

# FEDERATION OF OILS, SEEDS AND FATS ASSOCIATIONS LIMITED FOSFA INTERNATIONAL

# 22

## CONTRACT FOR SOUTH AMERICAN SOYABEANS IN BULK

Revised and Effective  
from 1st April 2020

### C&F/C&FFO TERMS

Reference Nos

SELLERS: .....  
 .....  
 BUYERS: .....  
 .....  
 BROKERS: .....  
 .....

Date: .....

\*An asterisk denotes alternative wording, and should be matter of agreement between the parties.

Sellers have agreed to sell and Buyers have agreed to buy ..... say ..... tons of 1000 kilos 1  
 ..... SOYABEANS in bulk 2  
 at ..... say ..... per ton of 1000 kilos 3  
 cost and freight to ..... 4  
 from ..... 5  
 as per Bill/s of Lading dated or to be dated during ..... 6  
 Payment in ..... for ..... as per Payment Clause. 7

**1. TOLERANCE:** Sellers have the option of shipping 5% more or less of the contract quantity, at contract price/contract premium. In the event of more than one shipment being made each shipment is to be considered as a separate contract but the tolerance on the mean contract quantity is not to be affected thereby. 8  
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**2. QUALITY AND CONDITION:** The goods shall be of good merchantable quality, in good condition and of the agreed description and specifications at time and place of shipment. 10  
**Specifications:** 11  
 (a) Oil Content on Wet Basis: basis 18½% (Tale Quale). If the oil content is less than 18½% Sellers shall pay to Buyers an allowance of 1½% for each 1% deficient, fractions in proportion. 13  
 (b) Admixture: basis 1% maximum 2%. If admixture is between 1% and 2% Sellers shall pay to Buyers an allowance of 1% for 1% over basis, fractions in proportion. 14  
 (c) Moisture: maximum 14%. 16  
 (d) Protein on Tale Quale minimum...%, Basis...% with a 1:1 allowance, fractions in proportion if below the basis. 18  
 (e) Castor Seed: Free from castor seed and other poisonous seeds. 19  
 All final at time and place of shipment as per certificate/s issued by Superintendent/Analyst at Sellers' choice and expense. 20

**Condition:** To be final at time and place of shipment as per certificate/s issued by Superintendent at Sellers' choice and expense. 21

**3. WEIGHT:** To be final at time of shipment as per certificate of weight issued by Superintendent at Sellers' choice and expense. Belt weighing may be used but only if agreed by the parties, with the weighing instrument verified to be calibrated, the loading/discharge operations shall be continuous and shall be accurately recorded (variations to be noted) and such weighing procedure shall be stated on the Certificate of Weight. In the absence of both discontinuous and continuous automatic weighing instrument(s), weight can be established by a displacement calculation method (draft survey) on the express condition that both parties agree and that such weighing procedure is stated on the Certificate of Weight. 22  
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**4. WARRANTY:** The beans are not warranted free from defect, rendering the same unmerchantable, which would not be apparent on reasonable examination. 27

**5. DECLARATION OF DESTINATION:** The goods are sold for shipment to ..... 28  
 but Buyers have the option to declare ..... 29  
 as the port/s of destination with a minimum of ..... tons to any one port. To exercise this option Buyers shall declare the port/s of destination to Sellers by any means of rapid written communication, not later than 16.00 hours on ..... 31  
 The Notices Clause and the Non-Business Days Clause shall not apply to such declaration. 32

**6. SHIPMENT AND CLASSIFICATION:** Shipment in good condition, direct or indirect, with transshipment (so long as a through Bill of Lading is provided) or without transshipment, in ship/s (tankers excluded), classified not lower than Lloyds 100 A1 or equivalent classification in any other recognised Register. 33  
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**7. INSURANCE:** Buyers shall be responsible for arranging Insurance in accordance with the Institute/FOSFA Trades Clauses (C) and the Institute War and Strikes Clauses (FOSFA Trades) to be effected with, at Buyers' option, first class underwriters but for whose solvency the Buyers shall not be responsible. 35  
 Claims to be payable in the currency of the contract. Policies and/or Certificates and/or Letters of Insurance required under this contract shall be for not less than 2% over the invoice amount including freight. If required by Sellers Buyers to provide evidence prior to commencement of loading that suitable cover has been obtained. 36  
 If Buyer refuses or fails to provide evidence Sellers is entitled (but not obliged) to cover insurance on the same terms at Buyer's expense. 37  
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**8. DECLARATION OF SHIPMENT:** Notice stating ship's name, date of Bill/s of Lading and approximate quantity shipped shall be despatched by first Sellers to their Buyers not later than 10 days after the date of the Bill/s of Lading. Notices by intermediate Sellers shall be accepted by their Buyers although received by them after such time, if from the 10th day after the date of the Bill/s of Lading such notices have been passed on with due despatch. 40  
 The date of the "on board" Bill/s of Lading shall be considered proof of the date of shipment in the absence of conclusive evidence to the contrary. 41  
 Notices shall be deemed to be under reserve for errors and/or delays in transmission. Any slight variation in the ship's name shall not invalidate the declaration. A valid declaration cannot be withdrawn except with the Buyers' consent. Should the ship arrive before receipt of declaration of shipment and extra expenses be incurred, such expenses are to be paid by Sellers. 42  
 The provisions of this clause to be inoperative if the goods have been sold afloat. 43  
 Presentation of documents does not constitute a notice under the terms of this clause. 44  
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**9. EXTENSION OF SHIPMENT:** When the contract shipment period does not exceed 31 days the period of shipment can, at the request of the shipper, be extended by an additional period not exceeding 8 days, provided notice is given to the Buyer by any means of rapid written communication, of his intention to claim such extension not later than the first business day following the last day of the original contract shipment period. Successive Buyers must pass on this notification with due despatch. The Seller need not state the number of additional days claimed, but the contract price shall be reduced as follows by:— 49  
 ½ % for 1, 2, 3 or 4 days; 1 % for 5 or 6 days; 1½ % for 7 or 8 days. 50  
 If the Seller requests an extension and fails to ship within the 8 days, the original contract shipment period shall be considered to have been extended by 8 days and the contract price reduced by 1½%. 51  
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<b>10. SUPERINTENDENTS:</b> Reference in the contract to superintendents, surveyors or representatives shall mean member superintendents of FOSFA International. The use of member superintendents shall be mandatory except where:	56
(i) the contract or national laws or regulations require the use of Governmental or other agencies not recognised by FOSFA International;	57
(ii) no member superintendent/s is/are available or proximate to the port/s concerned.	58
<b>11. ANALYSTS:</b> Reference in the contract to analysts shall mean analysts who are members of FOSFA International and represented in the Oil seeds Section. The use of member analysts shall be mandatory except where the contract or national laws or regulations require the use of Governmental or other analysts.	59
<b>12. PAYMENT AND SHIPPING DOCUMENTS:</b> Payment shall be made by Buyers in the above-named place in the percentage named in the contract by cash against complete set of shipping documents:	60
* (a) on presentation;	61
* (b) on or (at Buyers' option) before arrival of the ship at the port of destination but not later than 25 days from the date of the Bill of Lading unless documents are presented thereafter. If Buyers elect to call for documents before arrival of ship, then payment shall be made against documents as soon as presented;	62
* (c) .....	63
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If documents are presented to Buyers through the intermediary of a bank/s then the bank charges incurred shall be for Sellers' account. If Buyers request presentation through a bank of their choice, and Sellers agree, those bank charges shall be for Buyers' account. For the purposes of this contract, the relationship between banks shall be deemed to be in accordance with ICC URC 522 or any subsequent amendment thereto.	71
Shipping documents shall consist of:	72
(1) Commercial invoice;	73
(2) Full set of clean "on board" Bill/s of Lading and/or Ship's Delivery Order/s and/or other Delivery Order/s in negotiable and transferable form, such other Delivery Order/s to be guaranteed by a recognised bank if required by Buyers;	74
(i) If the Bill/s of Lading does/do not indicate that freight has been paid, the amount of freight shall be deducted from the invoice amount and paid by Buyers on Sellers' behalf unless Sellers guarantee that freight has been paid. Buyers to send copy of the freight note to Sellers for final invoicing purposes. If freight is to be paid in a currency other than the currency of this contract, the conversion in the final invoice shall be made at the rate of exchange on the day of actual freight payment;	75
(ii) If the Bill/s of Lading refer/s to a Charter Party and/or any other documents relating to the freight booking, Sellers shall be responsible for any detrimental consequences from clauses of such Charter Party and/or documents relating to the freight booking being contrary to the terms of this contract. If such Bill/s of Lading is/are signed by parties other than the Master then the Bill/s of Lading shall be accompanied by photostat copy of written authority from shipowner or Master authorising the signatory to the Bill/s of Lading;	76
(iii) The Bill/s of Lading must identify the ship's hold into which the beans are loaded.	77
(3) Certificate of Origin;	78
(4) Certificate/s of Quality and Condition, together with the Certificate of Analysis;	79
(5) Certificate of Weight.	80
Buyers are to accept photostat or certified copy/ies of items (3), (4) and (5) relating to the whole parcel/s.	81
Buyers agree to accept Bill/s of Lading containing the Chamber of Shipping War Risk Clause and/or any other recognised War Risk Clause. Should documents be presented with incomplete set/s of Bill/s of Lading, payment shall be made provided that delivery of such Bill/s of Lading be guaranteed, such guarantee to be signed, if required by Buyers, by a recognised bank. Acceptance of this guarantee shall not prejudice Buyers' rights under this contract. Should Sellers have failed to present shipping documents on arrival of the ship at destination, Buyers shall take delivery under a guarantee acceptable to the shipowners to be provided by the Buyers, such guarantee to be signed by a first class bank if required by the shipowners. Buyers shall pay for the documents when presented. Any reasonable extra expenses, including costs of such guarantee or extra handling charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers and allowed for in the final invoice. In the event that Buyers take delivery as above and Sellers fail to provide shipping documents and if the guarantee provided by Buyers as above is encashed by the shipowners, Sellers shall be responsible for all damages, costs and consequences arising from their failure to present documents. Buyers shall inform Sellers immediately there is a claim against the guarantee and Sellers shall have the right to be joined in any legal action arising therefrom.	82
Payment shall not be deemed to have been effected before receipt of cleared funds by the payee or his bank. If payment is agreed to be by bank transfer, the party shall effect payment to the payee's bank on or before the due date for payment and payment instructions shall specify a value date not later than the second bank working day after the day of payment.	83
Any monies due by either party to the contract to the other for final invoices and/or accounts for items on shipments fulfilling this contract shall be settled by either party without delay (except as otherwise provided under awards of arbitration or appeal as governed by the other provisions in the contract), and if not settled a dispute shall be deemed to have arisen which may be referred to arbitration.	84
<b>13. INTEREST:</b> If any payment is not made on or before the due date for payment, interest shall be payable.	85
If there is no due date for payment, interest shall be payable if there has been an unreasonable delay in payment. Interest payable shall be appropriate to the currency involved. If the amount of interest is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration in accordance with the Arbitration Clause.	86
Nothing in this clause shall affect a party's rights to invoke the provisions of the Default Clause in a case where a failure to effect timely payment could give rise to a claim under that clause.	87
<b>14. CHARTER PARTY:</b> If the Bill/s of Lading refer/s to a Charter Party, then, if required by Buyers, Sellers shall provide a copy of the Charter Party.	88
<b>15. UNASCERTAINED GOODS:</b> In every instance where a parcel of goods sold by this contract forms an unidentified part of a larger identified quantity of goods of the same description, whether in packages or bulk, no separation or distinction shall be necessary and, until separation and identification of the parcel sold hereby from the larger quantity has taken place, the Buyer of the parcel is a pro rata owner of the whole of the larger quantity in common with Seller/s and Buyer/s of other parts of the larger quantity.	89
<b>16. DISCHARGE (For Free Out Terms):</b> Discharge shall be at the average rate of ..... tonnes per Weather Working Day, Saturdays, Sundays, Holidays Excepted, Even If Used, (WWD SShEX EIU), in which case actual time used to count. Notice of Readiness (NOR) shall be tendered during ordinary office hours on arrival, Whether in Port or Not, (WIPON), Whether In Berth Or Not, (WIBON), Whether In Free Pratique Or Not, (WIFPON), Whether Customs Cleared Or Not (WCCON) and laytime shall commence at 0800 hours on the next working day. Rate of demurrage/despatch as per Charter Party. In the event of a time charter, the daily hire rate shall be taken as the rate of demurrage, half despatch. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby.	90
<b>17. SAMPLING AND ANALYSIS:</b> Sellers' superintendent shall draw and seal representative samples of the beans during loading in accordance with the method laid down in the Federation's Standard Contractual Methods List.	91
The analyses shall be carried out by an Analyst in accordance with the methods laid down in the Federation's Standard Contractual Methods List.	92
Details of seals and labels shall be given on the Quality and Analysis certificates.	93
Sellers shall bear costs for drawing, sealing and forwarding samples as required under this clause.	94
The certificate/s shall bear the FOSFA International official seal.	95
<b>18. DUTIES, TAXES, ETC:</b> All export duties, taxes, levies, etc., present or future in country of origin/port of shipment shall be for Sellers' account.	96
All import duties, taxes, levies, etc., present or future in port of discharge/country of destination shall be for Buyers' account.	97
Where the goods are entitled to free entry into or preferential duty in the port of destination named in this contract, Sellers shall furnish together with the shipping documents a Certificate of Origin and/or necessary document/s in the form valid at the time of shipment, otherwise Sellers shall be responsible for any extra duty incurred by Buyers through the non-production of such Certificate and/or document/s.	98
If the eventual country of destination is different from that named in the contract, then Sellers, at Buyers' request, shall, if possible, supply the appropriate Certificate of Origin for the country of final destination.	99
<b>19. NOTICES:</b> Notices to be despatched by any means of rapid written communication. All notices shall be under reserve for errors in transmission. Notices shall be passed on with due despatch by intermediate Buyers and Sellers. Any notice received after 16.00 hours on a business day shall be deemed to have been received on the following business day. Notice from a broker shall be a valid notice under this contract.	100
<b>20. NON-BUSINESS DAYS:</b> Should the time limit for doing any act or giving any notice expire on a Saturday, Sunday or any public holiday in the country where the party required to do the act or give the notice resides or carries on business or in the country where the act has to be done or the notice has to be received or on any day which the Federation shall declare to be a non-business day the time so limited shall be extended until the first business day thereafter. All business days shall be deemed to end at 16.00 hours Mondays to Fridays inclusive. The contract delivery period not to be affected by this clause.	101
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<b>21. FORCE MAJEURE:</b> Should shipment of the goods or any part thereof be prevented at any time during the last 30 days of the contract shipment period by reason of Act of God, strikes, lockouts, riots, civil commotions, fires or any other cause comprehended by the term Force Majeure at port/s of loading or elsewhere preventing transport of the goods to such port/s, the time allowed for shipment shall be extended to 30 days beyond the termination of such cause, but should the contract shipment be less than 30 days such extension shall be limited to the number of days allowed for shipment under the contract shipment period. Should such cause exist for a period of 60 days beyond the contract shipment period the contract or any unfulfilled part thereof so affected shall be cancelled. Sellers invoking this clause shall notify Buyers with due despatch.	144 145 146 147 148 149
When goods of a specific origin are sold with the option of shipment from alternative ports and shipment from all alternative ports is not prevented Sellers may only invoke this clause with regard to the specific port/s provided that the port/s has/have been notified to Buyers as the intended port/s of loading prior to or within 7 days of the occurrence but if the occurrence commences within the last 7 days of the contract shipment period the port/s of loading to be notified not later than the first business day following the contract shipment period. Shipment after the contract shipment period shall be limited to the port/s so nominated. Buyers have no claim against Sellers for delay in shipment or cancellation under this clause provided that Sellers shall have supplied to their Buyers, if required, satisfactory evidence justifying delay or non-fulfilment to establish any claim for extension or cancellation under this clause. In case of default after extension the default date shall be similarly deferred.	150 151 152 153 154 155 156
<b>22. PROHIBITION:</b> In the event, during the contract shipment period, of prohibition of export or any other executive or legislative act by or on behalf of the Government of the country of origin or of the territory where the port/s of shipment named herein is/are situated, or of blockade or hostilities, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be extended by 30 days. In the event of shipment during the extended period still proving impossible by reason of any of the causes in this clause the contract or any unfulfilled part thereof shall be cancelled. Sellers invoking this clause shall advise Buyers with due despatch. If required, Sellers must produce proof to justify their claim for extension or cancellation under this clause.	157 158 159 160 161 162 163 164
<b>23. BANKRUPTCY/INSOLVENCY:</b> If before the fulfilment of this contract, either party shall suspend payment, notify any of his creditors that he is unable to meet his debts or that he has suspended payment or that he is about to suspend payment of his debts, convene, call or hold a meeting of his creditors, propose a voluntary arrangement, apply for an official moratorium, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for reconstruction or amalgamation), become subject to an Interim Order under Section 252 of the Insolvency Act 1986 or have a Bankruptcy Petition presented against him the contract shall forthwith be closed, either at the actual or estimated market price then current for similar goods or, at the option of the other party, at a price to be ascertained by re-purchase or re-sale and the difference between the contract price and such closing-out price shall be the amount which the other party shall be entitled to claim or shall be liable to account for under this contract. Should either party be dissatisfied with the price ascertained by re-purchase or re-sale, then the matter shall be referred to arbitration. If no re-purchase or re-sale takes place and if the parties cannot agree to a closing-out price, then on application of either party, the closing-out price shall be fixed by a sole arbitrator appointed by the Federation subject to the right of appeal under the Federation's Rules of Arbitration and Appeal.	165 166 167 168 169 170 171 172 173 174
<b>24. CIRCLE:</b> Where a Seller repurchases from his Buyer, or from any subsequent Buyer, the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so repurchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause, the same goods shall mean goods of the same description, of the same country of origin, of the same quality and, where applicable, of the same analysis warranty, for shipment to the same port/s of destination during the same period of shipment.) Different currencies shall not invalidate the circle. If the goods are not declared or, having been declared, documents are not presented as a result of a circle having been established, invoices based on the mean contract quantity shall be settled between each Buyer and his Seller in the circle by payment by each Buyer to his Seller of the excess of the Seller's invoice amount over the lowest invoice amount in the circle. Where the circle includes contract/s expressed in different currencies, the lowest invoice amount shall be replaced by the market price on the first business day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the difference between the market price and the relevant contract price in the currency of the contract. Failing amicable agreement the market price shall be that declared by a Price Settlement Committee of the Federation appointed for that purpose on application of either party. Such settlement shall be due for payment not later than 15 consecutive days after the last day for declaration or, should the circle not be established before the expiry of this time, then settlement to be due for payment not later than 7 days after the circle is established. No circle shall be considered to exist if its existence is not established within 45 days after the last day of shipment. All Sellers and Buyers shall give every assistance to the establishment of the circle and where a circle shall have been established same shall be binding on all parties to the circle. Should any party in the circle commit prior to the due date for payment any act comprehended in the Bankruptcy/Insolvency Clause, the invoice amount for the goods calculated at the closing-out price as provided for in the Bankruptcy/Insolvency Clause, shall be taken as the basis for settlement instead of the lowest invoice amount in the circle, and in this event each Buyer shall make payment to his Seller or each Seller shall make payment to his Buyer of the difference between the closing-out price and the contract price, as the case may be. In the event of a claim under the Prohibition Clause or the Force Majeure Clause, the date for settlement shall be deferred until the expiry of the extended shipment period. Thereafter, if the contract is cancelled under the terms of the Prohibition Clause or the Force Majeure Clause, this clause is not applicable.	175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195
<b>25. DEFAULT:</b> In default of fulfilment of this contract by either party, the other party at his discretion shall, after giving notice, have the right either to cancel the contract, or the right to sell or purchase, as the case may be, against the defaulter who shall on demand make good the loss, if any, on such sale or purchase. If the party liable to pay shall be dissatisfied with the price of such sale or purchase, or if neither of the above rights is exercised, the damages, if any, shall, failing amicable settlement, be determined by arbitration. The damages awarded against the defaulter shall be limited to the difference between the contract price and the actual or estimated market price on the day of default. Damages to be computed on the mean contract quantity. If the arbitrators consider the circumstances of the default justify it they may, at their absolute discretion, award damages on a different quantity and/or award additional damages. Prior to the last day for making a declaration of shipment a Seller may notify his Buyer of his inability to ship but the date of such notice shall not become the default date without the agreement of the Buyer. If, for any other reason, either party fails to fulfil the contract and is declared to be in default by the other party and default is either agreed between the parties or subsequently found by arbitrators to have occurred, then the day of the default shall, failing amicable settlement, be decided by arbitration.	196 197 198 199 200 201 202 203 204 205
<b>26. DOMICILE:</b> This contract shall be deemed to have been made in England and the construction, validity and performance thereof shall be governed in all respects by English Law. Any dispute arising out of or in connection therewith shall be submitted to arbitration in accordance with the Rules of the Federation. The serving of proceedings upon any party by sending same to their last known address together with leaving a copy of such proceedings at the offices of the Federation shall be deemed good service, rule of law or equity to the contrary notwithstanding.	206 207 208 209
<b>27. INTERNATIONAL CONVENTIONS:</b> The following shall not apply to this contract:—	210
(a) the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;	211
(b) the United Nations Convention on contracts for the International Sale of Goods of 1980;	212
(c) the United Nations Convention on the Limitation Period in the International Sale of Goods of 1974 and the amending Protocol of 1980.	213
<b>28. ARBITRATION:</b> Any dispute arising out of this contract, including any question of law arising in connection therewith, shall be referred to arbitration in London (or elsewhere if so agreed) in accordance with the Rules of Arbitration and Appeal of the Federation of Oils, Seeds and Fats Associations Limited, in force at the date of this contract and of which both parties hereto shall be deemed to be cognizant. Neither party hereto, nor any persons claiming under either of them, shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrators, chairperson or Board of Appeal (as the case may be), in accordance with the Rules of Arbitration and Appeal of the Federation, and it is hereby expressly agreed and declared that the obtaining of an Award from the arbitrators, chairperson or Board of Appeal (as the case may be), shall be a condition precedent to the right of either party hereto or of any person claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.	214 215 216 217 218 219 220 221