* applications have been accepted by CWB or who load at the eligible sites listed at www.cwb.ca/producercar.

Basis price target

I wish to target the following CWB basis price.

- Cdn \$ per tonne in store Thunder Bay
 Cdn \$ per tonne in store Vancouver

\$ _____ . _____

Confirmation No. (CWB use only)

Net tonnes

_____ . _____

Please choose the time period for which you wish your target price order to be valid. (Choose one)

Date

_____ (Please specify date - month/day/year)
or

Basis deadline

Reference grade

(Reference grades are listed on CWB Cash Price List at www.cwb.ca/prices. Please indicate your reference grade below. **Example: No. 1 CWRS 12.5**)

No. _____

Futures month (Choose one)

Dec 2012 Mar 2013 May 2013 Jul 2013 Sep 2013 Dec 2013

Futures market (Choose one)

Minneapolis Kansas Chicago

Delivery month (List one)

Producer car administrator (List one)

Loading site (List one)

If your target price is met, CWB will send you a contract confirmation.

Important

I (the *Producer*) have read the CWB Basis first contract terms and conditions related to this application. By completing this document and sending it to CWB, I am selecting the option indicated. I agree that all of the said terms and conditions will apply to the option I have selected herein.

Producer signature

Date (month/day/year)

Please keep the original for your records.

Fax to: 1-204-983-8031
Scan and E-mail to: cwb_contracts@cwb.ca
Mail to: CWB, 423 Main St, Winnipeg MB R3B 1B3



Effective May 6, 2013



CWB BASIS FIRST CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS

- a. **“Act”** means *the Marketing Freedom for Grain Farmers Act*, as amended from time to time.
- b. **“Available Futures Months”** are December, March, May, July and September for each respective exchange published in the *CWB Cash Price List*.
- c. **“Basis Adjustment”** is an adjustment that is made to the *CWB Cash Basis* when a producer rolls his or her futures month. The adjustment is determined by the difference between the *CWB Futures Price* associated with the *CWB Basis Price* the producer has contracted and the *CWB Futures Price* that the producer is rolling to on such date. In addition, an administration fee of \$1 per tonne will be charged for each *Basis Adjustment*.
- d. **“Basis Delivery Month”** means the delivery month chosen by the producer, together with the *Designated Company* associated with the *CWB Basis Price*. The producer shall elect one of the delivery months indicated below:
 - i. December futures – either September, October or November
 - ii. March futures – either December, January or February
 - iii. May futures – either February, March or April
 - iv. July futures – either April, May or June
 - v. September futures – either June, July or August
- e. **“Contracted Commodity”** means the specific commodity and quality specifications (e.g. grain, grade and protein) locked in by the producer in the *Offer*. CWB will only accept straight grain. No damp grain will be accepted. Tough grain shipped by producer car is exempt, and may be subject to a \$17 per tonne discount. All dockage is fully deductible.
- f. **“CWB Basis First Contract Price”** is the sum of the *CWB Basis Price* plus the *CWB Futures Price*.
- g. **“CWB Basis Price”** is the price offered by CWB and accepted by the producer that will be added to the *CWB Futures Price* for the calculation of *CWB Basis First Contract Price*.
- h. **“CWB Cash Price List”** is the list of prices CWB publishes from time to time that identify the reference grades the lock-in deadline dates; the *CWB Futures Prices*, and the *CWB Basis Price* being offered at that time.
- i. **“CWB Futures Price”** is the price offered by CWB and accepted by the producer that represents the value of the *Futures Market* in Canadian dollars per tonne, including any adjustments made by CWB.
- j. **“CWB Futures Pricing Deadline”** is the final date by which the producer must lock in the *CWB Futures Price*. The *Futures Pricing Deadline* is the date of the options expiry for the *Futures Market* referenced in this contract.
- k. **“Delivery Period”** is the period of time from beginning date to end date for delivery of the *Contracted Commodity* to the *Designated Company* as stipulated in the *Offer*.
- l. **“Designated Company”** means the CWB agent and location where the *Contracted Commodity* that is the subject of this *Offer* will be delivered.
- m. **“Fax Form”** means the following forms, as applicable: the “CWB Basis first contract sign-up”, the “CWB Basis first contract – Futures price lock-in”, the “CWB Futures target pricing” and the “CWB Futures target pricing cancellation”.
- n. **“Futures Market”** is the combination of the futures exchange and maturity that is referenced by this CWB Basis first contract.
- o. **“Initial Payment”** is the payment made by CWB or its agent at the time of delivery for *Contracted Commodity* in accordance with the *Act*.
- p. **“Net Price”** means the price that is negotiated between the producer and the *Designated Company* which includes the *CWB Basis First Contract Price* plus or minus any costs, premiums or discounts negotiated between the producer and the *Designated Company* and is the price that the producer will be paid in respect of each tonne for *Total Contracted Net Tonnes*.
- q. **“Target Price”** is the *CWB Futures Price* at which the producer indicates to CWB that he/she is willing to lock in tonnes for delivery pursuant to this contract. *Target Price* orders must be received by CWB by 4 p.m. CT (Wpg time) the day prior to the market opening to be valid.
- r. **“Total Contracted Net Tonnes”** is the number of net tonnes of *Contracted Commodity* that the producer has committed and CWB has accepted under this Basis first contract program and will deliver to CWB.

2. OFFER

- a. In accordance with these terms and conditions, the producer offers, for purchase by CWB, such quantity and quality of *Contracted Commodity* as specified in the offer (the “*Offer*”).
- b. This program is open to the producer from time to time at the sole discretion of CWB. CWB reserves the right to extend or withdraw the program at any time and without prior notice.
- c. The approved method of acceptance for locking in a *CWB Basis Price* is to contact a representative of a *Designated Company* to lock in a delivery month associated with the *CWB Basis Price* for the futures month the



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producer has selected. If the producer has authorized that company to act on his/her behalf, the *Designated Company* representative will then notify CWB of the acceptance by:

- i. telephoning CWB at 1-800-275-4292 during the timeframe specified at www.cwb.ca/bfc and following the instructions of the CWB operator when asked to provide the producer's 8-digit CWB Customer number and indicate the number of tonnes of *Contracted Commodity* for basis and/or futures lock-in. CWB's records of such telephone call, including any written confirmation, are conclusive and binding on the producer; or
 - ii. faxing or emailing a scanned *Fax Form* to CWB at 1-204-983-8031 or CWB_Contracts@cwb.ca during the timeframe specified at www.cwb.ca/bfc. The *Fax Form* must be completed fully and accurately and the producer and *Designated Company* representative must sign it. In the event of any uncertainty as to the information provided by the producer in the *Fax Form*, CWB may, in its sole discretion, declare the acceptance invalid. The *Fax Form* will be deemed to have been received at the time printed on the fax by CWB's fax machine or on the email as received by CWB.
 - iii. *Target Price* orders are not available from CWB for *CWB Basis Price* lock-ins. Target pricing may be available as a service from the *Designated Company*.
- d. CWB will not accept the producer's *Offer* unless it is made in strict compliance with the approved method of making an *Offer* and unless it is received at CWB head office prior to the withdrawal of the program.
- e. This contract may not be used to offer *Contracted Commodity* to be shipped in producer cars until your CWB Early Delivery and Harvest Pool producer car sign-up application has been accepted by CWB, unless the producer cars are being shipped from one of the eligible loading sites listed at www.cwb.ca/producercar.

3. LOCKING IN THE CWB BASIS FIRST CONTRACT VALUE

- a. The producer must lock in the *CWB Futures Price* for the *Futures Market* selected in this contract prior to the *CWB Futures Pricing Deadline*. The approved methods of acceptance for locking in a *CWB Futures Price* are:
- i. telephoning CWB at 1-800-275-4292 during the timeframe specified at www.cwb.ca/bfc and following the instructions of the CWB operator when asked to provide the producer's 8-digit CWB Customer number and confidential Personal Identification Number (PIN) and indicating the number of tonnes of *Contracted Commodity* for lock-in or *Futures Roll* transaction. CWB's records of such telephone call, including any written confirmation, are conclusive and binding on the producer.
 - ii. faxing or emailing a scanned *Fax Form* to CWB at 1-204-983-8031 or CWB_Contracts@cwb.ca during the timeframe specified at www.cwb.ca/bfc. 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*, CWB may, in its sole discretion, declare the acceptance invalid. The *Fax Form* will be deemed to have been received at the time printed on the fax by CWB's fax machine or on the email as received by CWB.
 - iii. contacting a representative from the *Designated Company* who can lock in the *CWB Futures Price* for the producer if the producer has authorized that company to act on his/her behalf; and
 - iv. the producer may designate his/her *Target Price* using any of the methods set out in (i), (ii) above.

4. CWB'S OBLIGATIONS

CWB agrees as follows:

- a. To accept delivery of the *Contracted Commodity* from the producer, in accordance with the *Act* and the terms and conditions of this CWB Basis first contract (BFC). If CWB cannot accept delivery within the *Delivery Period* due to logistical constraints or other reasons, CWB may extend the *Delivery Period* by up to ninety (90) days.
- b. In accordance with the *Act*, to pay to the producer:
 - i. the *Initial Payment* for *Contracted Commodity* delivered in effect at the time of delivery, less all deductions authorized under the *Act* or under this Agreement or otherwise required by law;
 - ii. if the difference between the *Initial Payment* and the *CWB Basis Contract Price* is a positive number, such amount will be paid to the producer by CWB forthwith after the delivery has been reported and
 - iii. if the difference between the *Initial Payment* and the *CWB Basis Contract Price* is a negative number, such amount will be forwarded to CWB by the producer within thirty (30) days of settlement; if payment is not received by CWB, the producer will be subject to deductions from future payments owing to the producer and will be subject to immediate collection.

5. PRODUCER'S OBLIGATIONS

- a. The producer must commit to deliver the *Total Contracted Net Tonnes* at the time their *Offer* is accepted by CWB.
- b. The producer agrees to:
 - i. sell the *Total Contracted Net Tonnes* to CWB;
 - ii. lock in the *CWB Futures Price* for the selected *CWB Basis Price* before the *CWB Futures Pricing Deadline*;



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- iii. if the producer elects to transact the *Basis Adjustment*, to do so prior to the *CWB Futures Pricing Deadline*. If the producer does not elect the *Basis Adjustment* and has not locked in the *CWB Futures Price* prior to the *CWB Futures Pricing Deadline*, CWB will automatically roll the contract into the next *Available Futures Month*. Automatic rolls may only occur up to the July futures month, at which time the *CWB Futures Price* will be automatically locked in;
- iv. deliver the *Contracted Commodity*, and any portion thereof within the *Delivery Period*; and
- v. comply in all respects with this Agreement.

6. DELIVERY

- a. The producer shall make arrangements to deliver the *Contracted Commodity* to the *Designated Company*. Costs to be deducted from *CWB Initial Payment* shall be negotiated between the producer and the *Designated Company*.
- b. The *Designated Company* shall call grain for delivery by the producer, who shall then deliver within the *Delivery Period*.
- c. The producer shall not deliver any tonnes in excess of the *Total Contracted Net Tonnes*.
- d. If the producer cannot deliver the quality specifications of the *Contracted Commodity*, the producer should notify CWB as soon as possible. CWB may in its sole discretion:
 - i. amend the contract and pay a premium or charge a fee based on current market spreads and costs incurred due to non-delivery of the originally-contracted quality; or
 - ii. in conjunction with the *Designated Company*, approve a request from the producer to assign the contract to another producer.

7. PASSAGE OF TITLE

All right, title, and interest to the *Contracted Commodity* shall remain with the producer until the *Contracted Commodity* has been delivered to CWB and the quality has been determined and a cash ticket has been issued. The producer must deliver the *Contracted Commodity* and settlements must be made on or before the end of the *Delivery Period*.

8. DEFAULT

- a. The producer shall be in *Default* under this contract ("in *Default*") if:
 - i. the producer fails, or CWB receives information that the producer is or will be unable, to deliver a minimum of 100 per cent of the *Total Contracted Net Tonnes* called for by the grain company within the *Delivery Period*;
 - ii. the producer delivers grain that has quality specifications inferior to the *Contracted Commodity*;
 - iii. any portion of the *Contracted Commodity* delivered by the producer to CWB contains a variety that is ineligible for that class of *Contracted Commodity* and is represented by the producer as being eligible; or
 - iv. the producer files for bankruptcy or a receiving order is made against the producer.
- b. The producer shall pay to CWB the liquidated damages suffered by CWB as a result of the *Default*. The producer shall pay a \$50 transaction fee plus:
 - i. The difference between the *CWB Basis First Contract Price* and the cost, if higher, of buying replacement grain of equivalent quality in the marketplace; and
 - ii. All other losses, damages, costs and expenses suffered or incurred by CWB as a result of or in any way resulting from the producer's *Default*.
- c. The producer and CWB agree that liquidated damages determined in this manner are a reasonable and genuine pre-estimate of the actual damages CWB will suffer as a result of the *Default* and are not a penalty. The liquidated damages may be set-off by CWB against any amounts that may become payable by CWB to the producer.
- d. In the event that the producer ceases to make deliveries to CWB and fails to forward CWB any liquidated damages or negotiate a repayment agreement for settlement of the liquidated damages, CWB may, in its sole discretion, engage a collection agency to assist with the collection of the outstanding liquidated damages and fees. CWB will charge interest of one (1) per cent compounded monthly, on amounts outstanding greater than thirty (30) days.

9. GENERAL

- a. This Agreement constitutes the entire Agreement between CWB and the producer with respect to the delivery and sale of the *Contracted Commodity*. 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 contract unless they are made in writing, and signed by both the producer and CWB.



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- b. If any provision, or part thereof, of this 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 this contract.
- c. This 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.
- d. 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 CWB. However, no assignment by the producer of this contract will bind CWB without its prior written consent, which consent may be withheld.
- e. If the producer is a corporation, partnership, cooperative or other business entity, this 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.
- f. 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.
- g. The producer shall fully indemnify CWB for any and all legal expenses associated with the enforcement of this contract.
- h. Time shall be of the essence.
- i. The exercise by CWB of any right or remedy provided herein shall not affect any other right or remedy that CWB may have under this Agreement. Nor shall the failure or delay of CWB to exercise any right or remedy be considered a waiver of any right or remedy it may have.