

12. SAMPLING AND ANALYSIS: General: Sampling shall be done in accordance with the method in ISO 5555	46
Samples to be taken:	47
*(a) at time and place of filling Flexitank/s.	48
*(b) at time and place of emptying Flexitank/s. If the place of emptying is other than that contained in the Place of Delivery Clause then Buyers agree to pay the extra expenses thereby incurred by the Sellers or their superintendents for such sampling.	49
Sampling and analysis further to be effected as per terms specified in the appropriate FOSFA contract mentioned below.	50
Should either party fail to appoint a superintendent then the samples drawn by the superintendent present shall be the valid samples for the purposes of analysis and/or arbitration.	51
The analyses shall be carried out in accordance with the methods laid down in the FOSFA International Standard Contractual Methods List.	52
The certificate/s shall bear the FOSFA International official seal.	53
Details of seals and labels shall be given on both loading and discharge survey reports and analysis certificate/s.	54
All samples drawn under the terms of this contract when delivered to FOSFA International or to the analyst/s to become and be their absolute property.	55
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13. SUPERINTENDENTS: Reference in the contract to superintendents, surveyors or representatives shall mean member superintendents of FOSFA International.	57
The use of member superintendents shall be mandatory except where:	58
(i) the contract or national laws or regulations require the use of Governmental or other agencies not recognised by FOSFA International;	59
(ii) no member superintendent/s is/are available or proximate to the place of filling or emptying of Flexitank/s.	60
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14. ANALYSTS: Reference in the contract to analysts shall mean analysts who are members of FOSFA International. 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.	62
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15. PAYMENT AND SHIPPING DOCUMENTS: Payment in the above-named place shall be made by Buyers for the invoice amount by cash against "on board" Bill/s of Lading together with all other contractual documents and specified in the appropriate FOSFA contract mentioned below.	64
*(a) on presentation;	65
*(b) on or (at Buyers' option) before arrival of the ship at Terminal, but not later than days from the "on board" date of the Bill/s 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.	66
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Shipping documents shall include.	69
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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 demand presentation through a bank of their choice, those bank charges shall be for Buyers' account.	72
Shipping documents shall be as specified in the appropriate FOSFA contract mentioned below.	73
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.	74
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.	75
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16. INTEREST: If any payment is not made on or before the due date for payment, interest shall be payable.	81
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.	82
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.	83
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17. NOTICES: 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.	87
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18. FORCE MAJEURE: Should acceptance of the goods or any part thereof be prevented at any time during the last 30 days of the contract period by reason of Act of God, strikes, lockouts, riots, civil commotions, fires or any other cause comprehended by the term Force Majeure at Container Depot Base or Terminal or elsewhere preventing the handing of the goods to the container organisation or its agent/s and/or shipment on board the ocean going ship, the time allowed for acceptance shall be extended to 30 days beyond the termination of such cause, but should the contract period be less than 30 days such extension shall be limited to the number of days allowed for acceptance under the contract period.	90
Should such cause exist for a period of 60 days beyond the contract period the contract or any unfulfilled part thereof shall be cancelled. Sellers invoking this clause shall notify Buyers with due despatch.	91
Buyers have no claim against Sellers for delay 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.	92
In case of default after extension the default date shall be similarly deferred.	93
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19. DEFAULT: 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.	100
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.	101
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.	102
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20. DOMICILE: This contract shall be deemed to have been made in England and the construction, validity and performance thereof shall be governed 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.	110
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21. INTERNATIONAL CONVENTIONS: The following shall not apply to this contract:—	114
(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;	115
(b) the United Nations Convention on Contracts for the International Sale of Goods of 1980;	116
(c) the United Nations Convention on the Limitation Period in the International Sale of Goods of 1974 and the amending Protocol of 1980.	117
22. ARBITRATION: 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.	118
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, umpire 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, umpire 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.	119
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23. OTHER TERMS: All other terms and conditions, where relevant, as per FOSFA Contract No	126